

Carrying out background checks

Once you've decided you want to offer a nanny a job, you'll need to inform the successful candidate. There are checks that you're advised to make such as your nanny's eligibility to be in the UK and take up the position.

The offer letter should set out the main terms and conditions of the job and whether the offer is conditional, that is that the offer is subject to the outcome of checks such as references.

This guide tells you about how to make a job offer, carry out the checks and when these should be done.

Making the offer

You may wish to make a job offer initially by telephone. This gives you the opportunity to discuss the terms of employment and find out if the nanny wishes to take you up on your offer.

Send the successful candidate a formal offer letter including:

- The job title
- The name of the person to whom the job is offered
- Any conditions which need to be complied with before the employment can be officially confirmed, e.g. checks on eligibility to work, qualifications, criminal records check
- The date employment starts
- Whether a probationary period is applicable
- Providing suitable references
- The terms on which the job is offered
- Action required by the candidate, e.g. production of suitable evidence to be in the UK and take up the employment in question if not already completed
- Decide what information can be given at a later date. Candidates must receive a written statement of the main terms and conditions of employment, usually within two months of the starting date.

Ask the candidate to send you a signed copy of the offer letter - this establishes the terms on which the offer was made, in case of any disputes.

Carry out document checks as soon as possible and before the employment commences (you can ask candidates to bring documents to the interview) - most employees won't wish to hand in their notice until they've had a firm offer of employment. If candidates can't meet the conditions you can withdraw your offer. This should be done quickly and it can lead to legal action.

References

The most common check is a job reference, in writing or by telephone. Job candidates must agree before any referees are contacted. Except for certain employers in the financial services sector, employers aren't obliged to give references.

When should I obtain a reference?

You can take up references at any point in the recruitment process. However, many applicants would prefer you to contact their current employer after a conditional offer is made. If you make a conditional offer, you need to put in the offer letter words such as "I am pleased to offer you the post of, subject to receiving satisfactory references". However, if you then withdraw the offer, you risk a claim for breach of contract.

Obtaining written references

The easiest way to obtain references is to provide a form. For example, ask:

- How long have you known (applicant's name)?
- What is your relationship to (applicant's name)?
- How long was (applicant's name) employed by you?
- What duties were required by you of (applicant's name)?
- How does/did (applicant's name) discipline your children?
- Can you describe (applicant's name) appearance?
- Can you describe (applicant's name) personality?
- Would you consider (applicant's name) mature, emotionally stable, and healthy enough to work as a part/full-time, live-in/out nanny away from friends and family for at least one year?
- How many days of sick leave did (applicant's name) take?
- Was (applicant's name) subject to disciplinary action? If so, what for?

- Was (applicant's name) reliable, honest, hardworking etc?
- Are there any reasons why (applicant's name) should not be employed?

Be aware the referees may refuse to provide a reference or may wrongly indicate an applicant's suitability.

Are references confidential?

Employees generally do not have the right to see a job reference written about them by their current employer. However, they may be able to gain access to the reference:

- If they take legal action
- Once they start work for a new employer
- You should never assume a reference will stay confidential

Keep in mind that an individual may also be able to access notes made about them during a telephone reference.

Criminal records check

The current legislation does not allow the self-employed or individuals to apply for a DBS (previously CRB) check on themselves. In addition, parents who employ a nanny/au pair/babysitter directly cannot apply for a DBS check; however, if an agency supplies the nanny/au pair/babysitter, the agency is entitled to carry out a DBS check and you can ask to see the certificate.

Health questionnaires and checks

You may want to understand the employee's health/medical situation. You can ask successful candidates to complete a medical questionnaire in line with the Equality Act 2010.

Obtaining medical reports

If you need to follow up a questionnaire with a health check doctors will expect a fee for carrying out a medical report. It is usual for the employer to pay for the fee. The candidate's written consent is needed before you can apply for a report. Let them know they have a right to refuse consent.

If the candidate's own doctor writes the report, let them know of their right to:

- See the report before or after it is supplied
- Withhold consent to the report being shown to the employer
- Request that the report be amended
- Even without the applicant seeing the report, the doctor must keep it for 21 days before sending it to the employer.

Checking qualifications

Where a particular qualification is essential to the position you want to fill, you should check the qualifications of job applicants. This can be done at any stage of the recruitment process.

If you wait until the offer has been made, include a statement in the offer letter to say that it is conditional upon a satisfactory check of the applicant's qualifications.

