

# GLOSSARY

The guidance introduces a number of key words and phrases, which are summarised in this glossary. Terms marked with an asterisk have a statutory definition, mainly in the PVG Act (which itself has an index at schedule 5). Other terms have their normal dictionary meaning.

## **Adults' list\***

The list maintained by Disclosure Scotland of individuals who are unsuitable to work with protected adults.

## **Automatic consideration for listing**

A person who is convicted of any of the so-called "relevant offences" set out in schedule 1 of the PVG Act<sup>71</sup> will automatically be placed under consideration for listing in the children's list. There is no equivalent automatic consideration for listing in the adults' list.

## **Automatic listing**

A person who is convicted of any of the serious offences set out in the Order made under section 14 of the PVG Act<sup>72</sup> will be automatically included in both the children's and adults' lists, without the right to make representation or to appeal the listing.

## **Barring / barred\***

Barring is the consequence of being listed. Normally, an individual will be listed by either Disclosure Scotland or the Independent Safeguarding Authority and they will then be barred across the UK. For example, an individual included on the SVG children's list by the Independent Safeguarding Authority is barred from doing regulated work with children in Scotland.

## **Care (for a child or protected adult)**

A position is likely to be regarded as caring if it involves responsibility for the:

- health of,
  - guidance of,
  - protection of,
  - provision for, or
- 
- welfare of one or more children or protected adults.

<sup>71</sup>

As amended by the Protection of Vulnerable Groups (Scotland) Act 2007 (Relevant Offences) (Modification) Order 2010 (SSI 2010/246).<sup>72</sup> The Protection of Vulnerable Groups (Scotland) Act 2007 (Automatic Listing) (Specified Criteria) Order 2010 (SSI 2010/241).

## **Central Registered Body in Scotland (CRBS)**

The Central Registered Body in Scotland (CRBS) is a registered body that countersigns disclosures on behalf of voluntary sector organisations that require them, but are not registered bodies themselves. The majority of applications processed by CRBS are for free checks for volunteers working for qualifying voluntary organisations.

## **Child\* (children)**

'Child' means an individual under the age of 18.

## **Children's List\***

The list maintained by Disclosure Scotland of individuals who are unsuitable to work with children.

## **Civil orders**

Civil orders are orders made by a court under civil, rather than criminal, proceedings and are usually designed to prevent some future harm to others. The civil orders included on the Scheme Record are:

- o a sexual offences prevention order (or interim order) under the Sexual Offences Act 2003 ("the 2003 Act");
- o a foreign travel order under the 2003 Act;
- o a risk of sexual harm order (or interim order) under the 2003 Act;
- o a notification order (or interim order) under the 2003 Act; and
- o a risk of sexual harm order (or interim order) under the Protection of Children and Prevention of Sexual Offences (Scotland) 2005.

## **Contact**

Contact usually means physical proximity and does not normally include remote communications such as telephone or e-mail. (However, in some limited circumstances it might also include remote communications such as telephone or email.) Contact does not necessarily require being in the same room but does require a line of sight with the possibility of physical access or communication. For example, a window cleaner cleaning the windows on the outside of a care home would be regarded as being in contact with residents on the other side of those windows.

## **Continuous updating**

Once an individual becomes a member of the PVG Scheme, Disclosure Scotland will add any new vetting information to their scheme record as and when it arises, rather than simply collating information whenever a disclosure needs to be issued. Where that information suggests that the scheme member may have become unsuitable to work with children or protected adults, there will be a consideration of the case and if appropriate, the individual will be listed on one or both lists.

**Consideration for listing**

The process of determining whether an individual is unsuitable to work with children or protected adults, triggered by an organisational referral, court referral, vetting information or the individual being named in a relevant inquiry report.

**Countersignatory**

An individual within a registered body nominated by the registered person (a.k.a. lead signatory) to countersign standard, enhanced or PVG scheme disclosure requests on behalf of their organisation. The suitability of individuals to fulfil this function is assessed at initial registration and regularly reviewed.

**CRB**

The Criminal Records Bureau, an executive agency of the Home Office which provides a standard and enhanced disclosure service for England and Wales.

**Day to day supervision or management**

Individuals at one remove from the front-line, those whose normal duties include the day to day supervision or management of individuals doing regulated work (either carrying out activities or working in establishments) are also doing regulated work. This is explained in sections 2.4 and 2.5 of this guidance.

