

Protecting Vulnerable Groups Scheme Policy

March 2012

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Protecting Vulnerable Groups Scheme Policy

1 Purpose

- 1.1 The Protecting Vulnerable Groups Scheme (PVG Scheme) is established by the Protection of Vulnerable Groups (Scotland) Act 2007. The PVG Scheme allows Perth College UHI as a registered body to request and obtain information on whether an individual has any criminal convictions and whether or not they are barred from doing regulated work with children or protected adults either as an employee or as a student on placement. This document sets out the College's policy in relation to the PVG Scheme application process, its use of PVG Scheme information to inform decisions, and its storage and period of retention of PVG Scheme information. This document also sets out the policy which will apply to posts which are not covered by the PVG Scheme.
- 1.2 Perth College UHI is committed to ensuring its recruitment and selection practices are fair and comply with current employment legislation and best practice. The College also recognises its obligation under legislation to carry out the necessary checks in respect of staff and other people who will be working with children or protected adults. The fact that an individual has a conviction will not necessarily make them unsuitable for work with the College and College Management will consider the person's suitability as a whole in light of all the information available. However, the College cannot lawfully employ an individual to do regulated work of the type they are barred from doing.
- 1.3 The College is committed to equality of opportunity and aims to ensure that no applicant or member of staff is subject to less favourable treatment on the grounds of age, disability, race, sex, gender reassignment, marriage and civil partnership, pregnancy and maternity, sexual orientation, religion or belief or any characteristic which cannot be shown to be relevant to performance.

2 Scope

- 2.1 The terms of this policy will apply to applicants considered for employment, existing employees of Perth College UHI and members of the Board of College Management who undertake regulated work with children or protected adults or both. The terms of this policy also applies to students who apply to study on courses which include work placements involving working with children or protected adults, where this constitutes regulated work.
- 2.2 The College will also require all contractors, students who undertake a placement within the College, and partner organisations to the College whose staff regularly work in the College to be satisfied through relevant checks that they are not barred from working with children and/or protected adults.
- 2.3 Host families will normally be subject to a Basic Disclosure Scotland check and not a PVG Scheme check. There may be exceptional circumstances in which a child or protected adult is placed with a host family and where that constitutes regulated work a PVG Scheme check will be obtained.

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3 Definitions

- 3.1 Disclosure Scotland – Perth College UHI is a registered body with Disclosure Scotland, the agency in Scotland established to provide registered organisations with criminal history information on individuals applying for or holding relevant posts. Disclosure Scotland was established by Part V of the Police Act 1997.
- 3.2 Regulated Work means regulated work with children or regulated work with adults. The Vulnerable Groups (Scotland) Act 2007 contains a broad definition of **regulated work** and an employee or volunteer may be doing **regulated work** if they are involved in a specified activity in relation to a protected person; or if they work in a specified establishment; or if they hold a specified position. Activities as part of a person's normal duties which indicate they are doing regulated work with children include:
- Being in sole charge of children.
 - Caring for children.
 - Providing advice or guidance to children.
 - Teaching, instructing, training or supervising children.
 - Unsupervised contact with children.

Activities as part of a person's normal duties which indicate they are doing regulated work with adults include:

- Being in sole charge of protected adults.
- Caring for adults.
- Providing advice or guidance to protected adults.
- Teaching, instructing, training or supervising protected adults.
- Unsupervised contact with protected adults.

Children are those under 18 years of age.

A **protected adult** is a person aged 16 or over who is protected by the Act because he or she is receiving certain services as set out in the Act: health, care or welfare service.

- 3.3 A PVG Scheme Record or scheme record update replaces an Enhanced Disclosure Certificate. Perth College UHI will apply for a PVG Scheme record or scheme update for posts which undertake regulated work with children and/or protected adults within the College. The record will contain details of both spent and unspent convictions. In addition, it will show any information from local police records considered by the Chief Constable to be relevant to the position being sought.
- 3.4 A Basic Disclosure Check will be obtained in respect of posts or roles which do not constitute regulated work with children and/or adults. A Basic Disclosure Check contains information on unspent convictions.
- 3.5 Spent and Unspent Convictions – Sentences of more than 2½ years (30 months) can never become 'spent'. Other sentences become spent after

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fixed periods from the date of conviction. For a custodial sentence, the length of time actually served is irrelevant – the rehabilitation period is decided by the original sentence and commences on the date of conviction. With a PVG Scheme Record, all convictions will be shown, whether the relevant rehabilitation period has been spent or not.

- 3.6 Lead Signatory and Counter-Signatory – Members of staff who are authorised to request and receive Disclosure and criminal history information on behalf of the College.

