Disclosure SCOTLAND

Disclosure Scotland PVG scheme: Regulated roles guidance

Table of Contents

Introduction 7

What is a regulated role? 10

Deciding if it is a regulated role 11

Exceptions to regulated roles 15

Activity in relation to a child only occurs in the course of the child's work 15

Activity is carried out during the course of a child or protected adult's family relationship 16

Activity is carried out for another in the course of a personal relationship but for no commercial consideration 17

Under 16s 18

Training or studying for a regulated role 20

Regulated roles taking place outside of the United Kingdom 21

Remote working 22

Cross border issues 23

Activities 25

Example – A regulated role due to being a necessary part of the role 26

Example – Not a regulated role due to lack of activity and contact 27

Example – Regulated role due to activity and contact 28

Example – A regulated role 29

Activities with children 31

Activity descriptions 34

Acting as a foster carer in relation to the child 34

Making decisions in relation to a child's care arrangements where a council has facilitated the child's care arrangements 34

Having responsibility for the safety and welfare of a child, other than acting as a foster carer in relation to the child 35
Having the ability to directly influence decisions about the safety or welfare of a child, other than in the capacity of an elected representative or as the holder of a judicial office 35
Teaching, instructing or delivering training to children 36
Having the ability to directly influence the operational delivery of education services for children, other than in the capacity of an elected representative or as the holder of a judicial office 36
Holding power or influence over a child for the purpose of (a) an activity in which the child is taking part or seeking to take part in, or (b) arranging the future recruitment, training or employment of the child..... 37
Providing advice or guidance to children in relation to career development or education 38
Being in charge of or caring for children, other than acting as a foster carer 38
Examples of a regulated role and not a regulated role (parental group setting).... 39
Practising with children as a registered medical practitioner, anaesthesia associate or physician associate, nurse, health visitor, midwife, chiropractor, dentist or dental care professional, optometrist or dispensing technician, osteopath, pharmacist or pharmacy technician, and professions with the Health and Care Professions Council..... 39
Carrying out an activity in an educational institution, hospital, nursery, day care premises, hospice, hostel, residential care setting or secure accommodation for children 42
Providing a care home service or an independent healthcare service which is provided exclusively or mainly for children 43
Being engaged by or on behalf of a child with an illness or disability to provide personal care services..... 44
Providing counselling, therapy or advice, guidance or advocacy support in relation to health or wellbeing to children, other than where such counselling, therapy, advice or guidance is provided in a prison by a prisoner to another prisoner 44

Having the ability to directly influence the operational delivery of medical or care services 45
Providing cultural, leisure, social or recreational activities for children 46
Coaching children in relation to sports or physical activity 46
Providing religious activities or services for children 47
Driving or escorting children in connection with transport services provided exclusively or mainly for children 47
Holding a position of responsibility in an organisation which has as one of its main purposes the provision of benefits for or to children (regardless of whether the organisation has an additional purpose of providing benefits for or to another group of persons) 48

Activities with protected adults 51
What is a protected adult? 51

Activity descriptions 58
Teaching, instructing, training or supervising protected adults 58
Providing advice or guidance to a protected adult in relation to education, training or employability 58
Practising with protected adults as a registered medical practitioner, anaesthesia associate, physician associate, nurse, health visitor, midwife chiropractor, dentist, dental care professional, optometrist or dispensing technician, osteopath, pharmacist or pharmacy technician and professions with the Health and Care Professions Council 59
Being engaged in the provision of a domestic service (including cleaning, preparing food, acting as a caretaker of premises or carrying out maintenance of premises) that is provided for protected adults in a hospital, hospice, care home, day care centre, or adult placement setting 60
Carrying out an activity in a care home, hospital, hospice, day care centre or adult placement setting 60
Being in charge of protected adults 61
Having responsibility for safety and welfare of protected adults 61

Having the ability to directly influence decisions about the safety or welfare of a protected adult, other than in the capacity of an elected representative or as the holder of a judicial office 61
Being engaged by or on behalf of a protected adult to support the protected adult to live independently, including providing personal care services, food preparation or recreational services 62
Providing support to a protected adult under a shared lives scheme 62
Providing counselling, therapy, advice or guidance or advocacy support in relation to health or wellbeing to protected adults, other than where such counselling, therapy, advice or guidance or advocacy support is provided in a prison by a prisoner to another prisoner 63
Having the ability to directly influence the operational delivery of medical or care services for protected adults, other than in the capacity of an elected representative or as the holder of a judicial office 64
Providing cultural, leisure, social or recreational activities for protected adults 65
Coaching protected adults in relation to sports or physical activity 66
Providing religious activities or services to protected adults 66
Driving or escorting protected adults in connection with transport services provided exclusively or mainly for use by protected adults 67
Holding a position of responsibility in an organisation which has one of its main purposes the provision of benefits for or to protected adults (regardless of whether the organisation has an additional purpose of providing benefits for or to another group of persons) 68

Contact with children or protected adults 71

Example – A regulated role 74
Example - A regulated role 74
Example – Not a regulated role 75
Example - Not a regulated role 75

'Incidental' contact 76
Example – Not a regulated role 77

Example – Not a regulated role 78

Further support 79

Further reading 79

Feedback 80

Introduction

The Disclosure (Scotland) Act 2020 (Disclosure Act) has introduced 'regulated roles', which define whether membership of the Protecting Vulnerable Groups scheme ("the PVG scheme") is required for a particular role. This replaces the previous definition of 'regulated work', introduced by the Protection of Vulnerable Groups (Scotland) Act 2007 (PVG Act).

In our corporate strategy, we outlined the importance we place on our disclosure and protection services being accessible and proportionate for the people who need to use them. The Protecting Vulnerable Groups (PVG) scheme is a vital safeguarding tool in Scotland. It stops organisations from employing unsuitable individuals in regulated roles with children and protected adults.

This guidance has been created to help you, whether you are applying for a regulated role or if you are employing someone (in a paid or unpaid capacity) in a regulated role.

This guidance should be used alongside Schedule 2 and Schedule 3 of the Protection of Vulnerable Groups (Scotland) Act 2007 (the PVG Act) and the following guidance produced by Disclosure Scotland:

- written guidance
- online tool
- video guidance

Supplementary guidance has also been provided for specific areas, such as parent run groups, health services, and sport. This can be found on Disclosure Scotland's website.

How to apply

If a role is a regulated role that requires membership of the PVG scheme, you can apply for a PVG Scheme disclosure online[1].

Individuals or organisations can ask for paper forms if they cannot apply online.

Legal requirements

It continues to be an offence for an individual to do, or to seek or agree to do, a type of regulated role (with children, protected adults or both) from which the individual is barred. This offence was first introduced when the PVG scheme began in 2011 and has incentivised most organisations to treat the PVG scheme as if it were a legal requirement.

Furthermore, if the role is regulated, then the individual is required to be a member of the PVG scheme, to meet the legal requirements brought in by the Disclosure Act.

There is a grace period of **three months** after the PVG scheme becomes a legal requirement from 1 April 2025**.** This will ensure individuals and organisations do not commit an offence if there are individuals who are not PVG scheme members but are working in regulated roles as of 1 April 2025.

Any individual carrying out, or intending to/agreeing to carry out, a regulated role with children or protected adults must have applied to be a member of the PVG scheme by **1 July 2025** in order to continue to do so, otherwise they will commit a criminal offence.

It will also be an offence for an organisation or personnel supplier to offer any type of regulated role unless they have received a PVG Scheme Level 2 disclosure

[1] A PVG scheme disclosure is a Level 2 disclosure to which section 17 of the Disclosure Act applies and which replaces scheme record under the Protection of Vulnerable Groups (Scotland) Act 2007

confirming that the individual has joined or is already a member of the PVG scheme in relation to that type of regulated role.

An organisation is not to be treated as having offered a regulated role to an individual if the offer is subject to the organisation receiving a PVG Scheme Level 2 disclosure. The offer of a regulated role should be taken to mean providing the individual with the opportunity to carry out a regulated activity that includes contact with children and/or protected adults.

The requirement for an organisation to confirm PVG scheme membership before an individual carries out a regulated role for them, extends to situations where individuals are seeking to carry out a regulated role and intend to undertake a 'trial session' or similar. In this circumstance, PVG scheme membership is still required before the individual carries out a regulated role, even when they are doing the role on a trial and/or under supervision of someone else carrying out a regulated role basis.

An organisation could be considered to commit an offence if it permitted an individual to carry out activities that would amount to a regulated role before first receiving a PVG Scheme Level 2 disclosure that confirms that the individual is a member of the PVG Scheme for that type of work. Performing activities that amount to a regulated role, even on a trial basis or under supervision of someone else carrying out a regulated role , would still mean that the individual was carrying out a regulated role.