**Disclosure certificate**

Issued by Disclosure Scotland in response to an application for a basic, standard or enhanced disclosure under the Police Act 1997. A certificate is issued to the individual who requested it and a copy will also be sent to the person who countersigned the application if a standard or enhanced application was made.

**Disclosure record\***

Disclosure record means any Scheme Record, Scheme Record Update or Scheme Membership Statement issued under the PVG Scheme.

**Disclosure Scotland**

An executive agency of the Scottish Government. Disclosure Scotland has delegated authority to exercise the functions conferred upon the Scottish Ministers by Part 5 of the Police Act 1997 and the PVG Act. Disclosure Scotland provides a basic disclosure service across the UK, standard and enhanced disclosures to Scottish employers and operates the PVG Scheme and maintains the lists of those who are unsuitable to work with children and protected adults under the PVG Act.

**DWCL**

The Disqualified from Working with Children List established by POCSA,

**Employment agency\***

An organisation that provides services with the aim of helping individuals to find employment, or helping employers find individuals to employ.

**Employment business\***

An organisation that employs individuals and then supplies them to work for another organisation. This would, for example, include 'temps' supplied by a 'temping agency'.

**GTCS**

The General Teaching Council for Scotland

**Harm\***

Harm is defined at section 93 of the PVG Act and includes:

- o physical harm;
- o psychological harm (for example: causing fear, alarm or distress); and
- o unlawful conduct which appropriates or adversely affects an individual's property, rights or interests (for example: theft, fraud, embezzlement or extortion).

The PVG Act also refines risk of harm. Harm is explained in more detail in section 6.1.

**HMIE**

Her Majesty's Inspectorate of Education

**Host parent\*** Being a host parent is defined as an activity for the purposes of regulated work with children. This is explained in section 2.4 of this guidance.

**Incidental activity**

Some, but not all, activities with children or protected adults are excluded from being regulated work if the activity is occurring incidentally to working with individuals who are not children or protected adults. This is explained at section 2.7 of this guidance.

**Independent Safeguarding Authority (ISA)**

The Independent Safeguarding Authority is a non-departmental public body established to take decisions on suitability and manage the barred lists for England, Wales and Northern Ireland. It operates in partnership with the Criminal Records Bureau (CRB) which manages the list of people who are subject to monitoring under the VBS (equivalent to PVG Scheme members) and issues disclosures.

**Lead signatory**

This term is used to describe the Registered Person (the Registered Person is a person whose name is included in the register held by Scottish Ministers under

section 120 of the 1997 Act). It is an ordinary language expression which does not have a meaning in the 1997 or PVG Acts.

### **Listing / listed\***

Listing is the inclusion of an individual on a list or lists under the PVG Scheme or the VBS. Disclosure Scotland will maintain the PVG children's list and PVG adults' list. The Independent Safeguarding Authority maintains similar lists as part of the VBS.

### **Non-conviction information**

Information which the chief officer of a relevant police force thinks might be relevant to the regulated work carried out by a scheme member. The information may relate to civil orders, fixed penalty fines, pending cases or police intelligence. This will appear on a Scheme Record when it is supplied by the chief officer of a relevant police force. Non-conviction information can also appear on those enhanced disclosures that will still be issued under the 1997 Act.

### **Normal duties**

The concept of normal duties is extremely important in limiting the scope of regulated work. For an activity or work in an establishment to be regulated work, the carrying out of the activity or the work in the establishment must be part of the individual's normal duties. Normal duties can be considered as something the individual might be expected to do as part of their post on an ongoing basis, for example appearing in a job description. Normal duties exclude one-off occurrences and unforeseeable events. No particular frequency for undertaking the work or duration of work are specified in the PVG Act as these will depend on the context. This is explained further at section 2.6 of this guidance.

### **Opportunity (for contact)**

Opportunity for contact means that there is a reasonable expectation, but not necessarily certainty, of contact with children / protected adults. This is explained further at section 2.6 of this guidance.

### **Organisation\***

An organisation means –

- a body corporate or unincorporated;
- an individual, who in the course of a business, employs or otherwise gives work to other persons;
- the governing body, trustees or other person or body of persons responsible for the management of a school, a body listed in schedule 2 to the Further and Higher Education (Scotland) Act 2005 or a hostel mainly used by pupils attending such a school or body

### **Particular needs**

For a service to be a welfare service (for the purposes of making an individual receiving the service a protected adult), the service must be provided to individuals with particular needs. Particular needs are those over and above the general needs that any individual might have. For example, the need for regular meals is a general need (everyone needs this) but the need for assistance in preparing meals is a particular need (only some people with, e.g. a disability, need that assistance). See also section 2.3 which explains the definition of protected adult.

