

# HR & OD POLICIES

human resources and organisational development



## Protection of Vulnerable Groups Referral Procedure

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# 1. INTRODUCTION

Aberdeenshire Council recognises the importance of the Protection of Vulnerable Groups (Scotland) Act 2007 (PVG), which introduces increased safeguards for the protection of children and vulnerable adults. The Council believes that the protection of vulnerable groups is paramount in the delivery of Aberdeenshire Council Services.

The Protection of Vulnerable Groups (Scotland) Act 2007 replaces the Protection of Children Act (Scotland) 2003 and introduces new requirements which affect all Council employees who work in a position or a setting dealing with children and/or protected adults. The requirements also affect those who manage such employees and anyone who provides contractual services to the Council.

This procedure applies to all employees, volunteers, agency and contractual staff who work in a position dealing with children and/or protected adults. For the purposes of this procedure, all references to employees include all of the above.

The PVG Act defines regulated work by reference to: the activities a person does; the establishments in which a person works; the position that they hold; or the people for whom they have day to day supervision or management responsibility.

There are two types of regulated work:

- Regulated work with children and
- Regulated work with protected adults.

Anyone who does regulated work with children and/or protected adults or has contact with children and/or protected adults as part of their normal duties is covered by the Act.

For information on which posts require a PVG check please refer to the [Service Posts List](#).

Examples of such posts include:

- Teachers
- Social Workers
- Home Carers
- Care Assistants
- Janitors

- Cleaners
- Youth Workers
- Playgroup Workers
- Countryside Rangers
- Parent Volunteer
- Child Minders

Any contract/ agency workers, employees, volunteers whose normal duties include working in a school, sheltered housing or other place where children or vulnerable adults are normally found, e.g. residential home.

## 2. LEGISLATION

The Protection of Vulnerable Groups (Scotland) Act 2007 is Scotland's response to the principal recommendation of the Bichard Inquiry Report which was undertaken following the tragic murders in Soham in 2002.

This recommendation called for a registration system for all those who work with children and protected adults in the UK that would confirm that there is no known reason why an individual should not work with these client groups.

The PVG Act defines a child as any individual under the age of 18 years and defines a protected adult as an individual, aged 16 or over who receives one or more type of care or welfare service.

The PVG Act establishes two lists to be maintained by Disclosure Scotland, one which lists individuals whom they consider unsuitable to work with children and the other which lists those unsuitable to work with protected adults.

## 3. RESPONSIBILITIES

The Director of each Service is ultimately responsible for ensuring that his or her Service complies with the policy and for making all referrals to the Scottish Ministers.

All employees are responsible for ensuring that any relevant information or concerns about any individual to whom this Act applies are passed to his or her Line Manager or Head Teacher without delay.

The Line Manager or Head Teacher is responsible for ensuring that such information or concerns is passed on to the appropriate Director without delay and is ultimately responsible for ensuring appropriate Services are notified. However, the Line Manager or Head Teacher is not responsible for conducting an investigation.

Employees should be aware that undue delay might result in a child and/or protected adult continuing to suffer, or be at risk of, abuse unnecessarily.

In all cases involving children, employees are required to follow the North East of Scotland Child Protection Committee Guidance which states as follows:

“Any person who believes or suspects that a child is being abused or is at risk should tell Social Work, Police or the Scottish Children’s Reporter Service about their concerns.”

Failure to comply with this policy may result in an employee being subject to disciplinary proceedings or, in the case of contractual or agency workers, termination of contract.

This policy will be applied in conjunction with the Council’s [Disciplinary](#) and [Grievance](#) Procedures where appropriate.

## 4. PROCEDURE

This procedure outlines the steps to be followed:

- When an application for a Protection of Vulnerable Groups (PVG) Scheme Record reveals that a new employee or volunteer is on either the list of those unsuitable to work with children or those unsuitable to work with protected adults.
- When making a referral to the PVG children or protected adults lists.
- This procedure should be implemented in conjunction with the Council’s [Recruitment and Selection Policy](#) and the [Disclosure Scotland Procedure](#).

