

**Safe Recruitment:  
Protecting Vulnerable Groups Scheme and Disclosure Scotland checks**

**GUIDANCE**

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## 1. INTRODUCTION

- 1.1 This guidance should be referred to **for all positions (paid and unpaid)** which require specific safe recruitment checks and, for employees, should be read in conjunction with the Council's Recruitment & Selection Policy.
- 1.2 In order to protect young and adult people at risk Scottish Borders Council is required to undertake checks for the following individuals:
  - Employees: Current staff and candidates who have been recommended for specified types of posts i.e. posts working with vulnerable groups.
  - Other People: Volunteers working with vulnerable groups, Foster Parents, prospective adopters, Children's Hearing members, Host Parents, Elected Members who sit on certain committees
- 1.3 Certain other specified positions also require checks to be undertaken.

## 2. BACKGROUND

- 2.1 In terms of the Rehabilitation of Offenders Act 1974 (ROA) offenders become rehabilitated and their conviction(s) deemed "spent" after varying periods of time, depending on the sentence imposed and whether they have re-offended. The ROA provides that a spent conviction need not normally be disclosed by the individual.
- 2.2 An "**exempted question**" is a question which employers are not normally allowed to ask in relation to a person's criminal conviction history because it relates to spent convictions. The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003, allows an exempted question to be asked when an individual applies for certain positions.
- 2.3 There are a number of positions within the Council where both spent and unspent convictions must be disclosed. This will be detailed on the job description and person specification.

## 3. REHABILITATION OF OFFENDERS

- 3.1 The ROA sets out to improve the rehabilitation prospects of people who have been convicted of a criminal offence and served their sentence. Under the terms of the ROA, anyone who has been convicted of a criminal offence and sentenced to less than two and a half years in prison can be regarded as rehabilitated after a specified period with no further convictions. After the specified period the original conviction is considered to be "spent". This period varies between 6 months and 10 years depending on the length of sentence.
- 3.2 Generally speaking, the ROA provides that a spent conviction need not normally be disclosed when a person is asked about his or her previous record, and the rehabilitated person cannot be prejudiced if the spent conviction later comes to light.
- 3.3 However, there are some categories of employment to which the ROA does not apply and for the purposes of which convictions otherwise defined as spent can still be disclosed. The types of employment where questions about spent convictions can be asked include work in:

- child care positions,
- care services,
- health professions
- financial sector.

### 3.3

Sentence	Rehabilitation period
A sentence of imprisonment or youth custody for more than six months, but not more than 30 months.	10 years <sup>1</sup>
A sentence of cashiering, discharge with ignominy or dismissal with disgrace from Her Majesty's service.	10 years <sup>1</sup>
A sentence of imprisonment or youth custody for a term not exceeding six months.	7 years <sup>1</sup>
A sentence of dismissal from Her Majesty's service.	7 years <sup>1</sup>
Any sentence of detention in respect of a conviction in service disciplinary proceedings.	5 years <sup>1</sup>
A fine or any other sentence subject to rehabilitation under the Act, for example community service.	5 years <sup>1</sup>
An order for detention in a detention centre	3 years
An absolute discharge	6 months
A conditional discharge	1 year
Probation	5 years <sup>1</sup>

<sup>1</sup>The rehabilitation periods are cut in half where the person was under 18 years of age at the time of his or her conviction

## 4. INTRODUCTION OF POLICE CRIMINAL RECORD CHECKING

- 4.1 Following the implementation of the Police Act 1997 criminal records checks in Scotland have been made on those individuals working with young children and adults at risk. These checks are carried out through the Scottish Criminal Record Office (SCRO) by Disclosure Scotland.
- 4.2 Basic, Standard and Enhanced Disclosure checks are carried out by Disclosure Scotland for those working in certain posts within the Council which require checks, and a Disclosure Certificate issued.
- 4.3 Details of convictions, spent or unspent, would be detailed on the Standard or Enhanced disclosure certificate enabling managers to make more informed recruitment decisions. Further relevant non-conviction information is included on Enhanced disclosure certificates.
- 4.4 The Bichard Report, published in June 2004, following the inquiry into the tragic Soham incident, recommended that "new arrangements should be introduced requiring those who wish to work with children, or vulnerable adults, to be registered".
- 4.5 Since January 2005, a List has been kept of individuals who were considered unsuitable to work with children, and it became an offence for anyone included on the Disqualified from Working with Children List (DWCL) to work in a childcare position in Scotland. This was introduced as a result of the Protection of Children (Scotland) Act 2003 (POCSA).
- 4.6 It is an offence to offer work to or to employ anyone who is known to be on the DWCL (the List). In order to know if someone is on the List appropriate Disclosure checks have to be carried out.

- 4.7 The Protection of Vulnerable Groups (Scotland) Act 2007 (PVG) came about as a response to the Bichard recommendation, and this established the PVG Scheme.
- 4.8 The PVG Act introduced 2 Lists – the children’s list and the protected adults’ list. Another feature of this Act was the provision to employers of additional vetting information regarding those who are members of the PVG Scheme. A PVG Disclosure Record (Scheme Record, Scheme Record Update or Scheme membership) is issued.
- 4.9 Notwithstanding the introduction of the PVG Scheme, Disclosure checks are still available under certain circumstances when the PVG Scheme does not apply. (see Section 9)

## 5 THE PVG SCHEME

- 5.1 The Protecting Vulnerable Groups membership scheme replaces disclosure arrangements for people who work with vulnerable groups (defined as children or protected adults). The PVG Scheme was implemented by the Protection of Vulnerable Groups (PVG) (Scotland) Act 2007. The Scheme:
- helps to ensure that those who have regular contact with children and protected adults through paid and unpaid work do not have a known history of harmful behaviour through **effective barring**
  - introduces an **“adults” list** as well as the children’s list
  - new vetting information will be continuously collected and assessed, so that anything that may make an individual unsuitable can be acted upon. This **continuous updating** will enable employers who have an interest in an individual to be notified of any new relevant information.
  - is quick and easy to use, reducing the need for PVG Scheme members to complete a detailed application form every time a disclosure check is required,
  - gives access to disclosure for **personal employers**
  - strikes a balance between proportionate protection and robust regulation and makes it easier for employers to determine who they should check to protect their client group
- 5.2 The PVG Scheme is managed and delivered by Disclosure Scotland. This includes taking decisions, on behalf of Scottish Ministers, about who should be barred from working with vulnerable groups.
6. **Definition of “Child” and “Protected Adult”**
- 6.1 The PVG Scheme ensures that those who either have **regular contact with vulnerable groups through the workplace, or who are otherwise in regulated work**, do not have a history of inappropriate behaviour. It excludes people who are known to be unsuitable, on the basis of past behaviour, from working with **children and/or protected adults**, and detects those who become unsuitable while in the workplace. Such individuals are now included on the “children’s list”, the “adults list” or both.
- A **“child”** is an individual under the age of 18.

- A “**protected adult**” is a person aged 16 or over who is receiving certain services, namely:
  - a registered care service,
  - a health service,
  - a community care service or
  - a welfare service

However, an adult is only a “protected adult” while in receipt of the service.

## 7. Definition of “Regulated Work”

- 7.1 ‘**Regulated Work**’ is generally any work which involves responsibility for the welfare of a child or protected adult (while the adult is receiving a service). This can be through providing a service directly or through the type of establishment where regulated work takes place - such as a school or care home.
- 7.2 A fuller explanation of Regulated Work is contained in Appendix 2.
- 7.3 Each position must be checked against **5 criteria**:
1. Is it work?
  2. Who are they working with?
  3. What do they do?
  4. Is it their normal duties?
  5. Are there any exceptions?
- 7.4 Positions for which PVG Disclosure Records can be obtained can be seen in Appendix 3.
- 7.5 From 28<sup>th</sup> February 2010 any individual who wishes to undertake regulated work will require to be a member of the PVG Scheme. An individual can be a member of the children’s scheme, the adults’ scheme, or both.
- 7.6 It is an offence for an individual to undertake or agree to undertake regulated work if barred from carrying out that work. It is also an offence for an organisation to offer regulated work to an individual who is barred.
- 7.7 People already undertaking regulated work at 28<sup>th</sup> February 2011 will not have to join the PVG Scheme immediately, but will require to join in the following three years. Further legislation will provide a timetable for this.

