Use of the internet in pre-employment screening

Good practice guide

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Introduction

The use of the internet, social media in particular, for employment reasons is widespread, routine and growing. Employers are increasingly reviewing the online presence of candidates as part of their recruitment processes.

While this can provide useful pre-employment screening information on candidates, doing so can present a number of challenges. Where there are general screening guidelines, such as those contained in the British Standard on employment screening for security personnel (BS 7858), there are no generally accepted guidelines and procedures for fair, complete and efficient online searches for this purpose.

Furthermore, while a number of organisations outsource their pre-employment screening, including research into an individual's online presence to recruitment agencies or other specialist contractors, they can be unclear about exactly what their suppliers are doing; what information they are looking for, or how any information they do find is interpreted.

This has led to a situation where employers are potentially at risk of contravening aspects of data protection, employment and/or human rights legislation.

This guidance has been therefore written to provide employers with some simple principles that they should consider if they wish to conduct online checks of potential employees.

Any organisation considering whether to implement internet screening as part of their pre-employment screening regime should take legal advice before doing so.

Core principles of effective and proportionate online screening

- **Consider whether online screening actually necessary.**

Organisations should consider which, if any, roles, really require the screening of an applicant's online presence. Undertaking online screening for all potential employees may not be cost-effective or proportionate.

See CPNI's Personnel security risk assessment guidance for more information.

- **Make the process transparent.**

Employers should make applicants aware at an early stage of the recruitment process that they may conduct such searches. This may be included in a job advert or as part of the terms and conditions for the role.

- **Be aware of the legislation.**

Bear in mind that the law on discrimination applies equally to online and offline checks.

The regulations of most relevance to using online presence, social media and networking sites are the Data Protection Act (2018), the Equality Act (2010), the Human Rights Act (1998) and the Data Protection Directive 2012, although there are a number of other regulations, such as the Computer Misuse Act (1990) which also have relevance.

Employers should seek legal guidance before introducing any new measures.

- **Know how suppliers are operating.**

If an employer makes use of a third-party to carry out screening, they should be clear about how this is conducted and how any resultant information is interpreted and retained.

Employers should obtain appropriate warranties that their suppliers will comply with legislation and guidance from the Office of the Information Commissioner.

See CPNI's Security in the supply chain guidance for more information.

- **Plan the search regime.**

Searches should be targeted on finding relevant information and should not simply be 'fishing expeditions'.

Although it might not be possible to ensure consistency of interpretation, the ways in which information is sought, handled, reported and stored should be the same for all individuals.

Employers should restrict themselves to what is publicly available online and not ask for the passwords/access to applicants' social media pages or other sites.

Employers should not monitor candidates' online or social media activity. Rather, they should do it once as a 'snapshot' of the profile. They should not engage in repeat snapshots or review profiles for a period of time.

- **Search consistently.**

When looking for information, the first step is typically to use a search engine. However this may potentially result in thousands of hits. Employers may supplement this with a search on social media or deep web sites which store personal profiles, public records and other people-related documentation.

There is no one single search action that an organisation or individual can use to comprehensively gather information about an individual's online presence. Rather, the searcher needs to be consistent in how they search across all applicants; recognise that they need to be diligent and that such an exercise can be time consuming; that there may be legitimate reasons why there is only a limited or even no trace of an individual online and that they should not make subjective judgements about the information they gather based on their own personal perceptions.

Employers should not try and befriend or 'add' prospective candidates to their social media, or use any other surreptitious means to gather information.

Any information that is collected during an online search should be handled in accordance with the principles of the Data Protection Act.

- **Be impartial.**

Employers should remain impartial when judging others' online presence and usage. Rather than passing judgement on something that they personally feel is inappropriate, the employer should consider whether the applicant's online behaviour will impact on their ability to do their job or conflict with the values of the organisation.

Be aware that information on the internet may not always be accurate and is only one facet of a pre-employment screening check. If an employer does see something in a candidate's online profile that raises concern, it should form part of the interview questions.

If employers decide not to employ someone based solely on internet usage or presence, they need to be confident about their reasons for doing so and ensure that it cannot be interpreted as being discriminatory.

- **Don't stop at recruitment.**

Employers should ensure that their organisation has an accessible, robust and understandable social media policy that will apply throughout an employee's career. This should include references to acceptable behaviour, data protection, disciplinary procedures and monitoring.

Other advice

The following links provide further advice to employers and employees on the use of the internet and social media in pre-employment screening.

ACAS: The use of social media in the recruitment process

ACAS: Social media and how to develop a policy

ACAS: Workplaces and social networking

BS 7858 - BSI Security screening of individuals employed in a security environment.

CIPD: Pre-employment checks - an employer's guide

Information Commissioners Office: Employment practices code