It is important that the PVG scheme is used to support robust safeguarding policies and does not replace them. The PVG scheme is a tool that employers and organisations should use as part of their own ongoing, safe recruitment processes and procedures. Alongside the legal requirement for individuals to be PVG scheme members in order to carry out regulated roles, employers should always ensure that robust child and adult protection measures are in place particular to their needs.

What is a regulated role?

Regulated roles can include, but are not limited to:

- paid work
- work under a contract
- unpaid work (e.g. volunteering)
- foster care

Work under a contract includes, for example, a self-employed person who is working for an organisation by fulfilling a contract for services. That means the organisation offering the contract needs to complete a PVG scheme disclosure on the individual if it's a regulated role.

This also includes a self-employed person working for a private individual (sometimes known as a personal employer) under self-directed support arrangements. In this scenario, the individual is in a regulated role for the personal employer and is required to be a PVG scheme member.

An individual who usually carries out a regulated role but is on a career break or secondment to a non-regulated role, is not considered to be in a regulated role until they return to those duties.

It is not possible to provide an exhaustive list of every role, position or activities that constitutes a regulated role. This is because the structure and descriptions of the roles that people can do, which include working with children and protected adults, are constantly changing.

However, there are some roles where it is clear it is regulated though. These are set out in a list under different sectors and published on Disclosure Scotland's website. Where your role appears on this list, this means that you require PVG membership to carry out your role, provided you have contact with children and/or protected

adults as part of the role. You do not need to consider anything further to establish that you are carrying out a regulated role.

If your role is **not** on the list on the Disclosure Scotland website, you should carry out your assessment of whether your role meets the definition of a regulated role under the Protection of Vulnerable Groups (Scotland) Act 2007 (the PVG Act). You should establish which activity or activities the individual is carrying out as part of the role, and whether the role includes contact with children and/or protected adults.

This guidance and our online tool is designed to help you with your assessment of whether your role is a regulated role.

Deciding if it is a regulated role

Those who recruit individuals for regulated roles, such as employers, employment agencies, personnel suppliers, volunteer engaging organisation, educational institutions and personal employers, should assess whether the role offered is a regulated role.

Disclosure Scotland staff may, on occasion, contact countersignatories to request further evidence of why a role has been assessed as a regulated role.

When applying for PVG, countersignatories should use wording within the "Position Applied For" field to indicate which activity/activities are part of the role, and whether they have contact with children and protected adults in their role.

This will help ensure that applications are processed as quickly as possible without requiring Disclosure Scotland staff to contact the countersignatory for further evidence of why the role has been assessed as a regulated role.

It is also helpful, where an application is for protected adults only, that the the age range of service users was specified in the position applied for field (for example, 16+, 18+,).

Organisations providing services to protected adults where the service is intended for 16 and above are likely to be carrying out a regulated role with children as well as protected adults.

This may also help to reduce the number of applications where further information is requested to confirm that the role is not also a regulated role with children.

The definition of a regulated role considers whether an individual:

1. is doing an activity mentioned in Part 2 of schedule 2 and/or schedule 3, of the PVG Act. (note – the external link will shortly be updated with the revised schedule 2 and schedule 3 The updated list of activities is contained within this guidance.

2. is carrying out the activity in Scotland as a necessary part of their role and has contact with children and/or protected adults; the contact with children/protected adults must be more than incidental and includes:
   - physical contact with children or protected adults,
   - visual, written or verbal communication with children or protected adults,
   - exercising power or influence over children or protected adults.

For most activities, contact can be carried out in the presence of a responsible person (for example, a parent or teacher) is **still** a regulated role, providing that the contact with children and/or protected adults is more than incidental.

For the below activities only, however, contact must be unsupervised to mean the individual is carrying out a regulated role. The activities that require unsupervised contact are:

- Carrying out an activity in an educational institution, hospital, nursery, day care premises, hospice, hostel, residential care setting or secure accommodation for children
- Carrying out an activity in a hospital, hospice, care home, day care centre or adult placement setting

An adult day care centre is a support service, which may be offered within a care home, centre or directly in the community to help people who need support. These services will be registered with the Care Inspectorate as adult day care centres.

In addition to the activities and contact for someone's role, anyone whose role includes day-to-day supervision or management of someone in a regulated role is required to have PVG scheme membership.

The graphic below provides a step-by-step guide to considering whether your role will be considered a regulated role.

Sections can be found within this guidance to define children and protected adults.

Disclosure SCOTLAND

1

Is your role on the list of regulated roles?

2

Are you doing an activity mentioned in Schedules 2 and 3 of the PVG Act?

3

Do you have contact with children, protected adults or both?

Exceptions to regulated roles

There are some exceptions which mean a role is not a regulated role. This means that, regardless of what activities the role involves, the individual carrying out those activities does not need PVG scheme membership. The exceptions are:

- if the activity is carried out in the course of a child's work (whether paid or unpaid work)
- if the activity is carried out in the course of the child or protected adult's family relationship
- if the activity is carried out for another in the course of a personal relationship but for no commercial consideration, to benefit the child or protected adult, their friend or a member of their family.

Activity in relation to a child only occurs in the course of the child's work

This will include, for example, a role such as a retail supervisor (which is not a regulated role) which involves the individual supervising other employees or volunteers who are children. In this scenario, the supervisory aspects of the role alone do not make the role a regulated role, because the supervision only occurs in the course of the child's work (which is not itself a regulated role). **A child is anyone under the age of eighteen.**

Children on school work experience are not usually considered to be 'working' for an organisation, as work experience is typically part of their education.

If a role is not normally considered to be a regulated role, the role does not become a regulated role solely because a supervisor is required to supervise someone on work experience.

This is because contact with children would usually be incidental. There is more information on incidental contact within the contact section of this guidance.

If young people are engaged In other schemes aimed at young people during their education, such as Foundation Apprenticeships and The Duke of Edinburgh's award, it should be established if they are carrying out an activity, and have contact, with children or protected adults as part of their role.

You should also refer to the guidance on under 16s when considering this.

Activity is carried out during the course of a child or protected adult's family relationship

A family relationship typically means a direct family member, for example, a parent, child, aunt or uncle. However, a 'family relationship' can also include a relationship between two people who live in the same household and treat each other as though they were members of the same family – for example, an elderly person being cared for by their family member's partner who resides with them.

Even if the family member receives money for carrying out the activity/activities, for example, through funding for self-directed support arrangements from a local authority or other funder, this isn't treated as a regulated role.

For example, if an individual wishes to employ their adult son or daughter to provide their care for them, and they have received a direct payment from their Local Authority, they are **not** required to join the PVG scheme. This is because they are a family member.

A family relationship in this context **does not** include the relationship between a child and foster carer. Acting as a foster carer in relation to child is a regulated role. There is more information on foster care within this guidance.

Example – Not a regulated role due to family relationship

Rosemary has a regular arrangement to care for their grandchild every week. Rosemary does not live with the grandchild.

Rosemary is carrying out this role due to their family relationship with the grandchild.

This is not a regulated role, even if Rosemary received payment for providing this care.

Activity is carried out for another in the course of a personal relationship but for no commercial consideration

A personal relationship is a relationship between or among friends.

For example, an individual has been receiving personal care from a neighbour who has been a longtime family friend. The neighbour visits daily and assists the individual with medication and prepares meals. This is done for no financial consideration and no money changes hands, other than money given to purchase groceries for the individual. As there is no financial consideration the neighbour is **not** required to join the PVG scheme.

However, if the neighbour was receiving payment for this, then they **are** required to join the PVG scheme.

Example – Not a regulated role due to personal relationship

Karen has a regular arrangement to care for their friend's child every week. Karen does not live with the child.

Karen is carrying out this role due to their personal relationship with the child. They do not receive payment for this arrangement.

This is not a regulated role. This would be a regulated role is Karen received payment for the arrangement.

Under 16s

Children aged under 16 years of age cannot generally become a member of the PVG scheme. Disclosure Scotland do not consider it to be generally appropriate for under 16s to be in the position of doing regulated roles and having the level of responsibility for vulnerable groups that would support a legal requirement for PVG scheme membership.

Under 16s being generally unable to participate in the PVG scheme also protects them from unnecessary stigma related to disclosure for roles they may occupy when under the school leaving age. This is in line with arrangements in place in England, Wales and Northern Ireland, where organisations cannot carry out criminal records checks on anyone aged under 16.

Anyone under 16 can still carry out activities that would amount to a regulated role if they were aged 16 or over. However, the recruiting organisation should assess what activities may be suitable for the child under 16 to undertake, and put in place suitable safeguarding measures both for the child undertaking the role and any children or protected adults they were working with.

