



Protection of Vulnerable Groups Policy

The Protection of Vulnerable Groups (Scotland) Act 2007

The Protection of Vulnerable Groups (Scotland) Act is intended, as far as possible, to prevent unsuitable people from working with children and “protected adults”. The Act has been deliberately drafted to include a very wide range of organisations from the large and structured to the small and informal. This is to ensure that potentially vulnerable people are protected whenever they are taking part in activities organised by groups or are in their care.

To meet the requirements of the Act volunteers and paid employees who work in relevant roles must be "Scheme Members", and their employers (including the employers of volunteers) must request a copy of their "Scheme Record". To permit someone who has been barred from working with children or protected adults to do so is a criminal offence that carries a penalty of up to five years imprisonment or unlimited fine, and obtaining a Scheme record is the only way for an employer to ensure that no such person is appointed to a position that might give them access to exploit vulnerable people.

The Act covers a wide set of positions. These include not only people working directly with children and protected adults, such as teachers, care workers, and youth club sports coaches, but also people in relevant supervisory roles, those who make employment decisions about paid employees and volunteers working with children and protected adults, and people in certain other positions of responsibility.

People who do such “regulated work” with children and/or protected adults in several different organisations are required to provide a Scheme Record to each organisation. However, communal organisations that delegate the Scottish Council of Jewish Communities to act on their behalf can rely on a single Scheme Record, as if they were two different departments in the same organisation, thereby reducing both their own administrative burden and the burden on potential volunteers and staff. So, for example, a youth leader in one communal organisation who also runs a crèche in another, and gives talks about Judaism to groups of schoolchildren on behalf of a third, would only have to submit a single PVG application through the Scottish Council of Jewish Communities.

Definitions:

The Act: The Protection of Vulnerable Groups (Scotland) Act 2007

The Council: The Scottish Council of Jewish Communities

Participating organisations: Organisations operating within the Scottish Jewish community that have formally delegated the Council to act on their behalf with regard to Scheme Records.

Employer: Includes employers of both paid staff and volunteers.

Applicant: Person on whose behalf a Scheme Record application has been submitted.

Child: Anyone under the age of 18.

Protected Adult: A person aged 16 or over who receives any of categories of welfare service listed in Part 6 of the Act.

Regulated Work: Types of activity, defined in Schedules 2 and 3 of the Act, for which a Scheme Record is required.

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The Scottish Council of Jewish Communities (SCoJeC) is Scottish Charitable Incorporated Organisation no. SC029438

Important notes:

1. The Council can advise participating organisations whether a Scheme Record is required for any particular post.
2. Not all information included on a Scheme Record will be relevant to whether someone is suitable to work with children and/or protected adults.
3. Although the Council submits applications at the request of individual participating organisations, the Scheme Record received by the Council is confidential to it, so it will be unable to give a participating organisation reasons for its advice as to whether or not an applicant should be permitted to work with children and/or adults at risk.
4. If information included on a Scheme Record reveals that the applicant has been listed as being barred from working with children and/or protected adults, the Council will advise relevant participating organisations that the Act prohibits the applicant from working in the position applied for. The Council will respond in the same terms to any subsequent participating organisation that enquires about the same applicant. In such a case the applicant will have no right of a hearing or appeal other than to the courts as provided by the Act, so long as he or she remains on the **Barred List**. **Any organisation that knowingly employs such a listed individual to do regulated work with children or protected adults, whether paid or as a volunteer, is committing a criminal offence. An individual who applies for such a post knowing that he or she is barred from such work also commits a criminal offence.**
5. Organisations have a legal duty to report any individual who harms a child or protected adult, or puts them at risk of harm.
6. If an applicant is not barred but relevant convictions or non-conviction information are disclosed on his or her Scheme Record, the Council and its Panels can only advise that an applicant should not be permitted to work with children and/or protected adults. It can neither bar the applicant from doing so, nor bar a participating organisation from employing the applicant.
7. The PVG process may in certain circumstances result in confidential information about an applicant being disclosed to the registered body without it appearing on the applicant's copy of the Scheme Record. Such information will, however, appear on the Council's copy, and participating organisations should not, therefore, rely on what appears to be a clear Scheme Record shown to them by an applicant, to infer that he or she is an appropriate person to work with children and/or protected adults.
8. Because of this, and since a participating organisation may take on an applicant as a paid employee or volunteer contrary to the advice of the Council, all participating organisations should be aware of the importance of making a fresh enquiry about each new appointment. They should not presume that an applicant who works for another participating organisation has been given approval to do so even if the applicant is in possession of what appears to be a clear Scheme Record.
9. Organisations should also be aware that there have been a small number of individuals who have refused to apply for a Scheme Record. Where this occurs, we will advise the organisation accordingly, and would strongly advise that that person is not permitted to work in any capacity with children or protected adults until a Scheme Record has been obtained.
10. Participating organisations should be aware that if they choose to ignore advice that an applicant should not be permitted to work with children and/or protected adults, this may invalidate their insurance, and they would be entirely exposed in the event of any legal proceedings arising from a future incident or complaint, and in addition their Trustees could also have personal civil liability with no insurance cover.

