

Protection of Vulnerable Groups (PVG) Scheme Policy & Procedure

WHC reserves the right to amend this policy at its discretion. The most up-to-date version can be downloaded from our website.



University of the
Highlands and Islands
West Highland College

Oilthigh na Gàidhealtachd
agus nan Eilean
Colaiste na Gàidhealtachd an Iar

Protection of Vulnerable Groups (PVG) Scheme Policy & Procedure

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1.0 Policy Statement

West Highland College UHI (WHC UHI) is committed to providing a safe and protected environment for its staff and students at all times.

We comply fully with the relevant legislation and statutory guidance, to ensure that where relevant, employees and students, freelance lecturers and tenants are members of the Protection of Vulnerable Groups Scheme (PVG Scheme) which was introduced by the Protection of Vulnerable Groups (Scotland) Act 2007 (the 2007 Act).

2.0 Scope & Purpose

The PVG Scheme allows WHC UHI as a registered body to request and obtain assurance on whether there is any known reason why an individual is unsuitable to undertake regulated work with children or protected adults where applicable. In particular, the Scheme will inform us of information relevant to the engagement to the applicant.

This document sets out the college's policy in relation to the PVG Scheme application process, its use of PVG Scheme information to inform decisions, and its storage and period of retention of PVG Scheme information.

This policy is based on the following criteria:

WHC UHI will carry out checks only where they are necessary and required by law
Information will be processed and handled sensitively and confidentially; ensuring full compliance of Data Protection Legislation
We will ensure adherence to the Code of Practice as issued by Scottish Ministers under Part V of the Police Act 1997
Having a criminal record will not necessarily prevent employment at WHC UHI. This will depend on the nature of the position, together with the circumstances, timescales since the offence(s) was committed, and nature of the offence(s)

3.0 Background information

The Protection of Vulnerable Groups (Scotland) Act 2007 came into effect on 28th 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 individuals to put themselves forward for regulated work whilst barred.

The following definitions apply within the Act:

- **children** – individuals who are under the age of 18 years
- **protected adults** – individuals who are aged 16 years or over who are provided with a registered care service, health service, community care service or welfare service

There are two types of regulated work:

- Regulated work with children
- Regulated work with adults

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.

4.0 The PVG Scheme

Individuals who work on a regular basis with children and/or protected adults will join the PVG Scheme and from then on, Disclosure Scotland update their membership records; employer(s) are 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 two types of checks available:

4.1 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 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 deem it to be relevant to the position sought
- A PVG Scheme member's paper certificate shows the information available on the day it was created. Membership of the scheme lasts forever though, and scheme members are continuously checked, unless they decide to leave the scheme.

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

5.0 Recruitment

The criteria for posts, which require the post-holder 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.

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

5.1 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 employee matches e.g. they are a member of the children's workforce, and the work at WHC UHI will also be with children. An Existing PVG Scheme Member Application will be made when the employee type differs e.g. they are a member of the children's workforce, and the work at WHC UHI will be with Protected Adults.

5.2 Individuals who are not already Scheme members:

WHC UHI will require them to join and will assist the individual during the application process.

5.3 Obtaining PVG Scheme Membership:

Only Registered Bodies can access Scheme Records and Scheme Record Updates. WHC UHI holds Registered Body status. WHC UHI is permitted one designated Lead Signatory, and a number of Counter-signatories within Human Resources and College Centres 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. An applicant copy of the certificate will also be sent to the individual concerned by Disclosure Scotland.

5.4 Commencing Employment:

Individuals are able to undertake employment for WHC UHI whilst waiting for their appropriate PVG check. This period of employment is full supervised by an employee who has been PVG checked.

The Human Resources Administrator will ensure that line managers and individuals are kept fully informed off the progress of the individual's application and of any potential delays.

5.5 Casual Appointments:

WHC UHI are responsible for ensuring that appropriate PVG Scheme checks have been undertaken where required for all those who are employed on a casual basis.

