VETTING & BARRING SCHEME

POLICY AND PROCEDURES

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<th>Human Resources &amp; Organisational Development</th>
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<td>Author</td>
<td>VBS Implementation Group</td>
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<tr>
<td>Date</td>
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This Working Draft will be kept under review during the implementation phase and reviewed as necessary. However during this period this document should be taken as being the policy under which the Trust will operate.
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SECTION 1

POLICY SCOPE, STATEMENT AND DEFINITIONS
1.0 INTRODUCTION

1.1 The Vetting & Barring Scheme (VBS) implemented as part of the Safeguarding Vulnerable Groups 2007 (NI) Order is aimed at ensuring greater protection for the most vulnerable in society.

1.2 VBS is a ‘membership’ scheme which allows for continuous monitoring of registrants. From November 2010, persons seeking work (paid or voluntary) with vulnerable groups in ‘Regulated Activity’ will be required to be registered with the Independent Safeguarding Authority (ISA) under the VBS. Registration will be phased in between April 2011 and July 2015, for persons already working in regulated.

1.3 VBS also introduces a category called ‘Controlled Activity’. In law it is possible to work in ‘Controlled Activity’ even where the individual has been barred subject to relevant risk assessments having been completed. It is understood at the time of writing that a date for registration of persons in controlled activity is not yet finalised although this is thought to be around 2014. The Trust will therefore continue with current arrangements for this group of staff in terms of obtaining Enhanced Disclosure Checks through Access NI.

2.0 POLICY STATEMENT

2.1 The Southern Health & Social Care Trust (hereafter referred to as ‘The Trust’) is fully committed to ensuring that the VBS is fully and properly implemented. This document aims to set out the Scope, Responsibilities and associated operational procedures the implementation and ongoing management of the VBS in accordance with the legislation.

2.2 The Trust will not permit any person barred from the ISA register to work in Regulated Activity

2.3 The Trust will complete a risk assessment on any person barred from regulated activity in relation to their suitability for Controlled Activity. This

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1 Arising from Sir Roger Singleton’s recommendations at the end of 2009, it is planned to review the continuing need for ‘Controlled Activity’ to be incorporated in the Scheme. This will be consulted on widely when further consideration has been given to this topic.
will be undertaken by the nominated persons\textsuperscript{2} on behalf of the Trust. There will be no appeal mechanism.

3.0 SCOPE OF POLICY

3.1 This policy applies to all staff across the Trust, volunteers engaged by the Trust and as it relates to contractors\textsuperscript{3} working on behalf of the Trust.

4.0 DEFINITIONS

WHAT IS REGULATED ACTIVITY

4.1 A post is a regulated position as defined by the SVG legislation if it involves working closely with children\textsuperscript{4} or vulnerable adults\textsuperscript{5} as defined either paid or unpaid, not part of a family or personal arrangement on a frequent or intensive basis. Regulated activity includes;

- **Work of a specified nature** e.g. teaching, training, care, supervision, advice, treatment, any form of healthcare or transport **OR**

- **Work in a specified place** e.g. schools, children’s homes & hospitals, juvenile detention facilities, nursing and residential care homes **OR**

- **Defined Office Holders** e.g. Non Executive Directors, Chief Executive, Executive Directors (specifically to include the Director of Social Services).

\textsuperscript{2} The Head of Recruitment & Selection Services and / or the Head of Employee Engagement & Relations together with the relevant Head of Service will be the nominated persons for the Trust in this regard for undertaking a risk assessment and determining whether or not the individual can be employed in the circumstances.

\textsuperscript{3} This includes Foster Carers, Adoptive Parents, In Control Workers / Direct Payment Workers, Independent Contractors, Volunteers etc.

\textsuperscript{4} A child is defined in the Safeguarding Vulnerable Groups (NI) Order 2007 (SVG Order) as a person who has not attained the age of 18

\textsuperscript{5} Defined in Article 3 of the SVG Order as someone who has attained the age of 18 and: is in residential accommodation; is in sheltered housing; receives domiciliary care; receives any form of health care (treatment, therapy, palliative care); ..... Receives a service/takes part in activity provided to persons because of particular age related needs; any form of disability; prescribed physical or mental health problem.....
4.2 For persons involved in Health / Social Care / Personal Care\(^6\) **frequently, intensively, and/or overnight** is defined as activity occurring once a month (frequently); occurs 3 or more occasions in a period of 30 days (intensively) or is overnight (between 2 - 6am).

