Name of Policy: Employment Policy relating to Disclosure and Barring Requirements

Effective From: 24/08/2015

Date Ratified: 17/08/2015
Ratified: HR Committee
Review Date: 17/08/2017
Sponsor: Director of Strategy & Transformation
Expiry Date
Withdrawn Date

Unless this copy has been taken directly from the Trust intranet site (Pandora) there is no assurance that this is the most up to date version

This policy supersedes all previous issues
## Version Control

<table>
<thead>
<tr>
<th>Version</th>
<th>Release</th>
<th>Author/Reviewer</th>
<th>Ratified by/Authorised by</th>
<th>Date</th>
<th>Changes (Please identify page no.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.0</td>
<td></td>
<td>Jennifer Wallbank</td>
<td>JCC sub</td>
<td>20/04/2011</td>
<td>9,11,17</td>
</tr>
<tr>
<td>2.0</td>
<td></td>
<td>Jennifer Wallbank</td>
<td>JCC full committee</td>
<td>11/05/2011</td>
<td>No further amendments</td>
</tr>
<tr>
<td>3.0</td>
<td>27/06/2011</td>
<td>Jennifer Wallbank</td>
<td>Human Resources Committee</td>
<td>06/06/2011</td>
<td></td>
</tr>
<tr>
<td>4.0</td>
<td>23/10/2012</td>
<td>Jennifer Wallbank</td>
<td>Human Resources Committee</td>
<td>01/10/2012</td>
<td></td>
</tr>
<tr>
<td>5.0</td>
<td>24/08/2015</td>
<td>Jean Berkeley</td>
<td>Human Resources Committee</td>
<td>17/08/2015</td>
<td>3-36</td>
</tr>
</tbody>
</table>
# Employment Policy relating to Disclosure and Barring Requirements v5

<table>
<thead>
<tr>
<th>Contents</th>
<th>Page No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Introduction</td>
<td>4</td>
</tr>
<tr>
<td>2. Policy scope</td>
<td>4</td>
</tr>
<tr>
<td>3. Aim of policy</td>
<td>4</td>
</tr>
<tr>
<td>4. Duties - roles and responsibilities</td>
<td>5</td>
</tr>
<tr>
<td>5. Definition of terms</td>
<td>5</td>
</tr>
<tr>
<td>6. Policy development</td>
<td>6</td>
</tr>
<tr>
<td>6.1 Criminal Records Check requirements</td>
<td>7</td>
</tr>
<tr>
<td>6.2 Disclosure Information</td>
<td>7</td>
</tr>
<tr>
<td>6.3 Update Service</td>
<td>9</td>
</tr>
<tr>
<td>6.4 Electronic DBS</td>
<td>9</td>
</tr>
<tr>
<td>6.5 Decisions following a disclosure</td>
<td>9</td>
</tr>
<tr>
<td>6.6 Recruitment of ex offenders</td>
<td>9</td>
</tr>
<tr>
<td>6.7 DBS Disclosure checks whilst in employment</td>
<td>10</td>
</tr>
<tr>
<td>6.8 Doctors in training</td>
<td>10</td>
</tr>
<tr>
<td>7. Training</td>
<td>10</td>
</tr>
<tr>
<td>8. Equality and diversity</td>
<td>11</td>
</tr>
<tr>
<td>9. Process for monitoring compliance with the policy</td>
<td>11</td>
</tr>
<tr>
<td>10. Consultation and review of this policy</td>
<td>11</td>
</tr>
<tr>
<td>11. Implementation of this policy</td>
<td>11</td>
</tr>
<tr>
<td>12. References</td>
<td>11</td>
</tr>
<tr>
<td>13. Associated documentation</td>
<td>11</td>
</tr>
</tbody>
</table>

**Appendices**

<table>
<thead>
<tr>
<th>Appendix</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appendix 1</td>
<td>Policy statement on Rehabilitation of Offenders</td>
<td>12</td>
</tr>
<tr>
<td>Appendix 2</td>
<td>Policy Statement regarding the Storage, Security and Disposal of CRB Disclosures</td>
<td>14</td>
</tr>
<tr>
<td>Appendix 3</td>
<td>Guidance notes for CRB decisions</td>
<td>15</td>
</tr>
<tr>
<td>Appendix 4</td>
<td>Model declaration form as issued by NHS Employers</td>
<td>16</td>
</tr>
<tr>
<td>Appendix 5</td>
<td>Model Risk Assessment Form</td>
<td>30</td>
</tr>
<tr>
<td>Appendix 6</td>
<td>Guidance on Regulated activities</td>
<td>32</td>
</tr>
</tbody>
</table>
Employment Policy Relation to Disclosure and Barring Requirements

1. Introduction

Gateshead Health NHS Foundation Trust (the Trust) seeks to be a provider of first choice for local residents and those beyond. Our vision places the patient at the centre of everything we do, and provides a focus through which we aim to deliver the best in safe, high quality care, underpinned by sound values.

This policy outlines the criminal record and barring checks that the Trust is required to undertake in the appointment and ongoing employment of individuals in eligible positions in the NHS. The Rehabilitation of Offenders Act (Exceptions) 1975 (Amendment) Order 2013 provided that certain spent convictions and cautions were to become protected when specific conditions are met, and therefore are not subject to disclosure through Disclosure and Barring Service (DBS) checks. The DBS will therefore filter and remove certain specified old and minor offences from criminal record certificates issued from this date.

Guidance on criminal conviction filtering can be found at: www.gov.uk/government/collections/dbs-filtering-guidance

Details of the NHS Employment Check Standards can be found at:

http://www.nhsemployers.org/RecruitmentAndRetention/Employment-checks/Employment-Check-Standards/Pages/CriminalRecordChecks.aspx

2. Policy scope

This policy will apply equally to internal candidates (i.e. those currently employed by the Trust) and external candidates being considered for permanent, temporary, casual/relief or volunteer positions. The policy will also apply where external agencies recruit and employ staff to carry out contract work on behalf of the Trust.

This policy should be read in conjunction with the following:
- Appendix 1 – Policy statement on Rehabilitation of Offenders
- Appendix 2 - Policy Statement regarding the Storage, Security and Disposal of CRB
- Appendix 3 – guidance notes for CRB decisions
- Appendix 4 – Model declaration form as issued by NHS Employers
- Appendix 5 – Model Risk Assessment Form
- Appendix 6- Guidance on Regulated Activities

The NHS Employment Check standards are mandatory for applicants for NHS positions (prospective employees) and staff in ongoing NHS employment.

