

**CRIMINAL RECORD CHECKS AND  
RECRUITMENT OF EX-OFFENDERS POLICY**

<b>CATEGORY:</b>	Policy
<b>CLASSIFICATION:</b>	Human Resources Section 6:- Recruitment, Training, Development & Management of Change
<b>PURPOSE</b>	To set out guidance and procedures to seek to protect all patients within its care through the use of appropriate recruitment & selection processes, and by determining an individuals criminal convictions and police records by obtaining appropriate 'disclosures' from the Criminal Records Bureau (CRB).
<b>This document supports</b>	CQC outcome 12 (this Standard relate to workers) and NHSLA
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# DOCUMENT HISTORY

Version No	Operative Date	Comment
1.	09.03.2006	New Document
2.	01.08.2006	Changes to comply with legislation and CRB requirements
3.		

## DOCUMENT AMENDMENT FORM

Number	Date	Page N <sup>o</sup> .	Amendment	Authorised by
1	Feb 2010		See attached document	
2.				
3.				
4.				
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10.				

- The amendment must be authorised by the author of the document.
- Ten or less minor amendments can be made before the document is revised.
- Major changes must result in immediate review of the document.

## ASSOCIATED DOCUMENT LIST

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## GEORGE ELIOT HOSPITAL NHS TRUST

### CRIMINAL RECORD CHECKS AND RECRUITMENT OF EX-OFFENDERS POLICY

#### 1 Policy Statement

- 1.1 The George Eliot Hospital NHS Trust will seek to protect all patients within its care through the use of appropriate recruitment & selection processes, and by determining an individuals criminal convictions and police records by obtaining appropriate 'disclosures' from the Criminal Records Bureau (CRB).
- 1.2 In doing so, the Trust undertakes to treat all applicants for positions fairly and not to discriminate unfairly on the basis of information received from a Disclosure check.
- 1.3 The process for obtaining Disclosures on appointment is clearly set out within the Trust's Recruitment & Retention Policy and Procedure.
- 1.4 This policy is in accordance with the NHS CRB Checks, March 2008.

#### 2 Levels of Disclosure

- 2.1 The CRB issues two levels of Disclosure as follows:

Type of disclosure	What it contains	Eligibility
<b>Standard Disclosure</b>	Lists all convictions (spent and unspent), cautions, reprimands, and warnings held on the Police National Computer (PNC). If the position involves working with children and the relevant box has been ticked on the application form to indicate this, it will also disclose whether the individual is on any lists held by the Department of Health or the Department of Children, Schools and Families (DCSF), and is unsuitable to work with children or vulnerable adults.	As defined by the Police Act and Rehabilitation of Offenders Act 1974. Standard Disclosures are required for posts which involve the individual having access to patients in the course of their normal duties.
<b>Enhanced Disclosure</b>	Enhanced Disclosures contain the same information as Standard Closures but with the addition of local police force information considered relevant, i.e. non-conviction information and investigations and any information held on the Independent Safeguarding Authority's (ISA) new barred lists; ISA The Children's List and ISA The Adult's List.	As defined by the Police Act and Rehabilitation of Offenders Act 1974. Enhanced Disclosures are for posts involving a far greater degree of contact with patients.  In addition to the Standard Disclosure requirement, the type of work needing an Enhanced Disclosure will also involve regularly caring for, supervising, training or being in sole charge of children and/ or vulnerable adults.

### **3 Safeguarding Vulnerable Groups Act (2006)**

- 3.1 Under the Safeguarding Vulnerable Groups Act (2006), checks will be undertaken by the Independent Safeguarding Authority (ISA) against the ISA Children's List, (formerly PoCA List). This applies to any regulated activity involving working/ volunteering frequently to work with children.
- 3.2 As a legal requirement a check against the ISA Children's List must be carried out every time a person moves to a new post requiring a check – this is regardless of how recently the last check was carried out. These checks are not optional and are not portable. It is a legal duty for the Trust to be in receipt of the enhanced disclosure prior to any appointment under these requirements.

