

Policy on Disclosure Scotland (Incorporating PVG scheme)

We will provide this policy on request at no cost, in large print, in Braille, on tape or in another non written format.

DISCLOSURE SCOTLAND (Incorporating PVG Scheme)

POLICY PURPOSE AND APPLICABILITY

This policy and procedure provides advice and guidance to managers and secondees to Wheatley Solutions on recruitment and the secure handling, use, storage, and retention of Disclosure information.

The type of Disclosure Information we will have access to will include; details of a person's criminal records, information about a person's exclusion on children's or adult's list and other relevant information held by a local police force of Government Body.

Applies to:

- All secondees to Wheatley Solutions/applicants
- Contractors to Very Sheltered and Sheltered complexes
- Agency staff in Very Sheltered and Sheltered complexes

POLICY RESPONSIBILITY

All secondees have a responsibility to Wheatley Solutions to adhere to the policies and procedures.

All managers have a responsibility to apply the policy fairly and uniformly throughout Wheatley Solutions.

Employee Relations have a responsibility for keeping the policy up to date and to ensure that it is applied consistently throughout Wheatley Solutions.

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SECTION A - POLICY PRINCIPLES

Wheatley Solutions complies fully with the Code of Practice; issued by Scottish Ministers, in connection with the use of information provided to registered persons and other recipients of information by Disclosure Scotland under Part V of the Police Act 1997; for the purposes of assessing applicants' suitability for positions of trust. Wheatley Solutions undertakes to treat all applicants for positions fairly and not to unfairly discriminate against the subject of a Disclosure on the basis of conviction or other information revealed.

As part of our approach to mainstreaming equality, we are committed to tackling discrimination on the grounds of race, colour, ethnic or national origin, sex, marital status, disability, sexual orientation, religion, age, HIV Status and other grounds.

We will seek to ensure that its secondment and service delivery practices are not themselves either directly or indirectly discriminatory. We will ensure that everyone is encouraged to realise his/her potential and that equality and diversity values are maintained for individuals and services alike.

Wheatley Solutions will request an appropriate level of Disclosure for appropriate posts of trust (identified in Appendix B). Where a Disclosure is deemed necessary for a post, all applications forms, role adverts, website, and any other appropriate literature will contain a statement that a Disclosure will be requested in the event of the individual being offered the seconded position.

Where a Disclosure is to form part of the recruitment process, we will encourage all applicants selected for interview to provide criminal record details at an early stage in the application process. This information will be sent under separate, confidential cover and this information will only be seen by those who are required to see it as part of the recruitment process. Any costs incurred from Disclosure Scotland will be met by Wheatley Solutions.

In line with the Rehabilitation of Offenders Act 1974, we will only ask about convictions which are defined as "unspent" in terms of that Act, unless the nature of the position is such that Wheatley Solutions is entitled to ask questions about an individual's entire criminal record.

At interview, or under separate discussion, Wheatley Solutions undertake to ensure an open and measured discussion on the subject of any offences or other matters, which might be considered relevant for the position concerned. Failure to reveal information, which is directly relevant to the position sought, could lead to withdrawal of an offer of secondment.

Wheatley Solutions undertake to discuss any matter revealed in a Disclosure with the individual concerned before withdrawing an offer of secondment. No individual, who has applied for a role that requires a Disclosure, will be permitted to commence a secondment before a satisfactory Disclosure is received.

We will ensure that all those in Wheatley Solutions who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences. We also ensure that they have received appropriate guidance and training in the relevant legislation relating to ex-offenders (e.g. the Rehabilitation of Offenders Act 1974).

We will ensure that Disclosure Information is only used for the purpose intended, only seen by those authorised to see it, is stored securely, retained for the required period (maximum 6 months unless authorised by Employee Relations in exceptional circumstance) and

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destroyed in a secure manner. A record will be kept of the Disclosure number and date of Disclosure for the duration of their secondment.

At interview and when receiving a Disclosure which shows a conviction or other relevant information, we will consider:

- Whether the conviction or other information is relevant to the secondment concerned,
- The seriousness of the offence,
- The length of time since the offence was committed,
- Whether the applicant has a pattern of offending behaviour,
- Whether the applicant's circumstances have changed since the offence took place

Where such consideration is necessary and for the purposes of consistency, the senior designated officer, following consultation with Employee Relations, will consider information received and decide whether to offer or continue the secondment.