## 8. TYPES OF PVG SCHEME DISCLOSURE RECORDS AVAILABLE

- 8.1 When a person applies to join the PVG Scheme for the first time there are two types of disclosure record available:
- the **Scheme Membership Statement** at the request of a **personal employer** or by the individual alone in anticipation of doing regulated work in the future;
  - the **Scheme Record** at the request of an organisation.
- 8.2 **The Scheme Membership Statement** is designed for personal employers asking an individual to do regulated work for them or for pre-emptive use by individuals who intend to do regulated work at some point in the future. As it is for sharing with personal employers, it does not contain vetting information.

8.3 The Scheme Membership Statement shows basic membership information:

- the type(s) of regulated work in respect of which the individual is a PVG Scheme member (thereby confirming that the individual is not barred from regulated work of that type); and
- if the individual is under consideration for listing for type(s) of regulated work, states that fact.

8.4 It also includes the following personal membership information:

- the name, address, date of birth and PVG Scheme membership number of the individual;
- the unique disclosure record number; and
- the name and address of the personal employer on the personal employer's copy.

8.5 **The Scheme Record** is designed for use by organisations when asking an individual who does, or is being recruited to do, regulated work for them to join the PVG Scheme for the first time (or where a Scheme Record Update reveals a change to vetting information). The organisation must be a registered body or use an umbrella body to act as a registered body on their behalf.

8.6 The Scheme Record shows basic membership information:

- the type(s) of regulated work in respect of which the individual is a PVG Scheme member (thereby confirming that the individual is not barred from regulated work of that type); and
- if the individual is under consideration for listing for type(s) of regulated work, states that fact.

8.7 The Scheme Record also includes any vetting information that exists in relation to the individual.

8.8 **Vetting information is:**

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

8.9 The Scheme Record also includes the following personal membership information:

- the name, address, date of birth and PVG Scheme membership number of the individual;
- the unique disclosure number of the Scheme Record;
- the name and address of the registered body and countersignatory details on the copy for the registered body copy and any regulatory body; and
- the name and address of the regulatory body and registration number – on any copy for a regulatory body only.

8.10 When an individual is a registered member of the PVG Scheme, a Scheme Record Update is also available to organisations.

8.11 **The Scheme Record Update** shows basic membership information:

- the type(s) of regulated work in respect of which the individual is a PVG Scheme member (thereby confirming that the individual is not barred from regulated work of that type); and
- if the individual is under consideration for listing for the type(s) of regulated work, states that fact.

8.12 Scheme Record Update also includes:

- the date that the PVG Scheme member's Scheme Record was last disclosed (and the disclosure record number of the applicant's copy);
- a statement as to whether that Scheme Record contained vetting information;
- either a statement confirming that no new vetting information has been added since the Scheme Record was last disclosed or the date of each addition; and
- either a statement confirming that no vetting information has been deleted since the Scheme Record was last disclosed or the date of each deletion.

8.13 The Scheme Record Update also includes the following personal membership information:

- the name, address, date of birth and PVG Scheme membership number of the individual;
- the unique disclosure record number; and
- the name and address of the registered body and countersignatory details.

8.14 The Scheme Record Update **does not include any vetting information**. One reason for this is to allow it to be viewable on-line.

8.15 Once the Council has applied for a Scheme Record or Scheme Record Update, Disclosure Scotland records that the Council has an interest in that individual. If Disclosure Scotland receives subsequent information about the individual that will result in the individual being barred or placed under consideration for listing for the type of work they are registered for, Disclosure Scotland will inform the Council of this.

8.16 If the Council is notified that the individual has been barred then the individual cannot continue undertaking regulated work. If the Council is notified that the individual is under consideration for listing then a risk assessment will require to be undertaken to ascertain if the individual should be allowed to continue in their role, pending a decision on listing.

## 9. TYPES OF DISCLOSURE CERTIFICATES AVAILABLE

9.1 In addition to the PVG checks, Disclosure Scotland will still carry out **Basic Disclosure** checks for any purpose, and **Standard Disclosure** checks for certain specific positions, as before, eg solicitors and accountants, plus **Enhanced Disclosures** for those positions not related to work with vulnerable groups, eg gaming licences, and those with access to children or protected adults other than through "regulated work", e.g. members of a foster carer's family living with them.

9.2 A full list of positions for which Enhanced Disclosure certificates can be obtained is contained in Appendix 4. Departments, particularly Democratic Services and Social Work will still need Enhanced Disclosures, in particular for the following purposes:

- Appointing members of the Adoption Panel
- Appointing members of the Fostering Panel
- Appointing to the panel of curators ad litem/ reporting officers/ safeguarders for court applications
- Assessing prospective adopters and anyone over 16 living with them.
- Anyone over 16 living with a prospective foster carer. (Foster carers themselves are covered by the PVG scheme).
- Anyone over 16 living with a prospective host parent. (Host parents are covered by the PVG scheme).

9.3 Employees for whom we can apply for Standard Disclosures:

- Solicitors
- Accountants

9.4 Other departments can also use standard disclosures, in particular as follows:

- Taxi/ Private Hire driver applications.
- Registration of a person as a landlord under the Antisocial Behaviour (Scotland) Act.
- Procurement (although restricted).

9.5 The disclosure system stems from the **Police Act 1997, Part V**, and covers those posts that are not caught by the PVG Scheme. A Disclosure certificate contains criminal history information which can be used by employers to make safer recruitment decisions.

9.6 The information included in the disclosure certificate will depend on the type of disclosure applied for:

Information included	Type of disclosure		
	Basic	Standard	Enhanced
Unspent convictions	✓	✓	✓
Spent convictions	✗	✓	✓
Cautions	✗	✓	✓
Inclusion on children's' lists (where relevant to post applied for)	✗	✗	✓
Inclusion on adults' lists (where relevant to post applied for)	✗	✗	✓
Other relevant information held by police forces	✗	✗	✓

## 10 ASSOCIATED COSTS

10.1	Scheme Membership Application*	£59
	Scheme Record**	£59
	Scheme Record Update	£18
	Scheme Record***	£41
	Scheme Membership Statement****	£18
	Disclosure Certificate	£23

\* .... £59 to join one regulated workforce, further £59 to join further workforce, or £59 if applying to join both workforces at same time.

\*\* (free if requested at same time as application to join)

\*\*\* if requested within 30 days of Scheme Record Update (£59 of more than 30 days)

\*\*\*\* for personal employers only

- 10.2 In order for the Council to register an interest in an individual who is already a member the Council would pay £18, countersign the relevant section on the form and receive a Scheme Record Update. If there were any new vetting information held about the individual the update would state there have been changes, however in order to see what this information is there will be a further cost of £41.
- 10.3 If the individual is new to the Council, but was in receipt of a Scheme Membership Statement then it would cost £59 in order to receive a Scheme Record for them. The Membership Statement does not offer the facility of an update. Scheme Updates can only be received in respect of the Scheme Records.

## 11. VETTING, BARRING AND REFERRAL

- 11.1 People who work, on a regular basis, with vulnerable groups will join the PVG Scheme and, from then on, their membership records will be automatically assessed and updated by Disclosure Scotland, if any new vetting information arises. If an individual becomes unsuitable they will be removed from the scheme and listed on one or both lists, and will be prevented from entering, or removed from the workforce.
- 11.2 The Council is able to refer an individual to Disclosure Scotland, and other Regulatory bodies, if an individual is, or has been, doing regulated work, and has behaved in a harmful way towards a member of a vulnerable group. The Council must refer the individual if the Council dismisses an individual who was doing regulated work, transfers them to other duties, or would have dismissed had the individual remained in employment. If information is discovered after an individual stops doing regulated work, and the information would have led the Council to dismiss had they known of it at the time, the Council again must make a referral. The referral must be made within 3 months of the criteria being met. A failure to refer is a criminal offence which can result in a fine or prison sentence of up to 5 years. Individual Council employees can be prosecuted, along side the Council itself if they are responsible for the failure to refer.
- 11.3 An appeals procedure will allow anyone who wishes to challenge a barring decision.

