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Background Checks Policy

Duty of Care

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Purpose of this Policy

The purpose of this policy is to ensure a robust approach during recruitment processes, when assessing applicants' suitability for positions through conducting (and responding to) background checks.

MAG expects all work locations to have guidelines or procedures related to background checks in place that aim to meet the requirements of this policy. These may, for example, form part of staff handbooks, recruitment procedures or separate background checks procedures. Where these are not in place, the principles of this policy will apply.

Link to Values

This policy aligns with MAG's values, in the following illustrative ways.

- **Determined:** we will demonstrate determination in how we conduct thorough background checks, to ensure we employ the right people at MAG
- **Expert:** we will use our HR expertise to make judgements on whether our background checks are robust enough to fulfil our duty of care
- **Integrity:** we have a duty to protect the communities and people we work with, from individuals who may misuse their position for their own benefit
- **Compassion:** we will demonstrate compassion when liaising with candidates/prospective employees and support them to fulfil our background checks process
- **Inclusive:** we will work towards ensuring that our robust processes do not exclude groups of individuals from entering employment at MAG

Responsibilities

This policy applies to all prospective, current, and former employees, interns, volunteers, trustees, and consultants. Where the word 'employee' is used, it should be read as applying to all these groups, subject to the guidance table in Annex 1.

MAG is a member of the Misconduct Disclosure Scheme. The Scheme strives to improve current referencing practices and build confidence that requesting data related to sexual misconduct is possible both practically and legally. [Introduction — The Misconduct Disclosure Scheme \(misconduct-disclosure-scheme.org\)](https://www.misconduct-disclosure-scheme.org)

The Scheme consists of two main commitments:

- a commitment to systematically check with previous employers about any SEAH issues relating to potential new hires,
- a commitment to respond systematically to such checks from others.

Definitions

SMiC	Senior Manager in Country
SMT	Senior Management Team

Policy statements

Attracting and selecting people who have the right skills, competencies and values is key to the successful delivery of MAG's mission. In support of this, background checks for prospective employees are important given that MAG has a duty to protect the communities and people we work with, staff, partners, and stakeholders, from individuals who may misuse their position for their own benefit.

APPLICATION

1. BACKGROUND CHECKS ON PROSPECTIVE EMPLOYEES

Before any offer of employment/engagement with MAG is confirmed, successful candidates will go through a robust background check. This includes the following:

Proof of identity:

Appropriate documentary evidence of identity including full name and date of birth will be submitted. This should include national/social insurance number or national identity number. Where an appropriate document is not available, a birth certificate or appropriate alternative should be obtained.

Where legally necessary, evidence of right to work will also be required.

Copies of proof of identity documents will be taken and must be signed and dated by the person carrying out the checks and kept on the individuals' personnel file.

Proof of relevant qualifications:

Where required for the post, the relevant educational and/or professional qualifications will be requested. This will require an original or a certified copy of a certificate, diploma, or a letter of confirmation from the awarding body.

Obtaining References:

Any offer of employment will be conditional on the receipt of satisfactory references that meet MAG's standards for references, as set out below. Their purpose is to obtain objective information, to support appointment decisions.

References should meet the following standards. To meet these requirements, MAG may need to request more than two references.

- Organisational references must be obtained covering the previous five years of employment history and there must be a minimum of 2 references. They must come from authorised personnel and be sent from the organisation's email address.
- One reference must be from the individuals' most recent line manager. If the line manager no longer works for the organisation, then this can be given in a personal capacity (but is then in addition to the 2 organisational references).
- All reference requests will include as minimum questions about recent employment history, conduct, safeguarding, past performance and substantiated disciplinary action.
- Open 'To Whom it May Concern' references and testimonials will not be accepted.
- If references are taken verbally, notes will be taken, and the referee will be asked to confirm by email or in writing that they are an accurate reflection of what they have said.
- References must be received before an employee starts work with MAG and any exception to this must be approved by the Head of HR (UK contracted staff) or the SMiC (locally contracted staff). Probation periods will not be confirmed as passed until all background checks are fully complete.

If an employer says it is not their policy to provide references, a request for confirmation of employment dates and reason for leaving will be made. Where this is the case, consideration should be given as to whether a further organisational reference should be obtained.