Having a criminal record will not necessarily debar candidates from taking up a secondment with Wheatley Solutions; this will depend on the nature of the secondment, together with the circumstances and background of offence(s). Wheatley Solutions aims to protect the vulnerable by safe recruitment.

SECTION B - TYPES OF DISCLOSURES

There are 3 types of Disclosures available under the Disclosure Scotland Service.

Basic Disclosures

A Basic Disclosure contains details of convictions considered unspent under the Rehabilitation of Offenders Act 1974. They are available to anyone for any purpose, on payment of an appropriate fee. This type of Disclosure is only issued to the applicant. It is not role-specific and may be used more than once.

Standard Disclosures

The intermediate level of Disclosure is the Standard Disclosure. This includes convictions held on central records but includes both spent and unspent convictions. This means that even minor convictions dating back years, are included on the Disclosure. The Standard Disclosure is available on payment of the appropriate fee, subject to the application first being countersigned by a registered person in Wheatley Solutions.

A Standard Disclosure is sent to the applicant, and a copy sent to Wheatley Solutions.

Enhanced Disclosures

In addition to the details included in Standard Disclosures, Enhanced Disclosures may contain non-conviction information, which a Chief Constable may choose to disclose, as relevant to the position sought. Prior to 28 February 2011 Wheatley Solutions would have been required to request an Enhanced Disclosure from those persons who apply for work which regularly involves caring for Children or vulnerable adults, We will now request such a person to become a member of the PVG Scheme (see section 8).

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SECTION C - POLICY STATEMENTS

Usage

Disclosure Information should only be used for the purpose for which it is intended. The information provided by an individual in support of an application for a secondment within Wheatley Solutions must not be disclosed or used in a manner incompatible with the purpose. Personal data should only be processed with the express consent of the individual. Individuals must be notified of any non-obvious use of the data, including further disclosure to a third party, the data controller, the purpose for the processing, and any further relevant information.

Handling

We recognise that, under Section 124 of the Police Act 1997, it is a criminal offence to disclose Disclosure Information to any unauthorised person. Counter signing officers should only pass Disclosure Information to those who are authorised to see it in the course of their duties. Counter signing officers should not disclose information provided under Section 115(8) of the Act, namely information that is not included in the Disclosure, to the applicant.

Access and Storage

Disclosure information should not be held in any individual's file. It should be kept securely in a lockable filing cabinet. Access to this cabinet should be strictly controlled to authorised named individuals who are entitled to see such information in the course of their duties.

Retention

Disclosures or Disclosure Information should not be retained for any longer than is required after recruitment (or other relevant) decision has been taken. In general, this should be no longer than 6 months. This is to allow for the resolution of any duties or complaints. Disclosure Information should only be retained for longer than this period in exceptional circumstances, and in consultation with Employee Relations. The same conditions relating to secure storage and access will apply during any such period.

Disposal

Once the retention period has elapsed or earlier if appropriate, the Disclosure Information should be destroyed in a secure manner, i.e. by shredding. Counter signing officers should ensure that Disclosure information, which is awaiting destruction, is kept securely. There must be no retention of any image on photocopy or any other electronic form of the Disclosure Information. However, a record should be kept of the date of issue of the Disclosure, the name of the subject, the Disclosure type, the position for which the Disclosure was requested, the unique reference number of the Disclosure and details of the recruitment or other decision taken.

Contractors who help Wheatley Solutions deliver a housing support service or care within Sheltered and Very Sheltered complexes

Managers must ensure that any contractors and agency staff used within Sheltered and Very Sheltered complexes have an up to date PVG Scheme Record.

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Validity of Disclosure Checks

Disclosure checks need to be renewed every 3 years in line with recommendations from the Care Commission.

Disclosure Failure

The nominated Senior Officer for Wheatley Solutions must review returns, which identify disclosures. If a new applicants' return identifies a conviction or other relevant information, a Disclosure meeting is to be arranged with a senior designated officer, along with a representative from Employee Relations to consider information received. At this meeting full details of the disclosure will be discussed and the senior designated officer, following consultation with Employee Relations, will consider all information received and decide whether this prevents the person from taking up a secondment within the appropriate area of application.