4.3 It is an offence to work or knowingly allow someone to work in regulated activity. From November 2010, no person can commence in regulated activity unless they are registered on the VBS. From July 2015 no worker can work in regulated activity unless they are registered on the VBS.

**WHAT IS CONTROLLED ACTIVITY**

4.4 A post will be regarded as ‘controlled activity’ if it provides the worker with access to children / vulnerable adults in support roles or access to sensitive records. Those on specified sites will continue to fall within regulated activity. Controlled activity therefore includes;

- Ancillary support workers in Health and FE settings (e.g. cleaners, caretakers, catering staff, receptionists).

- Those working for specified organisations (e.g. HSC Trust, Education and Library board or their designated agents) with frequent access to sensitive records about children or vulnerable adults.

4.5 In each case there must be an opportunity for contact with children or vulnerable adults or the opportunity to have access to health or social services records for children or vulnerable adults or educational records for children. The same definitions relating to **frequently, intensively, and/or overnight** apply.

4.6 Responsible persons\(^7\) can decide whether or not to employ an individual in a controlled activity if they are barred from undertaking regulated activity with children or vulnerable adults.

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\(^6\) This definition has been altered within the main scheme following a review of the scheme by Sir Roger Singleton in December 2009, however the original definitions as stated continue to apply to H&SC workers.

\(^7\) The Head of Recruitment & Selection Services and / or the Head of Employee Engagement & Relations together with the relevant Head of Service will be the nominated persons for the Trust
5.0 KEY RESPONSIBILITIES

CHIEF EXECUTIVES RESPONSIBILITIES

5.1 The Chief Executive will have overall responsibility for ensuring that the Vetting & Barring Scheme is fully implemented within the Trust. The day to day responsibility for this will be designated to the Director of Human Resources & Organisational Development.

RESPONSIBILITIES OF MANAGEMENT

5.2 All managers are responsible for ensuring that they are clear on which posts in their area of responsibility fall within Regulated and Controlled Activity. In light of this all managers are responsible for ensuring that no-one is permitted to work in regulated activity if they are barred from doing so. Managers should also be mindful that individuals barred from Regulated Activity may only work in Controlled Activity if a full risk assessment has been completed in accordance with paragraph 4.6 and appropriate safeguards are in place.

5.3 Managers have a responsibility to ensure that any person who is believed to pose a risk of harm\textsuperscript{8} to vulnerable groups is referred to the ISA using the agreed referral process. This will not only include employees of the Trust but other independent contractors / voluntary workers with whom the Trust engages.

RESPONSIBILITIES OF STAFF

5.4 All staff are responsible for ensuring that they do not participate in Regulated Activity if they know they are barred from doing so. If an individual is barred from such they are required to declare this to a senior officer of the Trust. Anyone found to be working in Regulated Activity who is barred will be removed immediately and subject to disciplinary action which may include dismissal.

\textsuperscript{8} Please refer to paragraph 11.1, and Section 3 Appendix 1 and 2 for further guidance.
5.5 Any individual staff member who has any well founded concerns about an individual and their potential to put a vulnerable person at risk\(^9\) should be reported to their senior manager immediately.

**RESPONSIBILITIES OF CONTRACTORS\(^{10}\)**

5.6 Any individual covered within the scope of this category are responsible for ensuring that they do not participate in Regulated Activity if they know they are barred from doing so. If an individual is barred from such during their engagement with the Trust they are required to declare immediately to the relevant Trust Officer with whom they relate. Anyone found to be working in Regulated Activity who is barred will be removed immediately from the activity and subject to investigation which may lead to termination of the engagement.

**6.0 MANAGEMENT OF INFORMATION**

6.1 All information pertaining to VBS registration will be controlled within the Human Resources & Organisational Development Directorate using the principles of Data Protection Legislation and in accordance with any guides or protocols issued in this regard.

**7.0 EQUALITY CONSIDERATIONS**

7.1 This policy document has been screened in accordance with section 75 and section 9 of the NI Act 1998

Using the Equality Commisions Screening criteria no significant equality implications have been identified. This policy will not therefore be subject to an Equality Impact Assessment.

