

Protecting Vulnerable Groups Scheme Procedure

October 2015

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Version Control History

| Version Number | Date of Change | Summary of Revisions Made |
|-----------------------|-----------------------|---|
| 4 | October 2014 | Change of titles for Vice Principal, HR and Communications and Head of Quality. PVG Scotland Act 2007 had a remedial order in 2015, and other changes associated with that are as follows: Purpose enhanced to include volunteers and those working or based on College premises, and details of which offences will now be disclosed (and 'rules list'). Clarification on how this will be communicated to staff/applicants by HR and to student/applicants by Student Services. Host families now subject to PVG Scheme check. Relevant roles as well as posts within scope and records kept of which roles/posts require PVG Scheme checks. Para 4.6 revised to include HR role in supplying relevant information and guidance for job applicants. Para 4.8 added that meeting is required to complete Disclosure Assessment Form which is countersigned by VP HR or VP Academic (Para 4.10). Para 5.3 adds failure to disclose results in withdrawal. |
| 4.1 | July 2016 | Footer updated to reflect new template model. |
| 4.2 | December 2018 | Change of role to Quality Manager and other job titles to adhere to new structure. |

Protecting Vulnerable Groups Scheme Procedure

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 criminal convictions and whether or not they are barred from doing regulated work with children or protected adults either as an employee, volunteer, working and based on College premises or as a student on placement.

The legislation that governs the disclosure of convictions has been amended and Disclosure Scotland will no longer disclose all conviction information on higher level disclosures ie standard and enhanced disclosures and PVG Scheme Records. On higher level disclosures all unspent convictions will be disclosed. Certain spent convictions will continue to be always disclosed due to the serious nature of the office as part of the scrutiny of an individual's background. However, not all spent convictions will require to be routinely disclosed. Certain spent convictions will be disclosed only if they are relevant to the purpose for which the disclosure is required.

There is a list of offences which must always be disclosed (for example, culpable homicide, sexual assault, etc) and the Disclosure Scotland website provides information on this list of offences at <https://www.disclosurescotland.co.uk/about/SummaryofChanges.htm>. There is also a list of offences which are to be disclosed subject to rules. Disclosure of offences on the 'rules list' may take place depending on when the conviction was received, the age of the offender at the date of conviction and the sentence received. Disclosure Scotland's website provides more information on the 'rules list' by following the link above.

- 1.2 This document sets out the College's procedures 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 procedures which will apply to posts which are not covered by the PVG Scheme.
- 1.3 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 the College 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.

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The HR Department will ensure that all recruitment literature provides the relevant information and guidance for job applicants who have spent or unspent convictions and what the requirement is for disclosure during the recruitment process. The HR Department will also ensure the correct information and guidance is provided for other individuals who undertake work on behalf of the College, for example, host families and Board of Management members.

The Student Services Department will ensure that all relevant student literature provides the correct information and guidance for students and prospective students who have spent or unspent convictions and what the requirement is for disclosure.

- 1.4 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 procedure 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 also be subject to a PVG Scheme check.

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 or carrying out particular roles. 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 or other person 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

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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.

Perth College UHI is a specified establishment for regulated work.

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, subject to the 'rules list'. 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 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 Responsibilities

- 4.1 The Chief Operating Officer, as policy owner, shall be responsible for ensuring the proper application of the procedures terms. This shall include the provision of relevant training and/or guidance 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.
- 4.2 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.
- 4.3 It is the responsibility of individual applicants to the College to ensure a full and proper disclosure of relevant information at the application stage 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 PVG/Basic Disclosure Certificates sent directly from Disclosure Scotland to the individual.

The HR Department will ensure the relevant information and guidance for job applicants who have spent or unspent convictions and the requirement for disclosure is communicated during the recruitment process. Applicants must therefore comply with all disclosure requirement.

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. Failure to disclose relevant information for PVG purposes may result in the withdrawal of an employment offer or dismissal.

- 4.4 It is the responsibility of staff and students and others covered by this policy to immediately report to the HR Department or a senior manager if they are arrested and/or charged with an offence as this may affect their PVG status. Failure to do so may result in disciplinary action.
- 4.5 If during the course of their employment or study, staff or students are considered by the authorities for barring from regulated work, they may be suspended during this process.
- 4.6 It is the responsibility of Sector Development Directors 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.
- 4.7 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.

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5 Procedure

5.1 Obtaining Disclosure Scotland Checks

- 5.1.1 Perth College UHI is a registered body which is eligible to receive information from Disclosure Scotland upon request. This requires the individual to complete a PVG Scheme/Basic Disclosure application. By completing the relevant application, the individual gives their consent to the College obtaining criminal history information through the Disclosure Scotland certification processes.
- 5.1.2 All requests in respect of staff appointments, including appointments to the Board of College Management, will be made by the Human Resources (HR) Department. Requests in respect of students will be made by the relevant and authorised Sector Development Director. The HR Department will also make requests in respect of host families.
- 5.1.3 Disclosure information can only be requested by an authorised person – the Lead Signatory or Counter-Signatories. The Human Resources Department is responsible for maintaining an up to date list of authorised persons (signatories).
- 5.1.4 Disclosure Scotland makes a charge per disclosure which the College will pay.
- 5.1.5 The College will comply with the Code of Practice issued by Disclosure Scotland in dealing with requests for and in making decisions on disclosure information.

