

Employment Screening Checks Policy

Human Resources | September 2020

1. Aim

Farrer & Co takes a fair and systematic approach to employment background screening both before and during the course of the employment relationship to verify an individual's suitability and ongoing suitability for their role and to ensure the firm meets its regulatory obligations.

2. Scope

This policy applies to all employees and partners of the firm (collectively referred to as 'employees' in this policy) in addition to individuals who have received a written conditional offer of employment from the firm. This policy does not form part of employees' contracts of employment and may be amended by the firm from time to time.

3. Introduction

Pre-employment screening, carried out in an appropriate and proportionate way, is an important part of the firm's recruitment process that safeguards the firm from any potential negative impact that may be caused by recruiting an unsuitable candidate for the role. It aims to ensure that the firm meets legal requirements by verifying the candidate's right to work in the UK, the requirements of our regulating body, the SRA, and that the individual is not likely to bring the firm into disrepute once employed.

Periodic screening during the employment relationship ensures that the firm is compliant with its regulatory obligations.

The firm uses an outsourced provider to carry out its background screening checks both before and during the employment relationship.

4. Regulatory requirements

As our regulator, the SRA oversees the firm's compliance with the Money Laundering Regulations (MLR) 2017. Under regulation 21 of MLR 2017, we have an obligation to carry out relevant screenings on appointment and during employment of relevant employees (please see definition in section 6).

The SRA requires that the firm implements regular, repeat criminal background checks for those employees whose role may create a risk of involvement in money laundering, which we judge to include those in senior roles and those employed in Risk, Finance, Residential and Rural Property, Family and Private Client. These checks are completed to verify that there are no criminal convictions of which we are unaware or financial concerns which have not been disclosed to the firm.

The SRA also requires that, given the budget responsibilities of those in more senior roles and certain fee-earning roles, we complete annual credit checks and criminal record checks every three

years to identify those who might pose a risk. Finally, the SRA requires certain checks to be conducted on all people becoming partners or officers in the firm (as defined by the SRA).

All the screening groups and background checks contained within this policy are based on current and future drivers, including compliance with the requirements of the SRA, MLR, the CQS (the Law Society's Conveyancing Quality Scheme), Risk & Compliance, client expectations, consistency and fairness.

5. Types of background screening check undertaken

5.1 Right to live and work in the UK

The firm carries out document checks to ensure that all candidates have the right to live and work in the UK. Any offer of employment is conditional on the provision of satisfactory evidence of this right and will be withdrawn if the candidate is unable to provide the correct original documentation. A member of the HR team is required to verify this in person, within a reasonable amount of time from the request being made.

5.2 Criminal record checks

The firm applies for standard criminal record checks through the Disclosure and Barring Service (DBS).

If a candidate fails to disclose an unspent conviction (or in the case of solicitors, due to it being a regulated profession, a spent or unspent conviction), without a valid reason, or fails to provide truthful information, the firm has the right to retract an offer of employment.

In circumstances where the DBS check confirms that a candidate has an unspent criminal conviction (or a spent or unspent conviction if they are a solicitor), the firm will review their suitability for the role. Some factors that may be considered include:

- The particular role applied for;
- The relevance of the conviction to the role;
- The seriousness of the offence;
- The period of time that has elapsed since the offence;
- Any change in circumstances;
- Any explanation or context provided by the individual.

DBS checks are also undertaken for those in relevant roles every three years during their employment (details can be found in the table in section 6 below). If the DBS check confirms that the employee has an unspent criminal conviction (or a spent or unspent conviction if they are a solicitor) of which the firm was previously unaware, the firm will discuss this with the individual and allow them the opportunity to respond, before making a decision on their ongoing suitability for their role.

Under SRA requirements, the firm must seek approval for Beneficial Owners, Officers and Managers of the firm and Farrer & Co Trust Corporation (which would normally include the members of the Management Board of the LLP and Directors and Secretary of Farrer and Co Trust Corporation) for a DBS check to be made.

A data privacy notice is issued to candidates during the recruitment process to communicate the firm's compliance systems when carrying out these checks and how data will be used.

Further information on the firm's approach to the recruitment of ex-offenders can be found in section 8 below.

5.3 Employment references

The firm requires at least two written employment references for each candidate, covering the last five years. Written references from the candidate's two previous employers will be sought if they have worked for the same employer for the past five years. If the individual has not been in employment for any part of the five-year period, educational or personal references will be requested instead. Confirmation of dates of employment and job title constitutes the basic information required. If the references received are unsatisfactory or there is a significant discrepancy between the dates provided by the candidate and the referee, the firm will discuss this with the individual and allow them the opportunity to respond, before reconsidering the candidate's suitability for the role, which may result in the withdrawal of an offer of employment.

