

Recruitment of Ex-Offenders Policy

October 2015

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Version Control History

Version Number	Date of Change	Summary of Revisions Made
4	October 2015	<p>Changes of job title for VP, HR and communications and Head of Quality. Revised purpose taking account of revised Disclosure Scotland Code of Practice Feb 2011 and summary changes. Include volunteers, and those engaged on College Business or premises. Clarify HR and Student Services role in para 1.3. Scope extended to include current staff and students as well as applicants. Para 3.2 revised to include a statement that Perth College UHI is a specified establishment for regulated work. Para 3.3 revised to include details of spent convictions being subject to the 'rules list'. Para 4.3 revised to show that applicants must not withhold information on criminal convictions and 5.3 that non-disclosure may result in dismissal/withdrawal. Para 4.7 clarifies that a meeting must be held with individuals to complete a Disclosure Assessment Form, which is signed by VP HR or VP Academic.</p>
4.1	July 2016	<p>Footer updated to reflect new template model.</p>

Recruitment of Ex-Offenders Policy

1 Purpose

- 1.1 This document presents the College's policy in relation to the employment of people who have criminal convictions.
- 1.2 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, engaged on College business or premises, or as a student on placement. Where a post or role does not constitute regulated work, the College will obtain a Basic Disclosure Certificate through Disclosure Scotland.

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.

- 1.3 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 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.

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.
- 1.5 On this basis, the College will consider ex-offenders for appointment on their individual merits.

2 Scope

- 2.1 This policy applies to staff and prospective applicants for posts, roles or positions which constitute regulated work.
- 2.2 The policy applies to students and applicants for a student course where a placement which would constitute regulated work is a normal part of that course of study.

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, 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 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.

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- 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 PVG Scheme Records/Basic Disclosure Scotland Certificates and criminal history information on behalf of the College.

4 Key Principles

- 4.1 Having a criminal conviction will not necessarily debar an individual from working with Perth College UHI. 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, Basic Disclosure Check or other information provided directly to the College by a Police Force. However, the College cannot lawfully employ someone to undertake regulated work of the type they are barred from doing. It is an offence for an organisation to offer regulated work to someone who is barred or to fail to remove a person from regulated work if they have been notified that they are barred. It is also an offence for an individual who is barred to undertake the type of regulated work from which they are barred.
- 4.2 The terms of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003 (as amended) apply to posts, roles, positions or placements which constitute regulated work. The College is therefore entitled to ask about previous convictions, subject to the criteria set by Disclosure Scotland:
<https://www.disclosurescotland.co.uk/about/SummaryofChanges.htm>
- Applicants for posts, roles, positions or placements which constitute regulated work are not entitled to and therefore must not withhold information on a criminal conviction, subject to the criteria set by Disclosure Scotland.
- 4.3 Perth College UHI is a registered body which is eligible to receive PVG Scheme information upon request. The College will obtain a PVG Scheme record or update for applicants or holders of posts at or with the College which undertake regulated work with children and/or protected adults. PVG Scheme checks are also required for students on courses of study which require work placements, contractors whose staff regularly work in the College, and members of the Board of College Management. For certain posts or roles, where the terms of the PVG Scheme do not apply, the College will require a Basic Disclosure Check, showing information on unspent convictions only.
- 4.4 Perth College UHI maintains a list of posts and the checks required. Depending upon the role, checks may be made against the list of those barred from working with children, the list of those barred from working with protected adults or both lists, or a Basic Disclosure check. Information on checks to be made can be obtained from the Human Resources Department. The College's recruitment literature will make clear what checks will be made.
- 4.5 Perth College UHI will comply with the Code of Practice issued by Disclosure Scotland in dealing with requests for and in making decisions on disclosure information.
- 4.6 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.

- 4.7 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, 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 applied for.
 - 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'.
- 4.8 The College will only share disclosed information with those who legitimately need to see it as part of the recruitment process.
- 4.9 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 Responsibilities

- 5.1 The Vice Principal, HR and Communications, as policy owner, shall be responsible for ensuring the proper application of the policy 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 Records and any other relevant criminal history information.
- 5.2 The Lead Signatory and Counter-Signatories who receive PVG Scheme Records and any other relevant criminal history information shall be responsible for ensuring the safe-keeping and proper use of that information, in accordance with the Disclosure Scotland Code of Practice and the College's policy and procedure.

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- 5.3 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.

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.

- 5.4 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.
- 5.5 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.
- 5.6 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.
- 5.7 Quality approval check of this policy is the responsibility of the Head of Quality who will arrange for the policy to be published on the web.

6 **Linked Policies/Related Documents**

Protecting Vulnerable Groups Scheme Policy

Protecting Vulnerable Groups Scheme Procedure

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

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7 Relevant Legislation

Protection of Vulnerable Groups (Scotland) Act 2007 Remedial Order 2015
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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