

## How to Deal with Positive Disclosures for Existing Employees Policy

### How to deal with positive disclosures (Protection of Vulnerable Groups Scheme) for existing employees Policy

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| <b>Assurance Committee</b>                  | <b>Staff Governance Committee</b>      |
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| CONSULTATION AND DISTRIBUTION RECORD        |   |
|---|---|
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| <b>Distribution:</b>                        | <ul style="list-style-type: none"> <li>Joint Policy Forum</li> <li>HR Forum</li> </ul>  |

| CHANGE RECORD |               |  |             |
|---------------|---------------|--|-------------|
| Date          | Author        | Change   | Version No. |
| 31.01.2017    | A.M. Campbell | <ul style="list-style-type: none"> <li>Policy updated to reflect completion of the retrospective checking process</li> <li>JPF members updated</li> <li>New review date</li> </ul> | 2           |
| May`18        | Deputy HRD    | GDPR statement added into section 3 and updated name of Data Protection Act  | 2           |
| March 19      | M. Fraser     | <ul style="list-style-type: none"> <li>Policy Reviewed no change</li> <li>JPF members updated</li> <li>New review date</li> </ul>  | 3           |
| November 22   | A.M. Campbell | <ul style="list-style-type: none"> <li>Policy Reviewed updated to reflect OFS Conduct Policy and updated JPF membership</li> </ul>   | 4           |

## How to Deal with Positive Disclosures for Existing Employees Policy

### 1. **INTRODUCTION**

The Protection of Vulnerable Groups (Scotland) Act 2007: Scottish Vetting and Barring Scheme creates the legislative framework for a strengthened, robust and streamlined vetting and barring scheme for those working with children and protected adults in Scotland. The PVG Scheme replaces enhanced disclosures for individuals working with vulnerable groups and went live on 28 February 2011.

It responds to recommendation 19 of the Bichard Inquiry Report published in June 2004, following Sir Michael Bichard's inquiry into the murder of two schoolgirls in Soham in 2002.

Providing that organisations undertake the necessary pre-employment check the PVG Scheme will prevent individuals who are in paid or unpaid work that are deemed unsuitable from working with children and/or protected adults and highlight to organisations those who become unsuitable during employment. It will also deliver a fair and consistent system that will be quick and easy for employers and potential employees to use.

Any individual undertaking regulated work with children and/or protected adults must be a member of the PVG Scheme. 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.

The PVG Act defines regulated work by reference to: the activities that a person does, the establishments in which a person works; the position that they hold; or the people for whom they have day to day supervision or management responsibility. There are two types of regulated work: regulated work with children; and regulated work with adults.

Depending on the nature of the post, if it does not fall within PVG, it may fall within standard or basic disclosure.

It is a legal requirement for NHS Lanarkshire to ensure that those staff working with children and/or protected adults are not barred from doing so.

### 2. **AIM, PURPOSE AND OUTCOMES**

This policy aims to ensure a fair and consistent approach is taken, when a member of staff is barred from the PVG scheme, or when details of convictions are disclosed.

The policy will detail the process, which is to be followed in such cases, ensuring compliance with legislation, good employment practice and existing NHS Lanarkshire Policies and Procedures.

### 3. **SCOPE**

This policy applies to all directly employed staff of NHS Lanarkshire, irrespective of age, sex, ethnicity, disability, marital or civil partnership status, sexual orientation, religion or belief, pregnancy or maternity or gender reassignment.

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NHS Lanarkshire takes care to ensure your personal information is only accessible to authorised people. Our staff have a legal and contractual duty to keep personal health information secure, and confidential. In order to find out more about current data protection legislation and how we process your information, please visit the Data Protection Notice on our website at [www.nhslanarkshire.scot.nhs.uk](http://www.nhslanarkshire.scot.nhs.uk) or ask a member of staff for a copy of our Data Protection Notice.