Where it is not possible to obtain an organisational reference due to recent experience e.g of not having been employed, then alternatives will be sought. This might include a community reference – from respected members of the community or an education reference.

The relevant HR team will be responsible for requesting references and administering their return. Returned references should be shared with the relevant HR Manager (UK contracted staff) or member of programme SMT (locally contracted staff).

Where, for any reason, it is not possible to meet these standards, the Head of HR (UK contracted staff) or SMiC (locally contracted staff) will approve any variation to the above and decide whether employment can commence.

Checking references:

Once a reference has been received, it should be thoroughly checked by a HR Manager or, for programmes that do not have a HR Manager, the SMiC.

When checking a reference that has been received, the following should be considered:

- Does the information provided in the reference match the information provided by the prospective employee? For example, the dates of employment, job title, responsibilities, and reason for leaving.

- Does the reference include negative feedback and sufficient information - is follow up required?
- Has the referee been very cautious in the information they have given - is follow up required?
- For an organisational reference, is the response sent from an organisational email address? Does the email address from which the response was sent, match the one to which the request was sent?
- Have MAG's standards for references been met, in line with this global policy and applicable local procedures or guidelines?

Where references reveal any inconsistencies or doubts about the person's suitability, the issues should be followed up and explored with the referee and/or the candidate. Written records of any telephone conversations should be kept and where the issues are significant, more detailed information sought in writing from the referee if possible. This is particularly important where a decision is made not to consider the person further, or where issues need to be explored further with the applicant. Any information about past disciplinary action should be considered in the circumstances of the individual case.

Where there are concerns about the content of a reference, this must be flagged to a more senior manager (the Head of HR for UK contracted staff, or the SMiC for locally contracted staff).

Declaration of criminal convictions:

All candidates who are offered a role with MAG will be asked to complete and sign a criminal conviction declaration form. Which may include the following statement or similar, based on local legal context:

MAG is committed to safeguarding the health, wellbeing and human rights of all staff, partners, and beneficiaries and to provide a safe and trusted environment for anyone who comes into contact with our work. MAG encourages applications from anyone who feels able to work in line with the high standards of personal conduct expected.

In line with verifying these standards, job offers are subject to a declaration of any unspent criminal convictions. Failure to declare any unspent criminal conviction as requested will result in termination of employment. This data will only be stored if you accept a job offer from MAG and will not be centrally recorded.

The nature of legal convictions that an individual needs to declare can vary from country to country and legal advice may need to be taken prior to developing a declaration form. MAG can only ask an individual to provide details of convictions and cautions that we are legally entitled to know about, based on the local legal framework.

The Policy on Personal Conduct is clear that MAG employees should inform the relevant HR Manager or a member of the SMT should there be a change in their circumstances for example, if they receive criminal offence charges or convictions, restraining orders, injunctions or intervention orders while employed with MAG.

The self-declaration demonstrates that the organisation takes safe recruitment seriously. Having a written declaration means that if the successful candidate has deliberately withheld information about their criminal background, it may be easier for the police (if appropriate), regulatory agency or organisation to take action against the person.

Police / criminal records check or equivalent:

To ensure MAG is fulfilling its safeguarding obligations, all MAG work locations are required to consider which roles, within its structure, should be required to provide a police or criminal records check.

The requirement to have a police or criminal records check should be based on a risk assessment that considers:

Possibility of contact with children or vulnerable adults or members of a community where MAG is working with and on a one-on-one basis.

- Access to personal information and images
- Decision making power or influence over MAG funds or procurement processes.
- Roles with representation responsibilities.

Level 1 positions do not meet any of the above criteria and therefore the post holder does not require a basic criminal records check.

Level 2 positions meet one of the criteria and therefore the post holder requires a basic criminal record check on appointment. Where legally and administratively possible, this should be repeated every three years during employment.

If a role is subject to a police check, this will be made clear on the job advert and any recruitment information. All applicants will be made aware that they can request a copy of this policy at any time, from the beginning of the recruitment process.

The availability of and process for criminal background checks will depend on each local legal framework.

