



Protecting Vulnerable Groups (PVG) Scheme & Disclosure Information Policy

Human Resources
Version 2

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1. Introduction

On 28 February 2011, NLL implemented the requirements of the Protecting Vulnerable Groups (PVG) Scheme, the new Scottish vetting and barring scheme introduced by the Protection of Vulnerable Groups (Scotland) Act 2007. The PVG Scheme replaced, and improved upon, the previous disclosure arrangements for individuals who work with vulnerable groups (children and protected adults) and helps to ensure that those who have regular contact with children and/or protected adults do not have a known history of harmful behaviour. The scheme strikes a balance between proportionate protection and robust regulation.

The Trust is committed to ensuring that it is fully compliant with the requirements of The Protection of Vulnerable Groups (Scotland) Act 2007, Part V of the Police Act 2007, and the Rehabilitation of Offenders Act 1974 (Exclusions & Exceptions) (Scotland) Order 2013, and subsequent amendment orders 2015 and 2016, in its recruitment and ongoing treatment of those individuals whose posts have been identified as requiring a criminal record check, in accordance with the definitions contained in the aforementioned legislation.

The policy provides the Trust with the means of ensuring that the required checks have been carried out on individuals in identified posts to determine their suitability to undertake the full duties of the post, including 'regulated work' with children and/or protected adults, and the use of the PVG/Disclosure Information to inform recruitment decisions.

The policy also sets out the application process for both the PVG Scheme and Disclosure Checks and the position in relation to the secure handling, use, storage, retention and destruction of PVG/Disclosure Information.

The availability of PVG/Disclosure information should be seen as complementary to the Trust's existing recruitment practices.

2. Scope

The policy applies to all individuals within NLL whose post has been identified as requiring PVG Scheme Membership or a Disclosure check, as well as recipients of PVG/Disclosure information, within the Trust.

3. Principles

The PVG Scheme & Disclosure Information Policy aims to ensure that:

- NLL is making safer recruitment decisions, whilst complying with the relevant legislation and equality of opportunity;
- Any individual who is barred from doing regulated work with children and/or vulnerable adults is not employed to carry out regulated work for the Trust;
- Individuals are not unfairly discriminated against on the basis of a conviction or other; information revealed through the Disclosure process;
- The Trust complies with the Code of Practice and the relevant legislation regarding the handling, holding, storage, destruction and retention of PVG/Disclosure information provided by Disclosure Scotland.

4. Legislation/Related Documents

This policy takes into account and incorporates those principles detailed within the:-

- The Protection of Vulnerable Groups (Scotland) Act 2007
- Part V of the Police Act 1997
- The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2016
- The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2015
- The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013
- Data Protection Act 1998
- Human Rights Act 1998
- Disclosure Scotland Code of Practice 2011
- The PVG Scheme Guidance for Employers

5. Roles and Responsibilities

Head of HR & Payroll

The Head of HR & Payroll will be responsible for ensuring proper application of the policy across the Trust in accordance with the relevant legislation and Disclosure Scotland Code of Practice. This shall include;

- ensuring that all those involved in the application of the policy have received the relevant training to enable them to make appropriate decisions;
- ensuring that Signatories understand their responsibilities in relation to the PVG/Disclosure information they receive;
- ensuring that posts requiring a criminal record check are robustly and consistently assessed to determine whether they fall within the definition of regulated work, and update any changes accordingly, and that the list of Counter-Signatories across the Trust is maintained,
- provision of reports to Committee as required on any updates to the list of posts in regulated work, as well as any changes to the PVG Scheme, and other related legislation.

Managers

It is the responsibility of each manager to check with the HR Section whether an employee/casual worker has the relevant level of checks required (as detailed in Appendix 1) prior to allowing the individual to carry out any work.

Managers must ensure that any information that is brought to their attention regarding an employee's suitability to carry out regulated work is addressed with their line manager and Head of HR & Payroll and action taken as appropriate.

Lead Signatory

A Lead Signatory should be a senior figure in the Trust, with a level of management responsibility for those who make recruitment decisions. It is the responsibility of a Lead Signatory to ensure that they comply with the Code of

Practice, including advising Disclosure Scotland of any changes to the registration details for the registered body, advising of any changes to counter signatories and ensuring that the annual fee for continued registration is paid (failure to pay the required registration fee may lead to the registration being suspended, and ultimately removed from the register).

