



October 2021

## *Health Checks and Medical Reports on Employment (England) Policy*

### **Policy Statement**

This policy is in line with relevant UK government guidance and the requirements of the Equality Act 2010. This states that an employer can only seek information about a person's health, including any disabilities after a job offer has been made, unless it is necessary to have that information because:

- a. the person's ability to meet the requirements of the job description could depend on their current health status ie is "intrinsic" to job performance
- b. because the employer might need to make "reasonable adjustments" for someone with "protected characteristics" under the Equality Act to enable them to carry out their work .

The policy is also in line with the requirements of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014, Regulation 19 Fit and Proper Persons Employed 19(1)(c), which states that care service employees must "be able by reason of their health, after reasonable adjustments are made, of properly performing tasks which are intrinsic to the work for which they are employed".

This regulation means that a care provider must obtain "satisfactory information about any physical or mental health conditions which are relevant to the person's ability" to carry out the work. Staff should not present a risk to service users because of an illness or medical condition they have or have their health put at risk as a result of having illnesses or medical conditions that effectively prevent them from carrying out their work effectively.

Job applicants and employees will be fully informed of these requirements and of their rights concerning consent to any disclosure of personal information and the confidentiality of that information.

### **Procedures**

1. On making a provisional job offer the care service will ask the new recruit to complete a health declaration form, which will provide the information needed to established that the person can meet the "fitness requirements."
2. If there are any concerns arising from the disclosure about physical or mental fitness, or if it is necessary to obtain further information on order to consider the need to make reasonable adjustments, the care provider will seek the permission of the person to obtain a medical report from their GP or an occupational health service.
3. The decision to request a medical report about a job applicant or employee is explained to the applicant so that the service is able to comply with its legal requirements.

4. Permission from the employee to approach the medical practitioner is obtained. The manager explains fully to the employee the reasons for the request.
5. At the time permission is sought, the individual must be informed in detail of his or her rights under the Access to Medical Reports Act 1988. This information should be provided in a separate sheet which should be attached to the form requesting permission for the service to ask for a medical report.
6. The care provider will ensure that employees' attention is clearly drawn to the information on access rights and explain them as necessary.
7. A job applicant or employee who refuses to give permission for the service to obtain a medical report will be interviewed by the care provider and his or her reasons explored. If the individual persists in the refusal, the manager will explain that decisions made about the person's employment may be affected by the service's inability to obtain a report. It should, however, be recognised that individuals have the right in law to refuse to give the employer permission to apply to their own doctor for a medical report.
8. A job applicant or employee who consents to the service applying for a medical report must complete the relevant form (retaining a copy) and also indicate on that form whether or not he or she wishes to see the report before it is released to the employer. Where necessary, the name and address of the GP or consultant must be provided.
9. The form should be returned to the care provider, who will decide on the actions to be taken.
10. When applying to the medical practitioner for a report, the care provider will set out the main features of the individual's work and explain the reasons why the application is being made.
11. Arrangements for access (where applicable) must be made by the individual directly with the medical practitioner concerned. This should be done within 21 days of the employer's application for the report being sent.
12. If no arrangement is made within that time, the practitioner may supply the report to the service without the further consent of the individual. Any request for access by the individual once the report has been received by the care provider should be made to the medical practitioner.
13. Where an individual who has obtained access to a medical report believes that information contained in it is inaccurate or irrelevant to the employer, he or she may ask the doctor to make amendments accordingly.
14. Once the individual has seen the report, he or she is expected to give consent to the report being released to the employer (and/or make representations on its contents to the practitioner) as soon as reasonably practicable.
15. When the care service has received the report, further consultation will take place with the job applicant or employee concerned before any decisions are made regarding the individual's employment with the service or in respect of the making of any "reasonable adjustments" in line with the Equality Act 2010.
16. Where an employee refuses, having seen the report, to give consent to it being released to the care service, the care provider will interview the individual concerned. It will explain that the organisation would prefer to base its decision on up-to-date medical evidence but that, if such evidence is withheld, a decision will be made on the basis of such information as is available at the time.
17. The same procedure will be followed if an individual delays unacceptably in giving consent for the employer to see the report.

18. Information acquired by the service on individuals' health is to be treated in the strictest confidence at all times.
19. The care provider is fully aware that the Data Protection Act 2018 gives individuals considerable rights regarding any personal information held about them, including medical reports, and that they have the right under the Act to request access to any medical report held about them by the employer.

## Training

All staff involved in the recruitment of staff are instructed in this policy.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Policy review date: \_\_\_\_\_