## 5. RECRUITING EMPLOYEES AND VOLUNTEERS

The PVG Act aims to provide a robust system by which unsuitable people are prevented from doing regulated work with children or protected adults, and by which people who become unsuitable are identified.

The PVG Act requires that Disclosure Scotland maintains a list of those unsuitable to work with children and those unsuitable to work with protected adults. Once on the list the individual is barred from doing that type of regulated work. Employing barred individuals to work with children and/or protected adults is a criminal offence.

If a listed individual applies to join the PVG scheme, their application will be rejected and the individual and the Council will be advised by letter that they are barred from doing that type of regulated work.

Any individual who is refused a scheme record should be sent the [‘fully listed letter’](#) informing him or her that it is contrary to the Protection of Vulnerable Groups (Scotland) Act 2007 to apply (and the Council to accept) to work in a role that involves contact with children and/or protected adults. The Police and Social Work should also be informed that a fully listed individual made an application for a child care position. The HR & OD Service should also be advised.

It is possible for a PVG Scheme Record to state that a person has been convicted of offences against children and/or protected adults and for them not to be on either list

Only offences detailed in [Schedule 1](#) of the Act require the courts to make a referral to the PVG Lists. Clearly, such individuals who are not on the list are not legally excluded from applying for a post. However, in such circumstances, careful judgement needs to be exercised and an assessment of risk undertaken.

Similarly, other offences not mentioned in Schedule 1 (e.g. drug related offences, crimes of violence), may indicate that a person may nonetheless pose a risk to children and/ or protected adults and caution should be equally applied when considering such applications for work.

In such circumstances it is advised that the Council’s Determination Panel become involved in assessing suitability. The Council’s [Disclosure Scotland Procedure](#) provides further details about the Determination Panel including when and how to involve them.

If you require assistance with the interpretation of the information disclosed, on a PVG Scheme Record please contact Legal and Governance. Further sources of assistance are detailed in the Council’s [Disclosure Scotland Procedure](#).

## 6. MAKING A REFERRAL TO THE PVG LISTS

For the PVG Lists to work effectively, it is necessary for organisations to pass information on to Disclosure Scotland that indicates an individual may be unsuitable to do regulated work so that they can be properly evaluated and appropriate action taken.

The employee must have been doing regulated work with children or other regulated work with adults. Also any incidents do not have to take place in the workplace if reports are heard of an employee's conduct outside of the workplace.

Organisations must make a referral to Disclosure Scotland if any individual working in a position dealing with child care and/ or the care or protected adults is dismissed or removed from that position on the ground that they have harmed a child and/or vulnerable adult or placed a child and/or protected adult at risk of harm within 3 months of making that decision.

A referral must also be made in the case of an individual who resigns, retires or is transferred but would have been dismissed or removed from a position of care or consideration would have been given to doing so had they not resigned etc on the ground that they harmed or placed a child and/or protected adult at risk of harm. It is a criminal offence not to make a referral in these circumstances.

The same duty applies in the individual stops doing regulated work and the Council then becomes aware of information which would have led to a referral then the referral must still be made regardless of the fact that the individual is no longer doing regulated work.

The PVG Act defines harm as physical harm, psychological harm (for example: causing fear, alarm or distress); and/or unlawful conduct which appropriates or adversely affects an individual's property, rights or interests (for example: theft, fraud, embezzlement or extortion). Within the scope of the PVG Act some of the things that may cause harm are:

- Emotional abuse, perhaps by controlling a child or vulnerable adult with extreme verbal threats,
- Neglecting a person's needs, for example by inappropriate feeding or failing to provide appropriate sanitation,
- Inappropriate physical restraint,
- Failing to attend to whatever health and safety requirements may be in force,
- Using inappropriate language, and

A range of other examples of misconduct such as sexual abuse, physical assault or supplying illegal or unauthorised drugs.

The PVG Act also defines the risk of harm as; an individual in a position of care attempting to harm or inciting another to harm, encouraging self harm or behaving in a manner likely to cause the other individual to be harmed.

