



## **Disclosure/ PVG Policy**

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## DOCUMENT HISTORY

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06/06/2007	Anne Bond	Initial Policy	1
30/06/2017	Unknown	Define the policy & procedure for the requirement of PVG membership	2
11/01/2019	Michele Cleland	Redraft of Existing Policy	3
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## CONSULTATION AND RATIFICATION SCHEDULE

Name of Consultative Body	Date of Approval
Senior Management Team	13/01/2019

## CROSS REFERENCE TO OTHER POLICIES / STRATEGIES

This policy should be read in conjunction with:	Detail
Policy 23	Recruitment & Selection Policy
Policy 21	SSSC Registration Policy
National guidance	Disclosure Code of Practice

**Keywords:** Protecting vulnerable groups, disclosure, police check, safer recruitment

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## **1. INTRODUCTION**

Due to the nature of the work and the services we provide, in that we are responsible for working with vulnerable adults and service users that require care, when recruiting we are required to ensure that the character and background of applicants appointed to work their services are thoroughly assessed to protect service users from risk of harm.

## **2. OBJECTIVE**

The objective is to ensure that Primecare Health Ltd implementing a Disclosure/PVG, complies with the Disclosure Code of Practice, the Rehabilitation of Offenders Act 1974 and the Protection of Vulnerable Groups Act (2007) and accordingly ensures that all applicants, employees and workers understand and adhere to the guidelines and policies therein.

## **3. SCOPE**

All applicants, employees and workers working with service users are subject to this Policy.

## **4. POLICY STATEMENT**

Primecare Health Ltd is fully committed to safeguarding the welfare of service users and vulnerable adults. It recognises its responsibility to take all reasonable steps to promote safe practice and to protect service users and vulnerable adults from harm, abuse and exploitation.

The organisation is committed to implementing safer recruitment practices and has registered with Disclosure Scotland to provide criminal record checks for successful applicants, employees and workers. The Disclosure/PVG process will be monitored and the Disclosure/PVG Operations Policy will be reviewed and updated accordingly.

## **5. EQUALITY OF OPPORTUNITY**

The selection of candidates for interview will be based on skills and abilities, and meeting the criteria set for the post. The organisation will ensure that no applicant, employee or worker is subject to less favourable treatment on unlawful or unjustifiable grounds or is disadvantaged by any condition which cannot be shown to be relevant to performance.

## **6. REHABILITATION OF OFFENDERS ACT 1974**

The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions)(Scotland) Order 2013 (as amended) enables Primecare Health Ltd to ask applicants for information about:

- any unspent conviction,
- any unspent caution (from a police force in England, Wales or NI), and

- any spent conviction for an offence listed in Schedule A1 (Always Disclose List) of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013

## **7. PROTECTION OF VULNERABLE GROUPS (SCOTLAND) ACT 2007**

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 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.

Individuals who undertake regulated work with children and/or protected adults must hold a PVG Scheme membership for work with the relevant group(s). This will automatically be updated and their employer 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.

## **8. PRINCIPLES**

All processes and policies relating to a Disclosure/PVG must adhere to the Disclosure Code of Practice. Managers must be aware of their individual responsibilities under the code of practice in implementing the Disclosure/PVG Process.

All applicants will be made aware that any offer of employment will be conditional upon receipt of a satisfactory Disclosure/PVG Certificate.

It is expected that in time all employees of Primecare Health Ltd will have been retrospectively processed through Disclosure Scotland.

There are 3 levels of Disclosure/PVG Certificates – Basic, Standard and Protecting Vulnerable Groups Scheme. (Appendix 1)

The level of Disclosure/PVG required for a post is determined by undertaking a risk assessment and the decision recorded in the Job Description. All posts which involve regulated work with children and/or protected adults should be disclosed under the PVG Scheme.

For further guidance please go to [http://www.disclosurescotland.co.uk/pvg\\_training/self-assessment/](http://www.disclosurescotland.co.uk/pvg_training/self-assessment/). It is the responsibility of individual managers to undertake the risk assessment and use the regulatory tool and inform HR of the outcome. HR will advise managers if the outcome made does not reflect guidance given from Disclosure Scotland.

Disclosures and the information they contain are available only to those who need to have access to them in the course of their duties.

A member of the Senior Management Team (SMT) and at least one other manager will be involved in the decision making process when a criminal record has been disclosed.

Prospective employees currently meet the costs associated with Disclosure/PVG for Basic and Standard Disclosures, except where a disclosure is processed for professional registration or membership such as Scottish Social Services Council (SSSC).

Costs associated with the Protecting for Vulnerable Groups Membership scheme will be transferred to all new and existing employees.

## **9. RECRUITMENT PROCEDURE – PVG SCHEME**

The Organisation requires all new employees, or those who are transferring within the Organisation to a new role which involves those undertaking duties which fall within the scope of the Act, to undertake a satisfactory Disclosure/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, which will be paid by the employee. 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 may be requested with the cost being paid by the applicant.

### *Individuals who are not already Scheme members*

All new staff commencing with the organisation, who are employed in positions which are subject to PVG membership, the cost will be paid by the employee.