3. Aim of policy

The Trust has a duty of care to protect the well-being of the people that it provides healthcare services for and, in particular, those groups or individuals in its care who are considered to be especially vulnerable or at risk, such as children, the elderly and those with disabilities.

The aim of this policy is to:
- Ensure there are effective processes in place in order to ensure the suitability of staff and volunteers who work with or otherwise come into contact with these vulnerable groups.
• Ensure the Trust complies with requirements on all organisations registered with the DBS to observe the Code of Practice for registered persons and other recipients of disclosure information (April 2009).
• Provide evidence of compliance with the NHS Employment Check Standards as part of the CQC’s annual regulatory framework

4. Duties – roles and responsibilities

Trust Board
The Trust Board is responsible for compliance under Care Quality Commission, NHSLA standards and relevant legislation. Compliance with the NHS Employers checks ensures compliance with these standards.

The Trust has a duty to refer individuals to the DBS for consideration for barring in relevant circumstances and to provide information to the DBS upon request.

All Trust applicants/employees
All Trust applicants and employees should be aware of this policy and ensure they are aware of their responsibilities to provide the Trust with the appropriate and correct information. All candidates or existing employees should be aware of their responsibility to bring their Disclosure and Barring certificate to the HR Department on receipt for checking and validation. Any issues of non-declaration will be dealt with on a case by case basis should they arise. Staff are reminded that they have a continued responsibility to inform the Trust immediately where they are charged with any new offence, criminal conviction or fitness proceedings in the United Kingdom or in any other country.

Recruiting Managers
All Trust applicants and employees should be aware of this policy and ensure that any issues arising in relation to Disclosure issues are handled in accordance with the Policy and relevant DBS Codes of Practice.

HR Department
Members of the HR Department are responsible for all relevant employment checks as per the relevant NHS Employers Check Standards guidance including disclosure.

5. Definition of terms

The following definitions apply under the Safeguarding Vulnerable Groups Act (2006) as amended by the Protection of Freedoms Act 10 September 2012. These are:

Regulated Activity

Regulated activity relating to children:

The new definition of regulated activity relating to children comprises only:
(i) Unsupervised activities: teach, train, instruct, care for or supervise children, or provide advice/guidance on well-being, or drive a vehicle only for children;
(ii) Work for a limited range of establishments (“specified places”) with opportunity for contact: for example, schools, children’s homes, childcare premises. Not work by supervised volunteers.
Work under (i) or (ii) is regulated activity only if done regularly.
(iii) Relevant personal care, for example, washing or dressing; or health care by or supervised by a professional;
(iv) Registered child-minding; and foster-carers.

Regulated activity relating to Adults:

The new definition of regulated activity relating to adults no longer classifies adults as “vulnerable”. Instead, the definition identifies the activities which, if any adult requires them, lead to that adult being considered vulnerable at that particular time. The focus is on the activities required by the adult and not on the setting in which the activity is received, nor on the personal characteristics or circumstances of the adult receiving the activities. There is also no longer a requirement for a person to do the activities a certain number of times before they are engaging in regulated activity.

There are six categories of people who will fall within the new definition of regulated activity as identified below:
(i) Providing healthcare
(ii) Providing personal care
(iii) Providing social work
(iv) Assistance with cash, bills or shopping
(v) Assistance in the conduct of a person’s own affairs
(vi) Conveying

Detail of each of the above headings is contained within the appropriate guidance – specific guidance is also available through the embedded links in this Policy. A summary of this is attached as Appendix 6 of this Policy.

Fit and Proper Persons requirement for all directors aims to ensure individuals who have authority in organisations that deliver care are responsible for the overall quality and safety of that care and, as such, can be held accountable if standards of care do not meet legal requirements. (Health and Social Care Act 2008 (Regulated Activities) Regulations 2014). This applies to both executive and non-executive directors of NHS trusts and foundation trusts.

The Chairman has responsibility to ensure all directors meet the fitness test and do not meet any of the “unfit” criteria in accordance with the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. DBS checks form part of this process, and further support in carrying out the requirements of this test is available from the HR Department.

6. Criminal Records check requirements

Not all individuals appointed into positions within the Trust are eligible for a Disclosure and Barring check. The Trust has a legal responsibility to ensure that checks are only carried out and carried out at the appropriate level; that the position is regarded as eligible for a standard or enhanced DBS disclosure under the Rehabilitation of Offenders Act (Exceptions) Order 1975 (as amended) and the Police Act 1997 (criminal Record ) Regulations 2002 (as amended).

Standard

A standard check may be carried out to assess a person’s suitability for work listed in the Rehabilitation of Offenders Act Exceptions Order i.e. where the type of work enables the person to have “access to persons in receipt of services in the course of (their) normal duties”. The term “access” only relates to where individuals have direct, physical contact with patients as part of their day to day activities; it does not include positions where there is no contact with patients. Positions that involve purely having access to records are not covered under the terms of the Exceptions Order and therefore the Trust cannot obtain a standard or enhanced check for these positions.
As this level of check does not show whether a person is barred from working with children/adults it should not be applied for where the duties of the position meet the criteria for regulated activity, employers must apply for an enhanced DBS check and request clearances against the relevant barred lists.

**Enhanced**

An enhanced check contains the same information as a standard check but also includes any non-conviction information held by local Police, where they consider it to be relevant to the post. This information is referred to as “approved information” on the enhanced check certificate.

From 10th September 2012, there will be two levels of enhanced check – an enhanced disclosure with barred list information (for those that fall under the new definition of regulated activity) and an enhanced disclosure without barring information (for those previously falling within regulated activity but not meeting the terms required under the new definition). Further detail is included in the NHS Employers Criminal Record and Barring.

All applicants for posts working in a regulated activity will be required to provide evidence of appropriate clearance prior to commencing employment. It is a criminal offence for a barred individual to take up paid or unpaid work in a regulated activity. It is also a criminal offence for an employer to allow a barred individual to work in a regulated activity or to allow an individual to work in a regulated activity without first checking their status.

