



Protecting Vulnerable Groups (PVG) Policy

Introduction and Purpose

The protection of children and young people is at the heart of everything Children's Hearings Scotland (CHS) does. This policy sets out the legal requirements, principles and key decisions which govern the operation of the Protection of Vulnerable Groups (PVG) Scheme at CHS. It also identifies key roles and CHS' approach to risk management.

The PVG Policy is supported by PVG Operating Guidance which sets out how the policy should be implemented in practice, and both documents are subject to an Equality Impact Assessment, a Data Protection Impact Assessment and a Child Rights and Wellbeing Impact Assessment.

Legal requirements

CHS has a legal responsibility under the Protection of Vulnerable Groups (Scotland) Act 2007 (henceforth 'the PVG Act') to undertake PVG checks on all staff members¹, panel members and AST members. The relevant sections of the PVG Act are set out at Appendix A.

CHS cannot employ in regulated work individuals barred from working with children. Schedule 2 of the PVG Act and Article 3 of the subsequent Modification of Regulated Work with Children (Children's Hearings) Order 2013 identifies all panel members and AST members, as well as CHS' Board and staff, as being in regulated work. The relevant section is set out at Appendix B.

To establish whether an individual is barred from working with children, CHS must undertake a PVG check of the individual through Disclosure Scotland.

CHS Policy decisions

CHS has made several key policy decisions which support and enable it to meet its legal responsibilities under the PVG Act. These are as follows:

1. CHS will only appoint volunteers and staff members once a satisfactory² PVG certificate for regulated work with children has been received.

¹ 'CHS staff members' include permanent members of staff, agency staff and contractors.

2. CHS must hold a satisfactory PVG certificate for regulated work with children for every CHS volunteer and staff member.
3. CHS will PVG check all new recruits to all panel member, AST member and staff roles as part of its standard recruitment processes.
4. CHS will check and confirm all volunteers being re-appointed are current PVG Scheme Members registered with CHS.
5. In the unlikely event they are not registered, PVG Membership will be immediately applied for.
6. CHS will ensure a criminal record check is undertaken every 3 years for CHS National Team staff to enable Scottish Government BPSS security checks to be renewed. This can be achieved through a Basic Disclosure or PVG Scheme Update and the most cost effective route for the organisation should be undertaken.
7. CHS will terminate the recruitment process for all staff, pre-appointment panel member trainees and pre-appointment AST nominees who do not receive a PVG certificate from Disclosure Scotland (by reason of being listed as barred from working with children).
8. CHS will suspend any volunteer or staff member who is being considered for listing until any police or other third-party investigations are complete and CHS is notified of the outcome by Disclosure Scotland.
9. CHS will immediately terminate the panel and/or AST membership of any volunteer and invoke the Disciplinary process for any staff member if notification is received from Disclosure Scotland that they have been barred from working with children.
10. CHS will securely record, store and destroy all PVG information in line with its Information Governance Policy Framework.

Registered Person

The National Convener and Chief Executive is CHS' Registered Person with Disclosure Scotland and has ultimate responsibility for the operation and management of the PVG scheme at CHS.

The Registered Person receives direct notification from Disclosure Scotland of all cases where a CHS PVG Scheme member becomes barred from working with children or is being considered for listing.

Countersignatories

The Registered Person devolves responsibility for checking and processing PVG applications to Countersignatories. Countersignatories are registered by CHS with Disclosure Scotland and are either local authority staff members (usually members of the AST Clerk Team) or CHS staff members.

Risk Management and Reporting

² CHS' definition of a 'Satisfactory' PVG includes, but is not limited to, a PVG certificate which does not evidence that the individual is being considered for listing; or that the individual has committed a Schedule 1 offence. PVGs may be judged unsatisfactory in some cases where the individual has committed a non-Schedule 1 offence; has offended recently; or has committed a number of offences. Further detail is set out in the CHS policy 'Recruitment, Retention and Recommendation to the National Convener for the Appointment of Panel Members'.

Risks identified as part of the PVG process will be carried in either the Strategic Risk Register or the Operational Risk Register as appropriate and will be overseen by the Board and/or CHS' Senior Management team (SMT). Responsibility for management of and reporting against these risks will be assigned by the National Convener.

PVG Costs

All PVG costs will be met by CHS. These include pre-appointment PVG checks, as well as reappointment and in-service PVG updates.

Appendix A

The Protection of Vulnerable Groups (Scotland) Act 2007

Section 35 Organisations not to use barred individuals for regulated work

(1) It is an offence for an organisation to offer regulated work to an individual barred from that work.

(2) Ministers may, by regulations, prohibit an organisation from permitting an individual to do, or require an organisation to remove an individual from, regulated work from which the individual is barred.

(3) Regulations may in particular—

(a) impose prohibitions or requirements—

(i) in relation to particular types of organisations only,

(ii) in relation to particular kinds of regulated work only, or

(b) otherwise limit the purpose for which the prohibition or requirement is to apply (or the area in which it is to apply) in such manner as Ministers think appropriate.

(4) An organisation which fails to comply with regulations made under subsection (2) commits an offence.

(5) An organisation commits an offence under subsection (1) if it offers regulated work to a barred individual who is already working for the organisation.

(6) It is a defence for an organisation charged with an offence under subsection (1) or (4) to prove that it did not know, and could not reasonably be expected to have known, that the individual was barred from doing that regulated work.

(7) For the purposes of subsection (1), an organisation is not to be treated as having offered regulated work to an individual if the offer is subject to the organisation being satisfied (by virtue of information disclosed under Part 2 or otherwise) that the individual is suitable to do that work.

Appendix B

The Protection of Vulnerable Groups (Scotland) Act 2007 (Modification of Regulated Work with Children) (Children's Hearings) Order 2013

Article 3

Modification of schedule 2 to the Protection of Vulnerable Groups (Scotland) Act 2007

3. For paragraph 20 (member of children's panel etc.) substitute—

“20. Member of—

- (a) the Children's Panel,
- (b) the Safeguarders Panel,
- (c) Children's Hearings Scotland (“CHS”),
- (d) an area support team,
- (e) CHS's staff,
- (f) the Scottish Children's Reporter Administration (“SCRA”),
- (g) SCRA's staff.”.

