

Disclosure policy and procedure

- 1. Scope** This policy and procedure applies to members of the Management Committee, all staff (permanent, temporary and casual) and volunteers, including potential staff members and volunteers of Abbeyfield Scotland Ltd.

- 2. Aim** The aim of this policy and procedure is to ensure that any protected adults are kept safe from harm while they are with staff and volunteers in this organisation, and to ensure consistent and fair practices are implemented for the recruitment of staff or volunteers to Abbeyfield Scotland Ltd who have criminal records. It also sets out how Abbeyfield Scotland Ltd will ensure the secure handling, holding, storage, destruction and retention of disclosure information provided by Disclosure Scotland.

- 3. Policy Statement** Abbeyfield Scotland Ltd will comply fully with the Code of Practice (the Code) issued by Scottish Ministers under Part V of the Police Act 1997 (the 1997 Act). The Code sets out obligations for registered bodies, counter-signatories and other recipients of disclosure information issued under the 1997 Act and the Protection of Vulnerable Groups (Scotland) Act 2007 (the 2007 Act). Abbeyfield Scotland Ltd will provide a copy of this policy and the Code to anyone who asks to see it. Abbeyfield Scotland Ltd is committed to equality of opportunity, to following practices and to providing a service free from unfair and unlawful discrimination of any kind. It undertakes to treat all applicants for positions, paid or voluntary, fairly and not to discriminate against the subject of a disclosure on the basis of conviction or other information revealed.

- 4. Background** The Protection of Vulnerable Groups (Scotland) Act 2007 came into effect on 28 February 2011. It created a membership scheme, the Protecting Vulnerable Groups (PVG) Scheme, to replace the previous Disclosure Scotland checking system for individuals doing regulated work with children and/or protected adults in Scotland. Its overarching principles are to ensure that those who have regular contact with vulnerable groups through the workplace do not have a history of harmful behaviour and to detect those who become unsuitable while in the workplace. It also establishes two lists of those who are unsuitable to do regulated work with children and/or protected adults and are therefore barred from undertaking such work.

Disclosure Scotland continues to process other types of disclosures, i.e. basic, standard and enhanced, which are still available under Part V of the 1997 Act for checks which are not for the purposes of regulated work with child and/or protected adults. Some positions within Abbeyfield Scotland Ltd may require new post holders to obtain a satisfactory basic or standard disclosure and this will be published in the particulars for that post. A basic disclosure contains only convictions considered unspent under

The Rehabilitation of Offenders Act 1974, while the standard disclosure contains all conviction information, spent and unspent, including cautions.

5. The PVG scheme

Definition of children and protected adults

A child is an individual aged under 18 years. However, as Abbeyfield Scotland Ltd do not do regulated work with children, no individual will be required to become a PVG Scheme Member in respect of regulated work with children.

A protected adult is an individual aged 16 or over who is provided with (and thus receives) a type of care, support or welfare service. All adults living within Abbeyfield Scotland Ltd properties are either in receipt of a housing support service or a care home service and are therefore classed as protected adults. However, whether or not an individual is required to become a PVG Scheme Member in respect of work with protected adults is dependant on whether or not the work they are undertaking is regulated.

Regulated work

It is not possible to provide a definitive list of roles, positions or types of employment that constitute regulated work, not least because the structure and descriptions of peoples' work is constantly changing. Instead, the 2007 Act defines regulated work by reference to: the activities that a person does; the establishments in which a person works; the position that they hold; or the people for whom they have day to day supervision or management responsibility.

A risk assessment will be conducted by the HR Manager using the PVG Scheme Self Assessment Tool to determine whether or not an individual is undertaking regulated work and therefore whether PVG Scheme Membership is required.

For detailed information on what constitutes regulated work, please visit: http://www.disclosurescotland.co.uk/guidance/infofororg/chap2_regulatedwork/index.html

PVG Scheme Membership

Abbeyfield Scotland Ltd will ask individuals to whom we are offering regulated work with protected adults for the first time to become PVG Scheme Members. Existing staff and volunteers that are undertaking regulated work will also be required to become members of the scheme although this will be phased in beginning 2012 and completed by 2015. Abbeyfield Scotland Ltd will meet the cost of joining the scheme for new and existing staff and volunteers.