Moreover, organisations should carefully consider whether it is appropriate for under 16s to be carrying out activities that constitute carrying out a regulated role.

Where a child aged 15 years and 8 months (the minimum school leaving age in Scotland) or above is carrying out activities amounting to a regulated role and is anticipated to be continue doing so beyond their 16th birthday, for example, someone starting a college placement before they turn 16, the individual can apply for PVG membership from 15 years and 8 months onwards.

Those individuals carrying out activities equivalent to a regulated role are only legally required to be PVG scheme members from their 16th birthday. Applications for PVG membership for under 16s must be made via paper application. These cannot be applied for online.

If an application for a Level 1 disclosure or a Level 2 disclosure is made by an applicant under the age of 16, Disclosure Scotland has the discretion to provide the disclosure, if it appears from the information contained in the application that it is appropriate for them to do so in the circumstances.

Children on school work experience are not usually considered to be 'working' for an organisation, as work experience is typically part of their education.

If a role is not normally considered to be a regulated role, the role does not become a regulated role solely because a supervisor is required to supervise someone on work experience.

This is because contact with children would usually be incidental. There is more information on incidental contact within the contact section of this guidance.

If young people are engaged In other schemes aimed at young people during their education, such as Foundation Apprenticeships and The Duke of

Edinburgh's award, it should be established if they are carrying out an activity, and have contact, with children or protected adults as part of their role.

Training or studying for a regulated role

It is also considered to be a regulated role where an individual is undertaking training or studying to carry out one or more of the activities mentioned in schedule 2 or schedule 3 of the PVG Act, and which gives the individual undertaking the training or study, the opportunity to have contact with children or protected adults.

That means that it will be a legal requirement for the individual who is training or studying to be a PVG scheme member before carrying out, or agreeing to carry out, any of the activities in schedules 2 and/or 3, and for an organisation or personnel supplier to have received a PVG Scheme Level 2 disclosure prior to offering the individual the opportunity to undertake training or study for carrying out such activities on the basis that this amounts to a regulated role.

For individuals who are undertaking training or study in relation to the carrying out any activities which will constitute a regulated role, they and the educational institution or training provider must consider the point in which the training or studying involves the individual doing anything that gives the individual the opportunity for contact with a child or protected adult (which is more than incidental) – for example, that may be when a student is scheduled to engage in a placement, rather than at their point of enrolment in a course or when undertaking solely classroom based learning.

The individual must be a member of the PVG scheme before carrying out any of the activities within Schedule 2 and Schedule 3 of the PVG Act. The educational institution/training provider (or organisation for whom the individual will be working) will require to obtain a PVG Scheme Level 2 disclosure before the individual can carry out activities that constitute a regulated role.

Regulated roles taking place outside of the United Kingdom

Roles that are being carried out outside of the UK, Channel Islands and the Isle of Man (which involve the carrying out of activities set out in Part 2 of schedules 2 and 3 of the PVG Act and which would be considered to constitute a regulated role if they were carried out in Scotland) are treated as a regulated role for the purposes of the PVG Act if:

- the individual is ordinarily resident in the UK (although they do not need to be a UK national) **and**
- the role is being undertaken for an organisation or personnel supplier with a place of business in Scotland, providing that place of business is used by the organisation or personnel supplier as a principal place of business.

> **For example, David is a charity worker who lives in Scotland (i.e., ordinarily resident) and is employed by a Scottish based charity (whose principal place of business is in Dundee). David undertakes aid work abroad that includes teaching children. David needs to be a PVG scheme member for the period during which they are carrying out that aid work and teaching children.**

For individuals who are ordinarily a resident in the UK, Channel Islands or Isle of Man, training or studying for activities that is undertaken overseas is to be treated as if it were undertaken in Scotland, if:

the person with principal responsibility for the provision of the training or course of study is either:

- an organisation with a place of business in Scotland, or
- a personnel supplier with a place of business in Scotland,

and:

- the organisation's or personnel supplier's functions in relation to the undertaking of the training or study by the individual are principally exercised at that place of business.

This is intended to ensure that Scottish organisations are included in the legal requirements of the PVG scheme, where they offer training or study abroad that includes a regulated role.

It is an offence for an organisation or personnel supplier to offer an individual any type of regulated role unless they have received a PVG Scheme Level 2 disclosure confirming that the individual has joined, or is already an existing member of, the PVG scheme in relation to that type of regulated role.

Sam is a medical student worker who usually lives in Scotland and is undertaking a course arranged by a Scottish university. Some of Sam's studying will take place outside of the UK, Channel Islands and the Isle of Man. Because Sam is a medical student and their training/study will be for activities which amount to a regulated role, Sam needs to be a PVG scheme member.

Remote working

Where a role is undertaken remotely, the key question in determining whether it is a regulated role will be where the **individual carrying out the role** is based, for example:

- if the individual is based **in** Scotland (regardless of whether the individual is normally resident elsewhere) and performing a role remotely that involves an activity mentioned in schedule 2 and/or schedule 3 of the PVG Act, and the individual gives the individual the opportunity to have contact with children and protected adults that is more than incidental (including physical contact, visual, written or verbal communication or exercising power or influence over them), the role will be a regulated role. This is because the individual is carrying out the activity **in Scotland**, even if the children or protected adults themselves are based out with Scotland

- if the **individual** is based outside of Scotland (and is not someone normally resident in Scotland) and is remotely delivering a service to **children and protected adults in Scotland**, the service cannot be treated as a regulated role (even if the work involves an activity mentioned in schedule 2 and/or schedule 3 of the PVG Act and the individual has contact with the children and protected adults). This is because the individual is not carrying out the activity **in Scotland.**
    - If the individual is based elsewhere in the UK, Channel Islands or Isle of Man, appropriate checks can be obtained from the Disclosure and Barring Service or Access Northern Ireland.

Organisations can request that individuals provide criminal record checks from the individual's country of residence, if they are delivering remote services from outside of the UK, Channel Islands or the Isle of Man to children or protected adults in Scotland. There is guidance on this on the Home Office website.

Cross border issues

If an individual is carrying out a regulated role in Scotland, they must be in the PVG scheme, even if they are already subject to a check by the Disclosure and Barring Service for the same role. This includes organisations who may be normally based elsewhere in the UK, but where their staff and volunteers work in Scotland some of the time.

The PVG Scheme is unique to Scotland and although some of the aspects of a DBS check are the same as that carried out for PVG scheme members, there are some differences. For example, the PVG Scheme is supported by technology and legislation that allows the continuous monitoring of every PVG Scheme member and for action to be taken to remove unsuitable parties from the workforce should concerning information be detected.

The work carried in Scotland must be a necessary part of the role and be part of the normal duties of the role.

Activities

The concept of regulated roles has been created based on specific activities. An individual must be carrying out at least one of the activities set out in Part 2 of schedules 2 and/or 3 of the PVG Act to be carrying out a regulated role. These activities are considered to be the core characteristics which make a role a regulated one.

It is possible in some cases that individuals will carry out multiple activities within the same role. You should consider each of the activities in turn as part of your assessment of whether your role is a regulated role.

The activity must be a necessary part of the individual's role. This can sometimes also be referred to as someone's 'normal duties'. For example, an activity can be something that the individual:

- is expected to do as a necessary part of their role on an ongoing basis (for example, it's listed in their role description)
- can reasonably anticipate as being part of their role
- does not do on an ad hoc basis
- is designated to do, as part of a pool of other people, who are specifically available for certain things

Accessing systems or data regarding children and/or protected adults is not an activity mentioned in Part 2 of schedule 2 and/or schedule 3 of the PVG Act. Therefore, an individual cannot be carrying out a regulated role on this basis alone.

Example – A regulated role due to being a necessary part of the role

Amy is a bus driver and usually drives a public bus from Glasgow to Edinburgh. Amy's employer also has a contract for school buses in the Glasgow area. Amy's terms of employment include that they are part of a pool of reserve school bus drivers that can be used occasionally through the year to drive the school bus to cover for sickness and annual leave of the usual school bus drivers.

Although Amy is not normally involved in driving the school bus, Amy can anticipate that they will do so as part of their role because they are included in the pool of reserve school bus drivers. Therefore, this can be considered as part of their 'normal duties and so Amy is carrying out a regulated role.

An activity is not likely to be a necessary part of a role when something is:

- is an activity which is not part of the individual's normal role
- carried out in response to an emergency situation arising in their work environment
- arranged at the last minute to stand in at short notice for sickness or other unexpected absence of another worker

The 'normal duties' of an individual's regulated role will vary from role to role. There does not need to be a particular frequency associated with undertaking the activity. For example, in some cases it might be a normal duty for an activity to happen once or twice per year because it is something that is reasonably anticipated as part of the role. In other cases, the activity might happen on a daily or weekly basis.