**6.1 Duty to refer to the DBS**

Where an employee is removed from a regulated activity through dismissal or is permanently transferred from a regulated activity (or would have if they had not resigned, retired or made redundant) or there is suspicion that an employee is engaged in relevant conduct that they may have caused harm or posed a risk to adults or children or received a caution or conviction for a relevant offence (a list of such offences is available on the DBS website) the Trust has a duty of care to refer to the DBS. Information on the referral duty can be found on the DBS website [www.gov.uk/dbs](http://www.gov.uk/dbs).

**6.2 Disclosure Information**

As an organisation using the DBS service, the Trust is required to comply fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of disclosures and disclosure information.

The Trust is also required to comply fully with requirements under the Data Protection Act and all relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure information. The Trust policy statements on both these issues are incorporated as Appendix 1 and 2.

The eligibility criteria for DBS checks are as defined above. All positions that meet the appropriate definitions are subject to a satisfactory DBS check. For those positions where a Disclosure is required, all job adverts and recruitment information will contain a statement that a Disclosure will be requested in the event of the individual being offered employment.

All applicants applying to work with children and adults who meet the definition of regulated activities will be required to declare all spent and unspent convictions and cautions that are not subject to the filtering rules introduced on 29 May 2013. This is in
accordance with the Model Declaration Form A issued by NHS Employers as part of the revised check (appendix 4). **Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment.**

For posts that are non-exempt under the Rehabilitation of Offenders Act 1974 (exceptions) Order 1975 and attract a Standard disclosure applicants are only required to declare current unspent convictions and cautions only. This is in accordance with the Model Declaration Form B issue by NHS Employers as part of the revised check (Appendix 4).

**New employees**

It is an offence to engage anyone in a regulated activity from which that person is barred. Therefore individuals should not engage in a regulated activity until the outcome of the DBS/barred list check is known as this could result in both the Trust and the individual committing an offence.

In exceptional circumstances a risk based decision may be made to allow the individual to who have previously undergone a recent DBS Disclosure check with their previous employer may in exceptional circumstances commence in post (but not carry out any regulated activities) prior to receipt of an updated DBS Disclosure.

Consideration for individuals to commence in post may be considered providing the following criteria apply:

- Evidence of an Enhanced DBS check from a previous employer is provided.
- The enhanced check is less than 1 year old and from the current/most recent employer.
- The employee has been in continuous service with this employer.
- A risk assessment is carried out (Appendix 5).
- That the staff member is supervised at all times until the disclosure is received and confirmed by the HR department
- A copy of the Enhanced Disclosure is provided to the Recruiting Manager.
- A new DBS form has been completed.

**Existing members of staff** transferring to a post with new or increased scope or additional responsibilities relating to children or adults will be required to complete a new Disclosure Check. A new check is not required where an existing member of staff moves jobs within the organisation and their roles and responsibilities have not changed.

Staff are reminded that they have a continued responsibility to inform the Trust immediately where they are charged with any new offence, criminal conviction or fitness to practice proceedings in the United Kingdom or in any other country. Failure to do so may result in formal action being taken under the Trust’s Disciplinary procedure. It should also be noted that a criminal conviction does not necessarily imply any impact on an individual’s employment with the Trust.

Staff that are covered by a professional registration also have a responsibility to notify their registration body of any cautions or criminal convictions. They may be required by their registering body to complete a further application for DBS Disclosure which may be investigated by their registration body in line with their policies regarding such matters.

**Private Contractor’s Staff** – it is essential that contracted staff providing a service where, in the course of their normal duties they have unsupervised access to patients, are subject to appropriate checks, where required. Line Managers responsible for drawing up and awarding
contracts must ensure that this requirement is incorporated into all contracts. If necessary, Gateshead Health NHS Foundation Trust will carry out the DBS check, at a cost to the contractor.

**Healthcare trainees** (students) are required to be DBS checked at the start of their training and then again when they take up a post in the NHS. In cases where there is a delay in processing a disclosure the student may commence their placement but must be supervised to avoid themselves and patients being exposed to unacceptable risks.

**Volunteers** – are required where the position satisfies certain criteria because of the roles and responsibilities whilst volunteering.

**Agency Staff** - it is essential that all Agency staff with unsupervised access to patients have appropriate DBS clearance prior to commencing duty and that the Agency provide evidence of such a check.

**Work experience/placements** - The Protection of Freedoms act 2012 sets the minimum age for a criminal record check at age 16. Students who are on work experience placements who are engaging in activity with vulnerable groups will not be required to have a DBS disclosure but must be supervised by someone in a regulated activity who has a DBS disclosure.

### 6.3 Update Service

The Update Service was introduced on 17 June 2013 and is designed to process checks more quickly. Candidates must personally subscribe to the service. Where candidates are a subscriber to the Update Service the Trust is able to check their status online subject to obtaining the written permission from the candidate to access their information. However, the service will only confirm that there has /has not been changes to the previous disclosure certificate, therefore candidates /employees must provide an original copy of their disclosure.

Subscription to the Update Service is voluntary, however the Trust may promote the service and its benefits to certain staff groups that move posts/ require regular disclosure checks.

### 6.4 Electronic DBS (EDBS)

As the Trust submits multiple applications by post, consideration may be given to online applications using the E-Bulk system.

### 6.5 Decisions following a disclosure

Having a conviction, caution or bind over will not necessarily mean the employment offer cannot proceed, it will be dependent upon the nature of the offence and relevance to employment with the Trust as well as our responsibilities in accordance with the Equality Act 2010. A list of suggested questions that should be used in consideration of the relevance of a positive disclosure is attached as Appendix 3. Each case will be treated on its own individual merit and will be considered by a member of the HR Department and the relevant Senior Manager of the department involved.

### 6.6 Recruitment of Ex-Offenders

The Trust is required to treat all candidates for positions fairly. It is a requirement of the current DBS Code of Practice that all Registered Bodies must treat disclosure applicants
who have a criminal record fairly and not discriminate because of a conviction or other information revealed.

A policy statement on the recruitment of ex-offenders is attached as Appendix 1 for clarity.

6.7 DBS Disclosure checks whilst in employment

Staff wishing to take up a second post on the Trust's Nurse Bank will be required to obtain a further DBS Disclosure if it is more than 18 months since their last Disclosure with the Trust. However this should not prevent them from working in a bank position until this is received.

Staff taking flexible retirement and returning to a post with the Trust are also required to complete a new application for DBS Disclosure in accordance with the Trust's Retirement Arrangements policy PP 23.

