

PVG SCHEME AND NHS PHARMACEUTICAL SERVICES ADVICE NOTE

Introduction

Purpose

1. The purpose of this note is to provide advice to community pharmacy contractors¹ on how to use the Protecting Vulnerable Groups (PVG) Scheme.
2. It also includes specific advice on:
 - locum pharmacists, including those supplied by another organisation, who deliver NHS Pharmaceutical Services; and
 - other members of community pharmacy support staff, such as pharmacy technicians and pharmacy assistants who deliver NHS Pharmaceutical Services.
3. This note outlines the responsibility of community pharmacy contractors, including larger retail pharmacy organisations, and other organisations providing NHS Pharmaceutical Services work that falls within the scope of the PVG Scheme.
4. It also provides advice on the associated timescales for:
 - (i) PVG disclosure checking requirements for any pharmacists, locum pharmacists or members of pharmacy support staff who deliver NHS Pharmaceutical Services and as a result are undertaking or offering PVG regulated work for the **first time since 28 February 2011**; and
 - (ii) Retrospective PVG disclosure checking requirements to be undertaken **before 27 February 2015**.

¹ Individual contractors and persons lawfully conducting a retail pharmacy business in accordance with the Medicines Act 1968 who provide NHS Pharmaceutical Services under arrangements made by NHS Boards

Regulated work under the PVG Scheme

5. Pharmacists providing NHS Pharmaceutical Services will, in general, be doing regulated work with protected adults and are thus within the scope of the PVG Scheme. This is because they are providing a health service under the National Health Service (Scotland) Act 1978 which includes care and/or advice relating to physical well-being and, therefore, their patients are considered protected adults. They are also likely to be doing regulated work with children and young people if they provide care or advice to them. It may also be that some members of pharmacy support staff, such as accredited pharmacy checking technicians, pharmacy technicians and pharmacy assistants undertake regulated work and fall within the scope of the PVG Scheme.
6. The full scope of the services covered are defined in Section 10F(2) of the National Health Service (Scotland) Act 1978 (as inserted by the Public Services Reform (Scotland) Act 2010). If a pharmacist is providing any of those services from within such settings they are likely to be doing regulated work with protected adults.
7. However, it will be a matter for community pharmacy contractors providing NHS Pharmaceutical Services and therefore undertaking or offering regulated work to confirm, by reference to the PVG legislation and guidance, the type(s) of regulated work pharmacists and other members of the pharmacy team are doing or expected to do. Detailed guidance on regulated work is available in Chapter 2 of the PVG Guidance which can be found on the Disclosure Scotland website.²

Responsibility of individual pharmacists providing NHS Pharmaceutical Services

8. Patients and the public put their trust in pharmacy professionals. Pharmacists must behave in a way that justifies this trust and maintains the reputation of the pharmacy profession. Participating in the PVG Scheme is entirely consistent with the standards of personal and professional conduct, ethics and performance set by the pharmacy profession itself.

² www.disclosurescotland.co.uk

9. Individual pharmacists providing NHS pharmaceutical services have a personal responsibility to join the PVG Scheme. In addition, this will help to uphold the reputation of the profession, and importantly to ensure that NHS Pharmaceutical Services are delivered to the safest and highest standard.
10. Individual professional responsibility is paramount given the highly diverse nature of NHS Pharmaceutical Care Service provision.

Responsibility of pharmacy contractors providing NHS Pharmaceutical Services: “recruitment”

The offence of offering regulated work to a barred individual

11. It is an offence for any organisation, including a pharmacy contractor, to [offer](#) regulated work to an [individual](#) barred from that work (Section 35(1) of the PVG Act). The way to avoid committing this offence is to ensure that any individual being offered regulated work is a PVG Scheme member. Section 35(7) of the Act makes clear an “offer” of work, in terms of the Act, is not made if it is on the condition that a disclosure record is received. For the purposes of the PVG Act, an organisation includes corporate bodies and unincorporated associations, as well as any individual who employs others in the course of a business.

The offer of regulated work

12. Since 28 February 2011, it is an offence for pharmacy contractors, as with other organisations, to make an [offer](#) of regulated work to a person who is barred from doing that type of regulated work. In practical terms this means that any new employees require to be a PVG Scheme member. New employees in this context will mean pharmacists or members of pharmacy support staff employed directly by a contractor (the situation for locums is discussed below in paragraphs 18 to 26).
13. From February 2015, this offence will also apply to the [doing](#) of regulated work. Community pharmacy contractors, as with other organisations, will be given until February 2015 to ensure that all employees undertaking regulated work are PVG Scheme members.

14. Additionally, in order to commit an offence under the PVG Act an organisation such as a pharmacy contractor would need to make the offer of regulated work to an [individual](#) who is barred from that work. A pharmacy contractor could, however, not commit this offence when it makes a contract with another [organisation](#) to supply the individual who does the regulated work (e.g. the supply of locums). "Organisation" is defined at Section 97(1) of the PVG Act and has a very wide meaning including corporate bodies and unincorporated associations, as well as any individual who employs others in the course of a business.
15. In practical terms this means that the offence applies to all pharmacy contractors who make offers of regulated work to individuals. However, it does not apply to pharmacy contractors or pharmacists who make contracts with another organisation which then supplies the individual pharmacist to do the regulated work:
 - i.e. where another organisation supplies the individual pharmacist to do the regulated work for the pharmacy contractor, then that organisation will commit the offence if the individual is barred from doing regulated work.
16. It should also be noted that under Section 34 of the PVG Act an individual will commit an offence if they do or agree to do regulated work when they are barred.