Similarly this Policy has been considered under the Human Rights Act 1998, and was deemed compatible with the European Convention on Rights contained in the Act.

\(^9\) Please refer to paragraph 11.1, and Section 3 Appendix 1 and 2 for further guidance

\(^{10}\) This includes Foster Carers, Adoptive Parents, In Control Workers / Direct Payment Workers, Independent Contractors, Volunteers etc
SECTION 2

PROCEDURES FOR IMPLEMENTATION OF VBS REGISTRATION SCHEME
7.0 WHICH POSTS FALL WITHIN REGULATED AND CONTROLLED ACTIVITY

7.1 The Trusts workforce will largely fall within the definitions of either regulated or controlled activity. For the purposes of understanding this, a listing of staff groups / individual posts may be seen at Appendix 1. This may be updated from time to time.

7.2 Persons engaged as Foster Carers, Adoptive Parents, In Control Workers / Direct Payment Workers, Independent Contractors, Volunteers etc will all likely fall with the definition of Regulated Activity and should be treated as such unless any other assessment is undertaken.

8.0 PROCEDURE FOR NEW STARTS OR INTERNAL MOVERS (EMPLOYMENT) TO REGULATED ACTIVITY ON OR AFTER 26 JULY 2010

8.1 The Trusts Recruitment & Selection Service will commence VBS registration checks from 26 July 2010 for all appointments to regulated activity. Although the VBS registration is not mandatory in law until November 2010, those joining the Trust or moving internally within the Trust from a non regulated post, having been offered posts which fall into ‘Regulated activity’ from 26 July 2010 onwards will be required to have their registration application submitted and fully accepted before taking up appointment. Between 26 July and 31st October 2010, those moving internally within the Trust from one regulated post to another must have their application for registration submitted but will be permitted to take up post in advance of registration being confirmed.

8.2 From 1st November 2010 no person being appointed to Regulated Activity either through internal movement or external recruitment will be permitted to take up post until their ISA registration is in place. The Trust must receive a copy of the registration number and the Enhanced Disclosure Certificate for the individual before a commencement date can be agreed. This will be managed through the Recruitment & Selection Service.
8.3 The individual will be responsible for submitting their application to the Trust R&S Service for processing in a timely manner.

8.4 Persons due for appointment to posts at Band 3 and below will have the charge of £58.00 deducted from their salary / wage in equal installments over the first 3 months of employment. Persons due for appointment to posts at Band 4 or above will have the charge recouped from their first salary following appointment\textsuperscript{11}. Each appointee will be asked to sign an undertaking that if they subsequently fail to take up employment that they will be required to reimburse the Trust the full charge for registration, that they have neither been denied registration previously nor have they an application pending through any other registered body. See Appendix 2 for sample undertaking.

8.5 On receipt of the registration number the Trust will register their interest in the individual and ensure that a copy of the registration number is retained as part of the individuals Human Resources Records.

8.6 Where an individual has already obtained a registration number at the point of application, this should be declared on the application form and the R&S Service will use this to complete an ‘on line’ check that the person is not barred from regulated activity as well as registering interest in the individual. Where an individual has been registered with a voluntary organisation the ISA will charge each individual £58.00 upon notification that the individual has moved to paid employment. This will be issued directly to the individual who will be responsible for making this payment.

8.7 In the case of an individual already holding registration, the Trust will no longer routinely obtain an Enhanced Disclosure Check (this happens at the point of initial registration only) other than for those areas where there is separate legislation requiring such\textsuperscript{12}. However, based on evidence since the introduction of Enhanced Disclosure Checks through Access NI, there are two categories of staff where significant concerns remain in terms of

\textsuperscript{11} It is recognised that there is an element of risk that a prospective employee may turn down employment during pre-employment checks. This is acknowledged in the proposed undertaking. Implementation of this process will be initially for a 6 month period during which activity will be closely monitored and any concerns noted during that period may render this process subject to change.

\textsuperscript{12} There is currently legislation covering a number of positions / settings although it is anticipated that this will shortly be consulted on with a view to removing this requirement. Nevertheless until such is removed the Trust must continue to apply the legislative requirements. This includes specified settings and Trust Domiciliary Care Staff.
non disclosure of potentially relevant offences. For this reason appointments to the following groups of staff will continue to be subject to Enhanced Disclosure Checks;

- Ancillary & General Posts

8.8 The cost of this EDC will be carried by the Trust as this is part of the information required for the Trusts decision making process.