## 12 REGISTRATION

- 12.1 Scottish Borders Council is registered with Disclosure Scotland and has a “lead signatory” for employees, and “lead signatories” for non-employees in Education, Social Work and Passenger Transport. There are ‘counter signatories’ (who can authorise Disclosure applications) within HR **for employment purposes**, and within all appropriate Departments **for volunteers and other individuals**.
- 12.2 “Lead signatories” and “counter-signatories” have been subject to checks themselves by Disclosure Scotland, and details of these individuals are maintained on a central list held by HR.
- 12.3 **Signatories are personally responsible for the authorising and submission of disclosure forms.** It is an offence under the PVG Scheme to submit a disclosure form for a position which does not involve regulated work.

## 13 SAFE RECRUITMENT

- 13.1 The PVG Scheme provides the Council with a means of satisfying itself that those doing paid or unpaid regulated work for it are not barred from doing so. If vetting information

exists, this will appear only on the Scheme Record, and might prove helpful when deciding whether an individual is suitable for the specific work being offered. Given that the individual is the scheme member, scheme membership forms part of the essential criteria, and candidates at interview must evidence that they are scheme members.

The fact that they are not barred and that vetting information has been checked does not necessarily make them the best candidate, or even suitable for the post. It is important to also carry out proper recruitment checking of skills and qualifications and obtain references to ensure that information contained in an application form is verified by previous employers. The decision to offer regulated work should be determined by all of these factors.

## 14 RECRUITMENT AND SELECTION PROCEDURE

- 14.1 Reference will be made to the requirement for either a PVG or Disclosure check within Recruitment Application Packs: for example in Job Descriptions and Person Specifications.
- 14.2 Candidates will be informed that they will be required to be a member of the PVG Scheme or be subject to a disclosure check if the post requires it.
- 14.3 It is the responsibility of all Services to **Identify Regulated Work** and to:
- a) Evaluate which posts fall within the definition of regulated work in accordance with the Protection of Vulnerable Groups (Scotland) Act 2007 (see Appendix 2)
  - b) Advise Human Resources of changes in status of any existing post that, due to a change of duties and responsibilities, becomes covered or ceases to be covered by the definition of regulated work under the Act.
- 14.4 It is the responsibility of Human Resources to:
- a) Ensure that any newly created post that falls within the definition of regulated work is noted on the job description and person specification and input to the Resourcelink database.
  - b) Check, authorise and process all requests for disclosure checks.
  - c) Undertake an annual audit of the posts designated as requiring the post holder to be a PVG Scheme member.
- 14.5 When advertising Regulated Work, and in order to discourage any person who is barred from working with children/protected adults from applying for any regulated work with the Council, all job adverts, application forms, and any other relevant documentation will include the following statements:

### **(i) Regulated Work with Children;**

This post is considered Regulated Work with Children, under the Protection of Vulnerable Groups (Scotland) Act, 2007. Therefore, it is an offence to apply if you are barred from working with children.

*Preferred candidates will be required to join the PVG Scheme, or undergo a PVG Scheme Update check, prior to a formal offer of employment being made by the Council. Please note: Successful candidates will be expected to meet the cost of*

*the relevant PVG check, which will be deducted from your wages following the commencement of employment. For further information on the PVG Scheme please visit [www.disclosurescotland.gov.uk](http://www.disclosurescotland.gov.uk).*

**(ii) Regulated with Protected Adults;**

This post is considered Regulated Work with Protected Adults, under the Protection of Vulnerable Groups (Scotland) Act, 2007. Therefore, it is an offence to apply if you are barred from working with protected adults.

Preferred candidates will be required to join the PVG Scheme, or undergo a PVG Scheme Update check, prior to a formal offer of employment being made by the . Please note: *Successful candidates will be expected to meet the cost of the relevant PVG check, which will be deducted from your wages following the commencement of employment.* For further information on the PVG Scheme please visit [www.disclosurescotland.gov.uk](http://www.disclosurescotland.gov.uk).

**(iii) Regulated Work with Children and Protected Adults;**

This post is considered Regulated Work with Children and Protected Adults, under the Protection of Vulnerable Groups (Scotland) Act, 2007. Therefore, it is an offence to apply if you are barred from working with children or protected adults.

Preferred candidates will be required to join the PVG Scheme, or undergo a PVG Scheme Update check, prior to a formal offer of employment being made by the Council. *Please note: Successful candidates will be expected to meet the cost of the relevant PVG check, which will be deducted from your wages following the commencement of employment. For further information on the PVG Scheme please visit [www.disclosurescotland.gov.uk](http://www.disclosurescotland.gov.uk).*

- 14.6 Applicants will also be advised that if they have lived outside the UK during the last 5 years and are identified as the preferred candidate, **they** will be asked to provide a criminal record certificate or a certificate of good conduct, where available, from their government, or an appropriate government/police agency. (see [www.disclosurescotland.co.uk](http://www.disclosurescotland.co.uk) for further advice or contact HR). If the applicant cannot provide this information then it is for the recruiting manager to make a judgement as to whether to appoint or not. The employing department would be responsible for the cost of translation.
- 14.7 Once HR is advised of the preferred candidate, a recommendation letter is sent to the candidate, stating that no formal offer of employment will be made until receipt of satisfactory pre-employment checks including the PVG Scheme or Disclosure Scotland check.
- 14.8 After the Disclosure Application form is completed by the 'preferred candidate' it will only be processed after it has been checked and countersigned by an authorised signatory of the Council and after original proof of identity documentation has been checked by the Chair of the Interview Panel, i.e. Passport, Driving Licence etc (Appendix 5).
- 14.9 It is the responsibility of the manager to decide whether to offer the applicant the position. But if the person is disqualified from working with children or protected adults and is applying for such a position then the manager has no discretion in the matter and cannot offer the candidate the position. It is an offence to employ someone who is disqualified from working with vulnerable groups. The Disclosure will advise whether or not the applicant is subject to any such disqualification.

- 14.10 If the Disclosure shows that the candidate has previously been convicted of an offence, regardless of the date of that conviction, the manager must refer the matter to their Head of Service and Human Resources who will advise the manager as to whether the candidate may be offered employment.
- 14.11 Recruiting managers must consider the following when information other than a conviction is disclosed:
1. whether the matter(s) revealed on the Disclosure is relevant to the position in question;
  2. the seriousness of any information revealed;
  3. the length of the time since the matter(s) occurred;
  4. whether the applicant has a pattern of offending behaviour or other relevant matters;
  5. whether the applicant's circumstances have changed since the offending behaviour or other relevant matters.
- 14.12 It should be noted that the Disclosures are intended to assist with the decision making process for the suitability of a person for a post and should not be the sole basis of a recruitment decision.
- 14.13 The candidate / volunteer must not be allowed to start work until a satisfactory PVG or Disclosure has been received.
- 14.14 When the 'Preferred Candidate' has been identified, a Scheme Record, or a Disclosure check, for those posts not covered by the Scheme, may be required, depending on the post they are being considered for.
- Once the recruiting manager receives a Scheme Record or a Disclosure check, he/she should make a final judgement on the appointment to the post as detailed in paragraphs 14.9 – 14.11 .
  - It will not be appropriate for Disclosure Scotland to determine whether or not a particular conviction or pending case is relevant in the circumstances of the individual concerned.
  - Where the information provided by Disclosure Scotland is not consistent with that provided by a candidate or existing employee, he/she should be contacted and asked for an explanation. Where the person believes the information to be incorrect, they can raise a dispute with Disclosure Scotland.
  - If the individual concerned admits failing to disclose a previous conviction or where the disclosure confirms a previously disputed conviction record, the seriousness of the failure to disclose and the continued suitability of the prospective employee or existing employee will need to be investigated and assessed thoroughly.
  - The Disclosure and Resourcelink database in HR must be updated by HR.