5.4 Academic qualifications

Verification of a new joiner's highest academic qualifications is carried out by contacting the awarding institution and the provision of original certificates by the candidate.

5.5 CV comparison

The firm compares the information received from the candidate in their CV to the information received from previous employers and educational institutions. If significant discrepancies are found, these will be discussed directly with the individual before any decision is made on their suitability for the role. Significant discrepancies without a valid justification may result in the withdrawal of a conditional offer of employment.

5.6 Adverse Media checks

Adverse Media checks are carried out on candidates in the relevant groups before employment, and on an annual basis for all fee-earners and for senior employees with leadership responsibilities in business services (details can be found in section 6 below). The purpose of these checks is to establish whether there is any information in the media relating to a relevant individual which might risk bringing the firm into disrepute.

If any adverse information is found during these checks, the firm will discuss this with the candidate or employee and allow them the opportunity to respond, before making a decision on withdrawing an offer of employment or on the employee's suitability to continue in their role.

5.7 Fee-earner Practising Certificates and disciplinary records

Pre-employment and annual checks during employment are carried out to ensure that every fee-earner has a valid Practising Certificate. The practising status of fee earners is validated by checking the Solicitors Register prior to their appointment. Checks are also carried out to ensure that no fee-earner has had disciplinary action recorded against them by the SRA of which the firm is unaware.

5.8 SRA Section 43 check

Pre-employment and annual checks during employment are carried out to ensure that no employee has been in breach of the SRA’s Standards and Regulations in connection with their involvement in a legal practice or had disciplinary action recorded against them.

5.9 Credit checks

Basic credit checks are carried out on all fee-earners, members of the Finance and Risk teams and senior business services employees both before and on an annual basis during employment to ensure that they do not pose a risk to management of the firm’s and clients’ finances. Applicable employment law sets out the parameters of these checks, which do not affect an individual’s credit status.

6. Background checks by job role and frequency

The table below shows the background checks that are made on each group of candidates and employees. Those groups highlighted in green are subject to the checks set out in the table before employment and, where applicable, at regular intervals:

Background Check	Group 1: Business Services & Secretaries (except those within groups 2, 3 and 4)	Group 2: Finance and Risk, and Business Services CDF Level D1 and above, Trainees	Group 3: Fee earners in Residential and Rural Property, Private Client, Family, all firm Partners	Group 4: Fee Earners (excluding those in Group 3)
Right to live and work in the UK				
Criminal record check		Every 3 years and upon promotion to band	Every 3 years	
Employment referencing (five years)				
Highest education verification				
CV comparison				
Adverse media checks		Annual check and upon promotion to band	Annual check	Annual check
SRA (Practising Certificate)			Annual check	Annual check
SDTR (Disciplinary Tribunal)			Annual check	Annual check
SRA Section 43 check		Upon promotion to band		
Credit & Bankruptcy check		Annual check and upon promotion to band	Annual check	

7. Compliance with the Data Protection Act 2018

Pre-employment checks are carried out in accordance with applicable data protection law, including the General Data Protection Regulation and Data Protection Act 2018. The six data protection principles, as set out within the Data Protection Act 2018.

The firm ensures that all processing of personal data complies with the key data protection principles, i.e. that it should be:

- Processed fairly, lawfully and transparently;
- Obtained only for specific, explicit and lawful purposes and must not be processed in any manner incompatible with the purposes for which it was collected;
- Adequate, relevant and not excessive in relation to the original purpose for which it was processed;
- Accurate, kept up to date and every reasonable step taken to ensure that any inaccurate data is erased or rectified without delay;
- Processed in a manner that ensures appropriate security, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage;
- Not be kept for longer than is necessary for the purpose for which it was collected.

8. Recruitment of Ex-Offenders

As an organisation assessing applicants' suitability for positions which are included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order, using criminal record checks processed through the Disclosure and Barring Service (DBS), the firm complies with the DBS code of practice and undertakes to treat all applicants for positions in accordance with relevant obligations. In particular, the firm undertakes to comply with its legal obligations to any subject of a criminal record check.

We can only ask an individual to provide details of convictions and cautions that the firm is legally entitled to know about. Where a DBS certificate at either standard or enhanced level can legally be requested (where the position is one that is included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended, and where appropriate Police Act Regulations as amended), the firm may be entitled to request information about spent convictions.