### **4 Declarations**

- 4.1 Where the position meets the criteria for a Criminal Record Checks, a self declaration will be requested from the applicant. Declaration Form A, see [Appendix A] should be used for positions eligible for a Standard or Enhanced Disclosure. Declaration Form B, see [Appendix B] should be used for positions requiring a Basic Disclosure.

### **5 Undertaking Disclosures**

- 5.1 Disclosure checks will be carried out dependent upon the duties of the post. If managers are in any doubt, further guidance must be sought from the Human Resources department, however as a general rule, disclosure checks should be carried out as set out below:

### **6 Standard Disclosures**

- 6.1 Standard Disclosure checks require to be carried out on all new employees who will have access to patients in the course of their normal duties. This will include:
- Student Nurses
  - Trainee Nurses
  - Domestic assistants on wards
  - Catering staff who deliver food to patients
  - Maintenance staff that regularly work in patient areas
  - Administrative/management staff that are in contact with patients as part of their normal duties (excludes minimal contact such as 'passing through ward areas)
  - Senior Finance Staff and Accountants
  - Volunteers working via PALS and League of Friends

### **7 Enhanced Disclosures**

- 7.1 Under the Safeguarding Vulnerable Groups Act (2006) and the roll out of the Vetting & Barring scheme, all regulated activity which involves providing care, treatment, advice, guidance, therapy or transport to children and vulnerable adults require enhanced CRB check. This will include the care of;

- A person under the age of 18

OR

- A person over the age of 18 who is a vulnerable adult as a result of one of the following conditions i.e.
- A learning or physical disability
- A physical or mental illness, chronic or otherwise, including an addiction to alcohol or drugs
- A reduction in physical or mental capacity

OR

- Has one of the following disabilities:
- Is dependent upon others or requires assistance in the performance of basic physical functions
- Severe impairment in the ability to communicate with others
- Impairment in ability to protect him/herself from assault, abuse or neglect

7.2 Therefore, enhanced disclosure checks are required to be carried out on all new employees in the following staff groups:

- Chief Executive and Executive Directors
- Consultant Medical Staff
- Senior Medical Staff
- Junior Doctors
- Nursing & Midwifery Staff (excluding Trainee Nurses)
- Allied Health Professionals providing direct clinical care
- Operating Theatre Staff
- Security and Portering Staff
- Phlebotomists
- Full Time Hospital Chaplains
- Clinical Attachments

## 8 Posts Previously Not Requiring a Disclosure

8.1 Disclosure checks will not be required for the following groupings of staff:

- Administrative/management staff who work in a separate admin block or have minimal patient contact
- 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 e.g. laboratory technicians
- Laundry staff
- Catering staff who do not deliver food to patients

**Please note**, with effect from May 26<sup>th</sup> 2010, all posts listed above will require a standard CRB Disclosure check.

## 9 Doctors in Training

9.1 Where a Doctor is appointed on an educationally-approved training rotation, a risk assessment may indicate that the CRB checking requirement can be set aside. This would only be where there is evidence of a successful disclosure to an NHS employing organisation within the last three years and where the new post does not change the status of the check. This means that any checking of CRB's is not affected by the CRB's withdrawal of their portability service for

those who are under close educational supervision and who maintain an ongoing relationship with the NHS.

- 9.2 Where a Doctor is appointed to a training post that changes the status of the check, e.g. a post in Paediatrics or other position within the scope of the Safeguarding Vulnerable Groups Act (2006) a new check must be carried out irrespective of the date of the previous check.

## **10 Agency & Locum Staff**

- 10.1 Agency workers and locums should be checked at least once a year. The Trust will undertake its own checks for directly employed locums, and all medical and clinical staff employed via contracted agencies will demonstrate to the Trust that a disclosure has been sought within the previous twelve-months, before authorisation for an individual will be given to start work.