## 15 PROFESSIONAL REGISTRATION

15.1 Certain professional bodies, eg GTC, SSSC, may require individuals to be a member of the relevant PVG Scheme as a condition of membership of that body. An individual in this position will be checked by the governing body solely in relation to the registration process. This is a separate process from the check carried out by the Council as an employer or prospective employer.

15.2 However, as part of the interview process, candidates must provide evidence of their registration with the relevant professional body, if it is a requirement of the job.

## 16. DISCLOSURE CHECKS FOR ELECTED MEMBERS

16.1 The PVG Scheme also applies to elected members who sit on certain committees. Members who sit on a committee or sub-committee concerned with the provision of education, accommodation, social services or health care services to children or protected adults require to be a member of the children's and/ or adults' scheme, as appropriate. This requirement applies to all new appointments from 28<sup>th</sup> February 2011. Existing members, who will have already been Disclosure checked, do not need to join the scheme immediately, but will require to become members at some point in the next three years. Future legislation will provide a timescale for this.

## 17. DISCLOSURE CHECKS FOR VOLUNTEERS, CONTRACTORS, ETC.

17.1 PVG Scheme membership is required for foster parents and Children's Panel members. Membership is also required for volunteers, carers, student placements and contractors if their duties involve **Regulated Work**. For example,

- **Parent Council meetings, Adult Learning Classes and other activities on School Premises**

Most of these meetings will take place at times when the school is closed and there are no pupils present, or in the presence of a responsible person such as the headmaster or a teacher. Attendance therefore will not usually be regulated work. If they are taking place during the school day, ensuring that people are supervised at all times will mean that attendance is not regarded as regulated work.

- **School Trips**

Parents or other volunteers who agree to supervise school trips will require PVG registration. There is a possible exception if private arrangements have been made by a parent to have an individual they know supervise their child specifically, whether individually or as part of a group. (see the definition of "work" in Appendix 1). However, any arrangement made by the school is covered by the scheme.

- **Host Parents**

Acting as a host parent for school exchange visits will constitute "regulated work". Again private arrangements made directly within families, or between friends if unpaid, are not covered. While it is an offence for an individual to act as a host parent if barred from working with children, it is not an offence for an organisation to appoint as a host parent someone who is barred. That means that there is no legal requirement for a prospective host parent to join the PVG Scheme, and there is no obligation on the Council to obtain any Disclosure record. It is, however, good practice to require scheme membership and obtain a Disclosure record.

17.2 Each Head of Service is responsible for ensuring that appropriate checks are carried out for these groups and should hold a list of signatories.

- 17.3 Decisions as to whether a person should be offered any such position must be made in accordance with paragraphs 14.9 – 14.11.
- 17.3 Contractors are required to carry out Disclosure checks for their employees if they are to be working in an educational or social work establishment. The contractor must provide Scottish Borders Council with the details of the Disclosure Record, i.e. Disclosure Number and the Issue Date of the disclosure. It is the responsibility of the Contractor to ensure that an unsuitable person does not have access to children or protected adults.
- 17.4 Colleges are required to carry out Disclosure checks for their students if they are to be placed in an educational or social work establishment. The college must provide Scottish Borders Council with the details of the Disclosure Record, i.e. Disclosure Number, and the Issue Date of the Disclosure. It is the responsibility of the College to ensure that an unsuitable person does not have access to children or protected adults.

## **18 TRANSPORT PROVIDERS (TAXI, BUS DRIVERS, ETC)**

- 18.1 When the Council commissions transport for children or protected adults, it requires those working under this contract to be PVG disclosure record checked. The check is carried out by their employer but the Council is allowed sight of the Record with the individual's consent. The Council must ask to see the Records for all employees whom the contractor intends to employ on such contracts. The Council may decide not to allow certain drivers to work on the contract. Decisions must be made in accordance with paragraphs 14.9 – 14.11. In some instances the Council may process the Application for Disclosure on behalf of a 3<sup>rd</sup> party. Further information available from the Team Leader, Passenger Transport.

## **19. VOLUNTARY ORGANISATIONS**

- 19.1 Voluntary Organisations can apply to Volunteer Development Scotland, Central Registered Body in Scotland (CRBS) for checks to be carried out on volunteers. If organisations register with CRBS checks for volunteers will be free of charge. (see [www.crbs.org.uk](http://www.crbs.org.uk))
- 19.2 There is no registration fee for voluntary organisations which register with CRBS for checks for volunteers. Voluntary organisations must however, comply with the Code of Practice. CRBS will also ask for a copy of the Job Description with the Disclosure Application to help assist with the process.
- 19.3 Voluntary Organisations who have paid employees and wish to check these individuals should forward the completed Disclosure Application to CRBS with the fee for the check. CRBS will carry out the check for the Voluntary Organisation.

## **20. PERSONAL EMPLOYERS (including Direct Payments)**

- 20.1 The PVG Scheme will also strengthen protection for vulnerable groups in instances where people are employed on a personal basis. Personal employers - such as a parent who employs a sports coach for their child or a person employing a personal carer - will be able to check that a person is a PVG Scheme Member by seeing their PVG Membership Statement.
- 20.2 In terms of a Social Work client who is in receipt of a Direct Payment, they will be able to view the individual's PVG Membership Statement. Neither the Direct Payments Agency nor the Council is entitled to request PVG scheme details, from the individual.

Further information available from the Adult Planner, Social Work Planning Unit.

## **21. HOLDING, HANDLING AND DESTROYING DISCLOSURE INFORMATION**

- 21.1 Scottish Borders Council complies fully with the Code of Practice issued by Scottish Ministers regarding the correct handling, holding and destruction of Disclosure information provided by Disclosure Scotland under Part V of the Police Act 1997, for the purposes of assessing applicants' suitability for certain other specified positions. It also complies fully with the Data Protection Act 1998 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure information.
- 21.2 When Disclosure information is returned the envelope must only be opened by authorised signatories.
- 21.3 If nothing is revealed on the Disclosure record or certificate, the authorised signatories:
- will initial and date the Disclosure, to confirm it has been checked by a member of staff at the appropriate level.
  - will then update the individual's record.
  - will then advise the relevant manager of the result of the Check.
  - will retain the Disclosure in a file, which is kept in a secure, fireproof cabinet, while they await the recruitment decision from the respective manager.
  - will update the individual's record once details of the recruitment decision is received.
  - will (once all information is obtained and the individual's record has been updated) destroy both the copy of the Disclosure Application and the Disclosure Check.
- 21.4 If there are Disclosures on the record or certificate the procedure as noted in 21.3 should be followed, although:
- The authorised signatories will contact the relevant manager who, depending upon the post and the nature of the Disclosure, will decide upon action, if any, which needs to be taken, before a final recruitment decision can be taken.
  - Each Disclosure will be assessed on its individual merits in relation to the post and the circumstances surrounding all convictions will be investigated.
- 21.5 All Disclosure information and copies of Disclosure Applications must be shredded within 90 days of being received.
- 21.6 Managers must not retain copies of Disclosure records or certificates (for employees or volunteers) in their files.
- 21.7 Managers must not accept Disclosure certificates provided by candidates as the Council is responsible for requesting the Disclosure check for its employees (and volunteers). However, a manager may choose to accept a PVG Disclosure Scheme Record if recently dated.
- 21.8 Managers must not pass Disclosure records or certificates (or copies) to partner organisations involved in shared recruitment.
- 21.9 Only authorised signatories will have access to the files containing any information regarding Disclosures.
- 21.10 A record of all Disclosure checks for employees will be maintained by HR and will detail the following information:

- Name
- Post applied for
- Department
- Category of Check (Employee / Volunteer / Signatory)
- Unique Disclosure Application number (Bar Code)
- Date Disclosure Application sent to Disclosure Scotland
- Date Disclosure Application issued from Disclosure Scotland
- Unique Disclosure Check number
- Recruitment decision taken

21.11 A record of checks undertaken for volunteers, carers, etc. should also be held by the requesting Department.

21.12 It is an offence to disclose Disclosure information to any unauthorised person.

## **22. APPEAL AGAINST AN 'INACCURATE' DISCLOSURE**

22.1 Should an individual disagree with the content of their Disclosure check it is their responsibility to take this up with Disclosure Scotland. The appeals process can be found on Disclosure Scotland's website [www.disclosurescotland.co.uk](http://www.disclosurescotland.co.uk).