The Service Director must make all referrals to the PVG Lists. All employees are responsible for ensuring that any relevant information or concerns about any individual to whom this Act applies are passed to his/ her Line Manager or Head Teacher without delay. The Line Manager or Head Teacher is responsible for ensuring that such information or concerns is passed on to the appropriate Director without delay and is ultimately responsible for ensuring appropriate Services are notified. However, the Line Manager or Head Teacher is not responsible for conducting an investigation.

A prerequisite for making a referral is that at least one of the referral grounds set out by the PVG Act has been met. Firstly the individual must:

- Currently be doing regulated work.
- Have been doing regulated work.
- Have been offered or supplied for regulated work.

The individual must have done one or more of the following to be referred:

- Harmed a child or protected adult.
- Placed a child or protected adult at risk of harm.
- Engaged in inappropriate conduct involving pornography.
- Engaged in inappropriate conduct of sexual nature involving a child or protected adult.
- Given inappropriate medical treatment to a child or protected adult.

Concerns regarding an individual's professional competence, which do not constitute a referral ground, should be addressed by the relevant professional regulatory body e.g. the GTCS for a teacher or SSSC for a social worker. The outcome from that action might require a referral to be made to Disclosure Scotland.

Following any disciplinary hearing the HR Officer involved must ensure that the Service Director makes a referral if appropriate.

Referrals should be made using the [Referral Form](#) as appropriate and in accordance with the Scottish Government guidance. Supplementary information and Guidance is available from the Disclosure Scotland which provides:

- Information on the listing process.
- Guidance on completion of the referral form and supplementary information

This guidance is available at: [www.disclosurescotland.co.uk](http://www.disclosurescotland.co.uk)

The following information will be required in order to complete the Referral Form:

- Full name, including maiden name and any aliases of person being referred, if known.
- Date of birth.
- Current address and any previous addresses.
- National Insurance Number.
- Details of any identify checks, which have been carried out to verify the personal details. E.g. Birth Certificate, Driving Licence, Passport.
- Confirmation that the person occupied a childcare post or a position with protected adults within the meaning of the Act.
- Detailed explanation about the alleged misconduct and how the individual harmed a child/vulnerable adult or placed a child/vulnerable adult at risk of harm.
- Details of investigations carried out to date – and their conclusions. This should include copies of all relevant papers including witness statements, notes of interviews, Minutes of Meetings and Disciplinary Hearings.
- Details of the organisations disciplinary and dismissal procedures.
- Details of action taken against the individual – has he or she been dismissed or transferred from a childcare position or a post working with protected adults.
- Information on any policy involvement or the involvement of any other agency.
- Is the dismissal a subject of an appeal within your organisation or with an Employment Tribunal, if so, which stage is the appeal at and what further stages are provided for?
- Is the individual engaged in any other work of volunteering involving contact with children and/or protected adults? If so, please give details.

For further advice and guidance on any of the above please contact HR Business Partner service.

Employees should be aware that undue delay might result in a child and/or protected adult continuing to suffer, or be at risk of, abuse unnecessarily.

In all cases involving children, employees are required to follow the North East of Scotland Child Protection Committee Guidance which states as follows:

“Any person who believes or suspects that a child is being abused or is at risk should tell Social Work, Police or the Scottish Children’s Reporter Service about their concerns.”

Failure to comply with this policy may result in an employee being subject to disciplinary proceedings or, in the case of contractual or agency workers, termination of contract.

This policy will be applied in conjunction with the Council’s [Disciplinary](#) and [Grievance](#) Procedures where appropriate.

Disclosure Scotland

<http://www.disclosurescotland.co.uk/>

Child Protection Partnership

<http://www.childprotectionpartnership.org.uk/home/home.asp>

Aberdeenshire Council Adult Protection Committee

<https://www.aberdeenshire.gov.uk/social-care-and-health/community-care/community-care-policies-and-strategies/aberdeenshire-adult-protection-committee/>

For further advice and guidance on any of the above please contact [HR & OD](#)

# Information on Protection of Vulnerable Groups Scheme

## Index of Documents

### Procedure

<b>Revision Date</b>	<b>Previous Revision Date</b>	<b>Summary of Changes</b>
31-01-2012		Creation of all Documents
12-09-2016	31-01-2012	Revision