

Protecting Vulnerable Groups Scheme
Stakeholder Information Events
June 2009

**Regulated Work
with Children and Protected Adults**

Overview of the talk

1. Regulated work and scheme membership
2. Working with children:
Now → PVG Act → amendments
3. Working with protected adults:
Now → PVG Act → amendments
4. The cross-border dimension: SVG and the rest of the UK
5. Next steps for regulated work

1. Regulated work and scheme membership

Regulated work

Why does it matter whether a position involves regulated work?

- *Workforce specific: children or adults*
- Doing regulated work => scheme member
- Cannot do regulated work if barred
- Organisations must make a referral about a person doing regulated work who becomes unsuitable

Scheme membership

CHECK TO PROTECT

- People doing regulated work should be scheme members
- No offences for not participating- but offences of working as / employing a barred person
- Organisational and personal employers should ask for the appropriate type of scheme disclosure.
- **Standard and enhanced disclosure will not be available** for working with vulnerable groups.

2. Working with children

Working with children: **now**

Hinges on “**child care position**”-

- Defined in schedule 2 of POCSA
- Must not work in a child care position if barred – serious offences in POCSA
- Barred if listed on DWCL or anywhere in UK (e.g. POCA, POCVA(NI), etc)
- Find out if an individual is barred by enhanced disclosure under Police Act regulations

Working with children: **PVG**

Hinges on “**regulated work with children**”

- Defined in schedule 2 of PVG Act
- Development of POCSA schedule 2
- Must not do regulated work with children if barred – serious offences in PVG Act
- Barred if on PVG children’s list or corresponding lists in the UK
- Find out if an individual is barred by scheme disclosures under PVG Act

Working with children: from POCSA to PVG (1)

- Greater clarity, some new positions
- “Incidental” test (caring, teaching etc)
- New activities:
 - Advice and guidance
 - Moderating chatrooms etc
- New exception for 16 and 17 year olds themselves working

Working with children: from POCSA to PVG (2)

- Narrowing of unsupervised contact with children
- Revised definition of educational institutions
- Inclusion of
 - Children's commissioner and her staff
 - Fostering...etc

Working with children: Proposed PVG amendments

Scottish Government wants to use power in PVG Act to **amend regulated work with children:**

- Carrying over “Parent Council exemption” in POCSA
- Reducing coverage in “establishments”
- Narrowing definition of “children’s charity” so that fewer trustees are covered
- Clarifying arrangements for “host parents”

3. Working with protected adults

Working with protected adults: which adults?

Working with adults necessarily more complicated than working with children as we need to identify:

(1) Which adults??

As well as:

(2) What work??

C.f. working with children: children = people under 18 years of age

Working with protected adults: now (1)

Protected adults = “**adults at risk**”

(1) Which adults? “Adults at risk” defined in Police Act regulations by 3-prong test:

- In consequence of a condition
- Has a disability, and
- Receives a “care service”

(2) What work? “Workers” defined by

- “position... of a kind which enables a person in the course of his or her duties to have contact with an adult at risk”

Working with protected adults: now (2)

- Defined as in previous slide
- No barring in Scotland but...
- Find out if an individual is on E&W or NI barred lists by enhanced disclosure under Police Act regulations... and **don't appoint a listed person!**

Working with protected adults: PVG

(1) Which adults? “Protected adult” defined at section 94 of PVG Act:

- Aged 16+
- Receives a care or support service

(2) What work? “Workers” defined by

- Regulated work at Schedule 3: activities, establishments and positions

Working with protected adults: PVG – which adults? (1)

Section 94 defines “protected adult” by receipt of services:

- Registered care services
- **Prescribed** health services
- Community care services
- **Prescribed** welfare services

Remember: new lower age of 16+

Working with protected adults: PVG – which adults? (2)

The Scottish Government intends to prescribe receipt of the following as making a person a protected adult:

- **NHS or independent healthcare service under ROCA** which concerns the treatment, care and support of, and provision of advice and assistance to individuals in respect of their health and well-being.
- **Welfare services...**

Working with protected adults: PVG – which adults? (3)

Welfare services with all the following elements:

- Provided in the course of work
- Delivered on behalf of an organisation
- Requires training
- Has a frequency and formality
- Requires a contract between provider and service recipient OR is personalised for recipient

Working with protected adults: PVG – what work?

- Defined in schedule 3 of PVG Act
- Development of Police Act regulation 10(2): “*position...of a kind which enables a person in the course of his or her duties to have contact with an adult at risk*”
- Must not do regulated work with adults if barred – serious offences in PVG Act
- Barred if on PVG adults’ list or corresponding lists in the UK
- Find out if an individual is barred by scheme disclosures under PVG Act

Working with protected adults: changes in PVG

- New barred list and offences for first time!
- Simpler “one-prong” test for protected adult status
- Tighter definition of “workers”:
 - “Normal duties” replaces “in the course of his or her duties”
 - Activities, establishments and positions replace “contact”

Working with protected adults: Proposed PVG amendments

Scottish Government wants to use power in PVG Act to **amend regulated work with adults:**

- Reducing coverage in “establishments”
- Narrowing definition of “charity trustee”

4. Cross-border dimension

Cross-border dimension: differences

- Different arrangements and broader scope for regulated work in England, Wales and NI
- Scheme participation mandatory in rest of UK
- Scottish law and processes: e.g. around referrals, scheme membership and disclosures apply in Scotland
- SVG Act (etc) governs referrals, scheme membership and disclosures for E&W and NI

Cross-border dimension: why does it matter?

Scottish registered bodies are affected:

- When **recruiting individuals** from E&W and NI...
 - SVG scheme member does not necessarily mean they should be a PVG scheme member
 - You must use PVG checks not SVG checks
- If they ask their workers to do any **work outside Scotland** (e.g. a school trip to England)...
 - You must comply with SVG law: Governments are liaising to clarify some issues around this.

5. Next steps for regulated work

Next steps for regulated work

- Digest feedback from your discussion groups today.
- Publish draft SSIs for consultation on:
 - Definition of protected adult
 - Regulated work with children (amendments)
 - Regulated work with adults (amendments)
 - Contractors and disclosure
- Issue draft guidance
- SSIs will go to the Scottish Parliament in 2010

Help!

Help which is / will be available:

Guidance

CRBS

PVG Act

Notes to the Act

SSIs

Executive Notes to the SSIs