The normal duties can also be just one part of the individual's overall role. Normal duties do not need to make up the entirety of the individual's overall role for it be a regulated role.

The opportunity to have contact with children or protected adults is also a requirement for a regulated role. You can find more information on 'contact' within this guidance. The below examples may also help to demonstrate the 'activity' and 'contact' requirements for a regulated role.

Contact must be at least one of the below and be more than incidental contact with children and/or protected adults:

- physical contact
- visual, written or verbal communication
- exercising power or influence

Example – Not a regulated role due to lack of activity and contact

Rachel's role is to maintain the patient records in a medical practice. The role is part of the overall delivery of the service in the practice but does not require Rachel to contact patients.

Despite Rachel's role contributing to the operational delivery of the medical service provided by the medical practice, maintaining patient records is not a regulated role Rachel is not in contact with children or protected adults as a necessary part of her role.

Rachel is not carrying out a regulated role.

Example – Regulated role due to activity and contact

Kevin works in a pharmacy within a medical practice, providing advice to children and protected adults on medication relevant to their health. Kevin does this on a regular basis, often daily.

Kevin's role both contributes to the operational delivery of the medical service sand requires them to have contact with children or protected adults.

Kevin is carrying out a regulated role.

Organisations must remain mindful of the activities that are set out in schedules 2 and/or 3 of the PVG Act should roles change. If a role changes, organisations must review whether any new aspects of a role mean the individual is now carrying out a regulated role **or** is no longer carrying out a regulated role.

If the individual will then be carrying out a regulated role, and have not been in a regulated role previously, PVG scheme membership must be obtained before the individual carries out the aspects of their role that constitute a regulated role.

Conversely, if the individual will then no longer be carrying out a regulated role because of the changes, the organisation should contact Disclosure Scotland to notify them that the organisation no longer has an interest in the individual. The individual can also apply for removal from the PVG scheme, unless they need to remain in the PVG scheme for another regulated role (e.g. with another organisation).

An individual is also carrying out a regulated role if they are a day-to-day supervisor or line manager of someone doing the activities mentioned in Part 2 of schedules 2 and 3 of the PVG Act. This is the case even if the supervisor or manager does not carry out the activity themselves.

This is because individuals who are one step removed from the front-line themselves often hold power and influence over vulnerable groups by guiding or directing individuals in how they interact or engage with children and protected adults.

A position is likely to include day-to-day supervision or management of an individual where the post holder:

is responsible for the management, supervision, appraisal, training and immediate welfare of the individual carrying out the regulated role,

meets regularly with the individual carrying out the regulated role to discuss and review how the individual's is carrying out that role, including in relation to performance issues.

Example – A regulated role

Taylor's role is to manage a homecare service that works with both children and protected adults. Taylor does not provide direct care to children or protected adults as part of her role but does directly supervise Paul and Claire who are care workers. Taylor is based in the homecare service's head office. Taylor can be contacted by Paul and Claire at any time. When Taylor carries out the quarterly reviews, those can be at head office or in the care service premises.

Taylor is in a regulated role because of her supervision role.

Collective responsibility for a policy, process or organisation does not necessarily mean collective responsibility for day-to-day supervision or management of an organisation's employees.

For example, a committee might have collective responsibility for a youth group. Running the youth group, which is likely to be a regulated role if it involves an activity

such as teaching or counselling children. Therefore, the individuals involved in running the youth group are likely to be carrying out a regulated role.

However, it is unlikely that each church committee member will have responsibility for the day-to-day supervision or management of any youth worker who is carrying out the regulated role. Experience tells us that it is likely one person will have specific management or supervision responsibility for the youth worker(s) and that only one of the church committee is doing a regulated role due to the supervision aspect. Other committee members may be carrying out a regulated role for other reasons out with the supervision or line management.

.

Activities with children

A child is anyone under the age of 18.

A regulated role with children is one that includes one or more of the activities in schedule 2 of the PVG Act as part of the normal duties of their role. A regulated role must **also** involve contact with a child or children that is more than incidental. You may wish to refer to the contact section of this guidance prior to reviewing the list of activities below.

For most activities, contact can be carried out in the presence of a responsible person (for example, a parent or teacher) is **still** a regulated role, providing that the contact with children is more than incidental.

For the below activities only, however, contact must be unsupervised to mean the individual is carrying out a regulated role. The activity that requires unsupervised contact is "carrying out an activity in an educational institution, hospital, nursery, day care premises, hospice, hostel, residential care setting or secure accommodation for children"

Some of the activities refer to 'providing' a certain type of service. The definition of providing these services should be taken to mean those who, as a necessary part of their role, are undertaking tasks that are connected to the delivery of the service to children and protected adults.

The activities relating to children (set out in schedule 2 of the PVG Act) are:

- acting as a foster carer in relation to the child
- making decisions in relation to a child's care arrangements where a council has facilitated the child's care arrangements
- having responsibility for the safety and welfare of a child, other than acting as a foster carer in relation to the child

- having the ability to directly influence decisions about the safety or welfare of a child, other than in the capacity of an elected representative or as the holder of a judicial office
- teaching, instructing or delivering training to children
- having the ability to directly influence the operational delivery of education services for children, other than in the capacity of an elected representative or as the holder of a judicial office
- holding power or influence over a child for the purpose of—
    - (a)an activity in which the child is taking part or seeking to take part in, or
    - (b)arranging the future recruitment, training or employment of the child
- providing advice or guidance to children in relation to career development or education
- being in charge of or caring for children, other than acting as a foster carer
- practising as a registered medical practitioner
- practising as an anaesthesia associate or physician associate pursuant to registration with the General Medical Council
- practising as a nurse, midwife or health visitor
- practising in a profession pursuant to registration with the Health and Care Professions Council
- practising as a chiropractor pursuant to registration with the General Chiropractic Council
- practising as a dentist or dental care professional pursuant to registration with the General Dental Council
- practising as an optometrist or dispensing technician pursuant to registration with the General Optical Council
- practising as an osteopath pursuant to registration with the General Osteopathic Council
- practising as a pharmacist or pharmacy technician pursuant to registration with the General Pharmaceutical Council

- being engaged in the provision of a domestic service (including cleaning, preparing food, acting as a caretaker of premises or carrying out maintenance of premises) that is provided for children in an educational establishment, hospital, nursery, day care premises, hospice, hostel, residential care setting or secure accommodation for children
- carrying out an activity in an educational institution, hospital, nursery, day care premises, hospice, hostel, residential care setting or secure accommodation for children
- providing a care home service or an independent healthcare service which is provided exclusively or mainly for children
- being engaged by or on behalf of a child with an illness or disability to provide personal care services
- providing counselling, therapy, advice, guidance or advocacy support in relation to health or wellbeing to children, other than where such counselling, therapy, advice or guidance is provided in a prison by a prisoner to another prisoner
- having the ability to directly influence the operational delivery of medical or care services for children, other than in the capacity of an elected representative or as the holder of a judicial office
- providing cultural, leisure, social or recreational activities for children
- coaching children in relation to sports or physical activity
- providing religious activities or services for children
- driving or escorting children in connection with transport services provided exclusively or mainly for children
- holding a position of responsibility in an organisation which has as one of its main purposes the provision of benefits for or to children (regardless of whether the organisation has an additional purpose of providing benefits for or to another group of persons)

Activity descriptions

Acting as a foster carer in relation to the child[2]

For the purposes of the PVG scheme, foster care includes:

- placements arranged by councils (which would cover many foster care placements)
- where a looked after child is placed by the council with a relative or friend, even though that individual is not a career foster carer
- some kinship care scenarios
- looking after a child in pursuance of a permanence order or a supervision order

This activity is intended to ensure that those who require to care for a child under any of these arrangements are carrying out a regulated role.

A permanence order is applied for by the local authority through the courts and is put in place when the care planning process has concluded that the child will be cared for, away from home, on a permanent basis.

A supervision order is made by a Children's Hearing or sheriff and requires a child to comply with specific conditions. It also requires the local authority to perform certain duties in relation to the child's needs.

Making decisions in relation to a child's care arrangements where a council has facilitated the child's care arrangements[3]

The individual carrying out this activity must be involved in the decision making process about the child's care arrangements.

---

[2] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 2, Part 2, paragraph 4
[3] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 2, Part 2, paragraph 5

Having responsibility for the safety and welfare of a child, other than acting as a foster carer in relation to the child[4]

This activity is intended to include roles that have a specific child protection focus or aspect of their role. For example, scout leaders or safety and welfare officers at sports clubs. The individual carrying out the role should specifically be responsible for the child's safety and welfare.