8.9 During the period 26 July 2010 to 31st October 2010, in exceptional circumstances the Head of Recruitment & Selection Services may authorise a variation to the process set out in section 8 to allow the individual to commence in advance of receiving their registration number but only where, this is essential for best interests of the patient / client and where there was not ordinarily a requirement to hold the Enhanced Disclosure Certificate in advance of commencement in line with the POCVA bridging legislation.

9.0 **PROCEDURE FOR ENGAGEMENT OF CONTRACTORS**

9.1 The Trust will also engage workers other than direct employees within the confines of the legislation, and on the broad principles as outlined for engagement of staff with processing, and arrangements for charges being as follows;

9.1.1 **FOSTER CARERS**

Recognising that the Trust currently does not have a sufficient supply of Foster carers, it is proposed that the Trust carries the cost for this group. This will include registration of all household members aged 16 years and over or if still in full time education household members aged 18 years and over. Household members aged 10 – 15 years may not be registered on the VBS and therefore will continue to be subject to an Enhanced Disclosure Checks. Processing of registration will be conducted through the relevant authorized officer within Social Care.

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13 This includes Foster Carers, Adoptive Parents, In Control Workers / Direct Payment Workers, Independent Contractors, Volunteers etc
9.1.2 **ADOPTIVE PARENTS**

As this group of individuals are actively seeking to adopt a child to join their family, the Trust will expect prospective adopters to hold registration with the VBS carrying the cost of such themselves.

9.1.3 **INDEPENDENT SECTOR**

This group are responsible for their own registration and associated charges and this will be stipulated in Trust contracts.

9.1.4 **IN CONTROL GROUP / DIRECT PAYMENTS WORKERS**

Whilst this group are technically self employed people, and will not in law be required to register, the Trust would normally expect such workers to be registered. The Trust does have a responsibility to ensure the client is aware that the worker can be ISA registered. The Trust would be willing to facilitate the processing of the application for registration although the worker will be responsible for the payment of registration.

9.1.5 **VOLUNTEERS DIRECTLY ENGAGED BY THE TRUST**

Voluntary workers engaged in Regulated activity must be registered. Volunteers engaged by the Trust will have their ISA registration processed through the Trust and given the nature of this engagement the Trust will carry the cost of registration. Processing of registration will be conducted through the relevant authorized officer within Community Development.

9.1.6 **VOLUNTEER / COMMUNITY GROUPS**

Volunteer / Community Groups who may undertake activity on behalf of the Trust must be registered. In the event of there being any charge to these groups because of engaging in activity for a statutory organisation the Trust will pick up this charge unless the Trust already provides funding through contract arrangements.
9.1.7 **YOUNG PEOPLE LEAVING CARE**

Where the Trust provides work placements to young people leaving care as part of their Corporate Parenting responsibility, the Trust will take responsibility for processing registration applications and will accept the associated charges. Processing of registration will be conducted through the relevant authorized officer within Social Care.

10.0 **PROCEDURE FOR THE PHASED REGISTRATION OF EXISTING STAFF WORKING IN REGULATED POSITIONS**

10.1 Phasing in of existing staff will initially concentrate on those engaged in Regulated Activity only. This phase will commence in April 2011 and must be completed by July 2015. Existing staff will be phased into the VBS registration in the following order:

- **Phase 1** – All Professional & Technical Staff participating in regulated activity
- **Phase 2** – All Social Care staff (including Trust Domiciliary Care)
- **Phase 3** – All Medical & Dental Staff
- **Phase 4** – Nursing & Midwifery Staff
- **Phase 5** – Support Staff\(^{14}\) working in Specified Places

10.2 Each Phase of activity will be co-ordinated by a designated officer within the Human Resources & Organisational Development Directorate.

10.3 The co-ordinating officer will run an electronic listing of all staff to be registered in each phase from the HR system. This electronic listing of staff to be registered together with an electronic copy of the application form will be forwarded to each Head of Service who will in turn be responsible for issuing this to the respective line managers.