Disclosures must be renewed every 3 years. If a disclosure renewal returns a new conviction or other relevant information, a disclosure meeting is to be arranged with the designated manager and a representative from Employee Relations. Once all details are discussed, the designated officer will decide whether this prevents the secondee from continuing in their secondment. Depending on the seriousness of the conviction, or other relevant information, the designated manager may need to immediately issue a precautionary suspension from work until the disclosure meeting has been held.

All secondees requiring disclosure checks must inform their line managers of any conviction or other relevant information that may result in a disclosure return at renewal of this. Failure to inform a manager of being charged with a criminal offence during the course of a secondment with Wheatley Solutions may be considered as Gross Misconduct and may lead to dismissal from the Group. A record will be kept of all disclosure meetings and the decision of these meetings will be communicated in writing to the relevant person (secondee, applicant or contractor).

SECTION D - IDENTIFIED POSTS

In accordance with Part V of the Police Act 1997 and the Rehabilitation of Offenders Act 1974, Wheatley Solutions has identified the posts listed in Appendix A and B as those requiring a Basic Disclosure or a PVG Scheme Record.

SECTION E - PROTECTION OF VULNERABLE GROUPS (SCOTLAND) ACT

The Protection of Vulnerable Groups (Scotland) Act 2007 ("the Act") came into effect on 28 February 2011. The Act introduced the Protection of Vulnerable Groups Scheme (the PVG Scheme), and the requirement to have a PVG Scheme Record when carrying out regulated work.

Background

The Act created a membership scheme to replace the previous Disclosure Scotland Enhanced Disclosure 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

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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 Wheatley Solutions is covered by 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 secondees to Wheatley Solutions whose roles require them to spend the majority of their time caring for, supervising and advising children and/or Protected Adults will require Scheme membership.

Examples of the types of role where it may be appropriate for the secondee to have PVG Scheme membership are attached at Appendix A.

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 organisation that is considering engaging, by way of secondment, 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 different organisations.

The Scheme Record certificate is a document containing impartial and confidential information held by the police and government departments which can be used by organisations to make safe 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

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PVG Scheme Record Update

A PVG Scheme Record Update can be requested by an organisation that is engaging, by way of secondment, an existing PVG Scheme member for the first time. The purpose of the Update is to enable organisations to check that a potential secondee 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.

Wheatley Solutions will meet the cost of joining the Scheme for existing and new secondees.

SECTION F - Recruitment Procedure

The further particulars for posts which require the secondee to undertake duties which fall within the scope of the Act will state that any offer of secondment will be conditional on confirmation of a satisfactory PVG Scheme record check. The offer of secondment will be made subject to such confirmation being received. Further guidance can be found at appendix C.

As of 28 February 2011, Wheatley Solutions require new secondees and or those who are transferring within Wheatley Group to a new role, which will involve 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 organisation 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

Wheatley Solutions will require them to join and will provide assistance to the individual during the application process.

Obtaining PVG Scheme Membership

Only Registered Bodies can access Scheme Records and Scheme Record Updates. Wheatley Solutions holds Registered Body status. Wheatley Solutions is permitted one designated Lead Signatory and a number of Counter-signatories within Employee Relations who will initiate and complete the process of obtaining the Scheme membership confirmation.

When the successful candidate for the role has been identified, the oral and written offer of secondment 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.

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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 Employee Relations department. A copy of the Scheme Record will also be sent to the individual concerned.

Agency Staff

Employment agencies that provide staff to work on assignment with Wheatley Solutions in roles which involve them undertaking regulated work with children and/or Protected Adults are required to ensure that all staff provided are PVG Scheme members prior to them taking up the position. Similar arrangements should also be made for self-employed individuals who are paid out-with this route on the submission of invoices.

Existing Staff

The PVG Scheme will initially apply only to new secondees or existing secondees who transfer into roles which involve them undertaking regulated work with children and/or Protected Adults, but retrospective checks may be required for existing secondees who undertake duties which fall under the scope of the Act. Wheatley Solutions is also required to notify Disclosure Scotland when any secondee who has been involved in regulated work leaves Wheatley Group e.g. as a result of resignation, retirement etc.