In addition, in exceptional circumstances it may be necessary for the Trust to request disclosure on a current member of staff. Such a situation may be an on-going investigation into a serious incident/allegation or where previously unrevealed information comes to light/where a change in policy has occurred.

6.8 Doctors in Training

The Trust is host to doctors employed by the Lead Employer Trust (LET), who are currently employed by County Durham and Darlington NHS Trust and whose education and training is under the supervision of the Northern Deanery. Doctors in training employed by the Lead Employer Trust are no longer required to undergo DBS clearance using the Trust process. All DBS checks for these doctors will be carried out by the LET. Written assurance and evidence to support that the checks have been carried out as required is obtained via the monthly management report received from the LET.

In line with NHS Employers Check requirements, doctors on an educationally approved rotational training programme will be regarded as being in continuous employment during the term of training. Therefore they will be required to have a DBS check, as a minimum, every 3 years, rather than each time they rotate.

Doctors joining the Trust in Foundation Programme posts will be subject to a DBS clearance prior to commencement in post. In addition, General Practice Vocational Training Scheme (GPVTS) trainees who rotate to the Trust will also be subject to DBS clearance with the Trust prior to commencement. All other DBS requirements for medical non-training posts will be in accordance with NHS Employment Checks.

In exceptional circumstances, doctors may be allowed to commence in post prior to DBS clearance being received by the Trust. This should be discussed and agreed with advice from a senior member of the HR Team to ensure that appropriate supervision arrangements are put in place.

7. Training

Training will be provided to members of the HR Team on the application of this policy and support will be given to Managers when they encounter difficulties with DBS issues for their staff. DBS is also discussed during training in recruitment and selection, and managing disciplinary cases.
8. **Equality and diversity**

The Trust is committed to ensuring that, as far as is reasonably practical, the way we provide services to the public and the way we treat our staff reflects their individual needs and does not discriminate against individuals or groups on the grounds of any protected characteristics. This policy has been equality impact assessed.

It aims to balance the need to reduce the risk of harm to children and people with the need for people to disclose personal information. The policy provides clear information to existing and prospective members of staff, people that work within the Trust and managers about the processes and procedures used to disclose information. The Trust complies with the NHS Employers Employment Checks, which form part of NHS Litigation Authority compliance for the Trust. As an organization using the Disclosure and Barring Service (DBS) service to assess applicants’ suitability for positions of trust, it also complies fully with the DBS Code of Practice. This policy enables the Trust to meet its responsibilities under the Rehabilitation of Offenders Act, to treat Disclosure applicants who have a criminal record fairly and not unfairly discriminate because of a conviction or other information revealed.

9. **Monitoring the compliance/effectiveness of this policy**

<table>
<thead>
<tr>
<th>Standard / process / issue</th>
<th>Monitoring and audit</th>
<th>Method</th>
<th>By</th>
<th>Committee</th>
<th>Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Review policy 12 months after implementation date</td>
<td>Audit report to HRC</td>
<td>HR Department</td>
<td>HRC</td>
<td>Annually</td>
<td></td>
</tr>
</tbody>
</table>

This policy will be reviewed periodically to ensure uniformity of treatment and justice for all employees in the implementation of the Trust’s procedures and to ensure compliance with relevant legislation.

10. **Consultation and review of this policy**

This policy has been reviewed in consultation with the JCC Policy Sub-Group.

11. **Implementation of policy (including raising awareness)**

This policy will be circulated by the Trust Secretary as detailed in OP 27 Policy for the development, management and authorisation of policies.

12. **References**

- Criminal record and barring checks, NHS Employers July 2013
- Department of Health – Regulated Activity (Adults), Issued September 2012
- Equality Act 2010

13. **Associated documentation**

- Recruitment and Selection Policy PP10a, PP10b, PP10c
- Retirement Arrangements Policy PP23
- Nurse Bank Policy PP43
Appendix 1

GATESHEAD HEALTH NHS FOUNDATION TRUST

POLICY STATEMENT ON THE RECRUITMENT OF EX-OFFENDERS

1. Background

All individuals or organisations using the Disclosure and Barring Service (DBS) to help assess the suitability of applicants for positions of trust and who are recipients of Disclosure information, must comply fully with the DBS Code of Practice.

2. Policy Statement

As an organisation using the DBS to assess applicant’s suitability for positions of trust, the Trust complies fully with the DBS Code of Practice and undertakes to treat all applicants for positions fairly. It is a requirement of the DBS’s Code of Practice that all Registered Bodies must treat Disclosure applicants who have a criminal record fairly and not discriminate because of a conviction or other information revealed.

The Trust is committed to the fair treatment of its staff, potential staff or users of its services, irrespective of any protected characteristics under the Equality Act 2010 (age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage or civil partnership, pregnancy and maternity). This policy will be made available to all disclosure applicants at the outset of the recruitment process.

We actively promote equality of opportunity for all with the right mix of talent, skills, and potential and welcome applications from a wide range of candidates including those with a criminal record. 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, application forms, job adverts and/or recruitment briefs will contain a statement that a disclosure will be requested in the event of an 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 guarantee that this information is only seen by those who need it as part of the recruitment process.

Unless the nature of the position allows the Trust to ask questions about an applicant’s entire criminal record we only ask about unspent convictions as defined in the Rehabilitation of Offenders Act 1974.

We ensure that all those in the Trust who are involved in the identification and assessment of the relevance and circumstances of have been suitably trained. 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 the offer of employment or subsequent summary dismissal.
We make every subject of a DBS disclosure aware of the existence of the DBS Code of Practice and make a copy available on request.

The Trusts HR Department undertakes to discuss any matter revealed in the disclosure with the person seeking the appointment before withdrawing a conditional offer of employment.

**Having a criminal record will not necessarily bar you from working for us**

This will depend upon the nature of the position and the circumstances and background of your offences.
Appendix 2

POLICY STATEMENT ON THE HANDLING AND SAFEKEEPING OF DBS CERTIFICATE INFORMATION

Gateshead Health NHS Foundation Trust complies fully with the DBS Code of Practice regarding the correct handling, use, storage and retention and disposal of Certificates and Certificate information. The Trust also complies fully with its obligations under the Data Protection Act 1998 and other relevant legislation pertaining to the safe handling, use, storage and retention and disposal of Certificate information and has adapted this Appendix to the Trust DBS policy as a statement of our practice.