## **23 COMMUNICATION, CONSULTATION AND REVIEW**

23.1 A Forum comprising of representatives from all departments, counter signatories, trade unions, and human resources will meet regularly to exchange information, discuss relevant issues and ensure the disclosure procedure is applied consistently throughout the Council. Representatives from Disclosure Scotland may also attend these meetings.

23.2 The Council is committed to an ongoing review to confirm those posts that require the postholder to undertake regulated work and must be a member of the PVG Scheme.

## DEFINITIONS

These definitions are those as given in legislation and can be viewed on the Disclosure Scotland website.

### **Definition of an “exempted question”**

An “exempted question” is a question which employers are not normally allowed to ask in relation to a person’s criminal conviction history. Under the terms of the Rehabilitation of Offenders Act 1974, offenders become rehabilitated after varying periods of time and their conviction(s) deemed “spent”, depending on the sentence imposed and whether they have re-offended. The Act provides that a spent conviction need not normally be disclosed by the individual. The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003 provides exceptions where information about spent convictions needs to be available. There are a number of positions with the Council where both spent and unspent convictions must be disclosed eg positions involving contact with children and/or adults at risk.

### **Definition of a “Caution”**

A caution can be given when there is sufficient evidence for a conviction and it is not considered to be in the public interest to institute criminal proceedings. For a caution to be issued there must be evidence of the offender's guilt sufficient to give a realistic prospect of conviction; the offender must admit the offence; and the offender must understand the significance of a caution and give informed consent to being cautioned.

### **Definition of “normal duties”**

People will usually have a range of duties in their job. Some of the duties might be “normal” because they always carry out the duties. Equally, some of the duties might be “normal” because although they are not carried out frequently, there is an expectation that they are part of the job description. The phrase “normal duties” does not carry with it any reference to how frequently the duties are carried out. But someone’s normal duties might involve them in a caring role several times a year or a few times a year. Although the caring is not carried out every day of the year, what makes the duties “normal” is an element of pre-arranging. So the term “normal duties” can be associated with pre-arranging, rostering, planning, scheduling, expectation and anticipation.

### **Definition of “child” and “protected adult”**

A “**child**” is an individual under the age of 18.

A “**protected adult**” is a person aged 16 or over who is receiving certain services, namely:

- a registered care service,
- a health service,
- a community care service or
- a welfare service

However, an adult is only a “protected adult” while in receipt of the service.

### **Definition of “Regulated Work”**

**Regulated Work** is generally any work which involves responsibility for the welfare of a child or protected adult (while the adult is receiving a service). This can be through providing a service directly or through the type of establishment where regulated work takes place - such as a school or care home.

## Manager's Guide to Determining whether a post requires a Disclosure or PVG check

### Introduction

Certain posts, because of their duties, location, or access to vulnerable groups need to be identified to enable certain checks to be carried out on employees or applicants. This also includes volunteers. Checks can be made through either the PVG Scheme or Disclosure Scotland depending on the post.

It is an offence to offer certain work to, or to employ, anyone in a position who is on either the Children's or Protected Adults' List. Scottish Ministers keep Lists of individuals banned from working with children or protected adults, and these are checked through the membership of the PVG Scheme.

### Is it Regulated Work? – The Five Stage Test

The PVG provides a five stage test to establish what roles constitute "Regulated Work" and therefore require PVG Scheme registration:

- Q1. Is it work?**
- Q2. Who are they working with?**
- Q3. What do they do?**
- Q4. Is it their normal duties?**
- Q5. Are there any exceptions which apply?**

Managers must assess positions in terms of this test before coming to a decision as to whether not registration is required. Managers must therefore determine what is required (see below and table at the end of this appendix). The options are:

- PVG Adult
- PVG Children
- PVG Adult and Children
- Disclosure Enhanced
- Disclosure Standard
- Disclosure Basic
- None

#### Q1 Is it Work?

"Work" has a broad definition.

It includes work of any kind, whether being undertaken as an employee, as a self-employed contractor or as a volunteer, holding a statutory office, being a foster carer, and caring for or supervising individuals in any organised activity.

Work is not covered if it is carried out for a family member (whether paid or not), or carried out for a friend and not paid. In practice any activity Scottish Borders Council is involved with is likely to constitute "work" in terms of the PVG Scheme.

**Q2 Who are they working with?**

The PVG Scheme applies to work with children or protected adults.

A “child” is an individual under the age of 18 years.

A “protected adult” is an individual who is:

- Over the age of 16 years, **and**
- Receives a care, support, health or welfare service.

However, an adult is only a “protected adult” while they are receiving that service and not otherwise. In practice, any service provided by Social Work will constitute work with a protected adult, as will certain services provided by other departments if they are provided for people with particular needs or a particular condition. It is possible for the same person to be both a child and a protected adult.

**Q3 What do they do?**

**Q3.1 Children**

Work is regulated work with children if it falls within one of the following:

- a) Work whose normal duties involve particular activities.**
- b) Work whose normal duties include work in certain establishments.**
- c) Particular positions of responsibility.**
- d) A position whose normal duties involves the day to day supervision of individuals in categories a or b above.**

**a. Work involving particular activities:**

The following activities are covered:

- Caring for children,
- Teaching, instructing, training or supervising children,
- Being in sole charge of children (for example a taxi driver taking children to school without an escort).
- Unsupervised contact with children
- Providing advice or guidance to a child(ren) relating to physical or emotional well-being, education or training.
- Moderating a public electronic interactive communication service aimed at children (if that allows access to the content of the service or access to users of the service)
- Providing or working for an organisation which provides a care home service exclusively or mainly for children
- Providing or working for an organisation which provides an independent health care service exclusively or mainly for children
- Working in a part of day care premises when children are being looked at in that part
- Being a host parent, for example for a school exchange visit (but see exceptions below).

**b. Work at certain establishments:**

If a position does not involve the activities in (a) above, it is still regulated work with children if the normal duties of the work are:

- In a particular establishment, **and**
- Give the person the opportunity to have unsupervised contact with children when doing anything permitted or required by the position (see exceptions below).

Establishments covered are:

- Children's detention institution
- Children's hospital
- School
- Further Education Institution
- Hostel used mainly by pupils of a school or further education institution
- Children's Home

**c. Positions:**

The holders of the following positions are automatically undertaking regulated work:

- The Chief Social Work Officer.
- The Chief Education Officer.
- Foster carer.
- The manager of a school, further education institution or hostel as covered in (b) above.
- A member of a governing body of a school, further education institution or hostel as covered in (b) above.
- A trustee responsible for a school, further education institution or hostel as covered in (b) above.
- A member of a Council committee or sub- committee (including a joint committee) concerned with the provision of education, accommodation, social services or health care services to children.
- A member of a Children's Panel, Children's Panel Advisory Committee or joint Children's Panel Advisory Committee.
- The Commissioner for Children and Young People in Scotland.
- A member of the Commissioner's staff.
- The Registrar of Independent Schools in Scotland.
- Charity trustee of a children's charity.