Counter signatory

A Counter signatory should be a person who is suitable to receive Disclosure information. It is the responsibility of each Counter signatory to ensure that in signing any criminal record checks they have satisfied themselves as to the identity of the applicant through checking 3 forms of identity as detailed in the application form, and that the check is being requested for the purpose of enabling them to consider the applicants suitability to do, or be offered regulated work or other work as defined by the Part V of the Police Act 2007.

Individuals

It is the responsibility of each individual whose post has been identified as requiring a criminal record check to disclose, on an ongoing basis, and at the earliest opportunity, to their Manager and Head of HR & Payroll, details of any criminal charges and/or convictions arising after the date of their most recent PVG/Disclosure check.

Individuals who cease to carry out regulated work for the Trust should inform Disclosure Scotland to ensure that NLL is no longer registered as having an interest in that individual. When Disclosure Scotland receives such a notification they will seek confirmation from NLL before removing them as having an interest in the individual.

6. Regulated Work

The Protection of Vulnerable Groups Act defines regulated work by reference to the activities that a person does; the establishment in which a person works; the position that they hold and the people for whom they have day to day supervision or management responsibility. Outlined below are definitions of what is meant by regulated work'.

Regulated work with Children - the Act defines a child as an individual under 18 years of age. Regulated work with children is generally any work which involves responsibility for the welfare of a child.

Regulated work with Protected Adults – a protected adult is defined as an individual aged 16 or over who is provided with a type of care, support or welfare.

Further guidance for the purposes of assisting Services to identify posts that fall within the definition of regulated work is set out within the PVG Scheme Guidance for Employers.

7. Levels of Criminal Record Checks

There are 3 levels of PVG checks under the scheme:

PVG Scheme Membership

PVG Scheme membership is required for individuals, who will be carrying out regulated work for the first time, whether new or existing employee

PVG Scheme Record

A PVG scheme record will be required in the following circumstances;

- New or existing employee who already hold scheme membership but who will be carrying out regulated work for a different workforce for whom they are not registered – e.g. an employee already doing regulated work with children takes up a post working with protected adults.
- A scheme record update reveals a change to vetting information.

PVG Scheme Record Update

A PVG scheme record update will be required in the following circumstances:

- New employees who already hold scheme membership and are joining the Trust to carry out regulated work for the same workforce which they hold membership for.
- Existing employees who already hold scheme membership, but are moving to a new post out with their existing Service, but for the same workforce they are already registered for.
- An existing scheme member who is re-joining the Trust and there has been a gap of more than 3 months since last doing work for the Trust (e.g. casuals, sessional, seasonal, volunteers).
- Existing employees who have been under consideration for listing but have not been barred from regulated work.

Further guidance on PVG Checks is set out in the PVG Scheme Guidance for Employers

Disclosure Checks

There are three types of disclosures that are still available for positions not in regulated work, as defined by Part V of the Police Act 1997 and The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Orders 2015 and 2016. NLL use only one of these levels of check:

- Basic - this can be sought for any position that falls out with regulated work or eligibility for Standard/Enhanced Disclosure Checks. However, there must be a proportionate aim to obtaining the information.

Further Guidance on the types of positions that are eligible for Standard or Enhanced checks can be obtained from The HR Section.

8. Cost of PVG Membership/Disclosure Checks

Basic Disclosure - £25 - Individuals will be required to pay the full cost.

PVG Membership - £59 - Individuals will be required to pay the full cost.

Scheme Record Updates - £18 - Individuals will be required to pay the full cost.

9. Referrals

The PVG Act places a duty on the Trust to make referrals to Disclosure Scotland when an individual in regulated work has done something to harm a child or protected adult, or when the impact is so serious the Trust has removed that individual from regulated work.

The PVG Act also places a duty on Disclosure Scotland to notify the Trust when they are in receipt of information which has a bearing on an individual's suitability to carry out regulated work.

Further guidance on the process of making a referral is set out within the PVG Scheme Guidance for Employers.

10. Rehabilitation of Offenders

The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013, as amended, sets out the legislation affecting ex-offenders, and offers them equality of opportunity when seeking employment.

In certain circumstances, once a period of time has elapsed from the date of conviction, a conviction is said to be spent and for the purposes of employment can be treated as if it never existed. Certain spent convictions will still need to be disclosed due to the serious nature of the offence.