### *Existing employees*

Retrospective checking will occur over a three year period to ensure all existing employees become members of the PVG scheme. This cost will be met by the employee. This will be an update to a staff member's existing PVG.

## **10. THE PROCESS**

Employment cannot commence until a Disclosure/PVG/ Certificate has been received unless the criteria in section 11 (Exceptions) can be met.

Disclosure/PVG information is additional and does not substitute the full range of existing pre-employment checks and safer recruitment practices (refer to Recruitment and Selection Policy, section 12: Safer Recruitment).

## **Application/Short-listing**

Applicants are asked to confirm whether they have any criminal convictions at an early stage in the recruitment process by highlighting this on the back page of the application form which is detached prior to short listing.

All successful candidates will be issued with a Criminal Record Declaration Form (CRDF) from the identified administration contact within the service prior to commencing employment. This should be sent to HR with all other new start information. Disclosure/PVG applications are completed by the Administrator from the service. If a conviction is highlighted HR will inform the manager and a meeting must be arranged with the candidate to discuss the conviction further. To aid the decision making process there must be an open and objective discussion of any offences or other matters disclosed. No two offences are alike; therefore it is essential to obtain information to assess whether or not the criminal record is relevant to the post applied for. However if the conviction declared is a more serious offence relating to being barred from the list and unsuitable to work with children and/or protected adults the process would terminate and the offer of employment would be withdrawn.

Managers should be aware that where a disclosure/PVG for a Breach of the Peace (BOP) conviction has been disclosed either on the CRDF or Disclosure Scotland Certificate, further investigation is required as serious offences are sometimes reduced to this. Managers must ensure that full details of the conviction are discussed at the meeting.

Once the relevant information has been obtained, all Disclosures/PVG (with the exception of penalty points for speeding) must be discussed and outcomes agreed with a member of the SMT. All decisions must be recorded on the Criminal Record Summary Form and authorised by the interviewing manager and the relevant Director and passed to HR.

Both the Criminal Record Summary form and CRDF should be stored together within the HR team, providing all information in relation to the conviction and if appointed; information must be verified with the Disclosure/PVG Certificate.

## **Offer of Post**

All successful applicants are required to complete and submit a Disclosure/PVG Application and relevant ID following their offer of the post.

## **Disclosure Information**

Disclosure/PVG Applications cannot be issued to Disclosure Scotland until all relevant information has been submitted and verified. If the stated photographic I.D. is unavailable the minimum substitute will be two photographs signed by someone of a relevant standing who has personally known the applicant for a minimum of 2 years.

The completed Disclosure/PVG Applications and other accompanying documentation should be forwarded to HR to process the Disclosure/PVG. Department/Service should not hold any information pertaining to the Disclosure/PVG process, including previous Disclosure/PVG certificates.



Disclosure/PVG certificates are stored in a safe and secure place within the HR team for no longer than required. All Disclosure/PVG certificates will be shredded when they have been invoiced by Disclosure Scotland. All Disclosure and PVG numbers are logged and maintained on the HR system and recorded on the CRDF. However it is the employee's responsibility to ensure that they keep a copy of their PVG Certificate and membership details.

It is the employee's responsibility to update their details with PVG if any of their personal details change.

HR will update Disclosure/PVG when an employee leaves the organisation to allow Disclosure Scotland to update their records.

## **11. EXCEPTIONS**

### **New Starts/Workers**

Employment cannot commence until a Disclosure/PVG Certificate has been applied for and received by the organisation except in the following limited circumstances:

- a risk assessment has been undertaken for posts involving regulated work with protected adults. This will only be approved in exceptional circumstances by the Business Manager and Director of Adult Services to mitigate the risk.

Or

- a risk assessment has been undertaken for posts not involving protected adults
- a clear Disclosure/PVG has been received within the last 6 months (providing a copy of the Disclosure/PVG has been verified and the reference number and date of issue is recorded).

The following conditions must also be adhered to:

- The risk assessment must be forwarded to HR indicating that the commencement of employment is within appropriate boundaries
- Disclosure/PVG application must be submitted prior to commencement of employment.
- All other pre-employment/safer recruitment checks have been carried out including return of all relevant documentation
- Must not be a lone working situation
- Appropriate level of supervision is provided until Disclosure/PVG is received
- Employment cannot be confirmed (i.e. end of probation) if disclosure has not been received
- Authorisation from a relevant Director has been given for employment to commence

### **Existing Employees**

Primecare Health Ltd understands that flexibility is required to enable an effective service to be delivered. However, safer recruitment practices must still be adhered to. Movement of existing employees within the organisation must be carefully planned to cover all

eventualities to ensure that service users are not put at risk. This is particularly important in the circumstances where staff are 'borrowed' to work in another Department/Service. It is imperative that checks are undertaken to ensure that the appropriate Disclosure/PVG checks have been undertaken.