10.4 Each line manager will then be responsible for providing each member of staff with either an electronic copy or hard copy of the application form. In all events the form must be completed in hard copy and presented to the relevant line manager with evidence of identification (as detailed on the application form). The line manager will be responsible for recording on

\(^{14}\) This will include Admin & Clerical and Ancillary & General staff
the electronic listing the evidence of identification shown. Once fully completed a copy of the electronic listing and the completed hard copy application forms should be returned to the co-ordinating officer for countersignature and for logging onto the central database.

10.5 The co-ordinating officer will forward to Access NI for processing and will monitor the return of all applications.

10.6 The individual will be responsible for submitting their application to their line manager when requested to do so for processing through the Trusts co-ordinator.

10.7 Persons employed in posts at Band 3 and below will have the charge of £58.00 deducted from their salary / wage in equal installments over a 3 month period.

10.8 Persons employed in posts at Band 4 or above will have the charge of £58.00 deducted from their salary as a single payment.

10.9 Any employee leaving the Trust following application but prior to this charge being fully refunded to the Trust will have any outstanding monies deducted from their final salary.
SECTION 2 - APPENDIX 1

LISTING OF POSTS BY TYPE OF ACTIVITY
**Group A: Regulated Activity**
- All Nursing & Midwifery Posts;
- All Social Care Posts (including Trust Domiciliary Care);
- All Medical & Dental Staff;
- All Allied Health Professionals;
- All workers based in Children’s Homes, Residential or Nursing Homes.
- Patient Transport Drivers
- Pharmacists [*may need to look at individual posts to ensure they are a ‘Regulated Position’*]
- Psychologists
- Orthoptists
- Optometrists
- Dentistry Support
- Medical Technical Officers [*may need to look at individual posts to ensure they are a ‘Regulated Position’*]
- Art & Music Therapists
- Chaplains
- Organists

**Group B: Controlled Activity**
- All Ancillary & General Staff working in patient / client areas during operational hours unless otherwise provided for in Group A above;
- All Maintenance Staff working in patient / client areas during operational hours unless otherwise provided for in Group A above
- All Financial Assessment Staff
- Cashiers Offices
- Human Resources Case Management Staff and all Senior HR Staff i.e. Band 7 and above.
- IT Staff working in patient / client areas during operational hours [*should all senior IT staff / those with significant access privileges to for example PAS be included in this category?*]
- Biomedical Scientists
- Admin & Clerical Staff working in areas where there is regular access to patient / clients or patient / client records eg Medical Records clerks, facility receptionists, etc.

**Group C: Neither Regulated Nor Controlled Activity**
- Human Resources Staff other than those provided for in Group B above;
- Finance Staff other than those provided for in Group B above;
- Admin & Clerical Staff other than those listed in Groups A & B above;
- Ancillary & General Workers other than those provided for in Groups A or B above.
SECTION 2 - APPENDIX 2

UNDERTAKING FOR NEW STAFF / MOVERS REGARDING REGISTRATION COSTS
FORM OF UNDERTAKING

REFERENCE APPOINTMENT OF ________________________________
[details to be inserted by R&S Staff at time of issue]

<Name>
<Address>

I _______________________ (print name) hereby authorise the Southern Health & Social Care Trust to deduct from my wage / salary a total of £58.00 (for posts at Band 3 or below) in equal installments over the first 3 months of my employment (for posts at Band 4 or above) from my first salary as a single payment [the appropriate wording will be inserted by R&S Staff]

In the event that I fail to take up the above appointment I agree to reimbursement of the Southern Health & Social Care Trust in full any payments associated with ISA registration up to the maximum of £58.00.

I would confirm that I have never been refused ISA registration nor have I sought / will I seek ISA registration through any other Registered body whilst I am in the knowledge that the Southern Health & Social Care Trust is processing such an application on my behalf.

Signed ____________________________

Date ______________________________
SECTION 2 - APPENDIX 3

FLOWCHART OF PROCESS
VBS Registration Process

Recruitment Activity

Personnel Specification makes requirement clear

Pre-employment checks conducted

Registered

Not Registered

Individual asked to register - processed through Trust

Registration Successful

Yes

No

Individual cannot take up regulated Activity

Individual charged £58.00 to be recouped through salary if band 3 or in one full payment if for any reason does not take up post or if Band 4 + in one single cheque payment

Phased Registration

Co-ordinating officer sends list of staff to HOS

HOS issues list to Line Managers (LM)

LM issue forms to staff

Form returned to LM, presented with identification – this is noted by LM on electronic listing

LM sends copy of electronic listing and hard copy form back to co-ordinating officer

Co-ordinating officer processes to ANI including recording on Dbase.

