

UNIVERSITY OF ABERDEEN

PROTECTION OF VULNERABLE GROUPS POLICY

1 BACKGROUND

The Protection of Vulnerable Groups (Scotland) Act 2007 came into effect on 28 February 2011. It created a membership scheme to replace the previous Disclosure Scotland checking system for individuals who work with children and/or protected adults. The legislation makes it an offence for an organisation to employ a person who is barred from working with children and/or Protected Adults and for an individual to put themselves forward for regulated work whilst barred.

Within the Act, the following definitions apply:

Children - individuals who are under the age of 18

Protected Adults - individuals aged 16 or over who are provided with (and thus receive) a type of care, support or welfare service.

Regulated Work - individuals who are specifically employed for the majority of their time in caring for, supervising and advising children and/or protected adults

Disclosure Scotland has confirmed that Higher Education Institutions are included within the Protection of Vulnerable Groups legislative framework. However, not all individuals who come into contact with children or Protected Adults through their work are doing regulated work under the terms of the Act. Therefore, only University employees who are specifically employed for the majority of their time in caring for, supervising and advising children and/or Protected Adults will require Scheme membership.

As the University of Aberdeen admits on average over 500 students each year who are under 18 years of age entry, the majority of members of staff will be deemed to engage only in "incidental contact" with those who are defined as "children" under the Act.

Examples of the types of role where it may be appropriate for the postholder to have PVG Scheme membership are attached as Appendix A. Disclosure Scotland has provided guidance to the Higher Education sector on the types of roles within Universities that will be covered by the Act and College Human Resources Advisers will work with the relevant Schools/Sections to identify any posts that will require Scheme membership in addition to those which are listed.

2 WHAT IS A PVG SCHEME RECORD?

Individuals who work on a regular basis with children and/or Protected Adults will join the PVG Scheme and from then on, their membership records will be automatically updated and their employer(s) notified if new information is received e.g. if they become under consideration for being included on the list of individuals who are barred from working with regulated groups.

There are 2 types of check available:

PVG Scheme Record

A PVG Scheme Record check can be requested by an employer who is employing an individual to do regulated work when the individual is joining the PVG Scheme for the first time.

The Scheme Record certificate is not specific to one post and is also portable between employers.

The Scheme Record certificate is a document containing impartial and confidential information held by the police and government departments which can be used by employers to make safer recruitment decisions (“vetting information”). It also includes :

- Confirmation that the individual is not barred from (or is under consideration for being barred from) regulated work with children and/or Protected Adults as appropriate
- Spent and unspent convictions held on central records
- Certain non-conviction information which a Chief Constable may choose to disclose should s/he deemed it to be relevant to the position sought

PVG Scheme Record Update

A PVG Scheme Record Update can be requested by an employer who is recruiting an existing PVG Scheme member for the first time. The purpose of the Update is to enable employers to check that a potential employee is a PVG Scheme member and is not barred from working with vulnerable groups. This certificate will highlight the existence (but not full details) of any previous vetting information or new information which has become available since the individual joined the Scheme.

The cost of applying to join the PVG Scheme for the first time is £59 and a PVG Record Scheme Update application costs £18. The University will meet the cost of joining the Scheme for existing and new members of staff.

3 RECRUITMENT PROCEDURE

The further particulars for posts which require the postholder to undertake duties which fall within the scope of the Act will state that any offer of appointment will be conditional on confirmation of a satisfactory PVG Scheme record check. The offer of appointment will be made subject to such confirmation being received.

From 28 February 2011, the University will require all new employees, or those who are transferring within the University to a new role which involves them undertaking duties which fall within the scope of the Act, to undertake a satisfactory PVG Scheme Record check as follows :

Individuals who are already Scheme members

In some cases, individuals may already be members of the PVG Scheme if it has been required of them by another employer or for voluntary work which they undertake. In such circumstances, a PVG Scheme Record Update will be requested in the first instance. If the Update highlights that vetting information exists, the individual will be asked to provide a copy of their full Scheme Record. If the Update highlights that new vetting information has

been added since the individual's most recent full Scheme Record was produced, a further full PVG Scheme Record check will be requested.

Individuals who are not already Scheme members

The University will require them to join and will provide assistance to the individual during the application process.

4 OBTAINING PVG SCHEME MEMBERSHIP

Only Registered Bodies can access Scheme Records and Scheme Record Updates. The University holds Registered Body status. The University is permitted one designated Lead Signatory and a number of Counter-signatories within Human Resources and College areas who will initiate and complete the process of obtaining the Scheme membership confirmation.

When the successful candidate for the post has been identified, the oral and written offer of employment will be made subject to receipt of a satisfactory PVG Scheme Record check. The formal offer will include the appropriate PVG Scheme application form and guidance on completion.

The completed PVG Scheme application form and associated documentation will be returned to the Counter-signatory, who will verify the identity, check the details, countersign the form and forward it to Disclosure Scotland.