MAG recognises that the police check process can be lengthy, and because of this, are willing to employ a member of staff without a police or criminal records check with the written permission of the Head of HR (UK contracted staff) or the SMiC (locally contracted staff). This is with the strict understanding that the check must be obtained by the time the member of staff reaches the end of their probation period, otherwise they cannot be confirmed as passed.

Responding to a Criminal Conviction

MAG will not discriminate unfairly based on a conviction or other information revealed and is committed to equal opportunities in employment. Declaration or discovery of a criminal history will not automatically preclude a person from being or remaining employed.

Where a declaration or check reveals a conviction or details of any criminal activity, a measured discussion should take place between the individual and the relevant HR Manager about any offences or other matter that might be relevant to the position. If the candidate fails to reveal information that is directly relevant to the position sought, it could lead to withdrawal of an offer of employment. The decision on whether to continue with employment will be made by the Head of HR (UK contracted staff) or the SMiC (locally contracted staff) by conducting a risk assessment against type of conviction and nature of the position. Where there are concerns or uncertainties, guidance can be sought from the Head of HR on how to proceed – refer to guidance on dealing with a disclosure.

Anti-terrorism check

To ensure compliance with the requirements of MAG donors, all offers of employment will be subject to satisfactory processing through MAG's anti-terrorism software, Watchdog.

Staff will be checked in line with MAG's anti-terrorism procedures:

- UK contracted staff: before they start employment with MAG, and then every 12 months
- Locally contracted staff: before they start employment and every 3 months

Conflict of Interest

Some staff are required to complete a Conflict-of-Interest form when they start with MAG, and renew this each year, or if their circumstances change. For further information on this requirement, please refer to the Conflict-of-Interest Policy and associated guidelines. Executive Directors are required complete the Senior Manager Automatic Disqualification Declaration (Dir/FM/003). This form is used by MAG to ensure that individuals who hold, or who are applying for, a relevant senior manager position are not disqualified from holding that position.

Other Background Checks

Where required by local labour regulations, requirements or law, other background checks may be required and conducted. Where these are necessary, it should be clear within individual programme/location background checks guidelines.

Candidates appointed to certain roles may be required to make additional declarations – for example roles within a finance function may be required to confirm that they have no civil judgements against them (for

example, in the UK, County Court Judgements). Where this is required, it should be clearly set out in individual programme/location background checks guidelines and within the job advert.

Withdrawing a provisional offer of employment

Offers made to prospective employees are provisional and are not confirmed until all background checks are completed. This will be made clear to candidates when the provisional offer is sent.

MAG reserves the right to withdraw a provisional offer of employment for reasons that may arise from the backgrounds check process, failure to meet the requests as set out in this policy, or for other reasons that relate to security or funding. Final decisions relating to a withdrawal of a provisional offer will be made by the Director of People and Culture.

2. RESPONDING TO REFERENCE REQUESTS FOR CURRENT OR EX-EMPLOYEES OF MAG

There is normally no legal requirement for MAG to provide references for employees or former employees. However, a refusal to provide a reference may be unhelpful to other employers and is likely to be interpreted that there was a problem which might disadvantage them. MAG takes its responsibility to share information about individuals across the sector very seriously. Where necessary, and subject to the relevant legal and data protection regulations (for example GDPR), we will exchange information with other organisations, but only on the basis that the information in a reference can be shared with the individual in question and therefore the detail should not be of any surprise to them.

Organisational references for UK contracted staff will only be provided by the HR Team at the Manchester Office. These references can be written by a line manager and then must be sent to HR for issue.

Organisational references for locally contracted staff will only be provided by the relevant HR Team with authorisation by the SMiC.

If individuals are approached for personal references, it must be made clear in any response that these are not the opinions of MAG as an organisation and will not be provided on MAG letterhead or responded to from a MAG email address. Anyone in any doubt as to whether they should provide a reference should contact the relevant HR team for advice.

Reference Contents

MAG will seek to follow best practice and legal requirements in relation to references. Any information provided will be accurate and factual and great care will be taken about not giving any misleading information.

Where an individual has been dismissed for disciplinary reasons, this information will be included within a reference (although details of the case will not be shared).

A live disciplinary warning will also be referred to within any reference MAG gives and where the reference is provided within the lifespan of the warning.

