

PVG and Disclosures Policy

1. Protecting Vulnerable Groups



1.1 What this policy covers

The NPC is committed to protecting service users against all forms of abuse. You have a responsibility towards service users to ensure that they are protected from abuse.

This policy sets out the NPC's obligations on handling recruitment into job roles that involve working with vulnerable people and on monitoring and reporting information about you received during the course of your employment in those roles.

It also sets out your responsibilities for reporting abuse of service users and the procedure for doing so.

1.2 Your entitlements and responsibilities

What is "abuse"?

Abuse is a violation of an individual's human or civil rights by another person and may consist of a single act or multiple acts that cause harm. As well as physical and psychological abuse, acts of neglect or an omission to act may amount to abuse. Abuse may also occur when a child or vulnerable adult is persuaded to enter into a financial or sexual transaction to which he or she has not consented or cannot consent.

Recruitment

The NPC will make it clear when advertising jobs whether the work will involve "regulated work" as defined by the Protection of Vulnerable Groups (Scotland) Act 2007.

The Protecting Vulnerable Groups (PVG) Scheme legally obliges the NPC to check an applicant's PVG Scheme Membership before an applicant can be employed by the NPC in regulated work. This may involve the applicant applying to become a PVG Scheme member for the first time. The NPC will always seek an applicant's consent before checking their PVG Scheme Membership status.

Activities that become regulated work

If the activities you undertake become regulated work or where you are asked to perform activities that are classed as regulated work, the NPC may require you to become a PVG Scheme member. In such cases, the NPC will pay the cost of registration.

If you refuse to become a PVG Scheme member, or if Disclosure Scotland is unable to register you, the NPC will investigate whether you can continue to be employed with the NPC in activities that are not regulated work, but the NPC reserves the right to dismiss you without notice or compensation.

Regulated Work

The PVG Scheme specifically deals with people who undertake Regulated Work.

Regulated Work is defined by three basic principles;

1. It has to be work (i.e. not a personal relationship)
2. It has to be with either children or protected adults.
3. The work has to include;
 - (a) A particular type of activity such as caring for or teaching a child or protected adult.
 - (b) Work in a particular establishment, such as school or a care home, which involves contact with children or protected adults.
 - (c) Holding one of the specified positions, such as a member of a children's panel or chief social work officer.

If a person undertakes any of the following activities as part of their normal duties then they may be doing regulated work;

- Caring for children
- Teaching, instructing, training or supervising children.
- Being in sole charge of children.
- Unsupervised contact with children under arrangements made by a responsible person.
- Providing, or working for an organisation which provides, a care home service which is provided exclusively or mainly for children
- Providing, or working for an organisation which provides, an independent health care service which is provided exclusively or mainly for children.

The NPC(NPC) is not listed as a regulated establishment therefore we are not automatically required to ensure everyone who works within the building is PVG scheme registered. The NPC is not listed as we do not provide a service solely for children; children may attend however their contact with other adults would be broadly speaking, incidental.

Organisations are only able to submit an application for a PVG record if the applicant intends to undertake regulated work with children or protected adults. To submit an application for a post that doesn't involve regulated work would be inappropriate and unlawful and may result in the NPC being suspended from the Scheme.

An assessment of every role within the NPC is necessary to ascertain which roles may constitute regulated work. Some roles are obvious for example NYPBoS, schools and Young Stars tutors, which all involve regulated work.

Incidental Test

Some, but not all, activities with children or protected adults are excluded from being regulated work if the activity is occurring incidentally to working with individuals who are not children or protected adults.

An activity is likely to be incidental when;

- It's open to all (characterised by where the event is held, where it is advertised, admission policy etc.)
- It's attractive to a wide cross-section of society.
- Attendance is discretionary.

It is important to note that asking all of our staff and students to register with the PVG Scheme as a blanket approach would be a criminal offence. We must ensure we only ask for information for those staff or students who will specifically undertake regulated work.

If your PVG Scheme membership status changes

The PVG Scheme requires that if your PVG Scheme Membership status changes during your current employment, the NPC may be legally obliged not to allow you to continue to engage in regulated work. This may mean that the NPC cannot continue to employ you.

When the online-Register is operational and the NPC receives notification of a change in your PVG Scheme Membership status, the NPC will investigate whether you can continue to be employed in activities that are not regulated work, but the NPC reserves the right to dismiss you without notice or compensation.

How the NPC will handle PVG Scheme data

For employment administration and evidential purposes, the NPC may retain a copy of your PVG Scheme Record or Scheme Record Update on your file during the course of your employment and for a period after termination of your employment.