## **11 Students/Trainees**

- 11.1 It is not currently a legal requirement to obtain a CRB disclosure before a student/trainee starts their placement, however it is appropriate to do so in the interests of patient safety, therefore checks are undertaken. Where there has been a delay in processing a Disclosure, current guidance advises that students can start their placement if they are supervised and patients are not being exposed to unacceptable risks. The decision to allow students to work in such circumstances is taken by the Director of Nursing or their delegated deputy.
- 11.2 Only a standard disclosure will be required as a trainee nurse is unlikely to be in a position of trust requiring an Enhanced Disclosure.

## **12 Volunteers**

- 12.1 Not all volunteers will require a CRB check but where they have significant and regular contact with vulnerable people in the course of their normal duties, the Trust will undertake a CRB check as the Trust would for employing paid staff.
- 12.2 The CRB will issue a disclosure free of charge if the person satisfies the following criteria:
- 12.3 “ a person who is engaged in any activity which involves spending time, unpaid (except for travelling and other approved out-of-pocket expenses), doing something which aims to benefit someone (individuals or groups) other than in or in addition to close relatives”.

## **13 Honorary Contracts & Secondments**

- 13.1 The Trust often employs other NHS Staff on a short-term/temporary basis either on secondment or as Honorary Contract Holders. In such cases, the manager responsible for the individual will ensure that the current employer confirms, in writing, that an appropriate disclosure has already been obtained. For staff outside the NHS, appropriate disclosures must be sought as normal.



## **14 Contract Workers**

- 14.1 The engagement of contract workers is undertaken in accordance with the Estates Management of Contractors Policy, which ensures that disclosures are undertaken for contractors engaged to work on the Hospital site.

## **15 Staff Recruited from Overseas**

- 15.1 Currently the CRB can only access criminal records held on the Police National Computer (PNC) in England, Wales and Scotland. Where the position meets the criteria for a disclosure – even if the applicants claims they have never lived in the UK before – a CRB disclosure should still be obtained in addition to the individuals overseas criminal records.
- 15.2 All overseas police checks must be in accordance with that country's justice system and UK requirements, further guidance on this can be obtained from the Human Resources Department or the CRB website [www.crb.gov.uk](http://www.crb.gov.uk).
- 15.3 Under the Safeguarding Vulnerable Groups Act (2006), there is a legal requirement for staff, whether recruited from inside or outside the UK, to be checked against the ISA Children's list before they are appointed to a childcare position.

## **16 Portable CRB Checks**

- 16.1 Portability refers to the re-use of a CRB disclosure obtained for a position in one organisation and later used for another position in another organisation. In line with the NHS CRB Check Standard, George Eliot Hospital NHS Trust will not accept any portable CRB, with the exception of staff covered under section 9 of this policy.

## **17 Declaration of Convictions – Applies to all Applicants.**

- 17.1 Applicants called for interview are asked to provide details of their criminal record as part of the application form. Any information supplied is kept private and secure and is treated confidentially. The Trust guarantees that this information is only to be seen by those who need to see it as part of the recruitment process.
- 17.2 Having a criminal record will not necessarily bar individuals from working with the Trust. This will depend on the nature of the position and the circumstances and background of the offences.
- 17.3 The Trust will base its decision on all information available. For certain posts, only information relating to 'unspent' convictions will be considered. Spent and unspent convictions are defined in the Rehabilitation of Offenders Act 1974.
- 17.4 At interview, or in a separate discussion, where there is evidence of any legal charge, accusation or conviction. Trust will 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.
- 17.5 Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment.

- 17.6 The Trust will make every subject of a CRB Disclosure aware of the existence of the CRB Code of Practice and make a copy available on request.

## **18 Decision to Employ**

- 18.1 The final decision to employ an individual rests with the Trust. Where information is disclosed to the Trust following a CRB check, the decision to appoint or not, will be made following advice from the Human Resources department, and taking into account the requirements of the Rehabilitation of Offenders Act.
- 18.2 The Trust will undertake to discuss any matter revealed in a Disclosure with the person seeking the position before making an offer of employment, or withdrawing a conditional offer employment.
- 18.3 On request a copy of this policy will be made available to all Disclosure applicants during the recruitment process.
- 18.4 Employees who do not hold a valid CRB Disclosure where necessary will be suspended without pay until the clearance is obtained.