Initial consideration:

1. Where information included on a Scheme Record reveals that an applicant is listed as barred from working with children and/or protected adults, participating organisations enquiring about that applicant will be advised of that fact and informed that it would be a criminal offence to allow them to work (paid or unpaid) in a the relevant type of position.
2. Where information included on a Scheme Record concerns an event which is:
 - more than 10 years old, and
 - has not been repeated, and
 - is not a serious offence, and
 - did not result in a prison sentence, and
 - is not relevant to work with children and/or protected adults

an administrative decision will be taken to recommend that the applicant be permitted to work in participating organisations with children and/or protected adults whether as a paid employee or a volunteer.

In such cases participating organisations enquiring about that applicant will be advised that, in the Council's view, the Scheme Record did not reveal any reason not to permit that applicant to work with children and/or protected adults. This will not state explicitly that the applicant's Scheme Record is clear, but will be written in the same terms as will be used of applicants whose Scheme Record is clear.

Reference to Independent Panel

1. Where information contained in a Scheme Record does not fall into either of the above categories it would not be appropriate to deal with it without further consideration. In such cases the decision as to whether or not to recommend that the applicant be permitted to work in participating organisations with children and/or protected adults will be referred to a Panel consisting of three members. Panel members, one of whom will normally be from outwith the Jewish community, will all be senior and experienced members of either the Council's Executive or of other appropriate organisations who do not have any conflict of interest. At least one Panel member will have knowledge and experience of the type of organisation for which the applicant wishes to work. It will not include any person with a present or recent connection with any organisation at whose request the Scheme Record application was submitted.
2. The applicant will be advised that a Panel is to be convened to consider whether to recommend that he or she should or should not be permitted to work in participating organisations with children and/or protected adults, and will be given the opportunity to provide further information, or to withdraw his or her application.
3. The Panel will normally be convened within one calendar month of a relevant Scheme Record having been received.
4. The Panel will normally provide the applicant with a written decision, including its reasons for the decision, within one week of sitting. This information will not be made available to any other party.
5. In cases where the Panel is satisfied that information included on a Scheme Record does not indicate that the applicant is unsuitable to work with children and/or protected adults, participating organisations enquiring about the applicant will be advised that the Scheme Record did not reveal any reason not to permit that applicant to work with children and/or protected adults. This will not state explicitly that the applicant's Scheme Record is clear, but will be written in the same terms as will be used of applicants whose Scheme Record is clear.

Appeal against Panel Decision

1. The applicant has an automatic right of appeal against the Panel's decision.
2. An applicant who wishes to appeal against the Panel's decision must inform the Council in writing within two weeks of having been informed that the Council intends to advise the participating organisation that the Panel has recommended that he or she should not be accepted for paid or voluntary employment in a participating organisation as a result of information received through a Scheme Record.
3. The Appeal Panel will normally be convened within one calendar month of receiving notice of an appeal. The Appeal Panel, one of whom will normally be from outwith the Jewish community, will all be senior and experienced members of either the Council's Executive or of other appropriate organisations who do not have any conflict of interest. At least one Appeal Panel member will have knowledge and experience of the type of organisation for which the applicant wishes to work. It will not include any member of the Panel that made the original decision in respect of the relevant Scheme Record, nor any person with a present or recent connection with any organisation at whose request the Scheme Record application was submitted.
4. The Appeal Panel will invite the appellant to provide written and/or oral evidence and argument to support his/her appeal. The appellant will have the right to be accompanied by a friend at the hearing. The accompanying person may, at the Appeal Panel's discretion, assist the appellant to present his or her appeal.
5. The Panel will normally provide the applicant with a written decision, including its reasons for the decision, within one week of sitting. This information will not be made available to any other party. This decision will be final.
6. If the appeal is allowed, participating organisations enquiring about this applicant will be advised that the Scheme Record did not reveal any reason not to permit that individual to work with children and/or protected adults. This will not state explicitly that the applicant's Scheme Record is clear, but will be written in the same terms as will be used of applicants whose Scheme Record is clear.
7. If the appeal is not allowed, or if the applicant did not appeal the decision of the original panel, the participating organisation at whose request the Scheme Record application was submitted and subsequent participating organisations enquiring about this applicant will be advised that the Scheme Record revealed information which leads the Council's Panel to recommend that this applicant should not be permitted to work with children or protected adults.