Storage and Access

All DBS certificate information is kept securely, in lockable, non-portable, storage in the HR Department with access strictly controlled and limited to those who are entitled to see it as part of their duties.

Handling

Certificate information is only passed to those authorised to receive it in the course of their duties. The HR Department maintains a record of all those to whom Certificates of Certificate information has been revealed and it is a criminal offence to pass this information to anyone who is not entitled to receive it.

Usage

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

Once a recruitment (or other relevant) decision has been made, the Trust do not keep Certificate information for any longer than is necessary. This is generally held to be a period of six months, to allow for the consideration of any issues, complaints or disputes. If, in very exceptional circumstances, it was felt necessary to vary this, then advice and guidance would be taken from the DBS and consideration would be given to relevant data protection and human rights legislation before doing so.

Disposal

Once the retention period has elapsed, the Trust will ensure that any Certificate information is immediately destroyed by secure means i.e. shredding through authorised Trust mechanisms. Whilst awaiting destruction, Certificate information will not be held in unsecure receptacle e.g. (waste sacks). Photocopies or other images of the Certificates will not be held by the Trust. The Trust will need to keep a record of the date of issue of a Certificate, the name of the subject, the type of Certificate received, the position for which the Certificate was requested, the unique reference number of the Certificates and the details of any recruitment decision taken. This record will ensure compliance with the NHS Employers pre-employment checks, DBS guidance and NHSLA standards.
Appendix 3

PRO FORMA – Guidance notes for Managers regarding DBS declarations

Applicants are asked to complete a declaration form as part of their application. In addition, when completing a DBS, they are also asked to declare any cautions, reprimands or final warnings as part of the DBS process that are not subject to the 2013 Filtering.

Where Managers are made aware of information that may have an impact or affect employment, this should be discussed prior to any decision being made with a senior member of the HR Team. Each case should be treated on its merits and discussed with the individual and a record of the discussion kept in confidence.

The following key questions should be considered:

- Is the caution or conviction a one off offence or part of a pattern of offences?
- What is the age of the issue in question?
- Was it committed when the candidate was an adult or juvenile?
- Is the behaviour that is part of the offence/offences a cause for concern in relation to the proposed employment?
- Is the context behind the behaviour a cause for concern?
- Were there particular circumstances at the time that contributed to the offence which have now changed?
- What is the person's account of the offence and attitude to it?

Decision of Recruiting Manager and member of HR Team following discussion with the candidate:

Signed Date

Signed Date
The position you have applied for has been identified as being an 'eligible position' under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 [the Exceptions Order] and, in certain circumstances, the Police Act 1997. As such, it meets the eligibility criteria for a standard or an enhanced disclosure to be requested through the Disclosure and Barring Service (DBS).

Both standard and enhanced DBS disclosure certificates contain information about any convictions, cautions (including reprimands and final warnings) which are not 'protected' as defined by the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975 (as amended) - see highlighted note in the section below. Enhanced disclosures may also include other relevant police information where this is deemed relevant to the position you are applying for.

Please be aware that the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013 (S.I. 2013/1198) made amendment to the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975 to provide that certain spent convictions and cautions will become protected when specific conditions are met. Protected convictions and cautions will not be disclosed in a DBS check, and employers cannot ask for information about protected convictions or cautions, or take these into account when considering you for appointment.

Before you complete this form please read guidance and criteria for the filtering of these convictions and cautions which can be found on the Disclosure and Barring Service website at: www.gov.uk/government/disclosure-and-barring-service

Before you can be considered for appointment with Gateshead Health NHS Foundation Trust we need to be satisfied about your character and suitability.

Where the position has, in addition, been identified as a regulated activity under the Safeguarding Vulnerable Groups Act (2006) (as amended by the Protection of Freedom’s Act 2012) an enhanced DBS disclosure will include information which is held on the Children’s and/or Adults barred list(s), as applicable to the position.

Gateshead Health NHS Foundation Trust aims to promote equality of opportunity and is committed to treating all applicants for positions fairly and on merit regardless of ethnicity, disability, age, gender or gender re-assignment, religion or belief, sexual orientation, pregnancy or maternity, marriage or civil partnership. We undertake not to discriminate unfairly against applicants on the basis of criminal conviction or other such information declared.

Prior to making a final decision concerning your application, we shall discuss with you any information declared by you that we believe may have a bearing on your suitability for the position. If we do not raise this information with you, this is because we do not believe that it should be taken into account. In that event you still remain free, should you wish, to discuss the matter with the recruiting manager. As part of assessing your application, we will only take into account criminal records and other information declared which is relevant to the position being applied for.
The information that you provide in this declaration form will be processed in accordance with the Data Protection Act 1998. It will be used for the purpose of determining your application for this position. It will also be used for purposes of enquiries in relation to the prevention and detection of fraud.

Please ensure that you read the ‘Guidance Notes for Applicants’ that accompanied your application form carefully before completing this declaration form. They provide you with further and more detailed information about how your application will be processed, the persons to whom it will be disclosed and the checks that will be done to verify the information provided.

Please answer all of the following questions in this form. If you answer ‘yes’ to any of the questions, please provide full details in the space indicated. Please also use the space below to provide any other information that may have a bearing on your suitability for the position for which you are applying. You may continue on a separate sheet if necessary, and you may attach supplementary comments should you wish to do so.

Answering ‘yes’ to any of the questions below will not necessarily bar you from an appointment within the NHS. This will depend on the relevance of the information you provide in respect of the nature of the position for which you are applying and the particular circumstances.

1. Are you currently bound over, or do you have any convictions or cautions (including warnings and reprimands) which are not deemed ‘protected’ under the amendment to the Exceptions Order 1975*, issued by a Court or Court-Martial in the United Kingdom or in any other country?
   
   NO
   
   YES

If YES, please include details of the order binding you over and/or the nature of the offence, the penalty, sentence or order of the Court, and the date and place of the Court hearing.

*Please note that you do not need to tell us about convictions, cautions, warnings or reprimands which are deemed ‘protected’ under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013 - see applicant notes above.

You also are not required to tell us about parking offences.
2. Have you been charged with any offence in the United Kingdom or in any other country that has not yet been disposed of?

NO

YES

If YES, please include details of the nature of the offence with which you are charged, date on which you were charged, and details of any on-going proceedings by a prosecuting body.