Where an individual resigns subject to an investigation into a serious disciplinary issue, MAG considers itself obliged to share that an individual has resigned subject to an investigation when the probable outcome of the investigation (which should have been concluded as far as practicably possible) may have led to dismissal for gross misconduct.

MAG reserves the right to not provide full information if advised by an employment lawyer not to do so and where a disciplinary investigation, sanction, or dismissal does not relate to sexual exploitation, abuse, harassment, or bullying.

The wording in all these instances will be approved by the Head of HR or SMiC and will also be made clear to the employee in the disciplinary outcome letter, at the point of dismissal or the letter acknowledging a resignation.

Guidance on the information MAG will provide in response to a reference should be set out in individual programme background checks guidance.

References should be stored in line with the relevant data protection rules and regulations.

Monitoring

This policy is MAG's global standard. We recognise that in different contexts, programmes may not be able to achieve everything set out in this policy. Each country is required to assess how they can meet these standards and where not possible, this will be documented in writing and submitted to the relevant Regional Director and Head of HR for review and approval. Each work location is expected to have procedures in place that are as close to this global standard as possible in the operating context.

References

Disciplinary Policy; Equal Opportunities Policy; Policy on Personal Conduct; Conflict of Interest Policy; Watchdog Procedure; Recruitment Policy; Background Checks Procedure for HQ and International Staff; Template Background Checks Procedure for National Staff.

[Introduction — The Misconduct Disclosure Scheme \(misconduct-disclosure-scheme.org\)](https://misconduct-disclosure-scheme.org)

Contacts

Director of People and Culture
Head of HR
HR teams

Annex 1: Application Guide

In summary, the following background checks are required:

	Identity (& where necessary permission to work)	Check on qualifications (if relevant to role)	References	Police check (subject to risk assessment)	Declaration of criminal convictions	Anti-terrorism check
Prospective employees	Yes	Yes	Yes	Yes	Yes	Yes
Consultants	Yes	Yes	Yes	No**	Yes	Yes
Interns / volunteers	Yes	Yes	Yes	No**	Yes	Yes

* Current employees include – open-ended, fixed term and casual staff. The checks required for casual staff will be established by each programme and according to the operating context.

** Police checks for consultants, interns or volunteers will only be required if they are working with children, vulnerable adults, beneficiaries or members of a community, unaccompanied by a member of MAG staff. If they may interact with them unaccompanied, then a police check will be required.

Contractors

For staff supplied by contractors MAG will request the contractor confirm in writing that the following checks have been completed:

- Check if identity, and where necessary permission to work
- Check on qualifications, if relevant to the role
- Reference checks (minimum two references)
- Police check, if the role meets MAG's standards for requiring a police check
- Signed declaration of criminal convictions

Contractors will also be processed through MAG's anti-terrorism software by MAG in line with the requirements set out above.

Trustees

Trustees are required to undergo the following checks before taking up a role on the Board.

	Identity	Check on qualifications (if relevant to role)	References	Police check	Declaration of criminal convictions	Anti-terrorism check
Trustees	Yes	Yes	Yes	Every 3 years	On appointment and when re-signing the PPC annually	On appointment and repeated every 12 months

In addition to the above MAG will also carry out the following checks on trustees prior to their appointment:

- The Companies House disqualified directors register - details of directors disqualified by the courts and the Insolvency Service - <http://www.gov.uk/government/organisations/companies-house>
- The bankruptcy and insolvency register - details of people who have gone bankrupt or signed an agreement to deal with their debts in England and Wales - <http://www.gov.uk/government/organisations/insolvency-service>
- Trustee Automatic Disqualification Declaration (Dir/FM/002) - this form is used by MAG to ensure that individuals who hold, or who are applying for, a trustee position are not disqualified from holding that position
- Charity Commission trustee removals - <http://www.charitycommissionni.org.uk/concerns-and-decisions/register-of-removed-trustees/>
- HMRC 'fit and proper persons test' - <http://www.gov.uk/government/publications/charities-fit-and-proper-persons-test/guidance-on-the-fit-and-proper-persons-test>
- Social Media check (for Chair position only) via Sterling - <https://www.sterlingcheck.com>