Qualifications checks can be made by:

- Consulting the records of professional bodies
- Asking the individual to bring certificates along at the interview stage for checking
- A service for checking higher education qualifications is available from the credit reference agency, Experian. Find information on checking qualifications on the Experian website.

Vocational Qualifications

The Qualifications and Curriculum Authority (QCA) has a database that sets out the range of qualifications it accredits. It also contains information on the competence and performance levels they are based on. Find out about vocational qualifications at the QCA website.

If you want advice on relevant National Vocational Qualifications (NVQs) in your industry contact your local Learning and Skills Council for access to the database at the LSC website.

Overseas Academic Qualifications

You can check overseas academic qualifications at the UK National Academic Recognition Information Centre (UK NARIC) website.

UK NARIC will be able to check the comparability of an overseas qualification. It is not able to confirm whether the job applicant has been awarded a specific overseas qualification.

UK NARIC can be contacted at: UK NARIC, Oriel House, Oriel Road, Cheltenham, Gloucestershire, GL50 1XP. Tel 0870 990 4088

Vocational Qualifications

You can check overseas vocational qualifications at the National Reference Point for Vocational Qualifications.

Withdrawing job offers

Employers can withdraw job offers made subject to references, criminal records checks etc, where the results are less than expected.

If an applicant starts work before the results of checks have been received, you should make it clear that the offer may be withdrawn if the checks prove unsatisfactory.

If you offer a job subject to a reference and the reference is unsatisfactory or is refused and you withdraw the offer, you could face legal action by the applicant.

No contract exists until the applicant has accepted an offer and all conditions under which the offer was made have been satisfied.

You may also wish to offer employment subject to a trial or probationary period (see separate guide). The length of the period may depend on the type of job and how much time is needed to gain or show the necessary skills. If you decide to withdraw the offer at the end of the period, you will need to give the employee the notice specified in their written statement. If no time has been specified, they will be entitled to the statutory minimum notice period or to any longer period which is the established custom or practice within the industry. An alternative to withdrawing the offer would be to extend the probationary period - if the contract allows - and to provide appropriate training.

Employees cannot claim unfair dismissal before completing one year's service unless it is for a number of automatically unfair reasons. See our guide on Dismissal. However, an employee dismissed during or at the completion of their probationary period may be able to claim breach of contract if, for example, you have not provided training that you promised would be given during the period.

Pre-employment checks - Data protection issues

There are some vital rules you should keep in mind in relation to pre-employment checks:

- Only carry out checks which are necessary
- Think carefully about the best point in the process to carry out the different checks
- Where possible check only the successful applicant
- Let applicants know what checks will be made and how they will be carried out
- Make sure that checks are carried out for a specific purpose
- Only use sources which will reveal relevant information
- Don't rely on information that may come from sources you do not trust
- If a check reveals adverse information about an applicant, give them the chance to explain it
- If a third party is to be involved in the process, e.g. a previous employer not listed as a referee, let the applicant know

Offer Letter Template

<EMPLOYEE'S NAME>
<ADDRESS>
<ADDRESS>
<POSTCODE>

<EMPLOYER'S NAME>
<ADDRESS>
<ADDRESS>
<POSTCODE>

<DATE>

Dear <NAME>,

OFFER LETTER

We/I would like to confirm our/my offer to you of the appointment as <JOB TITLE> and to confirm the principal terms of our discussions.

This offer is subject to the receipt of satisfactory references and the completion of a <NUMBER>-month probationary period. Please confirm the names and addresses of referees for <NUMBER e.g. 2> job reference(s) and <NUMBER> character reference(s) from whom the required references can be taken, and that we are free to write to them.

You will initially be employed at the family home at <ADDRESS>.

Your starting salary will be £ <AMOUNT> gross per <HOUR/WEEK/MONTH/ANNUM> payable <IN ARREARS MONTHLY>.

The other terms and conditions of employment are set out in your Contract of Employment which will be given to you when you start work and which, with this letter, will form your contract of employment. We/I should be grateful if you would sign and return to us/me a copy of this letter as your confirmation that you agree with the terms of this offer of employment. When writing, perhaps you would be good enough to confirm the date on which you are free to commence employment with us. We/I understand this date to be <DATE>.

If you have any questions concerning the terms of our offer please let us/me know as soon as possible and we/I will do all we/I can to ensure they are answered.

We/I look forward to your reply and are/am very pleased at the prospect of you commencing this employment with us.

Yours sincerely

<NAME>

I accept the employment terms set out in this letter

Signed: <FULL NAME OF EMPLOYEE>

Dated: