

**Title:** Independent Safeguarding Authority Registration / CRB Disclosure Policy

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**Compliance:** Mandatory for all permanent & temporary employees, contractors & sub-contractors of North Yorkshire & York PCT

**Equality Statement:** This policy has been subject to a full equality impact assessment

Please note that the intranet version is the only version that is maintained. Any printed copies should, therefore be viewed as 'uncontrolled' and as such may not necessarily contain latest updates and amendments.

CHANGE RECORD			
DATE	AUTHOR	NATURE OF CHANGE	VERSION No
21.12.07	Helen Darwin, HR Manager	New Policy for NYYPCT	2.0
22.01.09	Michelle Bowman, Senior HR Advisor	Reviewed after 1 year of implementation. Process updated in Appendix B and forms updated.	2.1
10.03.09	Michelle Bowman, Senior HR Advisor	Amendments made in line with NHS Employers Guidance	2.2
17.12.09	Michelle Bowman, Senior HR Advisor / Anna Smith, HR Officer	Included details concerning staff transferring under TUPE regulations and general update in line with Policy on Policies Document. Also updated in line with national changes and the implementation of the Independent Safeguarding Authority Registration Checks in October 2009.	2.3
09.09.10	Michelle Bowman, Senior HR Advisor	Updated policy in line with NHS Employers Guidance in relation to Children List Checks	2.4



Chief Executive: Jayne Brown OBE  
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## **1.0 Preface**

This Policy is made between North Yorkshire and York Primary Care Trust (PCT) and the recognised staff side organisations, using the mechanism of the JNCC and Local Negotiating Committee (LNC). It will remain in force until superseded by a replacement Policy, or until terminated by either management or staff side, giving no less than six months notice. The purpose of the notice to terminate the Policy is to provide the opportunity to for both parties to renegotiate a replacement Policy. Withdrawal by one party, giving no less than six months notice, will not of itself invalidate the agreement. If agreement cannot be reached on a revised policy, then the matter will be dealt with through the PCT's Grievance Procedure

## **2.0 Introduction**

This document details North Yorkshire and York PCT's policy and procedure on ISA registration and CRB Disclosures. It has been produced to help recruiting managers select the right person for the job and is part of the pre-employment checks that are required for staff when commencing work or change roles within the PCT.

It is not intended that the guidance given here should provide the only source of information and you should not hesitate to contact the HR Department for advice and practical help necessary.

## **3.0 Scope**

This policy and procedure applies is mandatory for all permanent & temporary employees, contractors & sub-contractors of the PCT.

## **4.0 Responsibilities**

It is the responsibility of all line managers to ensure that they have read the policy. The HR Department will support all managers in ensuring this policy is followed and implemented equitably.

## **5.0 Equality Statement**

The PCT recognises the diversity of the local community and those in its employ. Our aim is therefore to provide a safe environment free from discrimination and a place where all individuals are treated fairly, with dignity and appropriately to their need regardless of age, disability, race, nationality, ethnic or national origin, gender, religion, beliefs, sexual orientation, gender reassignment or employment status. The PCT recognises that equality impacts on all aspects of its day to day operations and has produced an Equality and Human Rights Strategy and Equal Opportunities Policy to reflect this. All policies and procedures are assessed in accordance with the Equality & Diversity Assessment Toolkit, the results for which are monitored centrally.

## **6.0 Definitions**

'The PCT'	North Yorkshire and York PCT
HR Department	Human Resources Department
CRB	Criminal Records Bureau
ISA	Independent Safeguarding Authority
VBS	Vetting and Barring Scheme
RAP	Regulated Activity Provider

## **7.0 Training and Awareness**

This policy will be available to all staff via the PCT's intranet. Training will be provided by the HR Department to those managers who will have responsibility for recruitment as part of their role.

## **8.0 Data Protection Act 1998 Statement**

The Data Protection Act 1998 protects personal data, which includes information about staff, patients and carers. The NHS relies on maintaining the confidentiality and integrity of its data to maintain the trust of the community. Unlawful or unfair processing of personal data may result in the PCT being in breach of its Data Protection obligations.

## **9.0 Freedom of Information Act 2000 Statement**

Any information that belongs to the PCT may be subject to disclosure under the Freedom of Information Act 2000

## **10.0 Records Management**

Records provide evidence and information about the business activities of the PCT and are corporate assets of the PCT. This policy should therefore be retained in line with the NHS Code of Practice on Records Management (Department of Health, 2006). Compliance with this code will ensure that the PCT's records are complete, accurate and provide evidence of and information about the PCT's activities for as long as is required.

## **11.0 Review**

This policy will be reviewed in 1 year's time. Earlier review may be required in response to exceptional circumstances, organisational change or relevant changes in legislation or guidance.

## **12.0 Monitoring**

Monitoring of compliance of the policy will be undertaken by the HR Department and internal audit. The HR Department will ensure on a monthly basis that new starters to the Trust and internal transfers are checked to ensure CRB checks, where appropriate have been undertaken. Anomalies will be highlighted to the relevant Director and appropriate action agreed.

## **13.0 Introduction to ISA**

This procedure sets out the steps to following for obtaining ISA registration for newly appointed and current staff of the PCT who work in regulation/controlled activities. Definitions are provided in paragraph 17.

The procedure also explains the steps for obtaining a Criminal Records Bureau (CRB) check for those posts that require it and guidance for assessing the relevance of any criminal record against the post in question. Guidance on suitability of Candidates can be found in Appendix A.

## **14.0 Background to ISA**

The Government set up the ISA in January 2009 with the aim of providing a more coordinated approach to the vetting of employees and volunteers who work with children or vulnerable adults in regulated or controlled activities.

The CRB have been chosen by the Government to support the ISA by providing criminal and other police intelligence to enable the ISA to assess the relevance of the information, and where appropriate take necessary barring decisions preventing individuals who pose a risk from working with children or vulnerable adults.

Certain staff therefore will be required to register with ISA and have a CRB check and before working with children or vulnerable adults.

This procedure will therefore highlight the main points for the arrangements, and provide details of when current staff will need to apply for ISA registration.

## **15.0 ISA Registration**

From the 26 July 2010 all new staff applying to work with children or vulnerable adults will need to apply for ISA registration.

The Human Resources Department will be responsible for overseeing the administration of ISA registration including liaison with managers, however it is ultimately the manager's responsibility to ensure ISA registration is in place.

Staff already in post at the 26 July 2010 will not need to register with ISA if they currently work with children or vulnerable adults. Instead they will be required to register with ISA over a 5 year phase in period and details will be confirmed. At the time of writing, the 5 year phase in period will operate as follows:

26 July 2010 onwards	New recruits and existing staff transferring to a new post covered by the <b>regulated</b> activity definition must apply for ISA registration.
2011 –	From April 2011, Staff in post at 26 July 2010 must apply for ISA registration if they have never had a CRB check.
2012 –	Staff in post at 26 July 2010 must apply for ISA registration if they have last had a CRB check before 2009.
2013 –	Staff in post at 26 July 2010 must apply for ISA registration if they have had a CRB check between 2010–2013.
2014 –	Any staff not covered by the above timetable must now apply for ISA registration including those staff who work with children or vulnerable adults in <b>controlled activities</b> .
2015 –	31 July final cut off date for staff working in regulated and controlled activity must be ISA registered.

## 16.0 Other ISA Arrangements/Responsibilities

ISA registration is a one off procedure and unlike CRB Disclosures is portable from one organisation to another and should be checked at interview stage once along side any other documents such as professional registration and Identification Documents.

Once the ISA registration process is fully operational, the organisation will be able to check online the ISA registration status of any of its staff or future employees.

The organisation will also be able to express an interest with the ISA concerning changes in registration status of its own staff. ISA will update the organisation should new information cause the individual's registration status to change, i.e. If a barring decision has resulted in their registration being revoked or incidences where employers may be required to put in place additional procedures and safeguards.

The organisation is committed to treat all staff registered with the ISA fairly and to ensuring that information about staff is only made known to officers who need the information to fulfil their responsibilities (i.e. HR staff, appropriate line managers, Directors or the Chief Executive).

The organisation has a legal responsibility as of 12 October 2009 to share relevant information including criminal convictions, gross misconduct and other concerns about individuals by making a referral to ISA. Advice should be sought from the HR Department with regards to making referrals to ISA to ensure the criteria outlined within ISA documentation has been met.

ISA will investigate the circumstances and make necessary barring decisions if they feel the individual may pose a risk to children or vulnerable adults. Barring decisions will be made on a case by case basis with the most difficult decisions being taken by the ISA Board made up of experts. An appeals process to the ISA against barring decisions may be available subject to the circumstances of the case.

## **17.0 Activity Definitions**

In the health care setting the definition of a vulnerable person has been extended so that anyone in receipt of 'health care treatment' will be classed as vulnerable and therefore the majority of staff will need to be registered with ISA. Should an employee/volunteer not register (or should they be struck off the ISA register) they will not be able undertake regulated work with children or vulnerable adults as appropriate.

### **17.1 Regulated activity:**

- Regulated activity is any activity involving contact with children or vulnerable adults which is:
- Of a specified nature for example care, treatment, therapy or transport, on a frequent or intensive and/or overnight basis;
- In a specified place; includes anyone who works or volunteers in the following settings on a frequent or intensive basis and whose work brings them into contact with children and vulnerable adults:
  - Schools
  - Childcare premises (including nurseries)
  - Residential homes for children
  - Children's detention centres
  - Adult care homes
  - Education institutions that are wholly or mainly for the provision of full-time education for under -18s.

People who work closely with children or vulnerable adults will be engaged in regulated activity in any setting, whether or not this is a specified place however; only those places will other work which gives people the opportunity to have contact with children or vulnerable adults be included as regulated activity. This may include catering assistants, domestics, administrative and maintenance workers or contractors and their managers and supervisors.

### **17.2 Controlled activity:**

Controlled activity includes non clinical / ancillary / support staffs that involves contact with children or vulnerable adults:

- Frequently or intensively in a healthcare/hospital or primary care setting.
- Frequent or intensive ancillary activity in adult social care setting and further education setting
- People working for specified organisations with access to health or social services records.

In each case there must be an opportunity for contact with children or vulnerable adults, or the opportunity to have access to health or social records for children or vulnerable adults, or educational records for children.

### **17.3 Frequency test**

Frequent access to children and vulnerable adults in the course of their normal duties is defined as once a week or more.

Intensive access to children and vulnerable adults is defined as 4 or more times during a 30 day period or on an overnight basis.

### **18.0 Criminal offence**

The organisation will face a criminal offence should it knowingly appoint or continue to employ anyone in a regulated activity that is barred. It may be possible to employ someone who is on the barred list in a controlled position providing safeguards are in place. Further information on this latter point is awaited but is likely to require the person to be supervised or their work controlled.

It will also be a criminal offence for an individual to seek work in regulated activity when they are barred.

### **19.0 Introduction to CRB**

CRB Disclosures are an important tool in enabling safer recruitment practices and patient safety. Although a criminal conviction or caution in itself does not prevent anyone from working in the NHS, some types of offences, for example involving violence or sexual abuse, may indicate that an applicant is unsuitable to have access to patients and should not be employed.

A copy of the PCT's Code of Practice regarding Ex-offenders can be found in Appendix B.

Part V of the Police Act 1997 provides the ability to employers to access criminal records, including information on 'spent' convictions of prospective employees for posts that are exempt from the Rehabilitation of Offenders Act.

The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 requires that all details, including spent convictions be declared for "*Any employment or other work (1) which is concerned with the provision of health services and (2) which is of such a kind as to enable the holder of that employment or the person engaged in that work to have access to persons in receipt of such services in the course of his normal duties.*"

From 14 February 2005, Criminal Record Bureau (CRB) checks became mandatory for every new recruit who has access to patients as part of their normal duties. Enactment of the Safeguarding Vulnerable Groups Act (2006) provided further regulation and made it a criminal offence for employers to engage individuals in regulated activity of vulnerable groups without ISA registration.

## **20.0 Registering with ISA and Criminal Records Bureau**

The PCT has registered with the CRB to enable Individuals to register with the ISA (where applicable) and for CRB Disclosure checks to be undertaken. In registering, the PCT is required to comply with the Code of Practice drawn up by the CRB to ensure that all information received about the successful candidates is handled confidentially and fairly within the organisation.

### **20.1 Umbrella Body**

The PCT currently acts as an umbrella body for partner organisations such as General Practices. In doing so, the PCT has drawn up an agreement between the organisations detailing the process, which will be followed together with indemnification against the PCT, which each organisation must sign prior to CRB's being undertaken. The CRB have been informed of such arrangement.

### **21.0 Obtaining a Disclosure Certificate**

The PCT will request that a successful applicant obtains a CRB Disclosure and will make it clear to the applicant the level of disclosure required. The successful applicant will be provided with a CRB application form for completion and will be asked to return it to the HR Department for counter-signature. The HR Department will then submit the application form to the CRB for processing.

On completion of processing, CRB will then provide the applicant and the HR Department with a copy of the disclosure certificate.

In the event that an applicant refuses to apply to the CRB for a disclosure certificate, the PCT must ensure that the individual has been made fully aware of the requirement to seek a disclosure certificate to be successfully appointed to the vacancy. Where the individual continues to refuse to apply for a disclosure certificate, the Recruiting Manager will inform the applicant that they will not be appointed to the post in the absence of such a certificate.

A flow chart is attached at Appendix C confirming the process for obtaining a CRB check.

### **22.0 Eligibility for Disclosures**

There are two levels of CRB Disclosure available – Standard Disclosure and Enhanced Disclosure.

It is the manager's responsibility to identify the level of disclosure that is required for the position in line with the guidance below. Advice can be sought from the HR Department. A flow chart to determine the level of check required can be found in Appendix D.

Guidance on posts likely to require ISA / CRB Disclosure can be found in Appendix E.

## 22.1 Standard Disclosure

A standard disclosure will provide:

- Details of all convictions, cautions, reprimands and warnings held on the Police National Computer (PNC)
- A Standard check cannot reveal if a person is ISA- registered or barred from working with children or vulnerable adults.

For positions in the NHS, standard disclosures can be obtained for:

*‘Any employment or other work which is concerned with the provision of health services and which is of such a kind as to enable the holder of that employment or the person engaged in that work to have access to persons in receipt of such services in the course of their normal duties.’*

Only the courts can provide an authoritative legal interpretation of this provision, but following consultation with the Department of Health and the Home Office, NHS Employers guidance would be:

- Anyone employed by a NHS care provider is *concerned with the provision of health services(s)*
- Most NHS staff, but not all, *have access to patients in the course of their normal duties.*

## 22.2 Enhanced Disclosure

This is the highest level of check available to anyone involved in **regulated** activity for a RAP working with children or vulnerable adults. From April 2010 this criteria will be extended to all those involved in the provision of **Controlled** activity for a RAP working with children or vulnerable adults.

Enhanced checks contain the same information as the Standard check but also include a check of the new barred lists and any relevant and appropriate information held by the local police forces.

## 22.3 ISA Children’s Check

To require a Children’s List check, the post must fit the criteria for a ‘regulated position’ and involve contact with children as part of their normal duties on a Frequent, Intensive or overnight basis or take place in a specified place.

ISA Children’s List checks are requested as part of an Enhanced Disclosure.

The Safeguarding vulnerable Groups Act 2006 makes it a criminal offence for:

- Individuals to engage in a regulated activities knowing that they have been placed on the barred Children’s list
- An employer to offer work or to employ a person ( or use a volunteer) in a regulated position knowing that person is included on the Children’s list

## 22.4 ISA Adult's Check

To be eligible for a Vulnerable Adults check the post must involve frequent / intensive contact as defined by the Safeguarding Vulnerable Adults Act (2006) as a person who is aged 18 years or over and who:

- Is living in residential accommodation, such as a care home or a residential special school
- Is living in sheltered housing
- Is receiving any form of healthcare
- Is detained in lawful custody ( in prison, remand centre, young offender institution)
- Is under the supervision of the probation services
- Is receiving a welfare service defined as the provision of support, assistance, or advice by any person, the purpose of which is to develop the individual's capacity to live independently in accommodation.
- In receipt of healthcare, including, treatment, therapy or palliative care of any description.
- Is receiving a service or participating in an activity for people who have particular needs because of their age or who have any form of disability.
- Is an expectant mother living in residential care or
- Is receiving direct payments form local authority or health and social care trust in lieu of social care services.

## 23.0 Posts Unlikely to Require a CRB Check

Posts unlikely to require a CRB disclosure include:

- Administrative/ HQ staff who normally work in a separate administrative block
- Maintenance staff whose normal duties do not take them onto wards or into other situations where they have access to patients
- Scientific and technical staff such as laboratory staff
- Laundry staff
- Catering staff who do not deliver food to patients

Where there are concerns relating to the above criteria, advice should be sought from the Human Resources Department.

## 24.0 Model Declaration Forms

The PCT are now required to issue a new questionnaire to successful candidates in relation to criminal convictions / cautions / bindovers regardless of whether or not the post they are applying for requires a CRB Disclosure.

These questionnaires are referred to as *Model Declaration Forms*. There are two forms: Model Declaration Form A and Model Declaration Form B. Model Declaration Form A is to be used in situations where a CRB Disclosure is required and Form B where a CRB Disclosure is not required for the role.

The relevant Model Declaration Form will be sent to the successful candidate at the same time as the CRB Form (if applicable) and Pre-Employment Health Questionnaire. References will also be requested at this time and no start

date should be confirmed with the successful candidate by the line manager until all documents have been returned.

On receipt of the responses on the Model Declaration Form they will be reviewed by the HR Department and any concerns will be highlighted to the recruiting manager. The form will remain on the recruitment file and destroyed after a year in line with the time scales outlined in the Recruitment & Selection Policy (NYYPCHR20)

## **25.0 Staff Recruited from Abroad**

If an applicant has a substantial amount of time abroad and the Recruiting Manager would deem it appropriate to carry out an overseas check, please seek advice from the Human Resources Department. The CRB offers advice for employers seeking information about obtaining, and the availability of, criminal record information in seventeen countries.

Where the criteria are met for a Disclosure, a CRB check should be obtained as a matter of good practice, even if the applicant claims never to have lived in the UK before.

## **26.0 Permitting Individuals to Commence before a Check is Complete**

An individual should not commence in post until CRB clearance has been given, unless there are exceptional circumstances. The average time for a CRB check to be completed is approximately four weeks. In most cases it would be unusual for an individual to commence in their new role sooner than a month from the date the offer is made. Therefore, in the majority of cases it should be possible for the check to be complete before an individual commences in post. In exceptional circumstances the process to follow to permit an individual to commence without clearance is as follows: -

- The recruiting manager must complete a request form (Appendix F) outlining the reasons for requiring the individual to commence before a check is complete.
- The form will be forwarded to the appropriate Director / Assistant Director for approval. If approved the form will be countersigned by the Director / Assistant Director who will confirm that they understand the restrictions, which must apply, and the risks associated with allowing employment to commence without all checks being completed. **Approval must be given by the Director / Assistant Director prior to the individual commencing employment.**
- The form will be forwarded to the HR department in order that a central record can be maintained.

It is considered that circumstances warranting this authorisation will be exceptional. Where cases are considered it is imperative that the manager conducts a risk assessment before making a decision. The risk assessment will decide whether the risk of employing the applicant before clearance is given can be taken and what precautions and safeguards would be needed to manage and minimise that risk. As a minimum one of the safeguards should be that a constant level of direct supervision is in place until clearance is

received. An example of direct supervision is whereby a new member of staff is supervised at all times, including during clinics and treatment, by another member of staff employed by the PCT. Supervision should continue until CRB Clearance has been received and the line manager notified by the HR Department.

**It is vital that where an individual commences without CRB clearance that it is made clear to the individual in the offer letter that the offer is subject to satisfactory CRB clearance and in the event that a CRB check is unsatisfactory that employment may be terminated.**

## **27.0 Employment of Volunteers**

North Yorkshire and York PCT employs a number of volunteers through honorary contracts. Where these volunteers are required to come into contact with vulnerable adults and / or children through the course of their duties at the Trust, they will also be subject to checks with the CRB prior to their commencement at the Trust.

CRB and ISA checks will be carried out free of charge for all Volunteers. If during the recruitment process a candidate shows their ISA Registration Certificate and this has been issued for a volunteer the PCT will need to apply for ISA Registration again as ISA Registration is not portable in terms of volunteers to paid employment.

A volunteer must meet the following criteria as set by the CRB:

- A volunteer is a person who performs any activity which involves spending time, unpaid (except for travelling and out of pocket expenses), doing something which aims to benefit someone (individuals or groups) other than or in addition to a close relative.
- A student on a placement course would be classed as a volunteer and therefore not entitled to a free Disclosure. Students aged 16 -18 involved activity with children and vulnerable adults will not require ISA registration.

## **28.0 Contract Staff**

It is the responsibility of the employing body of contract staff to ensure that where applicable CRB Disclosures and ISA Certificates are undertaken. The requirement to carry out CRB Disclosure and ISA Registration checks should be written in to Service Level Agreements or contracts.

## **29.0 Students**

It is the responsibility of the service managers to ensure students who are placed within the department have a satisfactory CRB Disclosure and ISA Registration. If satisfactory checks have been carried out by the university there is no legal requirement for this to be repeated when the student takes up their placement.

### **30.0 Doctors in Training**

A junior doctor should not be required to provide a new Disclosure each time he/she moves to a new training post. In general, if a check has been carried out within the last three years, no further check should be required, unless a higher level disclosure is required. The date of the last check should be shown on the doctor's Smart Card.

An Enhanced Disclosure including a Children's Check and Vulnerable Adults check will be undertaken for all new trainees commencing at Core Training Level 1, 2 or 3 at the time of appointment to the North Yorkshire Rotational Training Scheme in Psychiatry. The CRB, Children's Check and Vulnerable Adults check will be valid for up to 3 years as long as the trainee is rotating between posts within NHS North Yorkshire and York Community and Mental Health Services. If the trainee rotates out to Scarborough (under the employment of Tees, Esk & Wear) and then comes back to Northallerton, Harrogate or York, a new CRB including a Children's Check and Vulnerable Adults check will need to be undertaken. Upon appointment every Junior Doctor will be required to sign an employment declaration form, which asks clear questions about criminal offences.

In the event of an Enhanced CRB including a Children's Check and Vulnerable Adults check not being received in time for a newly appointed Core Trainee (for example due to last minute recruitment) it would be acceptable for the Trainee to commence in post on an Exceptional Circumstance form which would be signed by the Associate Medical Director for Training as long as it is within a role where access to children is not a regular part of their role.

### **31.0 Employees Moving Within the Organisation**

Employees moving to a new post within the organisation will only be asked to complete a Disclosure form if they:-

- Have not had a check carried out within the last three years
- or
- Are moving to a post, which requires a different level disclosure in comparison to their previous post.
- or
- Are moving to a regulated role involving contact with children, requiring a Children's list check regardless of when their last CRB was carried out.

For example a nurse moving to a higher nursing post who had a check two years ago would not require a check unless they were moving from an area which did not require a Children's List check and their new post was on a Children's Ward.

Another example would be a clerical person who has been successful in obtaining a Health Care Assistant post would need a check.

## **32.0 TUPE Staff**

In circumstances where staff transfer from another organisation a CRB Application will need to be issued to the individual for completion. Staff who are transferring under TUPE regulations are able to commence employment with the PCT without an exceptional circumstance form or CRB Clearance.

## **33.0 Recruiting Persons with a Criminal Record**

The PCT will ensure that all applicants are treated fairly in the process of considering them for positions within the organisation. The PCT will consider persons with a criminal record on the merits of the information received. A conviction will not automatically bar the recruitment of individuals from a position. The PCT will take into account a number of factors before reaching a decision on the recruitment of such individuals. Guidance is provided in Appendix A to help managers consider how best to use the information contained within Disclosures. Advice can be sought from the Human Resources Department.

## **34.0 Validity of Disclosures**

The CRB has determined that disclosures will not have a pre-determined period of validity or absolute guarantee of accuracy. Consequently, the PCT will make recruitment decisions as soon as possible after receiving a copy of the Disclosure.

Where the information on the Disclosure certificate differs to that provided by the applicant, the recruiting manager will meet with the individual to discuss the discrepancy. If the information is accurate the Recruiting Manager will be made aware of the new information and with advice from the Human Resources Department will make a decision on whether to honour the offer of employment or withdraw the offer. If an employee had already commenced employment with the PCT the Disciplinary Policy will be evoked.

If the individual claims that the information is not related to them or is inaccurate, the PCT can request a fingerprint check of the individual via the CRB on payment of a fee in order to determine whether the record belongs to the applicant or not.

## **35.0 Organisational Responsibilities**

### **35.1 Managers Responsibilities**

- Decide on level of Disclosure check required for position
- Indicate if the individual will require a Children's / Adults list check
- Carry out identity check of successful applicant
- Ensure successful applicant fully completes CRB paperwork in a timely manner
- Ensure CRB clearance has been given to a new member of staff before they commence in post
- In exceptional circumstances where individual commences before CRB clearance given – ensure an Exception Form is completed (see Appendix F) and safeguards are in place to minimise any risks.

- Decide on whether to employ an applicant with a criminal record (see Appendix A)
- Ensure that staff are aware that if they gain a conviction or caution after commencing employment, they must inform their manager as this forms part of their Contract of Employment

### **35.2 Human Resources Department**

- Provide a central administration point for applying to the CRB for Disclosures & ISA Registration
- Be the sole contact point to the CRB
- Provide advice and support on all aspects of the CRB and ISA process
- Monitor effectiveness of the PCT's internal CRB and ISA process

### **36.0 Payment for the Disclosure Certificates**

Payment for CRB and ISA Registration is to be confirmed at this stage. However communication will be issued to existing staff and during the recruitment process once a decision has been made.

### **37.0 Countersigning Applications for Disclosure**

Due to the sensitive nature of the information, which will be provided by the CRB, the HR Department will act as the sole point of contact for Disclosures.

The HR Department will ensure that before countersigning any application for disclosure and forwarding to the CRB that the identity of the person making the application has been established. The HR Department will ask managers to ensure that applicants provide at interview, three forms of identification, at least one must be an item of Group 1 identity evidence (e.g. current passport, or new style driving licence) together with one item of Group 2 address related evidence (e.g. a utility bill). For accepted types of Group 1 and 2 evidence please refer to Appendix G. In the absence of any form of identity evidence, the applicant will be asked to produce five items of address related evidence from Group 2.

### **38.0 Information to Applicants**

Each applicant for a position will be provided with a summary of this policy at the commencement of the recruitment process. Each applicant will be advised at the outset whether it will be necessary for an application for Disclosure, and the level of Disclosure. Applicants will also be advised of the existence of the CRB Code of Practice, a copy of which will be provided on request.

### **39.0 Disputes**

In the event that an individual wishes to dispute the accuracy of a Disclosure certificate, the individual will be advised of the process to follow with the CRB.

## **40.0 Secure Storage, Handling, Use, Retention and Disposal of Disclosures**

As an organisation using the CRB Disclosure service to help assess the suitability of applicants for positions of trust, North Yorkshire and York PCT complies fully with the CRB Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosures and Disclosure information. It also complies fully with its obligations under the Data Protection Act and other relevant legislation to the safe handling, use, storage, retention and disposal of Disclosure information and has a written policy on these matters, which is available to those who wish to see it on request.

### **40.1 Storage and Access**

Disclosure information is never kept on an applicants personal file and is always kept separately and securely, in lockable, non-portable, storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties.

### **40.2 Handling**

In accordance with section 124 of the Police Act 1997, Disclosure information is only passed to those who are authorised to receive it in the course of their duties. We maintain a record for all those whom Disclosures or Disclosure information has been revealed and we recognise that it is a criminal offence to pass this information to anyone who is not entitled to receive it.

### **40.3 Usage**

Disclosure information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

### **40.4 Retention**

Once a recruitment (or other relevant) decision has been made, we do not keep Disclosure information for any longer than is absolutely necessary. This is generally for a period of up to six months, to allow for the consideration and resolution of any disputes or complaints. If, in very exceptional circumstances, it is considered necessary to keep Disclosure information for longer than six months, we will consult the CRB about this and will give full consideration to the Data Protection Act and the individuals Human Rights. Throughout this time, the usual conditions regarding safe storage and strictly controlled access will prevail.

### **40.5 Disposal**

Once the retention period has elapsed, we will ensure that any Disclosure information is immediately suitably destroyed by secure means, i.e. by shredding, pulping or burning. While awaiting destruction, Disclosure information will not be kept in any insecure receptacle (e.g. waste bin or confidential waste sack). We will not keep any photocopy or other image of the Disclosure or any copy or representation of the contents of a Disclosure. However, notwithstanding the above, we may keep a record of the date of

issue of a Disclosure, the name of the subject, the type of Disclosure requested, the position for which the Disclosure was requested, the unique reference number of the Disclosure and the details of the recruitment decision taken.

#### **41.0 Indemnity for the Criminal Records Bureau**

North Yorkshire and York PCT indemnifies the CRB as follows:

“This Trust undertakes to indemnify the CRB against any liability or civil claim which may be incurred by the CRB or any individual employed by the Bureau as a result of the provision by the CRB to this Trust of reports of convictions, cautions or other information.”

The CRB should be provided with specimen signatures of the Associate Director of Human Resources and other authorised counter-signatories, and informed if the holders of these posts change or the lead counter-signatory is transferred to someone else.

### **Guidance on Reaching Decisions about the Suitability of Candidates**

North Yorkshire and York PCT aims to address issues relating to Disclosure information with an objective, common sense approach. A risk assessment is required to decide whether the risk of employing, or continuing to employ a person can be taken and what precautions and safeguards would be needed to manage and minimise that risk. When considering Disclosure information it should be decided whether the individual can do the job, whether the person has the essential skills or experience for the post or an ability to develop these skills. Only then, if the person has the skills or experience, should convictions be taken into account.

Factors that should be included in a discussion of any Disclosure information are:

- How long since the offence(s) took place? Was it recently? Were they a juvenile or an adult at the time of the offence? Was the offence a one-off or part of a history of offending?
- Has the offence since been decriminalised by Parliament? Where was the offence committed? (Some activities are offences in England and Wales and not Scotland and vice versa)
- How serious is the offence? Is the type of offence relevant to the job? Consider the nature of the job, workplace environment, level and type of supervision, and exposure to money, property and vulnerable people.
- What was the context of the offence and the circumstances leading up to it? Has there been a significant change in these? What evidence is there?
- What is the individual's attitude to the offence? Is it one of remorse? Do they take responsibility for it, recognise the harm they caused? If they have previously concealed the offence why have they done this?

Note: This is not an exhaustive list and should be used solely as guide to areas that should be explored

Ultimately it is the responsibility of the employing organisation to decide whether to offer the applicant a position.

### **Code of Practice on the Recruitment of Ex-Offenders**

As an organisation using the CRB Disclosure service to assess applicants' suitability for positions of trust, North Yorkshire and York PCT complies fully with the CRB Code of Practice and undertakes to treat all applicants for positions fairly. It undertakes not to discriminate unfairly against any subject of a Disclosure on the basis of conviction or other information revealed.

- North Yorkshire and York PCT is committed to the fair treatment of its staff, potential staff or users of its service, regardless of race, gender, religion, sexual orientation, responsibilities for dependents, age, physical / mental disability or offending background.
- This Code of Practice on the recruitment of ex-offenders, is made available to all Disclosure applicants at the outset of the recruitment process.
- We actively promote equality or opportunity for all with the right mix of talent, skills, and potential and welcome applications from a wide range of candidates, including those with criminal records. We select all candidates for interview based on their skills, qualifications, and experience.
- A Disclosure is only requested after a thorough risk assessment has indicated that one is both proportionate and relevant to the position concerned. For those positions where a Disclosure is required, all application forms, job adverts and recruitment briefs will contain a statement that a Disclosure will be requested in the event of the individual being offered the position.
- Where a Disclosure is to form part of the recruitment process, we encourage all applicants called for interview to provide details of their criminal record at an early stage in the application process. We request that this information is sent under separate, confidential, cover to a designated person within North Yorkshire and York PCT and we guarantee that this information is only be seen by those who need to see it as part of the recruitment process.
- We ensure that all those in North Yorkshire and York PCT 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 the employment of ex-offenders, e.g. the Rehabilitation of Offenders Act 1974.
- At interview, or in a separate discussion, we ensure that an open and measured discussion takes place on the subject of any offences or other matter that might be relevant to the position. Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment.

- We make every subject of a CRB Disclosure aware of the existence of the CRB Code of Practice and make a copy available on request.
- We undertake to discuss any matters revealed in a Disclosure with the person seeking the position before withdrawing a condition offer of employment.

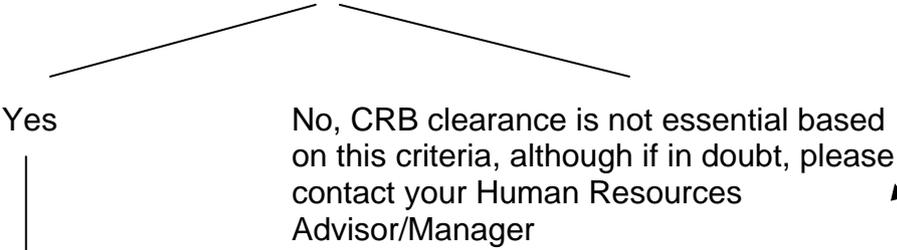
**Having a criminal record will not necessarily bar an individual from working with the PCT.** This will depend on the nature of the position and the circumstances and background of the individual and the offences.

### Process for Obtaining a CRB Check

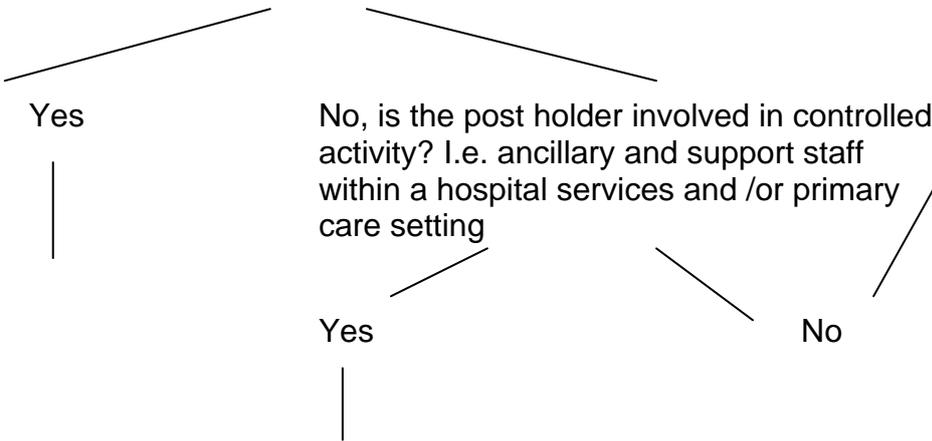
1. At interview stage take details of each candidate's personal details completing the CRB Evidence of Identity Form (ID&V Form - Appendix I)
2. Once the successful candidate has been informed the interview panel should complete the successful candidate pro-forma and return along with the ID&V Form and Occupational Health Pro-forma to the Recruitment Team by e-mail to [recruitment@nyypct.nhs.uk](mailto:recruitment@nyypct.nhs.uk) or fax 01609 783923. No start date should be agreed at this time.
3. Once the successful candidate pro-forma has been received by the Recruitment Team, references will be requested. A CRB Application and Occupational health form will be sent direct to the candidate's home address for completion. The CRB and Occupational Health Form are requested to be returned to The Recruitment Team within 10-working days.
4. Once the Reference, CRB and Occupational Health forms have been returned to the Recruitment Team by the successful candidate, the Recruitment Team will inform the manager and process the completed forms. The information on the completed ID&V Form at interview stage will then be transferred onto the CRB Application form, and countersigned by a authorised member of the HR Department. At this point the line manager can negotiate with the successful candidate a start date.
5. Once the start date has been confirmed the recruiting manager should then e-mail the Recruitment Team detailing the agreed date.
6. Following confirmation from the recruiting manager of the start date, a formal letter of appointment will be sent to the successful candidate. The letter will outline the verbal offer of employment made including the conditional offer subject to CRB and Occupational Health Clearance and also satisfactory references to the PCT. The relevant documents will be sent to the recruiting manager for the successful candidate personal file once the offer letter has been sent. This will include the HR2 and HR3 payroll forms.
7. In cases where the start date agreed is prior to receiving CRB Clearance, it is the recruiting **manager's responsibility** to ensure that an exceptional circumstance form is in place confirming the new member of staff will not be left unsupervised. The Recruitment Team will inform the recruiting manager where it has been identified the post holder will commence prior to CRB Clearance being received, depending upon the start date agreed. CRB Disclosures are taking on average 4-working weeks, from the date the Recruitment Team receives the completed form from the successful candidate.
8. Once the CRB Disclosure has been processed by CRB and returned to the Recruitment Team, they will record the Disclosure Number and e-mail the recruiting manager to confirm clearance. The Disclosure will be kept on file for 6-months and then destroyed. Recruiting managers should ensure that a copy of the e-mail sent from the Recruitment Team should be kept on the employee's personal file.

**Flow chart for identifying level of CRB check required for a post**

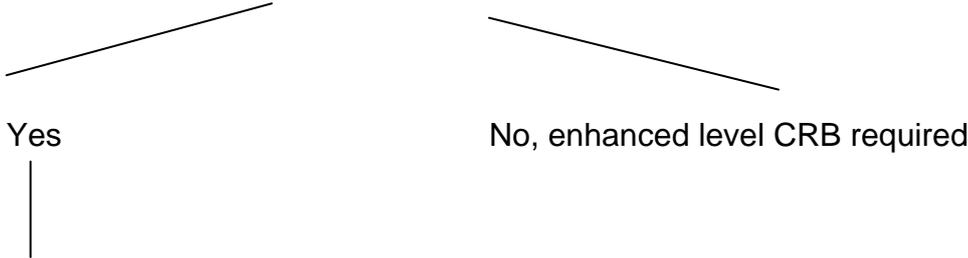
Will the post holder have access to patients or patient's records in the course of normal duties?



Will the post holder be involved in regulated activity, i.e. working closely with children or Vulnerable Adults on a frequent or intensive basis?



Will the activity take place in a specified place, (i.e. children's unit/ adult care home?)



Yes, an enhanced level clearance  
With Children's list / Adult's list check

Office use only  
 CRB ref F.....  
 Date CRB sent for processing .....

**IDENTIFICATION and VERIFICATION FORM**

**PLEASE ENSURE THAT A FORM IS COMPLETED FOR EACH APPLICANT INTERVIEWED**

<b>APPLICANTS DETAILS</b>			
First Name (s)		Contact number	
Second Name		National Insurance No	
ADDRESS			
<b>IDENTITY INFORMATION</b>	One item from Group 1 and One Item from Groups 1 or 2 <b>AND</b> One item of address related evidence such as a utility bill from Group 1 or 2 – a Trust offer of appointment letter is not sufficient for this purpose.		
<b>PASSPORT</b>			
Passport Number		Date of Birth	
Nationality		Date of Issue	
<b>DRIVING LICENCE</b>			
Driving Licence Number		Date of Birth	
Licence type	Paper <input type="checkbox"/> Photocard <input type="checkbox"/>	Valid from date	
Country of Issue	UK <input type="checkbox"/>	Other (please specify)	
<b>BIRTH CERTIFICATE</b>			
Date of Birth		Date of Issue	
Country of Issue	UK <input type="checkbox"/>	Other (please specify)	
<b>MARRIAGE CERTIFICATE</b>			
Issue Date			
<b>OTHER FORMS OF IDENTIFICATION (eg P45/60, NHS card)</b>			
<b>ADDRESS RELATED EVIDENCE PROVIDED (must match address given above)</b>			
Details of documentation seen			
Name of person checking the identity of the applicant		Date	
<b>DISCLOSURE INFORMATION</b>			
Does the post involve frequent intensive or overnight contact with	Children <input type="checkbox"/>	Vulnerable Adults <input type="checkbox"/>	
Disclosure Level	Standard <input type="checkbox"/>	Enhanced <input type="checkbox"/>	
Recruiting Manager (name of person to be advised of outcome of CRB disclosure)			
Signature		Contact details	
<b>POST INFORMATION</b>			
Post ref / Job Title			
Directorate			
Locality of post	CHRD <input type="checkbox"/>	H&R <input type="checkbox"/>	SWR <input type="checkbox"/> S&Y <input type="checkbox"/>

C.R.B EXCEPTIONAL CIRCUMSTANCES FORM

This form should be completed by the recruiting Manager, authorised by the appropriate Director / assistant Director and sent to the H.R team **BEFORE** the employee commences in post.

<b>Name of Employee</b>	
<b>Job Title / Post Ref</b>	
<b>Work Base / Ward / Dept</b>	
<b>Directorate</b>	
<b>Locality</b> (please circle)	<b>CHR / H&amp;R / SWR / S&amp;Y</b>
<b>Recruiting Manager</b>	
<b>Contact details</b>	

*The reason for the employee starting their role prior to receipt of an acceptable CRB disclosure is as follows:*

--

This form should be authorised by the appropriate Director / Assistant Director and returned to the HR Department to be held on file pending receipt of the CRB certificate.

*I, the undersigned, have allowed the above employee to start their employment prior to obtaining an acceptable CRB Disclosure.*

*I accept responsibility for the above employee starting their employment in this role prior to the CRB clearance being received by North Yorkshire & York PCT and for ensuring the conditions are strictly adhered to.*

I shall ensure that the above employee will (delete where appropriate)

- **Have no access to children, or vulnerable adults**
- or
- **Be continually supervised whilst with children and/or vulnerable adults until an acceptable Disclosure is received.**

<b>Signed</b>		
<b>Designation</b>		<b>Date</b>

Please send the completed form to Human Resources on 01609 783923 and retain a copy in the employees personal file.

**Documents that can be used for Identity Evidence and Address Related Evidence.**

Group 1 – Identity Evidence (At least one)

- **Passport** any nationality
- **UK Birth Certificate** issued within 12 months of date of birth – full or short form accepted
- **UK issued Driving Licence** England/Wales/Scotland/Northern Ireland; either photocard or paper. A photocard is only valid if the individual presents it with the counterpart licence
- **EU Photo Identity Card** EU countries only
- **HM forces ID Card**
- **UK Firearms Licence**

Group 2 – Address Related Evidence

- **Marriage Certificate**
- **Financial Statement\*\*** e.g. pension, endowment, ISA
- **Birth Certificate**
- **Vehicle Registration Document**
- **UK P45/P60 Statement\*\***
- **Mail Order Catalogue Statement\***
- **Bank/Building Society Statement\***
- **Court Claim Form\*\*** documentation issued by Court Services
- **Utility Bill\*** electricity, gas, water, telephone – inc. mobile phone contract/bill
- **Exam Certificate** e.g. GCSE, NVQ
- **TV Licence\*\***
- **Addressed Payslip\***
- **Credit Card Statement\***
- **National Insurance Card**

- **Store Card Statement\***
- **UK NHS Card**
- **Mortgage Statement\*\***
- **Benefit Book** Child Allowance or Pension
- **Insurance Certificate\*\***
- **Certificate of British Nationality**
- **Council Tax Statement\*\***
- **Work Permit/Visa\*\***
- **A document from UK Central/Local Government/Government Agency/Local Authority giving entitlement\*** for example, from the Benefits Agency, the Employment Service or the Inland Revenue
- **Connexions Card**

\* documentation should be less than three months old

\*\* Issued within past twelve months