



*National Institute for  
Health Research*

# **Research in the NHS – HR Good Practice Resource Pack**

## **The Research Passport: Algorithm of Research Activity and Pre-Engagement Checks**

### **EFFECTIVE FROM 10 SEPTEMBER 2012**

Version 3.0, September, 2012

This document contains information from HM Government Leaflet, Changes to disclosure and barring: what you need to know”, licensed under the [Open Government Licence v1.0](#).

The Research Passport 'algorithm of research activity and pre-engagement checks' provides guidance on the pre-engagement check requirements for researchers undertaking their activities in the NHS. The algorithm has been updated to take account of changes which the Government is making to criminal records and barring arrangements.

## Changes to Disclosure & Barring

As part of the coalition agreement, the Government committed to reviewing and reforming the vetting and barring scheme and criminal records regime, scaling them back to common sense levels. Changes to the system have been included in the [Protection of Freedoms Act 2012](#), which received Royal Assent in May 2012. The first changes **come into effect on 10 September, 2012**. Changes that are relevant to the Research Passport Scheme are set out below. Please refer to [HM Government Leaflet](#) for additional details

Major changes in September 2012
<ul style="list-style-type: none"><li>• New definition of regulated activity</li><li>• Repeal of controlled activity</li><li>• Repeal of registration and continuous monitoring</li></ul>
Not changing in September 2012
<ul style="list-style-type: none"><li>• You must make appropriate referrals to the ISA</li><li>• You must not engage in regulated activity someone whom you know has been barred by the ISA</li><li>• Everybody within the pre-September<sup>1</sup> definition of regulated activity will remain eligible for enhanced CRB checks, whether or not they fall within the post-September definition of regulated activity.</li></ul>

Researchers and their employers should ensure that where applicable new Research Passport applications are supported by an appropriate disclosure. In particular, from 10 September onwards employers should only request a check against the ISA barred list(s) for positions that fall within the post-September definition of regulated activity. A summary of the new definition is given on the next page.

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<sup>1</sup> The Pre-September 2012 Regulated Activity is defined in Schedule 4 (Parts 1 & 2) of the [Safeguarding Vulnerable Groups Act 2006](#). It involves contact with children or vulnerable adults where because of their role, the person undertaking the activity may develop a relationship of trust with the child or vulnerable adult. It includes: **Activity of a specified nature** – this includes advice, guidance, assistance, health or social care, supervision, or treatment or therapy;  
**OR**  
**Any activity in a specified place** – N.B specified place is clearly defined in the legislation. In the context of health research, examples of specified places, where any type of activity could qualify as regulated activity if there is the opportunity for contact with children or vulnerable adults; are children's hospitals, adult care home, or schools.  
**AND INVOLVES** Frequent contact (once a month or more), OR Intensive contact (4 days or more in any 30 day period) OR; overnight contact (between 2am – 6 am). Regulated activity also includes Fostering and 'Defined Office Holders'.

## Summary of the new definition of regulated activity<sup>2</sup>

The full, legal definition of regulated activity is set out in [Schedule 4 of the Safeguarding Vulnerable Groups Act 2006](http://www.legislation.gov.uk/ukpga/2012/9/part/5/chapter/1/enacted), as amended (in particular, by the <http://www.legislation.gov.uk/ukpga/2012/9/part/5/chapter/1/enacted>).

Regulated activity still excludes family arrangements, and personal, non-commercial arrangements.

### 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. The Government will provide statutory guidance about supervision of activity which would be regulated activity if unsupervised.

- iii. Relevant personal care, for example washing or dressing; or health care by or supervised by a professional;
- iv. Registered childminding; and foster-carers.

### Regulated activity relating to adults

The new definition of regulated activity relating to adults no longer labels 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. This means that 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 (and so will anyone who provides day to day management or supervision of those people). A broad outline of these categories is set out below. For more information please see the Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012.

- i. Providing health care: Any health care 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 that 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 adults 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 and/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.

### **Researchers already working under a Research Passport or NHS-to-NHS proforma**

The 10 September changes are most likely to affect researchers who need a Research Passport for the first time, or whose Research Passport needs renewal, or whose research activity changes significantly.

If researchers are already working under a current valid Research Passport or NHS to NHS proforma, providing that their roles, responsibilities and level of contact with adults or children do not significantly change, they may continue working under the assurances provided by their employer until their research passport expires. As had been the case before the 10 September, the key triggers for a new CRB check for individuals working under a valid research passport are when:

- the researcher has never had a criminal record check before and are moving to a position that now requires them to have a check. The level of check is dependent on the role.
- the responsibilities of their research role has changed and they require a higher level of check, or a check against one or both barred lists.