Abbeyfield Scotland Ltd will request the following check for first time applicants:

Scheme Record:

This replaces the Enhanced Disclosure for work with vulnerable groups and will show the type of regulated work that the applicant has joined the scheme to do and confirms that the applicant is not barred from regulated work of that type. It also states whether Scottish Ministers or the Independent Safeguarding Authority (ISA) are considering listing the applicant for that type of regulated work. The ISA is the English equivalent to the PVG Scheme. It will also show any vetting information gathered by Disclosure Scotland about the Scheme Member which is specific to the role the individual will be undertaking. Vetting information includes criminal conviction information (from all parts of the UK); information about whether an individual is on the Sex Offender's Register; relevant non-conviction information provided by police forces and prescribed civil orders. The disclosure will be sent to both the individual and the employer/voluntary organisation.

For existing PVG Scheme Members the following check can be undertaken:

Scheme Record Update:

The update will show the type 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 whether the individual is under consideration for listing for that type of regulated work. It will also show when the Scheme Record was last disclosed and if vetting information shows on the Scheme Record, as well as whether or not vetting information has been added or removed from the Scheme Record since it was last disclosed (but does not show details of that change). In instances where there is new information, the employer/voluntary organisation will, with the consent of the individual, be able to upgrade to a Scheme Record disclosure (within 30 days) to enable them to see details of any new vetting information and therefore consider whether it is relevant to the post.

Continuous updating

Once you become a PVG Scheme Member you will be given a unique PVG No. which will not change and which you can provide to any new organisations for which you will carry out regulated work. Your membership records will be automatically updated when your circumstances change, for example if you move to a different job or if you are convicted of a crime. If you commit an offence that is relevant to the type of regulated work you do, your status may move to consideration for listing. Abbeyfield Scotland Ltd will be notified if new information is received, e.g. if your status changes from being a PVG Scheme Member to being 'barred' or moves to consideration for listing.

Individuals' responsibilities

The new PVG Scheme means that it is the individual's responsibility to inform Disclosure Scotland if they leave a position of regulated work. Disclosure Scotland will then contact the organisation for confirmation of this change.

PVG Scheme Members must also give Ministers notice (within 3 months) of a change in the member's name, issue of a full gender recognition certificate to the member under section 4 of the Gender Recognition Act 2004 or any other change in circumstance of a prescribed type.

Consideration for listing

An individual can become considered for listing due to: a referral from an organisation or regulatory body; a referral from a court; new vetting information (i.e. conviction or non-conviction information) about a PVG Scheme Member; and a relevant inquiry report naming an individual. Convictions that would lead to an individual being automatically listed include rape, and murder where the act was committed against a child.

At the start and end of any consideration for listing (and this applies to each workforce separately), all interested parties will be notified of the decision in writing. The interested parties are: the individual; any organisation for which Disclosure Scotland knows the individual is doing regulated work; and any relevant regulatory body.

'Barred' status

Each type of regulated work has a corresponding list of individuals who are unsuitable to do such work. The effect of being included on either of these lists is that an individual is barred from undertaking regulated work (paid or unpaid) with children or protected adults (or both), and commit an offence if they do so. An individual can be barred from one type of regulated work and not the other.

The following are offences for PVG Scheme Members:

- It is an offence for an individual to do, or to seek or agree to do any regulated work for which the individual is barred.
- It is an offence for an organisation to offer regulated work to an individual barred from that work.
- It is an offence for an organisation not to refer an individual to Disclosure Scotland where the grounds have been met.

Referrals

The 2007 Act places a duty upon Abbeyfield Scotland Ltd to make a referral to Disclosure Scotland where an individual is dismissed or is removed from regulated work with protected adults where any of the referral grounds have been met. Referrals will normally be made by the HR Manager. It is an offence for Abbeyfield Scotland Ltd not to make a referral within 3 months of the grounds for referral being met and grounds for a referral include: causing harm; placing someone at risk of harm; engaging in inappropriate conduct involving pornography; engaging in inappropriate sexual conduct; or giving inappropriate medical treatment. The 2007 Act sets out what should be considered 'harm' and 'risk of harm'.

Further information:

Further information on the PVG Scheme can be found on the following websites: www.disclosurescotland.co.uk and www.crbs.org.uk