You are reminded that, if you are appointed, you have a continued responsibility to inform us immediately where you are charged with any new offence, criminal conviction or fitness to practise proceedings in the United Kingdom or in any other country that might arise in the future.

You do not need to tell us if you are charged with a parking offence.

3. Are you aware of any current investigation being undertaken by the NHS Counter Fraud and Security Management Services (NHS CFSMS) following allegations made against you?

NO

YES

If YES, please include details of the nature of the allegations made against you, and if known to you, any action to be taken against you by NHS Counter Fraud and Security Management Services (NHS CFSMS).

4. Have you been investigated by the Police, NHS CFSMS or any other Investigatory Body resulting in a current or past conviction or dismissal from your employment or volunteering position?

NO

YES

If YES, please include details of the nature of the allegations made against you, and if known to you, any action to be taken against you by the Investigatory Body.

Investigatory bodies include: Local Authorities, Customs and Excise, Immigration, Passport Agency, Inland Revenue, Department of Trade and Industry, Department of Work and Pensions, Security Agencies, Financial Service Authority. This list is not exhaustive and you must declare any investigation conducted by an Investigatory Body.

5. Have you ever been dismissed by reason of misconduct from any employment, volunteering, office or other position previously held by you?

NO

YES

If YES, please include details of the employment, office or position held, the date that you were dismissed and the nature of allegations of misconduct made against you.
6. Have you ever been disqualified from the practice of a profession, or required to practise subject to specified limitations following fitness to practise proceedings, by a regulatory or licensing body in the United Kingdom or in any other country?

   NO  
   YES

If YES, please include details of the nature of the disqualification, limitation or restriction, the date, and the name and address of the licensing or regulatory body concerned.

7. Are you currently or have you ever been the subject of any investigation or fitness to practise proceedings by any licensing or regulatory body in the United Kingdom or in any other country?

   NO  
   YES

If YES, please include details of the reason given for the investigation and/or proceedings undertaken, the date, details of any limitation or restriction to which you are currently subject, and the name and address of the licensing or regulatory body concerned.

8. Are you subject to any other prohibition, limitation, or restriction that means we are unable to consider you for the position for which you are applying?

   NO  
   YES

If YES, please include details.

9. Are there any other matters that may be relevant to the position being applied for which might cause your reliability or suitability for employment to be called into question?

   NO  
   YES

If YES, please include details.

Please note that you are not required to disclose a protected conviction or caution as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended by the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2013 or any circumstances ancillary to that protected conviction or caution - as outlined within the applicant notes above.

If you have answered 'yes' to any of the questions above, please use the space on the next page to provide details.

If you have answered ‘yes’ to any of the questions above, please use this space to provide details. Please indicate clearly the number(s) of the question that you are answering. You may continue on a separate sheet if necessary and may attach supplementary comments should you wish to do so.
DECLARATION

IMPORTANT
The Data Protection Act 1998 requires us to advise you that we will be processing your personal data. Processing includes: holding, obtaining, recording, using, sharing and deleting information. The Data Protection Act 1998 defines ‘sensitive personal data’ as racial or ethnic origin, political opinions, religious or other beliefs, trade union membership, physical or mental health, sexual life, criminal offences, criminal convictions, criminal proceedings, disposal or sentence.

Where you are applying for a position which involves regulated activity, this will also include any barring decisions made by the Disclosure and Barring Service (DBS) against the Children’s or Adults barred lists under the terms of the Safeguarding Vulnerable Groups Act 2006 (as amended by the Protection of Freedom’s Act 2012).

The information that you provide in this declaration form will be processed in accordance with the Data Protection Act 1998. It will be used for the purpose of determining your application for this position. It will also be used for purposes of enquiries in relation to the prevention and detection of fraud.

Once a decision has been made concerning your appointment, [organisation] will not retain this declaration form any longer than necessary [see further details in ‘Guidance Notes for Applicants’ which was provided with your application form. This declaration will be kept securely and in confidence. Access to this information will be restricted to designated persons within the organisation who are authorised to view it as a necessary part of their work.

In signing the declaration on this form, you are explicitly consenting for the data you provide to be processed in the manner described above.

I have read the ‘Guidance Notes for Applicants’ that accompanied my application form, and I consent to the information provided in this declaration form being used by Gateshead Health NHS Foundation Trust for the purpose of assessing my application, and for enquiries in relation to the prevention and detection of fraud.

I confirm that the information that I have provided in this declaration form is correct and complete. I understand and accept that if I knowingly withhold information, or provide false or misleading information, this may result in my application being rejected, or if I am appointed, in my dismissal, and I may be liable to prosecution.
Please sign and date this form.

SIGNATURE...........................................................................................................................................

NAME (in block capitals) .......................................................................................................................

DATE..................................................................................................................................................

Please complete and return this Model Declaration Form in a separate envelope marked 'Confidential'.
Forms should be returned to:

NAME: ................................................................................................................................................

JOB TITLE: ...........................................................................................................................................

ADDRESS: ..........................................................................................................................................  
............................................................................................................................................................
............................................................................................................................................................

If you wish to withdraw your consent at any time after completing this declaration form or you have any
enquiries relating to information required in this form, please contact [insert].

All enquiries will be treated in strict confidence.
DECLARATION

Important: The Data Protection Act 1998 requires us to advise you that we will be processing your personal data. Processing includes: holding, obtaining, recording, using, sharing and deleting information. The Data Protection Act 1998 defines ‘sensitive personal data’ as racial or ethnic origin, political opinions, religious or other beliefs, trade union membership, physical or mental health, sexual life, criminal offences, criminal convictions, criminal proceedings, disposal or sentence; and (from 12 October 2010) will include any barring decisions made against the Children’s or Vulnerable Adults Lists by the Independent Safeguarding Authority under the terms of the Safeguarding Vulnerable Adults Act (2006).

The information that you provide in this Declaration Form will be processed in accordance with the Data Protection Act 1998. It will be used for the purpose of determining your application for this position. It will also be used for purposes of enquiries in relation to the prevention and detection of fraud.

Once a decision has been made concerning your appointment, [organisation] will not retain this declaration form any longer than necessary [see further details in ‘Guidance Notes for Applicants’]. This declaration will be kept securely and in confidence. Access to this information will be restricted to designated persons within the trust who are authorised to view it as a necessary part of their work.

In signing the declaration on this form, you are explicitly consenting for the data you provide to be processed in the manner described above.