Advice to Participating Organisations

1. Individuals should not be employed in relevant posts, paid or as a volunteer, until after a satisfactory Scheme Record has been received since, if the person concerned is on the Barred List, it would be a criminal offence to do so. The only means of learning whether or not an individual is on the Barred List is by applying for a Scheme Record.
2. If a Scheme Record reveals that an individual has been listed as barred from working with children and/or protected adults, the Council will advise participating organisations in the strongest possible terms that to allow that individual to work in a relevant post would be to commit a criminal act. If a Scheme Record reveals that an individual is provisionally listed as barred, the Council will advise participating organisations that the individual be not employed until the listing is resolved.
3. The Council will immediately inform participating organisations if it is advised that a Scheme Record holder previously cleared to work with children and/or protected adults subsequently becomes barred from working with one or both groups. In such cases it

will advise participating organisations in the strongest possible terms that to allow that individual to work in a relevant post would be to commit a criminal act.

4. It should be noted that the fact that someone's continued employment is contrary to law is in principle a fair reason for dismissal.
5. The Council and its Panels can only advise participating organisations, and cannot bar an applicant from working with children and/or protected adults, or a participating organisation from taking on an applicant whom they have recommended should not be permitted to work with children and/or protected adults. While the Scheme Record and other information received by the Council is confidential to the Council, the applicant receives an apparently identical certificate and is at liberty to display it to any other party. Although in most cases they are in fact identical, participating organisations should bear in mind that **the Council may have been given information about the applicant that does not appear on the Scheme Record, and they should not, therefore, assume that there is no relevant information about an applicant who is in possession of an apparently clear Scheme Record.** Acting contrary to such advice may be contrary to the conditions applying to the organisation's insurance, and would leave the participating organisation and its Trustees entirely exposed in the event of any legal proceedings arising from a future incident or complaint. The Council would therefore strongly advise all participating organisations against such a course of action.
6. If an applicant whom the Council has advised should not be permitted to work with children and/or protected adults is nonetheless employed or taken on as a volunteer or paid employee by a participating organisation contrary to its advice, the Council will nonetheless respond to any enquiry from any other participating organisation about that applicant that the Council has recommended that he or she should not be permitted to work with children and/or protected adults. Participating organisations should therefore be aware that they must make a fresh enquiry about each new appointment, and not presume that because an applicant works for another participating organisation, he/she has been cleared to do so.
7. Where the Council has recommended against the employment of an individual, but it comes to the attention of the Council that the organisation has nonetheless employed him or her, the Council shall refer the matter to its Panel, which may, if it thinks the risk sufficiently serious, determine that the matter be referred to the relevant authorities for further investigation, but shall not do so without first discussing the matter with the organisation concerned.
8. If it comes to the attention of the Council that a participating organisation has employed someone to carry out "regulated work", either for remuneration or as a volunteer, and that the person concerned has not applied for a Scheme Record, it will first remind the organisation of its legal obligations. If the individual refuses to apply for a Scheme Record, the Council will advise the organisation in writing of that fact, and recommend in the strongest possible terms that that individual should not be employed in any capacity to work with children or protected adults, and that to do so could be a criminal offence, and is likely to invalidate the organisation's insurance, and that in addition their Trustees could incur personal civil liability with no insurance cover. If the individual continues to be employed by the organisation, in order to protect the good name of the Community, the Council will also refer the matter to its Panel, which may, if it thinks the risk sufficiently serious, proceed as in the previous paragraph.

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