**d. Supervisors:**

People who have the day to day supervision of individuals in categories (a) and (b) above are also undertaking regulated work. This means in practice line managers, but not further tiers of management. The rationale for this is that immediate line managers have the opportunity to direct and control what an employee does and how work is carried out, and in theory could manipulate the system to allow themselves unsupervised contact with children. Senior managers are less involved in operational matters and therefore less likely to have that opportunity.

**Q3.2 Adults**

As with children, regulated work with adults falls into four categories:

- a) Work whose normal duties involve particular activities.**
- b) Work whose duties involve working in certain establishments.**
- c) Particular positions of responsibility.**
- d) A position whose normal duties involves the day to day supervision of individuals in categories a or b above.**

**a. Work involving particular activities:**

The following activities are covered:

- Caring for protected adults,
- Teaching, instructing, training or supervising protected adults,
- Being in sole charge of protected adults.
- Providing assistance, advice or guidance to a protected adult relating to physical or emotional well-being, education or training
- Inspecting adult care services on behalf of the Care Commission.

**b. Work whose duties involve work in certain establishments:**

If a position does not involve the activities in (1) above, it is still regulated work with protected adults if the normal duties of the work are:

- In a particular establishment, **and**
- Give the person the opportunity to have unsupervised contact with protected adults when doing anything permitted or required by the position, (see “Q5 Exceptions”) **and**
- The contact with protected adults is more than incidental. (see “ Q5 Exceptions”)

Establishments covered are:

- Care home.
- Residential establishment or accommodation provided under the Social Work (Scotland) Act 1968 or s.25 of the Mental Health (Care and Treatment) (Scotland) Act 2003.

**c. Positions:**

The holders of the following positions are automatically undertaking regulated work:

- The Chief Social Work Officer
- A member of a committee or sub- committee (including a joint committee) concerned with the provision of education, accommodation, social services or health care services to children.
- Charity trustee of a charity whose main purpose is to benefit protected adults and whose principal means of achieving that is by carrying out work with protected adults.

**d. Supervisors:**

People who have the day to day supervision of individuals in categories (a) and (b) above are also undertaking regulated work. As with regulated work with children, this means in practice line managers, but not further tiers of management. Please see the notes in the children’s section for further details.

**Q4 Is it their normal duties?**

“Normal duties” does not mean that the duties are carried out with any particular frequency, but that the individual might be expected to carry this out as part of their post on an ongoing basis. Duties which are part of a job description would clearly be covered, but even if not part of the job description they would be covered if it can reasonably be anticipated that the duties will be undertaken or they occur regularly.

For example, filling in on one occasion when there was a staff shortage at a nursery would not constitute normal duties, but being on a relief list of people who can be called when a shortage occurs would.

Non Council employees may also have this as part of their normal duties. For example the employee of a contractor who is the worker designated to work in schools or a particular school in the event of a call out.

## **Q5 Are there any exceptions which apply?**

### **Q5.1 Incidental Activity**

Work which otherwise fits the definition may not be regulated work if the activities with children or protected adults are incidental to working with people who are not in these categories.

This exception applies to the following categories:

#### **Children**

- Caring for children,
- Teaching, instructing, training or supervising children,
- Being in sole charge of children (for example a taxi driver taking children to school without an escort).
- Unsupervised contact with children
- Providing advice or guidance to a child(ren) relating to physical or emotional well-being, education or training.

#### **Protected Adults**

- Teaching, instructing, training or supervising protected adults,
- Being in sole charge of protected adults.
- Providing assistance, advice or guidance to a protected adult relating to physical or emotional well-being, education or training
- Work in any establishment in terms of para 3 (b)

Whether the work with children or protected adults is incidental or not depends on what the purpose of the activity is and whom it is aimed at. An activity open to the general public will usually not be regulated work, even if it attracts children or protected adults to take part.

On the other hand an activity targeted specifically at children or protected adults, or at which their attendance is mandatory will constitute regulated work.

For example, a night class open to all is not regulated work, even if some of the class are under 18 or protected adults. However, a night class run only for residents of a care home would be.

An activity which holds greater attraction for children or a group of protected adults may also be regulated work. That will require a judgement in each individual case. In exceptional cases, if a general activity in fact attracts an overwhelming majority of children or protected adults it may be necessary to review whether it should be classified as protected work.

Because of the definitions of children and protected adults, it is possible for one individual to be both.

There is a further exception for posts which involve caring for protected adults when that is incidental to caring for children generally.

An employee in this post would not require to be registered for the Adults' Scheme but would require registration in the Children's Scheme.

#### **Q5.2 Work with Children themselves in work**

This exception applies to the following categories:

- Caring for children,
- Teaching, instructing, training or supervising children,
- Being in sole charge of children (for example a taxi driver taking children to school without an escort).
- Unsupervised contact with children
- Providing advice or guidance to a child(ren) relating to physical or emotional well-being, education or training.

It applies to children aged 16 or 17.

It covers paid work or volunteer work.

#### **Q5.3 Work with children themselves in employment**

This exception applies to the following categories:

- Unsupervised contact with children
- Providing advice or guidance to a child(ren) relating to physical or emotional well-being, education or training

This applies to children of any age, but is more limited than the previous exception. It only applies to "employment", which means paid employment. It therefore does not cover voluntary work.

#### **Q5.4 Work Experience**

Children aged 16 or 17 are covered by para 5.2

Younger children are not covered, but in practice it is unlikely that any other employees would be undertaking duties that would be defined as regulated work in terms of the PVG Scheme. However, if in doubt advice should be sought.

#### **Q5.5 No opportunity for contact with Children**

While the definition of regulated work with children includes anyone who works for an organisation which provides a care home service or independent health care service mainly for children, that is limited to employees who have the opportunity for contact with children when undertaking their duties.

#### **Q5.6 No opportunity for unsupervised contact with Children or Protected Adults**

While the PVG Scheme covers people who work in certain establishments, regardless of the work they are undertaking, that is limited to people who have the opportunity to have unsupervised contact with children or protected adults when doing anything permitted or required by the position.

The rationale for this is that simply working in an establishment does not necessarily give an employee a greater opportunity than the general public to exploit children or protected adults. That only arises if their position gives them the opportunity for unsupervised contact.

This exception does not apply to someone undertaking one of the particular activities which are covered by the PVG Scheme (see paras 3 (1) (a) and 3 (2) (a) above)

It covers positions such as janitors, cooks or cleaners.

It also covers contractors who work in such establishments.

It should also be noted that the unsupervised contact must arise when the employee is doing something they are authorised to do. Even if the post offers the opportunity for unsupervised contact by the employee acting outwith the scope of their duties that does not make the position regulated work. Any such actions by the employee should, if merited, be dealt with as disciplinary matters.

In this context “unsupervised contact” does not simply mean outwith the presence of any other person.

Supervision in respect of children must be by someone with authority, such as a parent, someone nominated by a parent, or a carer or teacher (who will themselves be undertaking regulated work.)

Supervision in respect of protected adults means contact outwith the presence of someone who is undertaking regulated work with adults.

Many of the positions within the Council will clearly allow unsupervised contact but there may be some positions which require some further consideration. For example, school cleaners may work at different times in some schools compared to others. A cleaner working while pupils were normally present would be undertaking regulated work but another who works at night would not be. Similarly, a catering assistant in one school might never be unsupervised because they enter and leave the school at different times and by a different entrance than the pupils, and when serving meals are always within the presence of a teacher. Someone at another school, however, may enter the school by the same entrance as the pupils and have to walk down the school corridors to get to the kitchen. That would allow unsupervised contact and therefore would make the position regulated work.