5.2 Use of Disclosure Scotland and Criminal History Information

5.2.1 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.

5.2.2 The Rehabilitation of Offenders Act 1974 requires the College to assess the information obtained through the disclosure process against the requirements of the post. It is important that the College does not exclude ex-offenders from posts within the College, and neither must the College persuade itself to employ ex-offenders for altruistic or social conscience reasons. The process must be fair and equitable and in the best interests of the students, staff and service users of the College.

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5.2.3 In such cases where a criminal conviction has been brought to the College's attention either by the person or through a PVG Scheme/Basic Disclosure check, an HR representative, along with a manager, or relevant Head of Curriculum in respect of students, will meet with the individual to 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'.

5.2.4 The College will only share disclosed information with those who legitimately need to see it as part of the recruitment process.

5.2.5 The College will discuss any information revealed in a PVG Scheme Record or letter/Basic Disclosure Certificate with the individual before considering making a decision regarding the person's 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 Vice Principal, Human Resources and Communications, or the Vice Principal, Academic.

5.3 Storage of Disclosure Information

5.3.1 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.

5.4 Compliance Audits

5.4.1 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 Records/Disclosure Information.

5.5 Procedure – Recruitment of New Staff

- 5.5.1 College recruitment material shall clearly state whether the post constitutes regulated work with children and/or protected adults. As part of the application process, candidates who will undertake regulated work are asked to disclose in a sealed envelope any information on convictions whether spent or unspent, subject to the 'rules list'.
- 5.5.2 Recruitment literature shall clearly state that a conviction will not necessarily be a bar to employment with the College. Our literature will however make it clear that the College cannot lawfully employ someone to do regulated work of the type they are barred from doing.
- 5.5.3 Candidates invited for interview and/or selection testing will be asked to complete a PVG Scheme or Basic Disclosure Scotland Application Form. Candidates will be asked to provide relevant identification, including photographic identification for completion of the PVG Scheme application.
- 5.5.4 Offers of appointment will be subject to the consideration of PVG Scheme Records/Basic Disclosure information. This can include information from Disclosure Scotland and separate information obtained from a Police Force. Offers of appointment shall not be confirmed until criminal history information has been considered.
- 5.5.5 Any convictions or other matters will be considered in accordance with paragraph 5.2.3, above.

5.6 Procedure – Disclosure Certificates for Students

- 5.6.1 All students who apply for courses which include a placement involving work with children or protected adults will require to complete an application to join the PVG Scheme and provide relevant identification, including photographic identification. The authorised signatory for that area will be the person responsible for the disclosure process.
- 5.6.2 It will be made clear in course literature whether a check will require to be made against the list of those barred from working with children, barred from working with protected adults or both.
- 5.6.3 Students will not be permitted to commence work placements or undertake activities which constitute regulated work until PVG Scheme Record information has been considered.
- 5.6.4 Any convictions or other matters will be considered in accordance with paragraph 5.2.3, above. All Disclosure Assessment Forms will be counter-signed by the Chief Operating Officer or the Depute Principal, Academic.

5.7 Procedure – PVG Scheme check for Host Families

5.7.1 Host families – ie those who allow students to reside with them in their property – will be subject to a PVG Scheme check.

5.7.2 A student shall not be placed with a host family until PVG scheme information has been considered. The relevant signatory in the HR Department will liaise with the member of the host family to discuss the content of the PVG scheme check, where applicable.

5.7.3 Any relevant convictions will be considered in accordance with paragraph 5.2.3, above.

6 Linked Policies/Related Documents

Protecting Vulnerable Groups Scheme Policy

Recruitment of Ex-Offenders Policy

Application for Employment with Perth College – Guidance and Information

Disclosure Scotland Code of Practice:

<https://www.disclosurescotland.co.uk/publications/documents/codeofpracticeDocs/PoliceAct1997--CodeofPractice--18February2011.pdf>

Summary of the changes to Scotland's disclosure and rehabilitation regime:

<https://www.disclosurescotland.co.uk/about/SummaryofChanges.htm>

PVG Scheme Risk Assessment

Safeguarding Policy and Procedure: Protecting Children, Young People, Adults at Risk and Staff

7 Relevant Legislation

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 Vulnerable Groups (Scotland) Act 2007 Remedial Order 2015

Protection of Children (Scotland) Act 2003 (Amendment of the Definition of Child Care Position) Order 2008

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