Disclosure Scotland will then carry out the necessary checks and return the PVG Scheme Record check to the Human Resources Office. A copy of the certificate will also be sent to the individual concerned.

5 COMMENCING EMPLOYMENT

Where the timescale associated with the checking process is likely to cause serious problems, Heads of College/the University Secretary may, at their discretion, permit the new member of staff to commence employment. This permission would only be granted on the condition that adequate supervision would be provided when required. If such permission is not granted, it is a requirement that employment will not commence until a satisfactory check has been received. The form to be used to seek permission for a new member of staff to commence employment is attached as Appendix B.

6 TEMPORARY SERVICES STAFF

Heads of School who employ Temporary Services staff are responsible for ensuring that appropriate PVG Scheme checks have been undertaken where required for all those who are employed on this basis prior to them taking up the position. Similar arrangements should also be made for self-employed individuals who are paid outwith this route on the submission of invoices. If the timescale associated with the checking process is likely to cause serious problems, authorisation for an early commencement of employment may be sought from the Head of College/University Secretary through the risk assessment process.

7 EXISTING STAFF

The PVG Scheme will initially apply only to new members of staff or existing members of staff who transfer into roles which involve them undertaking regulated work with children and/or Protected Adults, but the University will subsequently be required to carry out retrospective checks on existing members of staff who undertake duties which fall under the scope of the Act. It is anticipated that this process will be phased in over a period of approximately 3 years, commencing around 2012. The University is also required to notify Disclosure Scotland when any member of staff who has been employed in regulated work leaves the University e.g. as a result of resignation, retirement etc.

8 REFERRALS TO DISCLOSURE SCOTLAND

The PVG Act aims to provide a robust system by which unsuitable people are prevented from doing regulated work with children or Protected Adults and by which people who become unsuitable are identified. The process of providing such information to Disclosure Scotland is called “making a referral”. The PVG Act places a duty upon the University to make a referral in the following circumstances:

- Where an individual doing regulated work has done something to harm a child or protected adult and
- Where the impact is so serious that the University has (or would) permanently remove the individual from regulated work

If, as a result of any of the referral grounds being met, the University dismisses an individual who was doing regulated work or transfers them to other duties that do not involve that type of regulated work, a referral to Disclosure Scotland will be made on behalf of the University by the University Secretary. It is an offence for the University not to make a referral within 3 months of the criteria for referral being met.

REGULATED POSITIONS

Not all individuals who come into contact with children or Protected Adults through their work are doing regulated work under the terms of the Act. Therefore, only University employees who are specifically employed for the majority of their time in caring for, supervising and advising children and/or Protected Adults will require Scheme membership.

Individuals who are employed to conduct activities for all students are not deemed to be in a Regulated Position in relation to work with children.

In relation to working with Protected Adults, posts which require individuals to provide a “welfare service” i.e. a service which provides support, assistance, advice or counselling to individuals with particular needs, will be considered as being a Regulated Position.

The service must be a service that:

- Is provided in the course of work to one or more persons aged 16 or over
- Is delivered on behalf of the University
- Requires training to be undertaken by the person delivering the service
- Has a frequency and formality attached to the service
- Is personalised to an individual adult’s needs OR requires a contract to be signed between the service provider and the recipient of the service prior to the service being carried out.

It should be noted that an individual is only a Protected Adult at the time they receive the service.

Although it is anticipated that they will be small in number, there are a variety of different areas where it may be appropriate to undertake a PVG Scheme Record check. Posts within the University which are deemed to be Regulated Positions include :

Work with Children

- Staff who may be involved in events organised for children or school visits
- Sports Attendants involved in delivering activities provided for children
- Staff who are required to work in schools
- Rocking Horse Nursery manager
- Academic staff who have responsibility for the provision of advice and guidance primarily to first year undergraduate students

Work with Protected Adults

- Disability Advisers (if providing a welfare service)
- Student Support Advisers (if providing a welfare service)
- Counsellors within the Counselling Service (if providing a welfare service)
- Chaplaincy staff (if providing welfare service)
- Non Medical Personal Assistants (if providing welfare service)

Work with Children and Protected Adults

- Clinical Academic staff who undertake clinical duties
- Research Nurses with unsupervised one-to-one contact with Children and/or Protected Adults and/or who undertake clinical duties

It should be noted that this list is provided for illustrative purposes only and is not intended to be exhaustive. Further advice and guidance is available from your Human Resources Adviser.

PVG RECORD RISK ASSESSMENT**GUIDANCE NOTES**

The Protection of Vulnerable Groups (Scotland) Act 2007 makes it an offence for an organisation to employ a person who is barred from working with children and/or Protected Adults and for an individual to put themselves forward for regulated work whilst barred.

In accordance with the requirements of our statutory obligations and the University's Protection of Vulnerable Groups Policy, all offers of employment made to Regulated Positions (including those made to temporary and honorary members of staff) must be made subject to the receipt of confirmation of PVG Scheme membership. New members of staff are not permitted to take up their post until such confirmation has been received.