This activity is also intended to include social workers who have [overarching] responsibilities for [the safety and welfare of] children as a part of their role.

It may also include **some** sports referees or other officials, but only where the specific responsibilities placed upon referees, and similar posts, include responsibility for welfare of participants in the sport (and those participants are children).

Having the ability to directly influence decisions about the safety or welfare of a child, other than in the capacity of an elected representative or as the holder of a judicial office[5]

This activity is intended to include individuals who are:

- social workers (including the Chief Social Work Officer of a local authority)
- members of the Children's Panel or Children's Hearings Scotland
- members of the Scottish Children's Reporter Administration
- elected members of local authorities, but not members of Parliament or members of the Scottish Parliament, and only those elected members of local authorities who have the ability to directly influence decisions about the welfare or safety of a child, through:

[4] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 2, Part 2, paragraph 6
[5] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 2, Part 2, paragraph 7

- holding a position on a committee concerned with the provision of children's social services
- being a designated deputy on such a committee
- sub-committees and joint committees with the functions of a committee concerned with the provision of children's social services

Teaching, instructing or delivering training to children[6]

This activity is intended to include teaching of any subject. It can either take place in a recognised educational establishment (such as a school or further education college) or elsewhere.

This activity can be carried out by an individual who is not a registered education professional. For example, this could include employees of external organisations, for example authors or financial institutions, who regularly attend schools to teach certain matters or deliver training to schoolchildren, for example about financial management or writing, as part of their education.

Where senior pupils are involved in teaching, instructing or delivering training to other children, consideration must be given to whether this is considered to be part of a specific role, or if it as part of the senior pupil's own education. The age of the senior pupil will also be relevant, as generally only those 16 years or older are permitted to join the PVG Scheme.

Having the ability to directly influence the operational delivery of education services for children, other than in the capacity of an elected representative or as the holder of a judicial office[7]

This activity is intended to include:

---

[6] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 2, Part 2, paragraph 8
[7] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 2, Part 2, paragraph 9

- education inspectors
- the Chief Education Officer of a local authority
- school governors (for example, within in an independent school setting)
- the Registrar of Independent Schools in Scotland
- elected members of local authorities, but not members of Parliament or members of the Scottish Parliament. Elected members of local authorities will only be carrying out this activity if they have the ability to directly influence decisions about the operational delivery of education services either, through:
    - holding a position on a committee concerned with nursery, primary and secondary school provision
    - being a designated deputy on such a committee
    - sub-committees and joint committees with the functions of a committee concerned with the provision of nursery, primary and secondary school provision

Holding power or influence over a child for the purpose of (a) an activity in which the child is taking part or seeking to take part in, or (b) arranging the future recruitment, training or employment of the child[8]

This activity is intended to include individuals who act on behalf of children where there is a likelihood of that individual having an opportunity to exert power or influence over the child.

Exercising power or influence over children means (at least one of):

- assisting, facilitating, permitting or impeding progress towards a desirable objective or outcome for a particular child or group of children
- making decisions of an operational or strategic nature that could have an impact on a number of children

[8] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 2, Part 2, paragraph 10

- persuading or putting pressure on a particular child to behave or act in a certain manner for the financial gain or personal gratification of a person other than the child or children.

For example, sports agents and talent scouts may not be in direct physical or verbal contact with the child, as they liaise directly with the child's parent or guardian, these roles are likely to include exercising power or influence over the child and so the individuals carrying them out are considered to have contact with children for PVG scheme purposes.

Providing advice or guidance to children in relation to career development or education[9]

This activity is intended to include, for example, individuals acting as career advisers or undertaking other mentoring roles.

Being in charge of or caring for children, other than acting as a foster carer[10]

This activity is intended to include anyone who cares for children in any way other than by formal arrangement. It includes childcare workers because the individual will be in charge of, or caring for children in this environment.

It may also include, for example, school-based volunteers, who have a designated role of being in charge of children.

It may also include those with designated responsibilities, as a necessary part of their role, for being in charge of children on school work experience may be considered to be in a regulated role.

[9] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 2, Part 2, paragraph 11
[10] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 2, Part 2, paragraph 12

Examples of a regulated role and not a regulated role (parental group setting)

Jennifer and Michael are both volunteers for the parent teacher association (PTA). Jennifer and Michael both help organise fundraising events, including discos and fairs, as well as chairing and participating in PTA meetings.

When events are held, Jennifer is responsible for administering the money raised and is a member of the organising committee for the PTA. Jennifer does not have any other duties out with her role. Her role is not considered to involve exercising power and influence. She does not have physical contact with children, written, visual or verbal communication with children, nor does she exercise power or influence. Jennifer is not in a regulated role.

Michael is responsible for unaccompanied children at events and ensuring their safety. Michael is in a regulated role as he has contact with children and is in charge of children (which is a normal duty for Michael as a member of the PTA).

Practising with children as a registered medical practitioner, anaesthesia associate or physician associate, nurse, health visitor, midwife, chiropractor, dentist or dental care professional, optometrist or dispensing technician, osteopath, pharmacist or pharmacy technician, and professions with the Health and Care Professions Council[11]

These activities are intended to include both registered health professionals who are actively practising and individuals who carry out this activity while they are in training for their profession.

[11] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 2, Part 2, paragraphs 13 to 19 inclusive

An individual who usually practises as one of these health professionals but is on a career break or secondment to a non-regulated role, is not considered to be in a regulated role until they return to those duties. This is due to the requirement for there to be contact with children when carrying out the activity.

Where an individual who is a registered medical practitioner is required to be on a performers list for a NHS board area, but works in a general practice, the general practice must also ensure that they have received a PVG scheme disclosure, as well as the NHS board.

Being engaged in the provision of a domestic service that is provided for children in an educational establishment, hospital, nursery, day care premises, hospice, hostel, residential care setting or secure accommodation for children[12]

This activity is intended to include individuals providing domestic services for children in these named locations - a school or further education college (educational establishments), hospital, nursery, day care premises, hospice, hostel, residential care settings (including outdoor education) or secure accommodation for children.

Examples of the types of service that fall within 'domestic service' include (but are not limited to) janitorial, cleaning, preparing food, acting as a caretaker of premises or carrying out maintenance of premises.

Consideration must also be given, in a mixed-use site, as to whether any part of a premises is any of the above establishments. In this circumstance, those individuals who, as a necessary part of their role, are providing the domestic service on the part of the site that falls within one of these named locations would be carrying out this activity.

[12] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 2, Part 2, paragraph 20

Example – how regulated roles can apply in a mixed use site

Brian works in a day care service for children which is located within a town civic centre. David works in reception at the civic centre and is not involved in the day care service in his role.

Brian is in a regulated role because of his work in the day care premises, where he has contact with children. David is not in a regulated role as his role does not include a requirement to access the day care premises, and any contact with children is incidental.

Example – not a regulated role

Gerry and Paul are cleaner in different school. Their designated hours are 6am to 8am and 6pm to 8pm. Gerry's role does not require them to have any type of contact with children as part of their role. Their hours of work are not at a time when any children are expected to be present in the school for any purpose.

Gerry is not in a regulated role as they do not have contact with children whilst carrying out their role in a school.

Paul works the same hours as Gerry. However, in Paul's school, during the evening, the school is used as a centre for various children's sports clubs. The children can be unsupervised, for example when going to and from the sports hall in the school, and travel through part of the school Paul is assigned to clean in the evening. Because Paul is working in a school and has the opportunity for unsupervised contact with children as a necessary part of his role (as they travel through an area he works in), he is carrying out a regulated role, even his regulated role in the school is outside of regular school hours.

Carrying out an activity in an educational institution, hospital, nursery, day care premises, hospice, hostel, residential care setting or secure accommodation for children[13]

This activity is intended to include an activity, task, or role that a person might do within a school or further education college (educational establishments), hospital, nursery, day care premises, hospice, hostel, residential care settings (including outdoor education) or secure accommodation for children.

Unlike all other activities, this specific activity must include an opportunity for the individual to have **unsupervised** contact with children as part of their role before can be considered a regulated role.

For example, a role involving servicing the plumbing in a school may not involve a large proportion of their time in contact with children. However, this would be a regulated role because of the setting they work in, along with an opportunity for unsupervised contact with children.

Furthermore, a specific plumber identified in a building firm as the individual who always does work on school premises (for example, because they have specialist knowledge of the central heating systems) would be regarded as having the opportunity to have unsupervised contact with children, even if actual callouts occur quite infrequently. Therefore, they would be considered to be in a regulated role with children.

[13] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 2, Part 2, paragraph 21

Providing a care home service or an independent healthcare service which is provided exclusively or mainly for children[14]

This activity is intended to include individuals who are providing a care home or independent healthcare service exclusively or mainly for children.