The disclosure of unspent convictions will not change; however, the decision as to whether or not a spent conviction should be disclosed will be determined by a two-stage process.

Further guidance on the act and the disclosure of spent convictions can be found on the Disclosure Scotland website www.disclosurescotland.co.uk

11. Disclosure of Conviction Information

As detailed above, any individual whose post/position requires any level of criminal record check (PVG or Disclosure) are required to disclose, on an ongoing basis and at the earliest opportunity, to their senior Manager, details of any and all criminal charges and/or convictions arising during the course of their employment.

PVG Scheme Members

The PVG Scheme offers a continuous updating facility, wherein, should an individual whilst a member of the scheme commit an offence that leads to barring or consideration for barring then the Trust as an interested party will be automatically informed.

Consideration for Listing

If notification is received that an individual is under consideration for listing, the Service must discuss the matter with the individual and determine whether it is necessary to remove the individual from their position until such times a determination is made by Disclosure Scotland as to whether the individual will be barred from regulated work.

There is no legal requirement to remove an individual from regulated work during the consideration process, therefore each case will be dealt with on its own merit, and the action taken will depend on the circumstances and the nature of the work undertaken by the individual.

If the outcome of the consideration process is that the individual is not barred from regulated work, Services will need to obtain a Scheme Record Update to assess whether the consideration process has resulted in any new vetting information about the individual.

Barring

Where the Trust is notified that the individual has been barred from regulated work, immediate steps should be taken to remove the individual from their post/position. Barring is most likely to happen where an individual has been referred by another organisation (i.e. courts, regulatory bodies, NHS tribunals).

Re-Checking of Basic Disclosures

There is no automatic notification process on convictions to employers in relation to individuals who have Basic Disclosure checks, and there is no legislative requirement to carry out re-checking of these individuals. It is NLL's policy that re-checking of these Disclosure Checks will be carried out every 3 years.

12. Secure Handling of Information

PVG/Disclosure information should be handled, used, stored, retained and disposed of in accordance with the legislation listed above.

Usage

PVG/Disclosure Information should only be used for the purposes for which it has been provided, which is to determine suitability for employment, and only shared with those authorised to see it in the course of their duties. It should not be shared with a third party unless written consent has been given by the applicant.

Storage/Retention

PVG/Disclosure Information should not be held for longer than necessary. For PVG checks information should be held until the individual ceases to do regulated work for the Trust. For Disclosure Checks, the information should only be retained until a recruitment decision is reached, allowing for the resolution of any disputes or complaints. Information being held until a recruitment decision is made, should be held securely, in lockable, non-portable storage containers.

Once a recruitment decision has been made, paper or electronic certificates should not be retained; rather, the relevant information (disclosure type, position applied for, date of issue, reference number) must be recorded on the HR System, and care must be taken to avoid unauthorised access. No criminal conviction information should be retained, nor should it be recorded that a check did or did not contain criminal conviction information. Furthermore, no information should be held on the employee's personnel file.

Disposal

PVG/Disclosure information must be destroyed in a secure manner. Any Disclosure information awaiting destruction should be held securely, in lockable, non-portable storage containers.

13. Violations of the Policy

Any violation of the Policy may result in disciplinary action in terms as specified in the Trust's Discipline Policy up to and including dismissal. Violations could also amount to criminal offences and lead to prosecution.

Appendix 1

Department	Post	Type of check required	
		PVG	Basic
Human Resources (counter signatories)	Head of HR & Payroll	√	
	HR Manager	√	
Operations	Sports Development & Participation Manager	√	
	Senior Sports Development Officer	√	
	Venue Manager	√	
	Duty Manager	√	
	SFA Football Development Officer	√	
	Sports Development & Participation Officer	√	
	Coach Co-ordinator	√	
	Head Sports Coach	√	
	Team Leader	√	
	BMX Supervisor	√	
	Aquatics Development & Participation Officer	√	
	Swimming Teacher	√	
	Sports Coach	√	
	Jog Leader		√
	Leisure Attendant Wet	√	
	Leisure Attendant Ice	√	
	Leisure Attendant Dry		√
	Pavilion Attendant		√
	Assistant Sports Coach	√	
	BMX Attendant	√	
	Soft Play Assistant	√	
	Soft Play Attendant		√
	Cleaner		√
Sales	Gym Manager	√	
	Gym Instructor	√	
	Fitness Specialist	√	