## **19 Handling and safekeeping of CRB Disclosure Checks**

- 19.1 Details of a Disclosure check will not be kept on an applicant's personal file. They will always be kept safely and securely, by the Human Resource Department in lockable storage containers. Access is strictly controlled and limited to those who are entitled to see them as part of their duties.
- 19.2 A CRB database is used to track and monitor staff disclosures, the data kept is in accordance with the Terms of the Data Protection Act. Human Resources Department will monitor that staff have maintained disclosure checks for each directorate. A monthly report will be run by the Human Resources Department to ensure that all staff has a valid CRB Disclosure. Directorates will be responsible for ensuring documents for CRB checks for their own staff are completed and forwarded to the Human Resource Department. The Human Resource Department will obtain CRB approval and will maintain the database. The database will house the following data for each CRB disclosure undertaken:
- Date of issue of Disclosure
  - Name of individual
  - Type of Disclosure
  - Position for which requested
  - Reference number
- 19.3 All employees will be reminded on a regular basis of their responsibility to alert the George Eliot Hospital NHS Trust, of any legal charge, accusation or conviction, apart from motoring offences unless driving is a requirement of their employment. Failure to comply with this may result in disciplinary action being taken and that non disclosure of a serious offence is gross misconduct and would be subject to immediate dismissal.

Once a member of staff leaves the Trust any hard copy information held must be suitably destroyed e.g. by shredding, pulping or burning.

19.4 Under Section 124 of the Police Act 1997 information should only be passed to those who are entitled to see it in the course of their duties. It is a criminal offence to pass information on to anyone who is not entitled to receive it. Human Resources are responsible for keeping a record of anyone who has had information from a Disclosure given to them.

19.5 Disclosure information will only to be used for the specific purpose for which it has been requested and only where the applicant's full consent has been given.

## **20 Agreement**

20.1 This policy has been agreed with Staff-Side representatives of the Trust Joint Policy Committee and approved at the Board of Directors meeting held on May 26<sup>th</sup> 2010 to be adopted with effect from 26<sup>th</sup> May 2010.

20.2 This agreed policy cancels all other agreements on this subject relating to employees, written as implied between the Trust and staff representatives. This policy and procedure will be reviewed within 3 years of adoption.

### Associated Policies

Estates Management of Contractors Policy

Recruitment & Selection Policy

Recruitment & Selection Procedure

NHS Employers – CRB Checks Standard (March 2008)

ISA Vetting & Barring Scheme (2009)

## GEORGE ELIOT HOSPITAL NHS TRUST

### CRB Security Guidelines for Human Resources Department

#### POLICY

As a Trust using the Criminals Records Bureau (CRB) Disclosure service to help access the suitability of applicants for positions of trust, George Eliot Hospital NHS Trust complies fully with the CRB Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosures and Disclosure information. The Trust also complies fully with its obligations under the Data Protection Act and other relevant legislation pertaining to safe handling, use, storage, retention and disposal of Disclosure information

#### **1 Storage and Access**

- 1.1 Disclosure Information will not be kept on an applicant's personal file and is always kept separately and securely within the Human Resources Department, with access strictly controlled and limited to those who are entitled to see them as part of their duties.

#### **2 Handling**

- 2.1 In accordance with section 124 of the Police Act 1997, Disclosure information is only passed to those who are authorised to receive them in the course of their duties. It is a criminal offence to pass information on to anyone who is not entitled to receive them. Human Resources are responsible for keeping a record of anyone who has had information from a Disclosure given to them.

#### **3 Usage**

- 3.1 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.

#### **4 Retention**

- 4.1 The Trust does not automatically CRB check Individual applicants. Only successful candidates will be subject to a CRB check and the CRB information will be kept in the allocated filing cabinet for up **to 6 months** from appointment. Throughout this time, the usual conditions regarding safe storage and strictly controlled access will prevail.

#### **5 Disposal**

- 5.1 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 secure 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.