Activity	Criminal record check necessary? <sup>3</sup>	Occupational Health Clearance Necessary?	LOA or HRC
Researcher is a health care professional <sup>4</sup> providing health care <sup>5</sup> to an adult and/or child	Yes, if done once this is Regulated Activity (new definition). Requires enhanced CRB + appropriate barred list check	Yes, if there is direct contact	HRC
Researcher provides health care to an adult and/or child under the direction or supervision of a health care professional	Yes, if done once this is Regulated Activity (new definition). Requires enhanced CRB + appropriate barred list check	Yes, if there is direct contact	HRC
Researcher provides personal care to an adult or child Or Researcher is a social care worker providing social work which is required in connection with any health care or social services to an adults who is a client or potential client	Yes, if done once this is Regulated Activity (new definition). Requires enhanced CRB + appropriate barred list check	Yes, if there is direct contact	HRC
Researcher undertakes the following activities unsupervised: teach, train, instruct, care for or supervise children, or provide advice/guidance on well-being, or drive a vehicle only for children; with likely direct bearing on the quality of care <sup>6</sup> .	Yes, if done regularly this is Regulated Activity. Requires enhanced CRB + barred list check	Yes, if there is direct contact	HRC
Researcher has opportunity for any form of contact with children in the same Children’s Hospital (formerly a specified place) but is not providing healthcare or other types of regulated activity and has no direct bearing on the quality of care.	Yes, if done regularly enhanced CRB (pre-Sept 2012 definition). No barred list check.	Yes, if there is direct contact	LoA
Researcher has access to persons in receipt of healthcare services in the course of their normal duties but is not providing health care or other types of regulated activity and has no direct bearing on the quality of care (‘Access’ relates to where individuals will have physical, direct contact with patients e.g. observation, qualitative interviews, focus groups).	Yes, standard	Yes, if there is direct contact	LoA

**Algorithm continues on the next page**

<sup>3</sup> Please refer to [http://www.crb.homeoffice.gov.uk/guidance/rb\\_guidance/eligible\\_posts.aspx](http://www.crb.homeoffice.gov.uk/guidance/rb_guidance/eligible_posts.aspx) for guidance on specific activities which are eligible for CRB checks.

<sup>4</sup> “health care professional” means a person who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002.

<sup>5</sup> “Health care” includes all forms of health care provided for individuals, whether relating to physical or mental health and also includes palliative care and procedures that are similar to forms of medical or surgical care but are not provided in connection with a medical condition.

<sup>6</sup> A “direct bearing on the quality of care” suggests that the actions of researchers could foreseeably directly affect the type, quality or extent of prevention, diagnosis or treatment of illness or foreseeably cause injury or loss to an individual to whom the organisation has a duty of care.

**Table 1 – RESEARCH PASSPORT ALGORITHM**

Version 3.0, September, 2012

Activity	Criminal record check necessary? <sup>3</sup>	Occupational Health Clearance Necessary?	LOA or HRC
Researcher has indirect contact with patients or service users but is not providing healthcare or other types of regulated activity and has no direct bearing on the quality of care (e.g some types of telephone interview).	No	No	LoA
Researcher requires access to <b>identifiable</b> patient data derived from health records, tissues or organs with a likely direct bearing on the quality of care	No	Yes, only if working with tissues or organs in NHS facilities	HRC
Researcher requires access to <b>identifiable</b> patient data derived from health records, tissues or organs with no direct bearing on the quality of care	No	Yes, only if working with tissues or organs in NHS facilities	LoA
Researcher requires access to <b>anonymised</b> patient data derived from health records, tissues or organs only (including by research staff analysing data)	No	Yes, only if working with tissues or organs in NHS facilities	LoA (only if reviewed in NHS facilities)
Researcher is working on NHS premises (e.g. laboratory) only (no access to identifiable data)	No	Yes, only if working with tissues or organs in NHS facilities	LoA
Researcher requires direct contact with staff only but no access to patients (e.g. staff interviews)	No	No	LoA (if in NHS facilities)
Researcher requires access to <b>identifiable</b> staff data only	No	No	LoA (if in NHS facilities)
Researcher requires access to <b>anonymised</b> staff data only	No	No	LoA (if in NHS facilities)

**The NIHR Comprehensive Local Research Networks (CLRNs) are supporting the implementation of this guidance across HEIs and the NHS in England. If you have any questions, in the first instance, please contact the Lead RM&G Manager of your [local CLRN](#). Further information is also available from Jacqueline Mathews, NIHR Clinical Research Network Coordinating Centre at [jacqueline.n.mathews@nihr.ac.uk](mailto:jacqueline.n.mathews@nihr.ac.uk).**