A care home service exclusively or mainly for children is a service which provides accommodation, together with nursing, personal care or personal support for children because of their vulnerability or need. It does not include a hospital, public, independent or grant aided school or any other service specifically excepted from the definition of a care home service.

An independent healthcare service is one of:

- an independent hospital
    - this means a hospital that isn't operated by the NHS
    - it can include part of an NHS hospital if it is run as a separate unit that doesn't provide treatment under the National Health Service (Scotland) Act 1978
- a private psychiatric hospital
- an independent clinic, which means a clinic not in a hospital but one from which services are provided by a medical practitioner, dental practitioner, registered nurse, registered midwife or dental professional
    - it doesn't include a post-16 education body, a school, a clinic provided by the NHS, a clinic provided by an employer only for its employees, a general dental or other primary care medical practice, or a clinic that either only provides first aid or speech therapy
    - dental and other primary care medical practices are included within the more general activities specifically focused on registered medical practitioners, as covered under the heading of practising with children as a registered medical practitioner, nurse, health visitor, midwife,

[14] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 2, Part 2, paragraph 22

chiropractor, dentist or dental care professional, optometrist or dispensing technician, osteopath, pharmacist or pharmacy technician and professions with the Health and Care Professions Council in this guidance

- an independent medical agency, which means one where a medical practitioner provides, but is not an independent clinic or hospital
- an independent ambulance service - these consist of services provided by anyone other than the NHS that consist or at least include:
    - providing medical treatment or care to patients when being transported to or from a place of medical treatment
    - provision of medical treatment at or in connection with a public event under arrangements made between the service provider and, for example, the event organiser

Being engaged by or on behalf of a child with an illness or disability to provide personal care services[15]

This activity is intended to include self-employed individuals providing personal care services (for example, under self-directed support arrangements) to children.

Providing counselling, therapy or advice, guidance or advocacy support in relation to health or wellbeing to children, other than where such counselling, therapy, advice or guidance is provided in a prison by a prisoner to another prisoner[16]

This activity is intended to include advice or guidance provided to a child about their physical or mental health or welfare. For example, this includes individuals providing these services to children within shelters, hostels, refuges or similar accommodation

[15] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 2, Part 2, paragraph 23
[16] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 2, Part 2, paragraph 24

where children are offered support or guidance on their situation or experience. It also includes where services are specifically aimed at improving children's wellbeing.

Advocacy support is someone who can speak on behalf of someone else. This activity only applies where this type of support is on behalf of children and is in relation to health and wellbeing. For example, this activity may apply when advocating on behalf of victims of domestic abuse, homelessness or those with mental or physical infirmity.

Prisoners providing this type of service to another prisoner. For example, in a prison or young offenders institution, are specifically excluded from a regulated role. This enables individuals who may be automatically barred from carrying out regulated roles with children due to the nature of their convictions, to continue to provide this vital peer to peer support service within the confines of a prison or young offenders institution.

Peer support of this nature, outside of the confines of a prison or young offenders institution, are not excluded from a regulated role.

Having the ability to directly influence the operational delivery of medical or care services[17]

This activity is intended to include:

- individuals who have a statutory responsibility for the scrutiny or inspection of medical or care services provided for children, for example individuals working for Healthcare Improvement Scotland or the Care Inspectorate
- elected members of local authorities (but not members of Parliament or members of the Scottish Parliament). These elected members will only be

[17] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 2, Part 2, paragraph 25

carrying out this activity if they have the ability to directly influence decisions about the operational delivery of medical or care services either through:

- holding a position on a committee concerned with the provision of medical or care services for children
- being a designated deputy on such a committee
- holding a position on a committee concerned with the provision of medical or care services for children (or being a designated deputy on such a committee) being a designated deputy on such a committee
- sub-committees and joint committees with the functions of a committee concerned with the provision of medical or care services for children

Providing cultural, leisure, social or recreational activities for children[18]

This activity is intended to include, for example, individuals providing entertainment or party services for children or photography services for children, or people running art classes or summer clubs for children.

The definition of providing these services should be taken to mean those who, as a necessary part of their role, are undertaking tasks that are involved in the actual provision of the cultural, leisure, social or recreational activity to children.

It does not include, for example, leisure centre or activity centre staff with no specific role in providing such services to children and/or whose contact with children is no more than incidental.

Coaching children in relation to sports or physical activity[19]

This activity is intended to include individuals providing sports coaching, or coaching for any physical activity, that is specifically aimed at children.

---

[18] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 2, Part 2, paragraph 26
[19] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 2, Part 2, paragraph 27

It does not include where a sports class is provided for the general population but is available for anyone aged 16 and above, with 16 and 17-year olds attending treated in the same way by the instructors as the adults who attend. Contact with children would be incidental, as the service itself is not particularly intended for children, and the activities remain the same for the children participating.

Providing religious activities or services for children[20]

This activity is intended to include, for example, individuals volunteering at religious education classes for children, youth activities or chaplaincy services. This paragraph covers all religious denominations and beliefs, including the provision of pastoral care aimed at children.

The definition of providing these services should be taken to mean those who, as a necessary part of their role, are undertaking tasks that are connected to the delivery of the religious activities or services to children.

This activity also includes where spiritual advice is provided to children. The Scottish Government recognises that spiritual care can empower and benefit both the carer and the cared for; can nurture the individual to celebrate and flourish during times of joy and growth; can supporting people to find strength and comfort during times of transition, uncertainty and illness. Different faiths will involve various aspects of spiritual guidance.

Driving or escorting children in connection with transport services provided exclusively or mainly for children[21]

This activity is intended to include individuals providing transport services for children and those escorting children on transport, for example, on a school bus.

---

[20] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 2, Part 2, paragraph 28
[21] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 2, Part 2, paragraph 29

This regulated role will be a result of a contract of services awarded to the transport provider, by, for example, a local authority or independent school.

However, if the transport service is **not** part of a contract, it can still nonetheless be a regulated role with children. However, for this to be the case outside of a contractual arrangement, the service being provided must involve contact with children that is 'more than incidental'.

For example, a driver of a public bus would not be in a regulated role even if children were known to use their specific service regularly to travel to or from school. This is because the contact with children is incidental, as the public bus is intended for everyone to use. The transport service must be aimed exclusively or mainly at children for the individual to be considered to carrying out this activity.

Holding a position of responsibility in an organisation which has as one of its main purposes the provision of benefits for or to children (regardless of whether the organisation has an additional purpose of providing benefits for or to another group of persons)[22]

This activity is intended to include individuals who are, for example, trustees of a children's charity or the Commissioner for Children and Young People in Scotland. It can also include directors, committee or board members of organisations that provide benefits for or to children, where they have contact with children.

There is no definition of a 'position of responsibility' within the Disclosure Act or PVG Act, as this will be dependent on organisation's own governance and decision-making arrangements.

It is not the intention that every member of a committee governing an organisation with a main purpose of providing benefits is carrying out a regulated role. For this

[22] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 2, Part 2, paragraph 30

activity to apply, they must also have contact with children/protected adults as a necessary part of their role, which includes either exercising power and influence, physical contact or verbal, written or visual communication.

Where the role is a regulated role through this activity, but the purpose of the charity is to provide benefits for or to both children and protected adults, the individual will be carrying out a regulated role in relation to children and protected adults.

For your regulated role assessment for this activity, please consider the following:

If the answer is 'yes' to Step 1 and Step 2 and 'yes' to either Step 3 or Step 4, it will be a regulated role. If the answer is 'no' to any of these steps, it is not a regulated role under this activity.

Step 1: Is the person's role a "position of responsibility" within the organisation?

Step 2: Is one of the organisation's main purposes the provision of benefits to children? Organisations should consider whether the purpose of their organisation includes providing such benefits or not. The purpose may be included in the organisation's formal constitution but is not required to be for this activity under the PVG Act to apply.

Step 3: Do they have physical contact with children as a necessary part of their role or do they have visual, written or verbal communications with children as a necessary part of their role?

Step 4: If no to step 3, does the role involve exercising power or influence over children as a necessary part of their role? (Note that exercising power and influence means any of the following:

(a) assisting, facilitating, permitting or impeding progress towards a desirable objective or outcome for a particular (note – this may also be for groups of children. It is intended that the duties of the role contribute directly to the objective or outcome. Providing feedback for other bodies, for example a

school, to consider in relation to the school's objectives or outcome is not intended to constitute exercising power and influence)

(b) making decisions of an operational or strategic nature that could have an impact on a number of children (note – you should consider whether your input on decisions does constitute 'making decisions of an operational or strategic nature'. Providing feedback to inform decision making by others individuals or organisations does not constitute exercising power and influence.)