Otherwise, the firm can only ask an individual about convictions and cautions that are not protected (i.e. unspent convictions).

We are committed to the fair treatment of our employees, potential employees or users of the firm's services, regardless of race, gender, religion, sexual orientation, responsibilities for dependents, age, physical/mental disability or offending background.

This policy, including information on the recruitment of ex-offenders, is made available to all DBS applicants at the start of the recruitment process.

The firm actively promotes equality of opportunity for all with the right mix of talent, skills and potential and welcome applications from a wide range of candidates, including those with criminal records.

The firm selects all candidates for interview based on their skills, qualifications and experience.

An application for a criminal record check is only submitted to DBS after a thorough risk assessment has indicated that one is both proportionate and relevant to the position concerned. For those positions where a criminal record check is identified as necessary, all application forms, job adverts and recruitment briefs will contain a statement that an application for a DBS certificate will be submitted in the event of the individual being offered the position.

All those in the firm who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences. They have also received appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders, e.g. the Rehabilitation of Offenders Act 1974.

The firm ensures that an open and measured discussion with the individual takes place about any offences or other matter that might be relevant to the position. The firm undertakes to discuss any matter revealed on a DBS certificate with the candidate before making any decision to withdraw a conditional offer of employment, or with the employee before taking any disciplinary action (an extract from the SRA's Standards and Regulations document that can be found in Appendix 1 and is used as a guide when making such decisions).

Failure by the candidate to reveal information that is relevant to the position sought could lead to withdrawal of an offer of employment.

The firm makes every subject of a criminal record check submitted to DBS aware of the existence of the DBS code of practice and makes a copy available on request.

9. Consequences of negative outcomes

- 9.1 In instances where background checks on an employee or future employee of the firm return a negative outcome where the check has not been passed, the firm will consider next steps on a case by case basis.
- 9.2 The SRA's Assessment of Character and Suitability Rules highlight the issues that the firm must take into account when assessing individuals. For example: criminal convictions or cautions; regulatory or other offences or findings; financial history including insolvency; or evidence of behaviour which indicates a lack of honesty and integrity. The firm will consider each case on its own facts to establish whether it considers the individual has the level of honesty, integrity and professionalism expected, and does not pose a risk to the public or to confidence in the delivery of its legal services.
- 9.3 If a criminal record check returns a negative outcome, next steps will depend upon the type of crime committed and the level of risk it poses to the firm. For example, the firm would not employ or continue to employ anyone with unspent convictions for violence, drugs, fraud, or crimes against the person. If an individual has been deliberately untruthful about their education in order to obtain a position, such as reporting higher grades than they have actually achieved, this indicates a lack of integrity and would result in the withdrawal of an

offer of employment. The same consequence would apply if an individual has been deliberately untruthful about their previous job titles or roles.

- 9.4 The firm will look into each case on an individual basis, taking into account the severity of the negative findings, the personal circumstances surrounding the findings and the level of risk these findings pose to the firm given the role that the individual has been offered or is employed in.

Farrer & Co LLP

Appendix 1: Extract from SRA Standards and Regulations

The [SRA](#) will consider criminal conduct when assessing [character and suitability](#), in accordance with Table 1 below, subject to the Rehabilitation of Offenders Act 1974 and the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975 and bearing in mind the public interest in supporting the rehabilitation of offenders. For the avoidance of doubt, Table 1 is a non-exhaustive list.

Table 1: Criminal conduct

Most serious (A finding in this category is likely to result in refusal)	Serious (A finding in this category may result in refusal)
<p>You have been convicted by a court of a criminal offence:</p> <ul style="list-style-type: none"> • for which you received a custodial or suspended sentence; • involving dishonesty, fraud, perjury, and/or bribery; • of a violent or sexual nature; • associated with obstructing the course of justice; • which demonstrated behaviour showing signs of discrimination towards others; or • associated with terrorism. • you have been convicted by a court of more than one criminal offence (these could be less serious offences when considered in isolation but taken more seriously because of frequency and/or repetition). • you have shown a pattern of criminal offences or criminal behaviours (e.g. starting from a caution but moving through to convictions). • you have accepted a caution from the police for an offence involving dishonesty, violence or discrimination, or a sexual offence. • you have been included on the Violent and Sex Offenders register. 	<ul style="list-style-type: none"> • you have accepted a caution for, or been convicted by a court of, a criminal offence not falling within the most serious category (which is likely to result in refusal). • you are currently subject to a conditional discharge or bind over by a court.