**Positions for which PVG Disclosure Records can be obtained:**

<b>*What is a Vulnerable Group?</b>	
<b>Children</b>	<b>Protected Adults</b>
<ul style="list-style-type: none"> <li>Under 18 years of age 'blanket protection'</li> </ul>	<ul style="list-style-type: none"> <li>age 16 and over</li> <li>service based definition (protected because receiving specific services)</li> </ul>
<b>**What is considered an Activity/Service?</b>	
<b>Children</b>	<b>Protected Adults</b>
<ul style="list-style-type: none"> <li>Caring for</li> <li>Teaching, instructing, training and supervising</li> <li>Being in sole charge of</li> <li>Providing assistance, advice or guidance which relates to physical or emotional well-being, education or training</li> <li>Moderating interactive activities</li> <li>Provision of care home services</li> <li>Provision of independent health care services</li> <li>Work on day care premises</li> <li>Host parenting</li> <li>Individuals whose normal duties include the day-to-day supervision or management of others in regulated work</li> </ul>	<ul style="list-style-type: none"> <li>Caring for</li> <li>Teaching, instructing, training and supervising</li> <li>Being in sole charge of</li> <li>Providing assistance, advice or guidance which relates to physical or emotional well-being (includes prescribed health care and welfare services)</li> <li>Inspecting care services (adults)</li> <li>Individuals whose normal duties include the day-to-day supervision or management of others in regulated work</li> </ul>
<b>***Which Establishments are included in the PVG Scheme?</b>	
<b>Children</b>	<b>Protected Adults</b>
<ul style="list-style-type: none"> <li>Children's hospital</li> <li>Children's detention institution</li> <li>Education institutions etc</li> <li>Children's home</li> <li>Individuals whose normal duties include the day to day supervision or management of others in regulated work</li> </ul>	<ul style="list-style-type: none"> <li>A care home</li> <li>A residential establishment or accommodation provided or secured by a Council under; <ul style="list-style-type: none"> <li>The Social Work (Scotland) Act 1968, or</li> <li>Section 25 of the Mental Health (C&amp;T) Act 2003</li> </ul> </li> <li>Individuals whose normal duties include the day to day supervision or management of others in regulated work</li> </ul>
<b>****What are the specific named Positions?</b>	
<b>Children</b>	<b>Protected Adults</b>
<ul style="list-style-type: none"> <li>Manager of educational institution</li> <li>Member of committee (provision of education, accommodation, social services or health services to children)</li> <li>Member of children's panel</li> <li>Chief social work officer</li> <li>Chief education officer</li> <li>Commissioner for children and young people in Scotland</li> <li>Registrar of independent schools in Scotland</li> <li>Foster carer</li> <li>Charity trustee</li> </ul>	<ul style="list-style-type: none"> <li>Member of committee (education, accommodations, social services, health care services)</li> <li>Chief social work officer</li> <li>Charity trustee</li> </ul>

## Positions for which Disclosure Certificates can be obtained:

### Enhanced:

Following the introduction of the PVG Scheme, Enhanced Disclosure certificates can now be obtained for only the following purposes:

Those most relevant to Scottish Borders are listed first:

1. an individual seeking appointment as a member of an adoption panel or joint adoption panel;
2. an individual seeking appointment as a member of a fostering panel or joint fostering panel;
3. an individual being assessed by an adoption agency as to their suitability to adopt a child;
4. an individual over the age of 16 residing in the same household as an individual being assessed by an adoption agency as to their suitability to adopt a child;
5. an individual over the age of 16 residing in the same household as an individual being assessed as to their suitability to be a foster carer;
6. an individual over the age of 16 residing in the same household as an individual being assessed as to their suitability to be a host parent;
7. an individual appointed or seeking appointment to a panel established by virtue of section 101(1) of the Children (Scotland) Act 1995(d) (panels for curators ad litem, reporting officers and safeguarders);
8. an individual appointed or seeking appointment as the Principal Reporter or as an officer to assist the Principal Reporter;
9. an individual appointed or seeking appointment as a prosecutor, or as an officer to assist a prosecutor or to assist in the work of the Crown Office;
10. an individual appointed or seeking appointment to work which is concerned with the administration of, or normally carried out wholly or partly within a prison, remand centre, young offenders institution, detention centre or removal centre;
11. an individual appointed or seeking appointment as a member of a visiting committee for prisons;
12. an individual appointed or seeking appointment as a member of a visiting committee for remand centres and young offenders institutions;
13. proceedings before the Court of Session or the sheriff in respect of a guardianship order made under section 11 of the Children (Scotland) Act 1995;
14. an individual who is a director of a body corporate, or a partner of a partnership, included or seeking inclusion in any list, prepared for the purposes of Part II of the National Health Service (Scotland) Act 1978;
15. an individual over the age of 16 who resides on the same premises as an individual being assessed as to their suitability to be a childminder where the child minding normally takes

place on those premises, or regularly works on those premises at a time when the child minding takes place;

16. obtaining or holding an operating licence under Part 5 of the Gambling Act 2005;
17. obtaining or holding a personal licence under Part 6 of the Gambling Act 2005;
18. a licence under section 5 or 6 of the National Lottery etc. Act 1993 (running or promoting lotteries);
19. a licence under the Private Security Industry Act 2001 (door supervisors etc. for public houses and clubs and compatible venues);

**Standard:**

1. Solicitors
2. Accountants

**Basic:**

Any position.

Basic Disclosure Certificates are usually obtained by the individual personally.

**VERIFICATION OF ORIGINAL DOCUMENTS  
(IDENTIFICATION, RIGHT TO WORK & DISCLOSURE SCOTLAND)**

This form is to be used for all applicants to confirm their Identification and demonstrate their right to work in the UK. Where applicable, this ID will also be used for Disclosure Scotland purposes. For details of ID documents required please see over page.

Applicant Name: \_\_\_\_\_

Post Applied for: \_\_\_\_\_ Vacancy No: \_\_\_\_\_

Nationality: \_\_\_\_\_

Passport

Full Birth/Adoption Certificate

Official documentation showing indefinite leave or Limited leave to remain in the UK

Others (please detail) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I confirm that:

\*Photographs are consistent with appearance of applicant (applicant must be seen in person)

\*Dates of Birth are consistent across the documents & consistent with the appearance of the applicant

\*Names are consistent across the documents, or there is a further document explaining the reason for the different names e.g. marriage certificate, divorce certificate, deed poll

\*Expiry dates have not passed

\*Documents are valid and genuine

Applicant has the right to work in the UK (please delete as appropriate) Yes / No

**Photocopy of all Identification seen attached to this form**

Name: **(BLOCK CAPITALS)** \_\_\_\_\_

Signature: \_\_\_\_\_

Position: \_\_\_\_\_ Date: \_\_\_\_\_

**Checking Documentation – Information for Recruiting Manager:**

To ensure that all migrant workers employed by Scottish Borders Council are eligible to work in the UK, a document check of all prospective employees must be undertaken as part of the pre-employment checking process prior to any formal offer of employment being made.

Prospective employees will be requested to bring with them to interview the required evidence of their right to work in the UK and line managers should check these documents to protect them against the civil penalty for employing illegal migrant workers.

Original documentation that confirms entitlement to live and work in the UK includes:

- a British citizen / EEA / Swiss National Passport,
- a *full* British Birth or Adoption Certificate along with an official document containing the holder's name and permanent National Insurance Number
- a passport or travel document endorsed to show that the holder is allowed to stay in the UK indefinitely or for a limited period of time & is allowed to do the work in question.

Please note that short Birth Certificates, Driving Licences and National Insurance numbers or cards are not sufficient themselves to show entitlement to work in the UK.

**(For a full list of documents that can be accepted please see Checking a Candidate's Right to Work in UK & Sponsoring Migrant Workers or contact Human Resources).**

Line managers must check the applicant's documents at the interview and must take a photocopy of the checked documents which will then be forwarded to Human Resources with the interview outcome paperwork.

The line manager must be satisfied that the documents are valid, genuine and that they relate to the applicant.

**Disclosure Scotland:**

Please note that the documents checked here for verification of identification and right to work in the UK will also be used, where applicable, for Disclosure Scotland identification purposes.