(c) persuading or putting pressure on a particular child to behave or act in a certain manner for the financial gain or personal gratification of a person other than the child

The exercising of power and influence must be a necessary part of the role.

Individuals who do not meet this activity of a 'position of responsibility' must also consider whether they are doing any of the activities described in this guide or in Schedule 2 or **Schedule 3** of the PVG Act.

Activities with protected adults

What is a protected adult?

A protected adult is anyone 18 or over who, by reason of physical or mental disability, illness, infirmity or ageing, and **either**

(i) has an impaired ability to protect themselves from physical or psychological harm **or**

(ii) requires assistance with the activities of daily living.

What is considered to be disability, illness or infirmity?

Disability, illness or infirmity can be either permanent or temporary in nature to fall within this definition.

If someone is disabled, ill, infirm or ageing, these characteristics are not sufficient in themselves to mean an individual is a protected adult. It must also be coupled with an impaired ability to protect themselves from physical or psychological harm or requires assistance with the activities of daily living.

It is likely that the decision about whether someone has an impairment will lie with the individual themselves, a family member or an agency with responsibility for the individual's care or welfare (for example, social services).

A protected adult is also anyone 18 or over who:

- is homeless, as is defined by section 24 of the Housing (Scotland) 1987 **and** is receiving counselling, therapy, advice, guidance or advocacy support in relation to health or wellbeing
    - a household is homeless if they have no accommodation in the UK or elsewhere, or have accommodation but cannot reasonably occupy it

- has experienced, is experiencing or is at risk of experiencing domestic abuse **and** is receiving counselling, therapy, advice, guidance or advocacy support in relation to health or wellbeing

Domestic abuse means behaviour, whether classed as a criminal offence or not, that is carried out between partners or ex-partners in the home or elsewhere or by means of electronic or other forms of communications and involves any form of physical, verbal, sexual, psychological, emotional or financial abuse of one of the partners or ex-partners.

A person is a partner of another person if they are married to each other, civil partners of each other, living with each other as if married or otherwise in an intimate relationship with each other. Ex-partners are also to be construed in this context.

A protected adult is also anyone 18 or over who:

- is receiving a prescribed health service from one or more of:
    - a registered medical practitioner
    - an anaesthesia associate or physician associate pursuant to registration with the General Medical Council
    - a registered nurse, midwife or health visitor
    - someone in a profession registered or pursuant to registration with the Health and Care Professions Council
    - a chiropractor registered or seeking to register with the General Chiropractic Council
    - a dentist or dental care professional registered or seeking to register with the General Dental Council
    - an optometrist or dispensing technician registered or seeking to register with the General Optical Council
    - an osteopath registered or seeking to register with the General Osteopathic Council

- a pharmacist or pharmacy technician registered or seeking to register with the General Pharmaceutical Council
- an individual registered or seeking to register in a profession with the Health and Care Professions Council

The prescribed health service is a service provided or arranged by:

- a health board or special health board
- a person providing a service on behalf of a Health Board in pursuance of an integration scheme
- an independent hospital
- a private psychiatric hospital
- an independent clinic
- an independent medical agency
- an independent ambulance service

With regard to health services, **individuals are protected adults when they are receiving treatment, support, advice or assistance in relation to health and wellbeing. In a health service, a person is only a protected adult when in receipt of the service not, for example, the whole time they are in a hospital.**

A protected adult is also anyone 18 or over who is:

- receiving a prescribed community care service **and** are being supported to live independently, including providing personal care services, food preparation or recreational services, or providing counselling, or
- receiving a prescribed community care service **and** are being provided with therapy, advice, guidance or advocacy support in relation to health or wellbeing to protected adults (other than where such counselling, therapy, advice, guidance or advocacy support is provided in a prison by a prisoner to another prisoner)

A prescribed community care service is one that is:

- provided or secured by a council under the Social Work (Scotland) Act 1968 or the Mental Health (Care and Treatment) (Scotland) Act 2003

  Or

- provided or secured by a person to whom a function conferred by either of those Acts is delegated by a council in pursuance of an integration scheme (for example, an integrated joint board).

A regulated role with protected adults is one that includes one or more of the activities set out in schedule 3 of the PVG Act as a necessary part of their role. A regulated role must **also** involve contact with a protected adult or adults that is more than incidental. You may wish to refer to the contact section of this guidance prior to reviewing the list of activities below.

For most activities, contact can be carried out in the presence of a responsible person (for example, a family member) is **still** a regulated role, providing that the contact with protected adults is more than incidental.

For the below activities only, however, contact must be unsupervised to mean the individual is carrying out a regulated role. The activity that requires unsupervised contact is “carrying out an activity in a hospital, hospice, care home, day care centre or adult placement setting”

Example – Not a regulated role with protected adults

Joseph is a support worker for a criminal justice support organisation. They work with people who have been released from prison and are looking to move on with their lives. Joseph assists people by telling them where to get help with job applications, arranging a bank account, securing accommodation and applying for work.

Some of the people Joseph helps have experienced some mental health issues from their time in prison. Joseph has not been provided with any specific training to support people with their mental health and directs them to their GP when they come to him with mental health issues.

Joseph has not been provided with any specific training to support people with their mental health and directs an individual to their GP in these circumstances. Joseph's support is not targeted towards protected adults in particular but is more general for anyone who has been in the criminal justice system so Joseph's contact with protected adults is incidental. Joseph's role does not include either an activity or contact with protected adults that is more than incidental.

Joseph is not carrying out a regulated role.

Example – Regulated role with protected adults

Pamela is a support worker for a criminal justice support organisation. Pamela works with people who have been released from prison.

Pamela has been trained to provide counselling to help clients who need help with mental health issues. The counselling that Pamela offers is targeted towards protected adults in particular.

Pamela is, therefore, carrying out a regulated role.

The activities with protected adults are:

- teaching, instructing, training or supervising protected adults
- providing advice or guidance to a protected adult in relation to education, training or employability
- practising as a registered medical practitioner
- practising as an anaesthesia associate or physician associate pursuant to registration with the General Medical Council
- practising as a registered nurse, midwife or health visitor
- practising in a profession pursuant to registration with the Health and Care Professions Council
- practising as a chiropractor pursuant to registration with the General Chiropractic Council
- practising as a dentist or dental care professional pursuant to registration with the General Dental Council
- practising as an optometrist or dispensing optician pursuant to registration with the General Optical Council
- practising as an osteopath pursuant to registration with the General Osteopathic Council
- practising as a pharmacist or pharmacy technician pursuant to registration with the General Pharmaceutical Council

- being engaged in the provision of a domestic service (including cleaning, preparing food, acting as a caretaker of premises or carrying out maintenance of premises) that is provided for protected adults in a hospital, hospice, care home, day care centre, or adult placement setting
- carrying out an activity in a hospital, hospice, care home, day care centre or adult placement setting
- being in charge of protected adults
- having responsibility for the safety and welfare of protected adults
- having the ability to influence decisions about the safety or welfare of a protected adult, other than in the capacity of an elected official or as the holder of a judicial office.
- being engaged by or on behalf of a protected adult to support the protected adult to live independently, including providing personal care services, food preparation or recreational services
- providing support to a protected adult under a shared lives scheme
- providing counselling, therapy, advice, guidance or advocacy support in relation to health or wellbeing to protected adults, other than where such counselling, therapy, advice or guidance is provided in a prison by a prisoner to another prisoner
- having the ability to directly influence the operational delivery of medical or care services for protected adults, other than in the capacity of an elected representative or as the holder of a judicial office
- providing cultural, leisure, social or recreational activities for protected adults
- coaching protected adults in relation to sports or physical activity
- providing religious activities or services for protected adults
- driving or escorting protected adults in connection with transport services provided exclusively or mainly for use by protected adults
- holding a position of responsibility in an organisation which has as one of its main purposes the provision of benefits for or to protected adults (regardless of whether the organisation has an additional purpose of providing benefits for or to another group of persons)

Activity descriptions

Teaching, instructing, training or supervising protected adults[23]

This activity is intended to include when teaching is specifically targeted at protected adults.

It is not intended to include when teaching is aimed at the general population or all adults, but where some members of the class, for example, have an impaired ability to protect themselves from harm because of physical disability. In that scenario, the contact with protected adults while teaching is considered to be incidental, as the class is intended for the general population, rather than being tailored to the needs of disabled people.

However, if an art class is specifically intended for example, disabled people, the contact would be more than incidental, and the role is considered to be a regulated role.

Providing advice or guidance to a protected adult in relation to education, training or employability[24]

This activity is intended to include advice specifically targeted at protected adults in relation to education, training or careers.