### **Personal employer**

An individual (i.e. not an organisation) seeking to employ another individual to undertake regulated work, for example as a nanny or a home help or private music teacher. Personal employers can ask to see Scheme Membership Statements or countersign an application for one and receive their own copy.

### **Personnel suppliers\***

An employment agency or an employment business.

### **POCSA**

The Protection of Children (Scotland) Act 2003.

### **Police Act 1997**

The legislation under which Disclosure Scotland issues basic, standard and enhanced disclosures, and which makes provision for the registration of organisations, lead signatories and countersignatories.

### **Police intelligence**

Information held about an individual by police for operational policing purposes. Intelligence, or a summary of it, might form part of the non-conviction information submitted to Disclosure Scotland for inclusion in an individual's Scheme Record.

### **Protected adult**

A person (aged 16 or over) protected by the PVG Act because they are receiving certain services as set out at section 94 of the PVG Act and regulations<sup>73</sup>. The details of the services and how they apply are set out in section 2.3 of this guidance.

### **PVG**

Reference to the Protection of Vulnerable Groups (Scotland) Act 2007 or Protecting Vulnerable Groups Scheme, depending on context.

<sup>73</sup>

The Protection of Vulnerable Groups (Scotland) Act 2007 (Prescribed Services) (Protected Adults) Regulations 2010 (SSI 2010/161).

## **PVG Act**

The Protection of Vulnerable Groups (Scotland) Act 2007.

## **PVG Scheme\***

Any individual who is not barred may apply to become a member of the PVG Scheme. The PVG Scheme is administered by Disclosure Scotland and allows organisational employers and personal employers to satisfy themselves that an individual to whom they are offering regulated work is not barred from doing that type of regulated work. The PVG Scheme provides three different disclosure records for this purpose, which replaces the use of standard and enhanced disclosures for work with vulnerable groups. PVG Scheme members are continuously monitored for new vetting information and any information which comes to light which may indicate that they are unsuitable to do regulated work will lead to a consideration for listing.

## **Qualifying voluntary organisation**

Volunteers doing regulated work for qualifying voluntary organisations are eligible for PVG Scheme membership and disclosure records at no charge. A qualifying voluntary organisation is defined in regulations<sup>74</sup>. It is an organisation which-

- is not a further education institution, a school, a public or local authority, or which is not under the management of a public or local authority; and
- is not conducted primarily for profit, and any profit generated is used to further the objectives of the organisation and not distributed to its members.

This is explained further in chapter 3 of this guidance.

## **Refer\* / referral**

The process of providing information to Disclosure Scotland when an individual's behaviour has given cause for concern and certain conditions set out in the PVG Act have been met. Some organisations are under a duty to make referrals and others have a power to do so. This is explained at chapter 6 of this guidance.

## **Registration**

The process whereby an organisation becomes a registered body and so able to countersign disclosure applications in its own right. (Not to be confused with registration under the VBS for England, Wales and Northern Ireland which is used to describe the process of applying to become a VBS Scheme member.)

## **Regulated work\***

Regulated work means regulated work with children or regulated work with adults. Regulated work with children is defined at schedule 2 to the PVG Act (Annex A) and

<sup>74</sup>

Regulation 7(2) of the Protection of Vulnerable Groups (Scotland) Act 2007 (Fees for Scheme Membership and Disclosure Requests) Regulations 2010 (SSI 2010/167).

regulated work with adults as defined at schedule 3 (Annex B). Regulated work is explained in chapter 2.

### **Regulatory body**

Regulatory bodies maintain standards for the profession(s) they regulate. There are 11 regulatory bodies referred to in the PVG Act. These are: the General Chiropractic Council, the General Dental Council, the General Medical Council, the General Optical Council, the General Osteopathic Council, the General Teaching Council for Scotland, the Health Professions Council, the Nursing and Midwifery Council, the Pharmaceutical Society of Great Britain, the Scottish Commission for the Regulation of Care and the Scottish Social Services Council. The NHS Tribunal also has the power to make referrals to Disclosure Scotland on the same basis as the regulatory bodies<sup>75</sup>.

### **Relevant inquiry report\***

A relevant inquiry is an inquiry held by the Scottish Ministers, the Scottish Parliament or an inquiry held under the Inquiries Act 2005. Where a relevant inquiry results in criticism of the actions of any individual who is undertaking regulated work, that information may be referred to Disclosure Scotland by the organisation making the report and, if appropriate, the individual may be considered for listing on one or both Lists.