Similar arrangements are also in place for self-employed/freelance individuals through the provision of a countersigned scheme membership statement.

5.6 Short Term Teaching on Leisure Engagements:

For very short term teaching on leisure engagements a risk assessment will be carried out to determine whether a PVG is required.

6.0 Changes to Individual Circumstances

WHC UHI will notify Disclosure Scotland when any member of staff who has been employed in regulated work leaves the college e.g. as the result of resignation, retirement etc. It is the responsibility of the Human Resources department to ensure that this notification is sent as part of the standard leaver's process.

7.0 Referrals to Disclosure Scotland

The PVG Act aims to provide a robust system by which unsuitable people are prevented from undertaking 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 legal duty upon WHC UHI 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 WHC UHI has (or would) permanently remove the individual from regulated work.

If, as a result of any of the referral grounds being met, WHC UHI dismisses an individual who was doing regulated work – or if the individual leaves before the disciplinary process has concluded and the conclusion would have been that WHC UHI would have dismissed the individual. The HR Manager will make a referral to Disclosure Scotland on behalf of WHC UHI. It is an offence for WHC UHI not to make a referral within 3 months of the criteria for referral being met.

Further information on making a referral can be found by clicking on the following link <https://www.mygov.scot/pvg-referrals>

8.0 Exploring the relevance of disclosure information

The Human Resources Administrator 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 following data is recorded and stored on a locked spreadsheet: Applicant Name; Application Ref No; Date posted; Job Title or Course Title; Disclosure No; Date of Issue; Date of receipt and Invoice status.

If the certificate confirms that the individual holds a conviction or any other related information, the Human Resources Administrator & HR Manager/Officer 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 Administrator & HR Manager/Officer will discuss the certificate with the applicant and the recruiting manager. The aim will be to achieve a structured, open and honest discussion between all parties.

The suitability for employment of a person with a criminal record or who has other relevant information revealed in their check will vary. It will depend upon the nature of the job and the details and circumstances of any conviction or relevant information. The discussion should cover these matters, in order that the applicant's criminal record or other relevant information and circumstances can be assessed in relation to the tasks he or she will be required to perform, and the circumstances in which the work is to be carried out. It should be remembered that no two offences are exactly alike and should not be treated so.

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

- The nature of the conviction or relevant information and its relevance to the safety of other employees, students, the public etc.
- The seriousness of any offence revealed
- The length of time since this occurred- 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 or offending?
- Any relevant information offered by the applicant about the circumstances?
- The degree of remorse, or otherwise expressed by the applicant and their motivation to change
- Are the applicant's references satisfactory?

Having considered all these matters carefully and thoroughly, a decision would then be made regarding the individuals suitability for employment at WHC UHI.

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

See no. 11 for further information on WHC UHI policy on the recruitment of ex-offenders.

9.0 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 letter of appeal should be addressed, in writing, to the HR Manager within 5 working days of receiving the decision.

The appeal will be considered by an ELT member, who will sit together with the HR Manager and another appointed senior manager; this will normally happen within 20 working days of the written appeal being received.

The decision will shall be confirmed in writing within 5 working days of the outcome of the appeal.

10.0 Data protection and confidentiality

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

Further details on the secure handling, use, storage, retention and destruction of disclosure information are attached see Appendix A.

11.0 The recruitment of ex-offenders

The Code of Practice (“the Code”) is published by Scottish Ministers under section 122 of Part V of The Police Act 1997 (“the 1997 Act”). The Code identifies obligations which registered bodies, counter-signatories and other recipients of disclosure information issued under the 1997 Act and the Protection of Vulnerable Groups (Scotland) Act 2007 (“the 2007 Act”).

We comply with the Code, the 1997 and 2007 Acts regarding the treatment of individuals who are subject to Disclosure Scotland checks. We undertake not to discriminate unfairly against the subject of a disclosure on the basis of conviction or other information revealed. Having a criminal record will not necessarily prevent an individual from working at WHC UHI. This will depend on the nature of the position and the circumstances and background of the offence(s).