I have read the ‘Guidance Notes for Applicants’ that accompanied my application form, and I consent to the information provided in this declaration form being used by Gateshead Health NHS Foundation Trust for the purpose of assessing my application, and for enquiries in relation to the prevention and detection of fraud.

I confirm that the information that I have provided in this declaration form is correct and complete. I understand and accept that if I knowingly withhold information, or provide false or misleading information, this may result in my application being rejected, or if I am appointed, in my dismissal, and I may be liable to prosecution.

Please sign and date this form.

SIGNATURE.................................................................................................................

NAME (in block capitals) .......................................................................................

DATE....................................................................................................................
PLEASE COMPLETE AND RETURN THIS MODEL DECLARATION FORM IN A SEPARATE ENVELOPE MARKED ‘CONFIDENTIAL’. FORMS SHOULD BE RETURNED TO:

NAME: .................................................................................................

JOB TITLE: ...........................................................................................

ADDRESS: ..............................................................................................

..............................................................................................

..............................................................................................

If you wish to withdraw your consent at any time after completing this declaration form or you have any enquiries relating to information required in this form, please contact the HR Department. All enquiries will be treated in strict confidence.
GATESHEAD HEALTH NHS FOUNDATION TRUST (FORM B)

APPLICANT NOTES

IN CONFIDENCE

Gateshead Health NHS Foundation Trust aims to promote equality of opportunity and is committed to treating all applicants for positions fairly and on merit regardless of ethnicity, disability, age, gender or gender re-assignment, religion or belief, sexual orientation, pregnancy or maternity, marriage or civil partnership. We undertake not to discriminate unfairly against applicants on the basis of criminal conviction or other information declared.

Prior to making a final decision concerning your application, we shall discuss with you any information declared by you that we believe may have a bearing on your suitability for the position. If we do not raise this information with you, this is because we do not believe that it should be taken into account. In that event you still remain free, should you wish, to discuss the matter with the recruiting manager. As part of assessing your application, we will only take into account relevant criminal record and other information declared which is relevant to the position being applied for.

The information that you provide in this declaration form will be processed in accordance with the Data Protection Act 1998. It will be used for the purpose of determining your application for this position. It will also be used for purposes of enquiries in relation to the prevention and detection of fraud.

Please ensure that you read the ‘Guidance Notes for Applicants’ that accompanied your application form carefully before completing this declaration form. These notes provide you with further and more detailed information about how your application will be processed, who information will be disclosure to, and the checks that will be done to verify the information provided.

Please answer all of the following questions. If you answer ‘yes’ to any of the questions, please provide full details in the space indicated. Please also use the space below to provide any other information that may have a bearing on your suitability for the position for which you are applying. You may continue on a separate sheet if necessary, and you may attach supplementary comments should you wish to do so.

The position for which you have applied is regarded as non-exempt from the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 [the Exceptions Order]. This means that you are required to declare all current ‘unspent’ criminal convictions or cautions (including reprimands and final warnings). You are not required to disclose convictions or cautions which have become ‘spent’.

Answering ‘yes’ to any of the questions below will not necessarily bar you from an appointment within the NHS. This will depend on the relevance of the information you provide in respect of the nature of the position for which you are applying, and the particular circumstances.

1. Are you currently bound over or do you have any current ‘unspent’ convictions or cautions (including reprimands or warnings) that have been issued by a Court or Court-Martial in the United Kingdom or in any other country?

   NO                YES
If YES, please include details of the order binding you over and/or the nature of the offence, the penalty, sentence or order of the Court, and the date and place of the Court hearing.

You do not need to tell us about parking offences.

2. Have you been charged with any offence in the United Kingdom or in any other country that has not yet been disposed of?

NO YES

If YES, please include details of the nature of the offence with which you are charged, date on which you were charged, and details of any on-going proceedings by a prosecuting body.

You are reminded that if you are appointed, you are required as part of your contractual arrangements with our organisation to inform us immediately where you are charged of any new conviction (including warnings, cautions, reprimands), or fitness to practise proceedings in the United Kingdom or in any other country that might arise in the future while you are in our employment or are undertaking an activity on behalf of our organisation.

You do not need to tell us if you are charged with a parking offence.

3. Are you aware of any current investigations being undertaken by the NHS Counter Fraud and Security Management Service (NHS CFSMS) following allegations made against you?

NO YES

If YES, please include details of the nature of the allegations made against you, and if known to you, any action to be taken against you by the NHS CFSMS.

4. Have you been investigated by the Police, NHS CFSMS or any other Investigatory Body resulting in a current conviction or dismissal from your employment or volunteering position?

NO YES

If YES, please include details of the nature of the allegations made against you, and if known to you, any action to be taken against you by the Investigatory Body.

Investigatory bodies include Local Authorities, Customs and Excise, Immigration, Passport Agency, Inland Revenue, Department of Trade and Industry, Department of Work and Pensions, Security Agencies, Financial Service Authority. This list is not exhaustive, and you must declare any investigation conducted by an Investigatory Body.

5. Have you ever been dismissed by reason of misconduct from any employment, volunteering, office or other position previously held by you?
6. Have you ever been disqualified from the practice of a profession, or required to practise subject to specified limitations following fitness to practise proceedings, by a regulatory or licensing body in the United Kingdom or in any other country?

NO

YES

If YES, please include details of the nature of the disqualification, limitation or restriction, the date, and the name and address of the licensing or regulatory body concerned.

7. Are you currently the subject of any investigation or fitness to practise proceedings by any licensing or regulatory body in the United Kingdom or in any other country?

NO

YES

If YES, please include details of the reason given for the investigation and/or proceedings undertaken, the date, details of any limitation or restriction to which you are currently subject, and the name and address of the licensing or regulatory body concerned.

8. Are you currently subject to any other prohibition, limitation, or restriction that means we are unable to consider you for the position for which you are applying?

NO

YES

If YES, please include details.

9. Do you know of any other matters in your background which might cause your reliability or suitability for employment or volunteering role to be called into question?

NO

YES

If YES, please include details.

Please note that you are not required to disclose information about convictions, cautions (including reprimands and final warnings) which are deemed as spent under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 - as outlined in the applicant notes above.

If you have answered ‘yes’ to any of the questions above, please use this space to provide details. Please indicate clearly the number(s) of the question that you are answering.
You may continue on a separate sheet if necessary and may attach supplementary comments should you wish to do so.