4 Key Principles

- 4.1 Perth College UHI recognises its obligations under legislation to carry out necessary checks to ensure that those undertaking regulated work in the College are not barred from doing so. The College cannot by law employ someone to do regulated work of a type from which they are barred. To this end, the College will seek information from Disclosure Scotland, through the PVG Scheme or through a Basic Disclosure check, depending on role, to inform decisions on an individual's suitability for a post, role or student placement.
- 4.2 Where a post, role or student placement constitutes regulated work with children, the College is permitted to request a check against the list of persons barred from working with children.
- 4.3 Where a post, role or student placement constitutes regulated work with protected adults, the College is permitted to request a check against the list of persons barred from working with protected adults.
- 4.4 The College will comply with the Code of Practice and other guidance issued by Disclosure Scotland in dealing with requests for and in making decisions on PVG Scheme/Basic Disclosure information.
- 4.5 The College will:
- Only use PVG Scheme/Basic Disclosure information for the purposes for which it has been provided.
 - Have regard to any guidance issued by Disclosure Scotland on the use, storage and destruction of this information.
 - Not unfairly discriminate against an individual on the basis of a conviction or other information revealed through the disclosure process.
- 4.6 For regulated work, the terms of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003 (as amended) apply. The College is therefore entitled to ask about previous convictions, whether spent or unspent. Applicants are not entitled to withhold information on a criminal conviction on the grounds that it is spent under the Rehabilitation of Offenders Act 1974.

- 4.7 Having an unrelated criminal conviction will not necessarily debar an individual from a post or role within Perth College UHI or from undertaking a student placement as part of a programme of study. This will depend on the nature of the position and the circumstances and background of the offence or other information contained on a PVG Scheme Record or Basic Disclosure Certificate or information provided directly to the College by a Police Force.
- 4.8 In such cases where a criminal conviction has been brought to the College's attention either by the person or through a PVG Scheme Record/Basic Disclosure check, the HR Director/representative, other senior manager, or relevant Head of Curriculum in respect of students, will complete a Disclosure Assessment Form and consider the following before taking any action:
- Whether the individual is barred from undertaking regulated work of the type proposed.
 - Whether the conviction or other matter is relevant to the position in question.
 - The severity of the offence or other matter.
 - The length of time since the offence or other matter.
 - Whether the individual has a pattern of offending behaviour.
 - Whether the applicant's circumstances have changed since the offending behaviour or other matters.
 - The level of contact with children (under 18) or protected adults.
 - The level of supervision the person will receive.
 - The employment or study 'track record'.
- 4.9 The College will only share disclosed information with those who legitimately need to see it as part of the recruitment process.
- 4.10 The College will discuss any information revealed in a PVG Scheme Record or letter/Basic Disclosure Certificate with the individual before considering withdrawing any conditional offer of employment or place on a course of study. It must be noted that the College is not permitted in law to discuss or disclose any information sent directly from a Police Force as part of the PVG Scheme/Disclosure Scotland certification process. All Disclosure Assessment Forms will be counter-signed by the Director of Human Resources and Organisational Development or the Assistant Principal.
- 4.11 The College will ensure that all PVG Scheme/other Disclosure information will be stored securely, in lockable and non-portable storage. Access shall be restricted to authorised persons only. The PVG Scheme Record/Basic Disclosure Certificate number will be retained on personal data records. The PVG Scheme Record/other disclosure information will not be retained for more than 3 months (90 days) and shall be destroyed by shredding as confidential waste.
- 4.12 Disclosure Scotland may carry out compliance audits to ensure the College is complying with the Code of Practice and legislative requirements governing the application for and use of PVG Scheme/Disclosure Information.

5 Responsibilities

- 5.1 The Director of Human Resources and Organisational Development, as policy owner, shall be responsible for ensuring the proper application of the policy terms. This shall include the provision of relevant training to those involved in recruitment and selection activities and to Lead and Counter-Signatories who are entitled to receive PVG Scheme/Basic Disclosure Scotland information and any other relevant criminal history information.
- 5.2 The Lead Signatory and Counter-Signatories who receive PVG Scheme/Basic Disclosure Scotland information and any other relevant criminal history information shall be responsible for ensuring the safe-keeping, proper use and destruction of that information, in accordance with the Disclosure Scotland Code of Practice, PVG Scheme Guidance and the College policy and procedure.
- 5.3 It is the responsibility of individual applicants to ensure a full and proper disclosure of information to inform the College's decisions and assessment of PVG Scheme/Basic Disclosure Scotland information. This includes the requirement for individuals to permit the relevant signatory to view Basic Disclosure Certificates sent directly from Disclosure Scotland to the individual. Where the post, role, position or placement is covered by the terms of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003 (as amended), individuals should note that failure to disclose relevant information may affect their employment or offer of employment or study with the College.
- 5.4 It is the responsibility of Heads of Curriculum and relevant teaching staff to ensure that all students who require a PVG Scheme Record prior to undertaking a work placement have such a record.
- 5.5 Quality approval check of this policy is the responsibility of the Quality Manager who will arrange for the policy to be published on the web.

6 Linked Policies/Related Documents

Disclosure Scotland Checks Procedure
Recruitment of Ex-Offenders Policy
Application for Employment with Perth College – Guidance and Information
Disclosure Scotland Code of Practice
<http://www.disclosurescotland.co.uk/publications/>
Disclosure Scotland Certification Checks Matrix
Safeguarding Policy and Procedure: Protecting Children, Young People, Adults at Risk and Staff

7 Relevant Legislation

Protection of Vulnerable Groups (Scotland) Act 2007
Police Act 1997 Part V
Rehabilitation of Offenders Act 1974
Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003 (as amended)
Data Protection Act 1998
Regulation of Care (Scotland) Act 2001
Protection of Children (Scotland) Act 2003
Protection of Children (Scotland) Act 2003 (Amendment of the Definition of Child Care Position) Order 2008

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