The NPC's duty to refer information

By law, the NPC has a duty to refer certain information to Disclosure Scotland.

Legislation places a duty on the NPC to make a referral in circumstances when an individual doing regulated work has done something to harm a child or protected adult and the impact is so serious that the NPC has (or would) permanently remove the individual from regulated work.

The harmful or inappropriate behaviour must correspond with the type of regulated work the individual does, e.g. a school teacher (doing regulated work with children) who harms a protected adult does not meet the referral grounds. It should be noted the harmful or inappropriate behaviour does not have to have taken place in the workplace, or be connected with that person's work in any way.

Termination of employment

You should notify Disclosure Scotland on termination of employment to let them know you no longer work for the NPC. On receipt of your notification, Disclosure Scotland will seek confirmation from the NPC that you are no longer employed. There is no requirement for you to do this, but if you fail to do so the NPC will be notified of any consideration for listing, or of any listing decisions in relation to you, even after termination of employment.

1.3 Procedure

You must remain vigilant at all times of the risk to service users of abusive behaviour from different sources including members of their family, other service users and employees.

If you believe that any service users have been subjected to abuse, you should refer the circumstances to your manager (or another manager if appropriate) for full investigation.

If the alleged perpetrator of abuse is another employee, the circumstances will be investigated fully under the NPC's Disciplinary Procedure.

If necessary, the NPC will refer details of the circumstances to Disclosure Scotland.

If, following full investigation of the circumstances, the NPC determines that the perpetrator should be dismissed, the perpetrator's details will be referred to Disclosure Scotland.

2 Disclosures and Disclosure Information

2.1 What this policy covers

The NPC uses a Disclosure service to assess the suitability of individuals for employment in positions of trust. As recipients of Disclosure Information, the NPC must comply fully with the relevant Code of Practice.

This policy outlines the NPC's legal basis for processing and also obligations in respect of the handling, use, storage, retention and disposal of Disclosures and Disclosure Information. It also sets out your obligations regarding disclosing information and the implications of an unsatisfactory disclosure being received.

2.2 The NPC's responsibilities

General principles

The NPC will only process Disclosure and Disclosure Information to perform obligations or to exercise rights in employment law as provided under data protection legislation.

The NPC will tell you the reasons for processing Disclosure and Disclosure Information, how it uses such data and the legal basis for this processing in its Privacy Notices.

Where a Disclosure is required for the position concerned, all application forms, job advertisements and recruitment briefs will contain a statement that a Disclosure will be conducted in the event of the candidate being offered the position.

The NPC also complies fully with its obligations under data protection legislation and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure Information.

Use of disclosure information

Disclosure Information is only used for the specific purpose for which it was requested, as detailed in the NPC's Privacy Notice and for which the NPC has the legal right to use it and for which your full consent has been given.

In the event of an unsatisfactory Disclosure the NPC will arrange to meet with you to discuss this issue and reserves the right to withdraw any employment offer or terminate your employment in either case without notice or compensation.

Storage and access

Disclosure Information is held separately from your personnel file and stored securely, in lockable, non-portable, storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties.

Handling

In accordance with relevant legislation, Disclosure Information is only passed to those who are authorised to receive it in the course of their duties. The NPC maintains a record of all those to whom Disclosures or Disclosure Information has been revealed and recognises that it is a criminal offence to pass this information to anyone who is not entitled to receive it.

Retention

The NPC will not retain your Disclosure Information for any longer than is absolutely necessary. This retention will allow for the consideration and resolution of any dispute or complaint, or be for the purpose of completing safeguarding audits.

Throughout this time the usual conditions regarding safe storage and strictly controlled access will prevail.

Disposal

Once the retention period has elapsed, the NPC will ensure your Disclosure Information is immediately destroyed by secure means. While awaiting destruction, Disclosure Information will not be stored in any unsecured receptacle (e.g. waste bin).

The NPC will not keep any photocopy or other image of the Disclosure Information or any copy or representation of the contents of a Disclosure. However, the NPC may keep a record of the date of issue of a Disclosure, the name of the subject, the type of Disclosure requested, the position in relation to which the Disclosure was requested, the unique reference number of the Disclosure and the details of the recruitment decision taken.

2.3 Your responsibilities

You are required to inform the NPC immediately if at any time during your employment you are questioned in connection with, charged with or convicted of any criminal offence or if you are in receipt of any notice of prosecution or police caution. Failure to notify the NPC may result in disciplinary action against you, up to and including dismissal without notice for gross misconduct.