We are committed to equality of opportunity, and to following practices, which are free from unfair and unlawful discrimination. We ensure that no applicant or member of staff is subject to less favourable treatment on the grounds of an offending background. We welcome applications from a wide range of candidates, including those with criminal records and the selection of candidates for interview will be based on skills, qualifications and experience.

Individuals will be made aware that the position or work will be subject to a Disclosure Scotland check and that the nature of the position or work entitles us to ask about spent and unspent convictions.

As an employer WHC UHI will ask about unspent convictions and spent convictions which are disclosed to us by Disclosure Scotland.

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.

12.0 Responsibilities

The College’s Board of Management - has ultimate responsibility for ensuring that the college complies with its statutory obligations in terms of meeting the requirements of the Prevention of Vulnerable Groups Scheme (PVG).

The Executive Leadership Team and College Management Group - is responsible for approving and leading the implementation of this policy.

All Managers and Team Leaders and recruiting managers - have a duty to ensure that this policy is implemented within their sphere of activities and responsibility.

The HR Manager – is responsible for developing and reviewing the policy and ensuring there are accompanying procedures and disseminating and communicating the new policy and procedures.

All Staff – Are responsible for the effective operation, implementation and compliance with this policy.

13.0 Review

This policy will be reviewed every 3 years, or sooner if necessary.

14.0 Appendix A

POLICY ON THE SECURE HANDLING, USE, STORAGE, RETENTION AND DESTRUCTION OF DISCLOSURE INFORMATION

1. Introduction

The Code of Practice (“the Code”) is published by Scottish Ministers under section 122 of Part V of The Police Act 1997 (“the 1997 Act”). The Code sets out obligations for registered bodies, counter signatories and other recipients of disclosure information issued under the 1997 Act and the Protection of Vulnerable Groups (Scotland) Act 2007 (“the 2007 Act”).

2. Purpose

WHC UHI complies with the Code and the 1997 and 2007 Acts regarding the handling, holding, storage, destruction and retention of disclosure information provided by Disclosure Scotland. We comply with the Data Protection Act 1998 [Data Protection Policy](#) (“the 1998 Act”). WHC UHI will provide a copy of this policy to anyone who requests to see it.

3. Usage

WHC UHI will use disclosure information only for the purpose for which it was requested and provided. Disclosure information will not be used or disclosed in a manner incompatible with that purpose. We will not share disclosure information with a third party.

4. Handling

WHC UHI recognises that, under section 1241 of the 1997 Act and sections 66 and 67 of the 2007 Act, it is a criminal offence to disclose disclosure information to any unauthorised person. Disclosure information is only shared with those authorised to see it in the course of their duties. We will not disclose information provided under subsection 113B (5)2 of the 1997 Act, namely information which is not included in the certificate, to the subject.

5. Access and Storage

WHC UHI does not keep disclosure information on an individual's personnel file. It is kept securely in a lockable, non-portable storage unit. Access to this storage unit is strictly limited to authorised named individuals, who are entitled to see such information in the course of their duties.

6. Retention

To comply with the 1998 Act, WHC UHI not keep disclosure information for longer than necessary. For the 1997 Act, this will be the date the relevant decision has been taken, allowing for the resolution of any disputes or complaints. For the 2007 Act, this will be the date an individual ceases to do regulated work for this organisation. We will not retain any paper or electronic image of the disclosure information. WHC UHI, will however, record the date of issue, the individual's name, the disclosure type and the purpose for which it was requested, the unique reference number of the disclosure and details of our decision. The same conditions relating to secure storage and access apply irrespective of the period of retention.

7. Disposal

WHC UHI will ensure that disclosure information is destroyed in a secure manner i.e. by disposing of certificates in the HR confidential waste disposal bag for shredding. We will ensure that disclosure information which is awaiting destruction will not be kept in any insecure receptacle (e.g. a waste bin or unlocked desk/cabinet).