### **Responsible Person**

A person who is responsible for a child, used in the context of unsupervised contact with children. This term is defined at paragraph 1A of schedule 2 and explained in section 2.4.

### **Scheme Membership Statement\***

The Scheme Membership Statement<sup>76</sup> is a disclosure record that shows that a named individual is a member of the PVG Scheme and the workforce(s) to which the membership relates. It also shows whether or not they are under consideration for listing for that workforce.

### **Scheme Record\***

The Scheme Record<sup>77</sup> is a disclosure record which contains a scheme membership statement and any vetting information that is held about a scheme member. In response to a disclosure request, the content of the scheme record can be disclosed

<sup>75</sup>

The Protection of Vulnerable Groups (Scotland) Act 2007 (Power to Refer) (Information Relevant to Listing Decisions) Order 2010 (SSI 2010/178).<sup>76</sup> The Scheme Membership Statement is called the statement of scheme membership or disclosure of scheme membership, depending on context, in the PVG Act and defined at sections 46 and 54, respectively.

<sup>77</sup>

The Scheme Record is called the scheme record disclosure in the PVG Act and defined at section 52.

to scheme members and registered persons employing them in regulated work or acting for anybody employing the individual.

### **Scheme Record Update\***

The Scheme Record Update<sup>78</sup> is a disclosure record that contains a more limited summary of the information held in an individual's scheme record. The scheme record update provides the scheme membership statement, the date that the last full scheme record was issued, whether it contained any vetting information, and whether any vetting information has been added to or removed from the scheme record since that date.

### **SSI**

Scottish Statutory Instrument.

### **SSSC**

The Scottish Social Services Council.

### **SWIA**

The Social Work Inspection Agency.

### **Unsupervised contact**

Unsupervised contact has a different meaning in the context of regulated work with children and protected adults (see below).

### **Unsupervised contact with children**

Unsupervised contact with children is defined at paragraph 1A of schedule 2 of the PVG Act and explained at section 2.3 of this guidance.

### **Unsupervised contact with protected adults**

Unsupervised contact with protected adults only has any meaning in the context of work in establishments (care homes and residential establishments or accommodation). Unsupervised contact with protected adults is defined at paragraph 1 of schedule 3 to the PVG Act and explained at sections 2.4 and 2.7 of this guidance.

### **SVG Act**

The Safeguarding Vulnerable Groups Act 2006. The SVG Act applies in England and Wales with certain provisions in that Act extending to Northern Ireland, principally for the Independent Safeguarding Authority to make the listing decisions for Northern Ireland. The SVG Act establishes the VBS, the equivalent to the PVG Scheme for England, Wales and Northern Ireland.

<sup>78</sup>

The Scheme Record Update is called the short scheme record disclosure in the PVG Act and defined at section 53.

### **Umbrella body**

An umbrella body is a registered body that countersigns disclosure applications for organisations which are not themselves registered bodies.

### **Unsuitable**

An individual who is found to be unsuitable to do regulated work with children and / or adults following consideration for listing will be listed on the corresponding list(s). The corollary is that a barred individual is deemed to be unsuitable to do regulated work. A barred individual must not do regulated work and cannot join the PVG Scheme.

### **Vetting information\***

Vetting information is information held about an individual on their PVG scheme record and comprises:

- o convictions held on central records in the UK;
- o whether the individual is included in the sex offenders register;
- o relevant non-conviction information provided by police forces; and
- o prescribed civil orders.

Vetting information is disclosed only on a Scheme Record but its existence and additions or deletions are flagged on the Scheme Record Update, see chapter 1.

The existence of vetting information may trigger a consideration for listing when an individual applies to join the PVG Scheme. New vetting information received about a scheme member as part of ongoing monitoring can also trigger a consideration for listing. This is explained in chapter 7.

### **Vulnerable adult**

Vulnerable adult is the SVG Act equivalent to protected adult in respect of the VBS for England, Wales and Northern Ireland. There are significant differences between the definition of vulnerable adult in the SVG Act and the definition of protected adult for the PVG Scheme.

### **VBS**

VBS is the Vetting and Barring Scheme established by the Safeguarding Vulnerable Groups Act 2006 and Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 for England, Wales and Northern Ireland. See section 1.10 of the guidance for more information about cross border matters.

### **Work\***

Work is defined at section 95 of the PVG Act and has a very wide meaning; it means work of any kind. It includes paid or unpaid work and other types of work. See section 2.2 of the guidance for more information about work.