If a PVG Scheme Record, or Record Update, returns a new conviction or other relevant information, a disclosure meeting is to be arranged with a designated senior officer and a representative from Employee Relations. Once all details are discussed, the designated senior officer, following consultation with Employee Relations, will decide whether this prevents the secondee from continuing in their secondment. Depending on the seriousness of the conviction, or other relevant information, the designated manager, may need to immediately issue a precautionary suspension from work until the disclosure meeting has been held.

All secondees requiring a PVG Scheme Record, or a Record Update, must inform their line managers of any conviction or other relevant information that may be disclosed. Failure to inform a manager of being charged with a criminal offence during the course of secondment with Wheatley Solutions may be considered as Gross Misconduct and may lead to dismissal from the Group. A record will be kept of all disclosure meetings and the decision of these meetings will be communicated in writing to the relevant person (secondees, applicant or contractor). Managers must contact Employee Relations for advice prior to any action being taken.

SECTION G - Referral to Disclosure Scotland

The 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

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called “making a referral”. The Act places a duty upon Wheatley Solutions 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 Wheatley Solutions has (or would) permanently remove the individual from regulated work

The referral grounds for those doing regulated work with children mirror those for staff doing regulated work with adults. For a secondee to be referred they must have done one or more of the following:

- Harmed a child or protected adult
- Placed a child or protected adult at risk of harm
- Engaged in inappropriate conduct involving pornography
- Engaged in inappropriate conduct of a sexual nature involving a child or protected adult
- Given inappropriate medical treatment to a child or protected adult

The Act defines harm as including the following:

- Physical harm;
- Psychological harm (for example: causing fear, alarm or distress); and
- Unlawful conduct which appropriates or adversely affects another person’s property, rights or interests (for example: theft, fraud, embezzlement or extortion)

The Act also provides a meaning for “risk of harm” which includes:

- Attempting to harm another;
- Trying to get someone to else to harm another;
- Encouraging someone to harm themselves; or
- Conduct otherwise causing, or likely to cause, another to be harmed.

Further guidance can be found on the Disclosure Scotland website: www.disclosurescotland.co.uk

Failure to refer an individual may mean that an individual who is unsuitable to do regulated work and does not get barred from doing that type of work can go on and harm other vulnerable people in other settings. Failure to make a referral within 3 months of the criteria for referral being met can result in a fine and a prison sentence of up to five years. Individuals within organisations may be prosecuted, alongside the organisation itself, if it can be demonstrated that the offence was committed with their consent, connivance or through their negligence.

If, as a result of any of the referral grounds being met, a seconded individual is dismissed by their employing organisation was doing regulated work or is transferred to other duties that do not involve that type of regulated work, a referral to Disclosure Scotland will be made on behalf of the Wheatley Group by Employee Relations department and must be made using the Disclosure Scotland Employer Referral Form.

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SECTION H - APPENDIX A - 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 secondees to Wheatley Solutions who are required, for the majority of their time, to care for, supervise and advise children and/or Protected Adults will require Scheme membership.

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 Wheatley Solutions
- ↑ 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 Wheatley Solutions which are deemed to be Regulated Positions include:

- **Senior Housing Support Co-ordinator**
- **Housing Support Co-ordinator**
- **Very Sheltered Housing Manager**
- **VSH Housing Support Officer**
- **Mobile Housing Support Officer**
- **Housing Advice and Accommodation Co-ordinator**
- **Housing Advice and Accommodation Adviser**

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 Employee Relations.

SECTION I - APPENDIX B - POSTS WHICH REQUIRE A BASIC DISCLOSURE

Basic Disclosures:

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- All Environmental Staff
- Housing Officers
- Area Housing Managers
- Employee Relations
- Local Asset Officers
- Money Advisors
- Fuel Advisors
- Furnished Lets Officers
- Enforcement Officers
- Neighbour Relations Posts

NB This list will be reviewed following any organisational change

SECTION J - APPENDIX C - PVG RECORD RISK ASSESSMENT GUIDANCE NOTES

The Protection of Vulnerable Groups (Scotland) Act 2007 makes it an offence for an organisation to engage 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 Wheatley Housing Support's Protection of Vulnerable Groups Policy, all secondment offers made to Regulated Positions (including those made to temporary members of staff) must be made subject to the receipt of confirmation of PVG Scheme membership. New secondees are not permitted to take up their post until such confirmation has been received.