Registration Successful

Yes

No

Disciplinary Action likely to lead to dismissal or as a minimum redeployment to non regulated activity
SECTION 3

REFERRAL PROCEDURES
10.0 INTRODUCTION

10.1 The Independent Safeguarding Authority (ISA) was created to help prevent unsuitable people from working or volunteering with children or vulnerable adults and has four statutory duties:

- To maintain a list of individuals barred from engaging in regulated activity with children
- To maintain a list of individuals barred from engaging in regulated activity with vulnerable adults
- To make well informed and considered decisions about whether an individual should be included in one or both barred lists
- To reach decisions as to whether to remove an individual from a barred list.

10.2 The ISA will receive referrals when:

- There is harm or risk of harm to children or vulnerable adults
- Relevant conduct\textsuperscript{15} has occurred
- An individual has received a caution or conviction for a relevant offence\textsuperscript{8}

10.3 The Trust is considered to be a regulated activity provider and as such has a statutory duty to refer relevant information to the ISA with effect from 12\textsuperscript{th} October 2009.

10.4 If the Trust removes an individual from regulated activity, whether they have been dismissed, suspended or moved to another position which is not regulated because it is believed they have engaged in relevant conduct or they pose a risk of harm to children or vulnerable adults, or they have received a caution or conviction for a relevant offence, the Trust is under a legal duty to refer that information or any relevant information to the ISA.

10.5 The ISA can only consider referrals that are related to the safeguarding of children or vulnerable adults in the workplace (including volunteers). Where there are other forms of misconduct not related to safeguarding

\textsuperscript{15} See Section 3 Appendix 1 for Definitions
children or vulnerable adults in the workplace, these matters should be referred to other relevant regulatory bodies e.g. NMC, GMC, NISSC, HPC

11.0 WHEN TO MAKE A REFERRAL

11.1 In all cases there are two conditions which must be satisfied to trigger a referral to the ISA by the Trust. A referral must be made to the ISA when the Trust;

i. Withdraws permission for an individual to engage in regulated or controlled activity, or would have done so had that individual not resigned, retired, been made redundant or been transferred to a position which is not regulated or controlled activity

And

ii. they ‘think’ that the individual has carried out one or more of the following and have proceeded to gather sufficient evidence to suggest, on the balance of probabilities, relevant conduct did occur or the person did harm or posed a risk of harm to children or vulnerable adults;

- engaged in relevant conduct*,
- satisfied the Harm test* i.e. posed a risk to children or vulnerable adults
- received a caution or conviction for a relevant offence*.

11.2 If both conditions are satisfied the information MUST be referred to the ISA. The ‘think’ test is only met when the Trust has gathered sufficient evidence, to suggest on the balance of probabilities, relevant conduct did occur or the person did harm or posed a risk of harm to children or vulnerable adults.

11.3 A referral should not be made when an individual is placed on precautionary suspension as this is deemed to be a neutral act and evidence is usually not gathered to support the thought that a person has engaged in relevant conduct or that the harm test has been satisfied.

11.4 The Trust also has the power to make a retrospective referral to the ISA.
11.5 The ISA referral form is available from the ISA website http://www.isa-gov.org.uk/ and should be completed by the relevant Trust personnel when it is identified that the above two triggers have been satisfied.

11.6 The ISA have no powers of investigation and therefore the information provided to them by the Trust should be as complete as possible.

12.0 RESPONSIBILITY FOR MAKING A REFERRAL

12.1 All referrals to the ISA should be authorised by the relevant Trust Director on the advice of a senior member of the Employee Engagement and Relations Team (EER). This will usually be the EER Case Manager involved in the investigation process.

12.2 It will be the responsibility of the EER Case Manager to ensure all relevant documentation is forwarded to the ISA along with the completed referral form. All referrals will be signed by the Head of Employee Engagement and Relations or nominated deputy.