### 4. **PRINCIPAL CONTENT**

#### 4.1 What groups of staff are required to PVG Scheme Members?

| PVG   | PVG  |
|---|--|
| <ul style="list-style-type: none"> <li>➤ All Medical &amp; Dental Staff</li> <li>➤ All Nursing Staff</li> <li>➤ All Midwifery Staff</li> <li>➤ All Pharmacists</li> <li>➤ All AHP Staff</li> <li>➤ Phlebotomists</li> </ul> | <ul style="list-style-type: none"> <li>➤ Psychologists</li> <li>➤ Portering Staff (dependant on patient contact)</li> <li>➤ Chaplains</li> <li>➤ Transport staff (transporting patients)</li> <li>➤ Volunteers (dependant on area)</li> <li>➤ Managers of staff carrying out regulated work</li> </ul> |

#### 4.2 What groups of staff will be required to complete a Standard Disclosure?

| Standard Level  | Standard Level  |
|---|---|
| <p>All relevant A&amp;C staff e.g. those who have non clinical contact with patients but arrange appointments, give out results etc:</p> <ul style="list-style-type: none"> <li>➤ Child Health</li> <li>➤ Ward Clerks</li> <li>➤ Accident &amp; Emergency</li> <li>➤ Reception Staff</li> <li>➤ Clinical Reception Staff</li> </ul> | <ul style="list-style-type: none"> <li>➤ Biomedical Scientists</li> <li>➤ Catering/Domestic staff working in patient areas</li> <li>➤ Volunteers (dependant on area)</li> <li>➤ All A&amp;C Bank Staff</li> </ul> |

#### 4.3

| Basic Level  |  |
|--|--|
| <ul style="list-style-type: none"> <li>➤ Finance Staff</li> <li>➤ Payroll Staff</li> </ul> |  |

A checklist has been devised for use throughout Scotland to help determine which level of check is appropriate this can be found at <http://firstport2/Pages/SearchResults.aspx?s=firstport&k=pvg%20checklist>

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### **4.4 What process will be followed upon receipt of a PVG Scheme Record/Disclosure Check?**

Upon receipt of information from Disclosure Scotland, this will be reviewed by a member of the Human Resources Department to determine whether the individual is barred from working with vulnerable groups or holds a criminal record.

#### Barred

If the individual is barred from working with protected groups then the relevant Head of HR and General Manager/Hospital Site Director must be notified accordingly. Suspension arrangements should be applied and an investigation carried out in accordance with NHSScotland Conduct Policy. For any individual that holds a staff bank contract, then notification must also be made accordingly to the Staff Bank Manager. HR will record and maintain necessary details on databases in accordance with Current Data Protection Legislation.

#### Criminal Convictions

If the individual has criminal convictions which do not legally prevent them from working with vulnerable groups an investigation may still be required, if so it will be carried out in accordance with NHSScotland's Conduct Policy.

#### No criminal convictions

If there are no criminal convictions, no further action is required. HR will record and maintain necessary details on databases, and destroy in accordance with Current Data Protection Legislation.

## **5. ROLES AND RESPONSIBILITIES**

Employees must:

- Ensure they are familiar with the policy and procedures
- Comply with the policy
- Attend training as necessary

Managers must:

- Ensure they communicate with staff about the policy
- Consistently implement the policy at their local level
- Keep accurate records

Staff Side Representatives must:

- Support the principles and procedures in the policy

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- Act in accordance with NHS Lanarkshire's Partnership Agreement
- Undertake training as appropriate

Human Resources Staff must:

- Provide awareness training as appropriate
- Provide expert advice and support on the application of the policy
- Monitor and review the policy

### 6. **RESOURCE IMPLICATIONS**

Scheme membership will incur a charge per application. NHS Lanarkshire will bear the cost of this for all employees, this will also be the case for standard or basic disclosure level of check if these are deemed appropriate.

### 7. **COMMUNICATION PLAN**

This policy will be launched using the weekly staff briefing and it will be available on Firstport and the public facing corporate policies website..

This policy will also be discussed at the appropriate management team meetings and local partnership fora.

### 8. **QUALITY IMPROVEMENT – Monitoring and Review**

This policy will be reviewed in line with any changes to legislation which change the scope or process for dealing with positive disclosures within NHS Lanarkshire.

This policy has been developed through the partnership process. Review of the policy will be approved by NHS Lanarkshire's Joint Policy Forum.

### 9. **EQUALITY AND DIVERSITY IMPACT ASSESSMENT**

This policy meets NHS Lanarkshire's EDIA

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(tick box)

### 10. **SUMMARY**

This policy describes the process which will be followed in NHS Lanarkshire when a member of staff is barred from the PVG scheme, or when details of convictions are enclosed.

### 11. **REFERENCES**

The Protection of Vulnerable Groups (Scotland) Act 2007.  
NHSScotland Conduct Policy