PVG Disclosure checking for employees undertaking regulated work

17. Community pharmacy contractors who are employing individuals to undertake regulated work should ask for the most appropriate PVG disclosure record at the time of recruitment. The different types of PVG disclosure records are explained in chapter 1 of the PVG Guidance, which can be found on the Disclosure Scotland website. The employer should normally use the Scheme Record for new PVG Scheme members and the Scheme Record Update for existing members.

PVG Disclosure checking for pharmacy locums

18. Where a community pharmacy contractor currently maintains a list of locum pharmacists for deployment in a pharmacy for the purposes of providing NHS Pharmaceutical Services, the offer of regulated work is made at the time when the individual is first admitted onto the locum list.

19. This means that any locum pharmacists already included on a locum list on 28 February 2011 can be deployed without further disclosure checking at this time. However, pharmacy contractors will need to ensure that the correct procedure is followed in respect of the inclusion of new locums on their lists after 28 February 2011.
20. It is also important that such lists of locum pharmacists are regularly reviewed to ensure that they are fit for purpose. For example, that they include enough information on their database to ensure that the individual can be uniquely identified, even if they move house or change telephone number.
21. Where a pharmacy contractor is making an offer of regulated work to a locum pharmacist by admitting that individual onto its locum list, the contractor should ensure that the individual is not barred by asking for the most appropriate PVG disclosure record. They should normally use the Scheme Record for new members and the Scheme Record Update for existing members.

PVG Disclosure checking for locum pharmacists supplied by another Organisation

22. Paragraphs 14-15 above describes the offence of offering regulated work to a barred individual and highlights the position of organisations (or individuals) supplying locum services to community pharmacy contractors.
23. With regard to PVG disclosure checking, where an organisation is supplying the pharmacist (even if that organisation is a limited company and the pharmacist is the sole director and employee of the company) then that organisation should require the pharmacist to be a PVG Scheme member.
24. Such an organisation who supplies an individual to do regulated work for another person (in this case the pharmacy contractor) can request the disclosure record from Disclosure Scotland. The organisation cannot however disclose this further to the pharmacy contractor.
25. It is important to note that, in such cases, the pharmacy contractor cannot request a disclosure record from Disclosure Scotland. Nor is there any authority for the pharmacy contractor to request sight of a disclosure record obtained by the pharmacist for any other purpose.

26. However, the pharmacy contractor could require PVG Scheme membership as a condition of inclusion in their lists but will not be able to seek sight of the PVG disclosure record as proof.

Retrospective PVG disclosure checking - General

27. All pharmacists providing NHS Pharmaceutical Services **should be PVG Scheme members by 27 February 2015**. Those already employed, self-employed pharmacy owners, or on locums lists at 28 February 2011 should become PVG Scheme members as part of the process of retrospective checking in the three years from 28 February 2012.

When notified that an individual has become barred

28. When an organisation such as a pharmacy contractor requests a PVG disclosure record from Disclosure Scotland in respect of a pharmacist, their ongoing interest in that individual will be noted. If information comes to light which suggests that an individual pharmacist may be unsuitable to do regulated work or that the pharmacist has been barred from regulated work, the contractor will be notified. It is an offence for a contractor not to remove an individual from regulated work when notified by Disclosure Scotland that they are barred. This is probably most likely to happen following an organisational referral by another organisation, but can also happen if they are convicted of a serious criminal offence.

Duty to refer

29. Community pharmacy contractors **must** refer an individual to Disclosure Scotland for consideration for listing where they cease to use that individual for regulated work because of harm that individual has done to a vulnerable group or where that individual has engaged in certain types of inappropriate conduct. Where a contractor, for example removes a locum pharmacist from its list, or terminates the employment of a pharmacist earlier than planned (or would have done so had the pharmacist not themselves terminated the arrangements), the contractor should consider whether the referral grounds set out in the PVG Act are met and whether a referral should be made. More information can be found about referrals in Chapter 6 of the PVG Guidance.

Pharmacy Support Staff

30. The same responsibility and timescales to register with the PVG Scheme applies to other members of the pharmacy team such as pharmacy technicians and pharmacy assistants who undertake regulated work. It is important to highlight that, for these staff groups, inclusion in the PVG Scheme is heavily dependent upon the individuals job description and the scope of duties and tasks they will be required, or expected, to carry out in the pharmacy – particularly in relation to NHS Pharmaceutical Services.
31. For pharmacy support staff to be doing regulated work they must be providing NHS Pharmaceutical Service to the extent that they are providing advice and assistance in relation to their patient's health and well-being. Accordingly, each support worker will need to be assessed on those lines as to whether they are doing regulated work or not. It seems likely that most support staff will not be doing regulated work but it will be important to consider each role separately.

Scottish Government, GPhC and CPS

32. The Scottish Government, General Pharmaceutical Council (GPhC) and Community Pharmacy Scotland (CPS) will be working in close collaboration as the PVG Scheme is taken forward. A key part of this will be to consider the potential for NHS Boards to establish Pharmaceutical Services Performers Lists which will assist in the ongoing administration of the PVG scheme.

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