12.3 Documentation required by the ISA when considering a referral will include (if available):

- Job description/Role Statement/Person Specification
- Application for employment
- References
- Interview Report
- Letter of Employment
- Documentation on any past disciplinary action or complaints
- Dismissal/resignation letters
- File notes concerning conduct, behaviour or attitude
- Relevant Care Plans

This information should be collated and forwarded to the EER Case Manager by the line manager of the individual being referred.
12.4 The EER Case Manager will be responsible for collating all relevant documentation in relation to the investigation for referral. This will include (if available):

- Witness Statements
- Details of internal investigations and outcome
- Details of internal disciplinary action and outcome
- Police investigations and reports
- Local Authority investigations and reports including social services reports and minutes of strategy meetings
- Investigations and reports of any regulatory bodies
- Investigations and reports of any other agencies or bodies
- Victim impact report or statements including details of who made the assessment and their position or qualifications to make the assessment
- Any other relevant documentation

12.5 The EER Case Manager will be responsible for ensuring an individual is informed if a referral is to be made to the ISA. A copy of the completed referral, including all documentation will be forwarded to the individual being referred.

13.0 REFERRAL DECISION MAKING

13.1 The decision in respect of whether an individual is placed on the ‘barred list’ will be made by the ISA.

13.2 The Trust will be notified by the ISA if an individual’s registration status changes.

13.3 An individual will have the opportunity to appeal against a barring decision made by the ISA on the grounds that there has been a mistake in a point of law or finding of fact.
SECTION 3 - APPENDIX 1

DEFINITIONS OF KEY TERMS
Relevant conduct

Relevant conduct is any conduct:

- That endangers a child or vulnerable adult or is likely to endanger a child or vulnerable adult
- If repeated against or in relation to a child or vulnerable adult, would endanger them or would be likely to endanger them;
- That involves sexual material relating to children (including possession of such material);
- That involves sexually explicit images depicting violence against human beings (including possession of such images), if it appears to ISA that the conduct is inappropriate; or
- Of a sexual nature involving a child or vulnerable adult, if it appears to ISA that the conduct is inappropriate.

Harm Test

The harm test is satisfied if the relevant person believes that an individual may:

- harm a child or vulnerable adult
- cause a child or vulnerable adult to be harmed
- put a child or vulnerable adult at risk of harm
- attempt to harm a child or vulnerable adult
- incite another to harm a child or vulnerable adult.

Relevant offence


A copy of these regulations can be found at www.opsi.gov.uk or www.statutelaw.gov.uk

Taken from the Independent Safeguarding Authority Referral Guidance
SECTION 3 - APPENDIX 2

RELEVANT CONDUCT AND EXAMPLES OF HARM
These are examples and are not a definitive or exhaustive list but rather intended to provide information about the type of harm that may be considered in making a referral to the ISA.

