

|                    |            |       |    |      |            |             |            |
|--------------------|------------|-------|----|------|------------|-------------|------------|
| DOCUMENT REFERENCE | HR/POL/027 | ISSUE | V2 | DATE | 30/10/2020 | REVIEW DATE | 30/10/2021 |
|--------------------|------------|-------|----|------|------------|-------------|------------|



## MAG BACKGROUND CHECKS POLICY

### POLICY STATEMENT

Attracting and selecting the right staff is key to the successful delivery of MAG’s work. Background checks for prospective employees are important to ensure we recruit the right people in terms of skills, competencies, behaviours, attitudes and values. MAG also has a duty to protect the communities and people we work with, staff, partners and stakeholders from those individuals who may misuse their position for their own benefit.

### PURPOSE

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

MAG expects all MAG 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.

### SCOPE

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 of these groups, subject to the guidance table in Annex 1.

This policy is MAG’s global standard, but 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 it is 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.

### DEFINITIONS

SMiC                Senior Manager in Country  
SMT                 Senior Management Team

### 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 and factual information to support appointment decisions.

MAG's standards for references, are:

- A minimum of two references obtained in writing, using a MAG standard format. All reference requests should include questions about conduct, safeguarding, past performance and substantiated disciplinary action as a minimum.
- If references are taken verbally, notes should be taken and recorded 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 should be from recent employment history (where possible) and the referee must be able to comment on professional skills, conduct and experience. References must be received before an employee starts work with MAG and any exception to this must be approved by the Head of HR (HQ and International staff) or the SMiC (national staff).

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 3 years' of employment history. There must be a minimum of two organisational references, one of which should be from the most recent employment, before MAG.
- Line Manager reference - 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
- Community reference – programmes may wish to consider asking for references for some national staff from respected members of the community where it is not possible to meet the standards above
- Open 'To Whom it May Concern' references and testimonials will not be accepted.

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 professional reference should be obtained in order to meet MAG's standards.

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

Where, for any reason, it is not possible to meet these standards, the Head of HR (HQ and International Staff) or SMiC (national 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 HQ and International staff, or the SMiC for national 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:**

In order 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 records 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 as a result 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 (HQ and International Staff) or the SMiC (national 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, or they will fail their probation period on the ground of failing to fulfil all pre-employment checks.

### **Responding to a Criminal Conviction**

MAG will not discriminate unfairly on the basis of 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 on the subject of 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 (HQ and International Staff) or the SMiC (National 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:

- HQ and International Staff: before they start employment with MAG, and then every 12 months
- National 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.

## **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 HQ and international staff should only be provided by the HR Team at HQ. These references can be written by a line manager but must then be passed to HR for issue.
- Organisational references for national staff should only be provided by the relevant HR Team with authorisation by the SMiC.

If individuals are approached for personal references, it will 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**

Any information provided should 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). This will be made clear to employees at the point of dismissal. A live disciplinary warning will also be referenced within any reference MAG gives, where relevant.

Where an individual leaves MAG with a live disciplinary warning on file, this will be shared within a reference provided by MAG, where the reference is provided within the lifespan of the warning. Where an individual is dismissed from employment with MAG, this will be included within any reference provided by MAG.

MAG will seek to follow local best practice and legal requirements in relation to references. However, where an individual resigns subject to an investigation into a serious disciplinary issue, MAG would consider itself obliged to share this information within a reference, as part of our commitment to Safeguarding, should it be felt by the relevant senior manager (Head of HR for International and HQ staff, and SMiC for national staff) that the probable outcome of the investigation (which should have been concluded as far as practicably possible) would have been a disciplinary hearing that would likely have led to dismissal for gross misconduct.

This will be made clear in the disciplinary outcome letter, or the letter acknowledging their resignation.

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

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

### **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

### **APPROVAL AND DATES**

This policy must be approved by The Board of Trustees. This policy was approved by: The Board of Trustees on 30 October 2020.

This version takes effect from: 30 October 2020

This policy will be reviewed by: 30 October 2021

The Governance, Nomination and Review Committee (annually)                      HSC (annually)

The Board of Trustees (annually)

### **POLICY OWNER**

People and Organisational Development Director

## Annex 1: Application Guide

In summary, the following background checks are required:

|                              | Identity<br>(and where necessary<br>permission to work) | Check on<br>qualifications<br>(if relevant to role) | References<br>x 2 | Police check<br>(subject to risk<br>assessment) | Declaration of criminal<br>convictions | Anti-terrorism check |
|------------------------------|---|---|-------------------|---|--|----------------------|
| <b>Prospective employees</b> | Yes   | Yes   | Yes               | Yes   | Yes                                    | Yes                  |
| <b>Consultants</b>           | Yes   | Yes   | Yes               | No**  | Yes                                    | Yes                  |
| <b>Interns/volunteers</b>    | 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<br>qualifications<br>(if relevant to role) | References<br>x 2 | Police check  | Declaration of criminal<br>convictions | Anti-terrorism check |
|-----------------|----------|---|-------------------|---------------|--|----------------------|
| <b>Trustees</b> | Yes      | Yes   | Yes               | Every 3 years | When re-signing the<br>PPC annually    | 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>