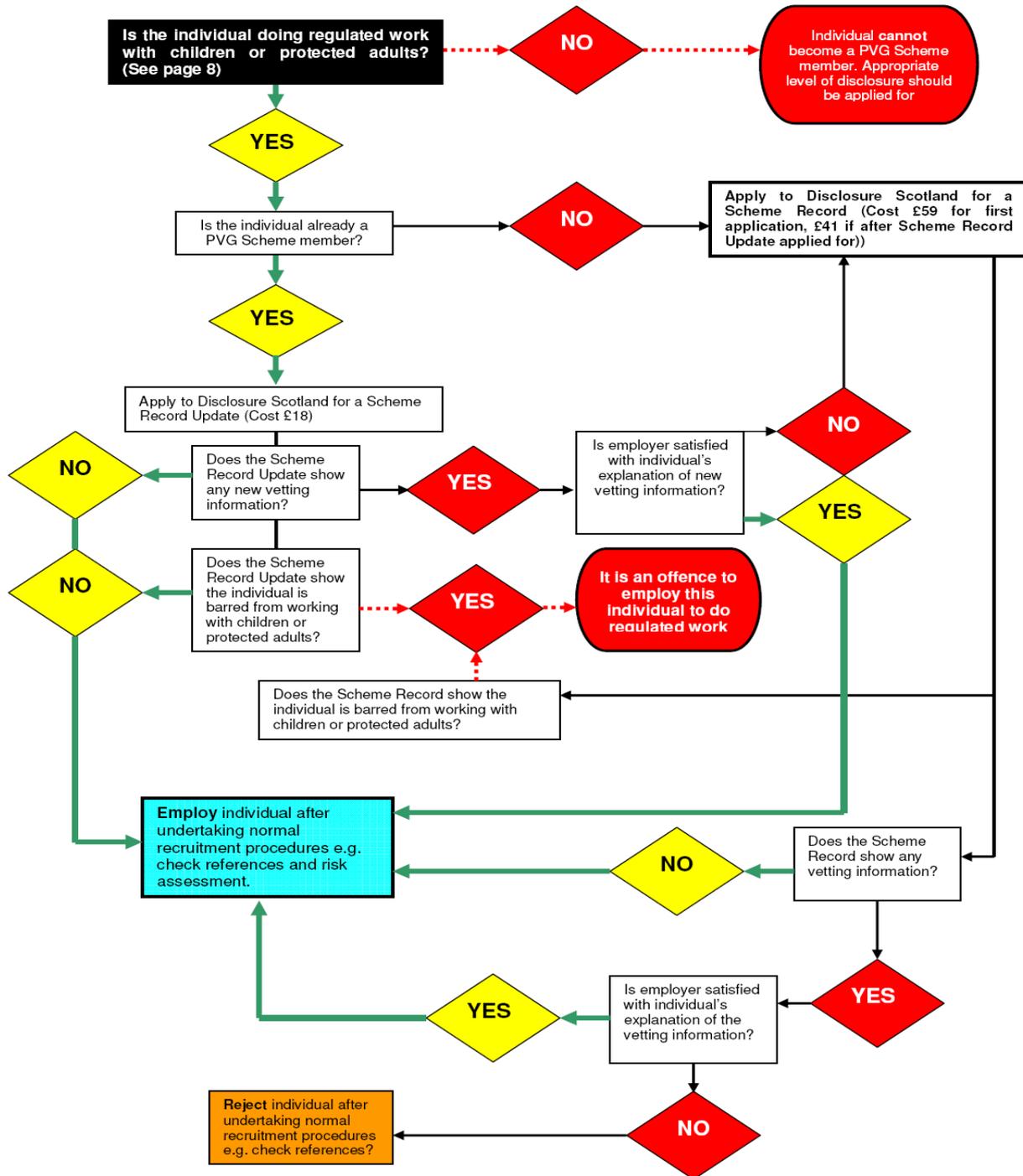
3 forms of ID are requested for Disclosure Scotland purposes – one photographic, one address related and one proof of date of birth.

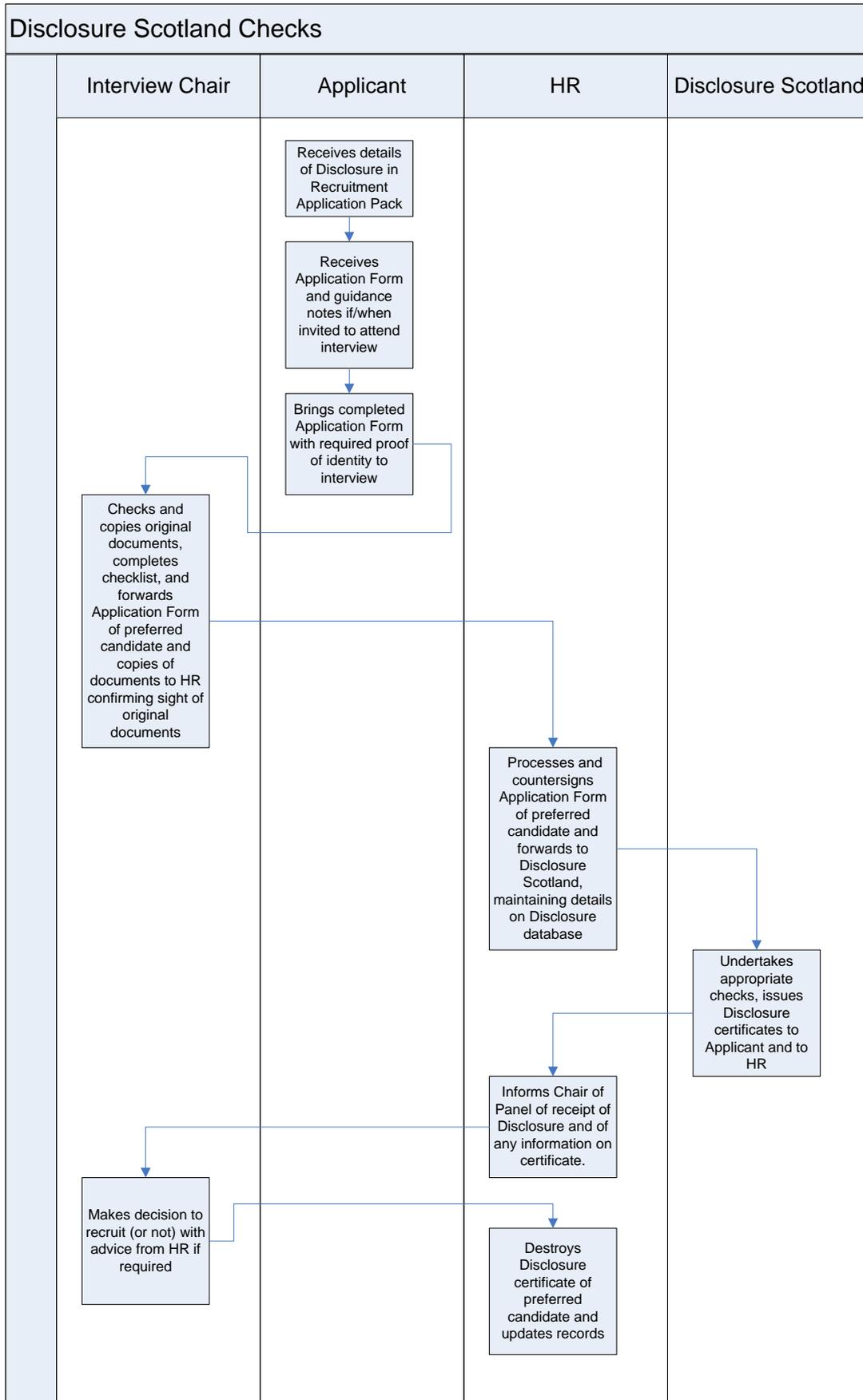
Please note that previous Disclosure forms are no longer a satisfactory proof of ID for Disclosure purposes.

**Queries:**

**If you have any queries regarding documentation for applicants to prove their right to work in the UK or regarding the checking process please contact Human Resources on: tel: 01835 825052/3.**

**Becoming a PVG Scheme Member**





**Flowchart of Disclosure Process**

**Appendix 7**