However, it has been recognised that there may be situations where the timescale associated with the checking process causes serious problems within a School/Section. In such circumstances, Heads of College or the University Secretary may, at their discretion, permit the new member of staff to commence employment. This permission would only be granted on the condition that adequate supervision in appropriate situations would be provided. If you are in any doubt about the kind of supervision which would be required, please contact the Human Resources Office.

This form should be completed as part of the normal recruitment process. It should be completed by the individual who will be supervising the postholder and must be authorised by the Head of College or University Secretary (or their nominated representative). Please send the form to the Human Resources Office once it has been completed.

UNIVERSITY OF ABERDEEN

PROTECTION OF VULNERABLE GROUPS RISK ASSESSMENT

SECTION A – THE POST

Post Title : School :

Post Holder (If known)

SECTION B – COMMENCEMENT OF EMPLOYMENT : RISK ASSESSMENT

The membership process may take < > to complete. Do you wish to have the individual take up post before the confirmation is received?

- Yes (Please continue with the risk assessment form)
- No (Please sign and date the form and send it to the Human Resources Office)

If yes, what are the consequences of this delay in the postholder starting work?

What exposure is the postholder likely to have to individuals under the age of 18?

What supervision arrangements would you put in place to ensure the protection of individuals under the age of 18?

Signed : Date:

SECTION C - AUTHORISATION

(To be completed by the Head of College/University Secretary)

I confirm that I: (please indicate)

- grant approval for the appointee to take up the post prior to confirmation of Scheme membership being received as a result of the supervision arrangements which will be put in place.
- confirm that the appointee must not take up the post until confirm of Scheme membership is received.

Signed : Date :

RELEVANCE OF INFORMATION PROVIDED IN A PVG SCHEME RECORD CHECK

The Human Resources Adviser will make an initial assessment of the content of the PVG Scheme Record or PVG Scheme Record Update. Where no evidence of convictions or any other related information is provided, the individual will receive a letter confirming his/her appointment.

If the certificate confirms that the individual is barred from working with children and/or Protected Adults, the offer of employment will be withdrawn.

If the certificate confirms that the individual holds a conviction or any other related information, the Human Resources Adviser will make an initial assessment of whether the information provided has any potential relevance to the post offered. In such circumstances each case will be given individual consideration and further exploration may be required to determine whether or not the applicant can still be appointed to the position. The Human Resources Adviser will discuss the certificate with the applicant, the convenor of the Selection committee and Director of Human Resources.

The following factors are likely to be relevant in considering the certificate:

- The nature of the conviction
- The seriousness of any offence revealed
- The age of the conviction – is it many years since the conviction took place or is it recent?
- The number of convictions – do the convictions show a pattern of criminal behaviour
- What is the applicant's explanation for the offence?
- Are the applicants references satisfactory

Having considered all these matters carefully and thoroughly, a decision can then be taken as to whether the individual should be appointed and thereafter will be formally informed of the decision.

Right of Appeal

Offer of Employment Withdrawn

In circumstances where an offer of employment is withdrawn as a result of information contained within a PVG Scheme Record certificate being received, the individual concerned will have the right of appeal against this decision.

The intention to appeal should be lodged, in writing, with the Director of Human Resources within 10 working days of receiving the decision.

The appeal hearing will be convened by a Vice Principal, who will sit with the Director of Human Resources (or an alternative senior manager within the University not previously involved in the selection process) together with a Lay Member of the University Court, normally within 20 working days of the written appeal being received. None of the Appeals Committee members will have been involved in the selection process.

The appeal will be heard in line with the Procedure for Hearing an Appeal in the University.

Data Protection and Confidentiality

Disclosure Scotland is committed to compliance with the Data Protection Act and any information submitted will be protected. The University of Aberdeen complies fully with the Disclosure Scotland Code of Practice on the secure handling, use, storage and retention of Scheme membership information.

Recruitment of Ex-offenders

Having a criminal record will not necessarily prevent an individual from working at the University of Aberdeen. This will depend on the nature of the position and the circumstances and background of the offence(s).

We undertake to treat all applicants fairly and not to discriminate unfairly against the subject of a PVG Record check on the basis of conviction or other information revealed.

For the majority of posts, the University will only consider 'unspent' convictions as defined in the Rehabilitation of Offenders Act 1974. However where the post involves contact with children or vulnerable adults and in certain other cases, the University is entitled to consider the applicant's entire criminal record including unspent convictions and other relevant information obtained through the PVG Record Scheme check.

Where an applicant fails to reveal information that is directly relevant to the position sought, this may lead to withdrawal of an offer of employment. Action may also be taken under the appropriate procedures against an existing member of staff, where it is discovered that s/he has failed to reveal information directly relevant to the position held.

Considering the Relevance of Information Provided in a PVG Scheme Record

