

PVG VS STANDARD DISCLOSURE (in relation to NHS Patients)

Organisations are required to apply for a Disclosure check for anyone who is involved in the provision of a Health Service.

Therefore anyone who is having contact with NHS patients as part of their normal duties requires a Disclosure. The level of Disclosure will depend on whether the person is undertaking “regulated work” with Children or with Protected Adults.

Protected Adult – Definition

A protected adult is defined as an individual aged 16 or over who is provided with (and thus receives) a type of care, support or welfare service. Therefore all NHS patients are considered to be protected adults.

Child - Definition

A child is defined as an individual aged under 18 years. Therefore all NHS patients under age 18 are children.

Regulated Work

For the purposes of this document NHS patients are considered to be protected adults if they over 16, and children if they are under 18.

An individual may be doing regulated work with patients if their work involves any of the following activities (as part of their “normal duties”):

- Caring for patients.
- Teaching, instructing, training or supervising patients.
- Being in sole charge of patients.
- Providing assistance, advice or guidance to a patient or particular patients which relates to physical or emotional well-being, education or training.
- Unsupervised contact with children under arrangements made by a responsible person¹
- Providing, or working for an organisation which provides, an independent health care service which is provided exclusively or mainly for Children

Normal Duties

The activities above must be part of the person’s “normal duties” to be considered regulated work. Normal duties can be considered as something the individual might be expected to do as part of their post on an ongoing basis, for example appearing in a job description.

Normal duties exclude one-off occurrences and unforeseeable events, as these would be seen to be incidental. An activity or work is unlikely to be “normal duties” when done in response to an emergency (unless by an emergency worker); arranged at the last minute to stand in for sickness or other unexpected absence of another worker; or done as a one-off activity of short duration which is not part of the individual’s normal routine or occupation.

¹ The PVG Act defines “responsible person” to mean, in relation to a child, any of the following persons—

- a.) the child’s parent or guardian;
- (b.) any person aged 18 or over with whom the child lives;
- (c.) the person in charge of any establishment in which the child is accommodated, is a patient or receives education (and any person acting on behalf of such a person);
- (d.) a person who provides day care of children, within the meaning of section 2 of the Regulation of Care (Scotland) Act 2001;
- (e.) any person holding a particular position of trust and responsibility; and
- (f.) a charity trustee of a children’s charity.

Level of Check Required

If the work the individual is doing falls into the definition of “regulated work” with patients and is part of their “normal duties”, then they will require a PVG check. If the work the individual is doing is not considered to be “regulated work” but still involves direct contact with patients then they will require a Standard Disclosure.

Note: The requirement for a Disclosure relates to direct patient contact only (i.e. Individuals having access to patient data only, with no direct patient contact, do not require a Disclosure check).