DECLARATION

IMPORTANT
The Data Protection Act 1998 requires us to advise you that we will be processing your personal data. Processing includes: holding, obtaining, recording, using, sharing and deleting information. The Data Protection Act 1998 defines ‘sensitive personal data’ as racial or ethnic origin, political opinions, religious or other beliefs, trade union membership, physical or mental health, sexual life, criminal offences, criminal convictions, criminal proceedings, disposal or sentence.

The information that you provide in this declaration form will be processed in accordance with the Data Protection Act 1998. It will be used for the purpose of determining your application for this position. It will also be used for purposes of enquiries in relation to the prevention and detection of fraud.

Once a decision has been made concerning your appointment, Gateshead Health NHS Foundation Trust will not retain this declaration form any longer than is necessary [see further details in ‘Guidance Notes for Applicants’]. This declaration will be kept securely and in confidence. Access to this information will be restricted to designated persons within the organisation who are authorised to view it as a necessary part of their work.

In signing the declaration on this form, you are explicitly consenting for the data you provide to be processed in the manner described above.

I have read the ‘Guidance Notes for Applicants’ that accompanied my application form, and I consent to the information provided in this declaration form being used by Gateshead Health NHS Foundation Trust for the purpose of assessing my application, and for enquiries in relation to the prevention and detection of fraud.

I confirm that the information that I have provided in this declaration form is correct and complete. I understand and accept that if I knowingly withhold information, or provide false or misleading information, this may result in my application being rejected, or if I am appointed, in my dismissal, and I may be liable to prosecution.
Please sign and date this form.

SIGNATURE: ....................................................................................................................................

NAME (in block capitals): ...................................................................................................................

DATE: ................................................................................................................................................

Please complete and return this Model Declaration form in a separate envelope marked 'confidential'.
Forms should be returned to:

HR Department
Bensham Hospital
Saltwell Road
Gateshead
Tyne & Wear
NE8 4YL

If you wish to withdraw your consent at any time after completing this declaration form or you have any
enquiries relating to information required in this form, please contact HR Department on 0191 445 5449.
All enquiries will be treated in strict confidence.
DISCLOSURE & BARRING SERVICE

RISK ASSESSMENT FORM

The Trust has developed a set of procedures in line with the ‘Safer Recruitment – A Guide for NHS Employers’ document, for use in the recruitment and selection of staff.

In exceptional circumstances, consideration will be given before a decision to confirm a start date to an appointee whose role requires that they have access to children and/or vulnerable adults. This will only be on the understanding that the employee will be supervised at all times until such clearance has been received.

To be completed by Business Unit HR Link

Name of Employee …………………………………………………………………

Position Offered …………………………………………………………………

Proposed Start Date ………………………………………………………………

Existing DBS Check or most recent:
Disclosure Number: Date of Issue:
Level of Check: Enhanced/Standard

Rehabilitation of Offenders:
Has the applicant declared any convictions, cautions, reprimands or warnings
Yes:  No:

References:
Ref 1:  Ref 2:  

Occupational Health Clearance: Date Approved:

To Be Authorised by Line Manager

Please complete the declaration below and return this to your Link HR Manager. (only upon receipt of this declaration will the employee’s start date be confirmed)

Please detail what measures will be put in place to ensure the safety of patients pending the return of a satisfactory DBS disclosure. This should include no-access to patients unless supervised at all times, training, non-patient contact duties.
Please state who will be responsible for the supervision of this individual whilst you await the outcome of their DBS disclosure?

Declaration: I authorise that the above named employee can commence employment prior to the Disclosure & Barring Certificate being received. I confirm that the employee will be supervised at all times until such time disclosure has been received.

Signed ................................................................. Date ..............

Position ........................................................................................................

Print Name (Block Capitals) .................................................................
GUIDANCE NOTES ON REGULATED ACTIVITIES


Regulated activity relating to children:

The new definition of regulated activity relating to children comprises only:

(i) Unsupervised activities: teach, train, instruct, care for or supervise children, or provide advice/guidance on well-being, or drive a vehicle only for children;
(ii) Work for a limited range of establishments (“specified places”) with opportunity for contact: for example, schools, children’s homes, childcare premises. Not work by supervised volunteers.

Work under (i) or (ii) is regulated activity only if done regularly.

(iii) Relevant personal care, for example, washing or dressing: or health care by or supervised by a professional;
(iv) Registered child-minding; and foster-carers.

The new definition of regulated activity relating to adults no longer classifies adults as “vulnerable”. Instead, the definition identifies the activities which, if any adult requires them, lead to that adult being considered vulnerable at that particular time. The focus is on the activities required by the adult and not on the setting in which the activity is received, nor on the personal characteristics or circumstances of the adult receiving the activities. There is also no longer a requirement for a person to do the activities a certain number of times before they are engaging in regulated activity.

There are six categories of people who will fall within the new definition of regulated activity as identified below:

(I) Providing healthcare
Any healthcare professional providing health care to an adult, or anyone who provides health care to an adult under the direction or supervision of a health care professional. Please see the Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012, for further details about what is meant by health care and health care professionals.

(ii) Providing personal care
Anyone who:
• Provides physical assistance with eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin, hair or nails because of an adult's age, illness or disability;
• Prompts and then supervises an adult who, because of their age, illness or disability, cannot make the decision to eat or drink, go to the toilet, wash or bathe, get dressed or care for their mouth, skin, hair or nails without prompting or supervision; or
• Trains, instructs or offers advice or guidance which relates to eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin, hair or nails to adult who need it because of their age, illness or disability.

(iii) Providing social work
The provision by a social care worker of social work which is required in connection with any health care or social services to an adult who is a client or potential client.

(iv) Assistance with cash, bills or shopping
The provision of assistance to an adult because of their age, illness or disability, if that includes managing the person’s cash, paying their bills or shopping on their behalf.

(v) Assistance in the conduct of a person’s own affairs
Anyone who provides various forms of assistance in the conduct of an adult’s own affairs, for example by virtue of an enduring power of attorney. Please see the Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012, for the further categories which are covered here.

(vi) Conveying
A person who transports an adult because of their age, illness or disability either to or from their place of residence and a place where they have received, or will be receiving, health care, personal care or social care; or between places where they have received or will be receiving health care, personal care or social care. This will not include family and friends or taxi drivers.