<table>
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<th>Type of harm to children</th>
<th>Meaning</th>
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<tr>
<td>Emotional / Psychological</td>
<td>Action or inaction by others that causes mental anguish</td>
<td>Emotional harm is the emotional ill-treatment of a child such as to cause severe and persistent adverse effects on the child's emotional development. It may involve conveying to children that they are worthless or unloved, inadequate, or valued only insofar as they meet the needs of another person. It may feature age or developmentally inappropriate expectations being imposed on children. It may involve causing children frequently to feel frightened or in danger, or the exploitation or corruption of children. It may involve children witnessing aggressive, violent or harmful behaviour such as domestic violence. Some level of emotional harm is involved in all types of ill-treatment of a child, though it may occur alone. Grooming. Harassment. Inappropriate emotional involvement.</td>
</tr>
<tr>
<td>Physical</td>
<td>Any intentional physical contact that results in discomfort, pain or injury</td>
<td>Physical harm may involve assaults including hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating, or otherwise causing physical harm to a child. Physical harm may also be caused when a parent or carer feigns the symptoms of, or deliberately causes ill health to a child whom they are looking after. This situation is commonly described using terms such as factitious illness by proxy or Munchausen syndrome by proxy. Supply drugs to children. Inappropriate/unauthorised methods of</td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th>Type of harm to children</th>
<th>Meaning</th>
<th>Examples</th>
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<tbody>
<tr>
<td>Sexual</td>
<td>Any form of sexual activity with a child under the age of consent</td>
<td>Sexual harm involves forcing or enticing a child or young person to take part in sexual activities, whether or not the child is aware of what is happening. The activities may involve physical contact, including penetrative (e.g. rape or buggery) or non-penetrative acts. They may include non-contact activities, such as involving children in looking at, or in the production of, pornographic material or watching sexual activities, or encouraging children to behave in sexually inappropriate ways. Downloading child pornography. Taking indecent photographs of children. Sexualised texting.</td>
</tr>
<tr>
<td>Neglect</td>
<td>Failure to identify and/or meet care needs</td>
<td>Neglect is the failure to meet a child’s basic physical and/or psychological needs, likely to result in the serious impairment of the child’s health or development. It may involve a parent or carer failing to provide adequate food, shelter and clothing, failing to protect a child from physical harm or danger, or the failure to ensure access to appropriate medical care or treatment. It may also include neglect of, or unresponsiveness to, a child’s basic emotional needs.</td>
</tr>
<tr>
<td>Type of harm to vulnerable adult</td>
<td>Meaning</td>
<td>Examples</td>
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<tr>
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<tr>
<td>Emotional / Psychological</td>
<td>Action or inaction by others that causes mental anguish</td>
<td>Inflexible regimes and lack of choice. Mocking, coercing, denying privacy, threatening behaviour, bullying, intimidation, harassment, deliberate isolation, deprivation.</td>
</tr>
<tr>
<td>Financial</td>
<td>Usually associated with the misuse of money, valuables or property</td>
<td>Unauthorised withdrawals from vulnerable adult’s account, theft, fraud, exploitation, pressure in connection with wills or inheritance.</td>
</tr>
<tr>
<td>Physical</td>
<td>Any intentional physical contact that results in discomfort, pain or injury</td>
<td>Hitting, slapping, pushing, shaking, bruising, failing to treat sores or wounds, under or overuse of medication, un-prescribed or inappropriate medication, use of restraint or inappropriate restraint, inappropriate sanctions.</td>
</tr>
<tr>
<td>Sexual</td>
<td>Coercion or force to take part in sexual acts</td>
<td>Inappropriate touching. Causing bruising or injury to the anal, genital or abdominal area. Transmission of STD.</td>
</tr>
<tr>
<td>Neglect</td>
<td>Failure to identify and/or meet care needs</td>
<td>Untreated weight loss, failing to administer reasonable care resulting in pressure sores or uncharacteristic problems with continence. Poor hygiene, soiled clothes not changed, insufficient food or drink, ignoring resident’s requests, unmet social or care needs.</td>
</tr>
<tr>
<td>Verbal</td>
<td>Any remark or comment by others that causes distress</td>
<td>Demeaning, disrespectful, humiliating, racist, sexist or sarcastic comments. Excessive or unwanted familiarity, shouting, swearing, name calling.</td>
</tr>
</tbody>
</table>

*Taken from the Independent Safeguarding Authority Referral Guidance*
SECTION 3 - APPENDIX 3

FLOWCHART OF REFERRAL PROCESS

* Taken from the Independent Safeguarding Authority Referral Guidance
Follow agreed local safeguarding and disciplinary procedures (this is separate from the duty to refer)

Trust removes an individual from regulated activity due to relevant conduct or risk of harm

Follow local procedures

As appropriate also refer this information to relevant regulatory body e.g. NISSC, NMC, GMC etc.

Follow local procedures

Individual is invited to make representations and issued with all information used by the ISA

Individual is barred from working in regulated activity with vulnerable adults and/or children

No but still have concerns

A referral to the ISA may be made with information to support concerns

Is barring still appropriate?

Minded to bar individual from working with vulnerable adults and/or children?

Yes

ISA consider representations provided and review it’s initial minded to bar decision

Fails to provide representations

Individual is informed of barring decision – no further action

No

A referral to the ISA must be made with all the supporting information

The ISA will acknowledge receipt of the allegation within two working days

The ISA begins decision making process

Individual is informed of barring decision

Yes

Trust undertakes an initial investigation to establish facts and gather evidence

The Trust thinks a person who is or may engage in regulated activity has harmed or put at risk of harm a vulnerable child or adult.

Allegation found to be unsubstantiated

A referral to the ISA may be made with information to support concerns

The ISA begins decision making process

Minded to bar individual from working with vulnerable adults and/or children?

Yes

ISA consider representations provided and review it’s initial minded to bar decision

Fails to provide representations

Individual is informed of barring decision – no further action

No

The Trust undertakes an initial investigation to establish facts and gather evidence

Allegation found to be substantiated

A referral to the ISA must be made with all the supporting information

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