Any internal movement within the organisation (i.e. area to area or post/contractual change) will not necessarily trigger the disclosure process providing there is no change to the level or classification of Disclosure/PVG i.e. Child Care/Adult Care and all of the following apply:

- a Disclosure/PVG has been undertaken by the organisation within the last 2 years for employees or casual workers, which includes a Child Care/Adult Care check (if applicable)
- all other appropriate pre-employment/safer recruitment checks have been carried out

**However, the following circumstances always require a Disclosure/PVG prior to any change commencing.**

- When an employee currently in a post not involving regulated work with children and/or protected adults moves to a position that is classed as a position involving regulated work (all staff working with service users are classed as undertaking regulated work) a PVG disclosure must be received prior to new employment commencing.
- When an employee is disclosed with working with children moves to a service involving working with protected adults or vice versa a new PVG application has to be made.
- Where the change in conditions requires a higher level of Disclosure/PVG.

### **Consideration for Listing**

During the retrospective checking, information may be revealed which leads to an existing employee being considered for listing and, possibly inclusion in adult lists.

A notification of consideration for listing could come without warning and an individual may not know that they are being considered until they receive their PVG certificate. A consideration for listing could begin as a result of a referral being made by another organisation. Placing an individual under consideration for listing is a serious step but it only means that an assessment of whether the individual is unsuitable to do regulated work is underway. It may result in an individual being put on the list or it may not.

Disclosure Scotland will notify the organisation about individuals doing regulated work for them who are placed under consideration for listing in respect of that type of regulated work.

The HR/Business Manager will contact the Director of Adult Services if the organisation is made aware that an existing employee is under consideration for listing. An investigation meeting should be arranged with the employee to gain further information and assess what action should be taken. Whilst the consideration process is being considered, the employee may be suspended until an outcome has been made by Disclosure Scotland. If a new start is being considered for listing, the organisation will withdraw the offer of

employment, however once or if this is cleared, the individual can re-apply for a future post.

If the outcome of the process is that the employee is placed on the list, and is therefore barred from this regulated work, then the organisation must remove the employee from that regulated work in line with the organisations disciplinary policy. If the organisation fails to take action and does not terminate the employee, the organisation will be committing an offence.

If the outcome of the consideration process is that the individual is not barred from regulated work, the organisation should not treat the employee any differently on the grounds of the consideration case than it did before. The employee should be reinstated from their suspension.

## **Criminal Proceedings**

It is an offence to allow persons to continue to work in an adult care post when they have been disqualified from doing so and are barred from regulated work with protected adults. The Disclosure/PVG Act aims to provide a robust system by which unsuitable people are identified. The process of providing such information to Disclosure Scotland is called 'making a referral'. The Disclosure/PVG Act places a duty upon the Organisation to make a referral in the following circumstances:

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

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

## **12. EMPLOYMENT OF FOREIGN NATIONALS**

Disclosure Scotland cannot undertake checks on applicants or workers for non UK residents. This reinforces the need for rigorous vetting procedures to take place when recruiting applicants from overseas. All applicants from overseas must obtain a police check from the country which they are from and lived. Please refer to the Overseas Criminal Record Check Information, which will provide advice on how to obtain criminal history information for applicants who were born out with the UK (Appendix 3). Where dual citizenship exists, managers are advised to obtain police checks from both countries.

An overseas police check may be required for UK residents who have spent time out with the UK. For further guidance please contact the HR team.

In exceptional situations where a Disclosure/PVG cannot be obtained from abroad then an appropriate risk assessment must be undertaken, management safeguards implemented and authorisation granted by the Director of Adult Services before a foreign national can commence employment. All relevant information must be forwarded to HR prior to commencing employment.

### **13. MONITORING**

The organisation is subject to an audit at any given time by the Scottish Criminal Record Bureau without notice. It is imperative that all employees and workers follow this policy and any other policies and procedures relating to Disclosure/PVG. Failure to do so may lead to disciplinary action up to and including dismissal.

### **14. TRAINING**

All relevant personnel involved in the process must be coached and fully knowledgeable on all Disclosure/PVG processes and associated policy/procedures and guidance.

### **15. DECLARATION**

Having a criminal record will not necessary prohibit anyone from working with the organisation, this will depend on both the nature of the position and the circumstances and background of the offence (s).

In the event that Primecare Health Ltd becomes aware of information concerning the conduct or behaviour of any employee or worker within the organisation, that it genuinely believes could bring Primecare Health Ltd into disrepute, or in the event that an incident demonstrates unsuitability for further employment then the disciplinary process may be triggered. The organisation reserves the right to request an updated Disclosure for an employee in accordance with this policy.

Criminal proceedings including warnings, cautions, reprimands/convictions etc gained whilst employed with the organisation must be disclosed on a Criminal Record Declaration Form (CRDF) as soon as the incident occurs. Failure to disclose any of the above that arise during employment could result in disciplinary action.

Where the outcome of a Disciplinary Hearing is dismissal for reasons related to harming or causing harm to a service user then it's the responsibility of the organisation to refer that person to the appropriate Regulatory Bodies and make a referral to Disclosure Scotland.

### **16. POLICY REVIEW**

This policy will be reviewed every three years or earlier if appropriate.