It is not a regulated role where the duties of the role are restricted to suggesting other sources of advice or guidance that a protected adult can access, for example a job coach signposting to a careers advice or employability service, rather than the individual providing advice or guidance to the protected adult(s) themselves.

---

[23] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 3, Part 2, paragraph 4
[24] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 3, Part 2, paragraph 5

Practising with protected adults as a registered medical practitioner, anaesthesia associate, physician associate, nurse, health visitor, midwife chiropractor, dentist, dental care professional, optometrist or dispensing technician, osteopath, pharmacist or pharmacy technician and professions with the Health and Care Professions Council[25]

These activities are intended to include registered health professionals who are actively practising. It includes individuals carrying out this activity while they are training for their profession.

An individual who usually practises as one of these health professionals, but is on a career break, is not considered to be in a regulated role until they return to those duties. This is because of the requirement for carrying out the activity to give the opportunity for contact with protected adults.

Where an individual who is a registered medical practitioner is required to be on a performers list for a NHS board area, but works in a general practice, the general practice must also ensure that they have received a PVG scheme disclosure, as well as the NHS board.

[25] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 3, Part 2, paragraphs 6 to 12 inclusive

Being engaged in the provision of a domestic service (including cleaning, preparing food, acting as a caretaker of premises or carrying out maintenance of premises) that is provided for protected adults in a hospital, hospice, care home, day care centre, or adult placement setting[26]

This activity is intended to include those individuals providing domestic services in hospital, hospice, care home, day care centre, or adult placement settings that provide opportunity for contact with protected adults.

An adult day care centre is a support service, which may be offered within a care home, centre or directly in the community, to help people who need support. These services will be registered with the Care Inspectorate as adult day care centres.

Examples of domestic service include (but are not limited to) cleaning, preparing food, acting as a caretaker of premises or carrying out maintenance of premises.

Carrying out an activity in a care home, hospital, hospice, day care centre or adult placement setting[27]

This activity captures an individual carrying out any activity as a necessary part of their role within one of these establishments that gives them the opportunity to have unsupervised contact with a protected adult.

This may include, for example, an individual in a volunteer in a hospital where their role includes an opportunity for unsupervised contact with hospital patients as part of their role.

For non clinical roles where this activity applies, countersignatories should use wording within the "Position Applied For" field to indicate where the role

[26] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 3, Part 2, paragraph 13
[27] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 3, Part 2, paragraph 13A

is based (or routinely accesses), for example, hospital wards/hospital clinics, and whether they have contact with children and protected adults in their role.

This will help ensure that applications are processed as quickly as possible without requiring Disclosure Scotland staff to contact the countersignatory for further information to confirm eligibility.

Being in charge of protected adults[28]

This activity is intended to include, for example, any situation where an individual is in charge of a protected adult(s) where contact is more than incidental.

It does not include when a group is aimed at the general population or all adults, but where some members of the group, for example, have an impaired ability to protect themselves from harm because of physical disability. In that scenario, the contact with protected adults the individual is in charge of, is considered to be incidental.

Having responsibility for safety and welfare of protected adults[29]

This activity is intended to include roles that have a specific focus or aspect of their role is focused on the welfare and safety of adults using their service, for example a student welfare officer at college/university with responsibility for those suffering from physical or mental ill health.

Having the ability to directly influence decisions about the safety or welfare of a protected adult, other than in the capacity of an elected representative or as the holder of a judicial office[30]

This activity is intended to include individuals who are:

---

[28] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 3, Part 2, paragraph 14
[29] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 3, Part 2, paragraph 14A
[30] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 3, Part 2, paragraph 14B

- social workers (including the Chief Social Work Officer of a local authority)
- elected members of local authorities, but only those who have the ability to directly influence decisions about the welfare or safety of a protected adult, through:
    - holding a position on a committee concerned with the provision of social services for protected adults
    - being a designated deputy on such a committee
    - sub-committees and joint committees with the functions of a committee concerned with the provision of children's social services

Being engaged by or on behalf of a protected adult to support the protected adult to live independently, including providing personal care services, food preparation or recreational services[31]

This activity is intended to include self-employed individuals providing personal care services (for example, under self-directed support arrangements) to protected adults. It also includes, for example, meal delivery services that are aimed at ageing individuals and include assisting with meal preparation.

It may also include hairdressing services where these services are aimed at protected adults.

Providing support to a protected adult under a shared lives scheme[32]

Shared lives schemes support adults with learning disabilities, mental health problems or other needs that make it harder for them to live on their own. The schemes match someone who needs care with an approved carer. The carer shares their own family and community life and gives care and support to the person with

[31] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 3, Part 2, paragraph 15
[32] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 3, Part 2, paragraph 16

care needs. Some people move in with their shared lives carer, while others are regular daytime visitors. Shared lives schemes combine daytime and overnight visits.

This activity is intended to include:

- arrangements where an individual provides personal care to protected adult whether through daytime visits, accommodating the individual in their home, or both
- individuals recruiting and training shared lives carers
- those placing protected adults with shared lives carers
- individuals supporting and monitoring shared lives placements

Where the protected adult moves in with their shared lives carer, Level 2 disclosures can be requested for any individual aged 16 or over living in the same household. Although those individuals are not carrying out a regulated role, they are solely through sharing the household with an individual providing personal care under a shared lives scheme.

Providing counselling, therapy, advice or guidance or advocacy support in relation to health or wellbeing to protected adults, other than where such counselling, therapy, advice or guidance or advocacy support is provided in a prison by a prisoner to another prisoner[33]

This activity is intended to include advice or guidance provided to a protected adult on their physical or mental health or welfare. For example, this includes individuals providing these services for those who have experienced domestic abuse or homelessness, for example through shelters, hostels, refuges or similar accommodation.

[33] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 3, Part 2, paragraph 17

This activity also includes where individuals who have suffered domestic abuse or homelessness are offered support or guidance on their situation or experience.

However, prisoners providing this type of service to another prisoner are specifically excluded from a regulated role. This enables individuals who may be automatically barred from carrying out regulated roles with protected adults due to the nature of their convictions, to continue to provide this vital peer-to-peer support service inside of the confines of a prison environment.

Having the ability to directly influence the operational delivery of medical or care services for protected adults, other than in the capacity of an elected representative or as the holder of a judicial office[34]

- individuals who have a statutory responsibility for the scrutiny or inspection of medical or care services provided for children, for example individuals working for Healthcare Improvement Scotland or the Care Inspectorate
- elected members **of local authorities** (but not members of Parliament or members of the Scottish Parliament). These elected members will only be carrying out this activity if they have the ability to directly influence decisions about the operational delivery of medical or care services either through:
    - holding a position on a committee concerned with the provision of medical or care services for protected adults
    - being a designated deputy on such a committee
    - holding a position on a committee concerned with the provision of medical or care services for children (or being a designated deputy on such a committee) being a designated deputy on such a committee
    - sub-committees and joint committees with the functions of a committee concerned with the provision of medical or care services for children

This activity is intended to include:

[34] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 3, Part 2, paragraph 18

- chief social work officers of local authorities
- individuals who have a statutory responsibility for the scrutiny or inspection of medical or care services provided for protected adults, for example individuals working for Healthcare Improvement Scotland or The Care Inspectorate
- elected members **of local authorities** - Those elected members will only be carrying out this activity if they have the ability to directly influence decisions about the operational delivery of medical or care services either through:
    - holding a position on a committee concerned with the provision of medical or care services for protected adults
    - being a designated deputy on such a committee
    - being a member of a sub-committee or joint committee with the functions of a committee concerned with the provision of medical or care services for protected adults

Providing cultural, leisure, social or recreational activities for protected adults[35]

This activity is intended to include, for example, individuals providing entertainment services for protected adults, such as in a care home or adult day care centre, or people running classes or clubs for protected adults.

The definition of providing these services should be taken to mean those who, as a necessary part of their role, are undertaking tasks that are involved in the actual provision to the delivery of the service to protected adults.

It does not include, for example, where these activities are provided for the general population or all adults, but where some elderly, infirm or disabled people are involved in the activity. In this situation, contact with protected adults would be incidental, and it would not be a regulated role.

[35] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 3, Part 2, paragraph 19

Coaching protected adults in relation to sports or physical activity[36]

This activity is intended to include where an individual has a specific and targeted responsibility for coaching protected adults. It includes coaching that is specifically aimed and/or tailored to the needs of protected adults, for example, sports coaching sessions provided for disabled adults.

It does not include

- when coaching is provided for the general population or all adults, but where some individuals involved in the activity are, for example, ageing or have a physical or mental impairment

- when coaching is provided on an ad hoc basis, for example, individuals providing support to other team members with health conditions or impairments but where that is not a necessary part of their role

Providing religious activities or services to protected adults[37]

This activity is intended to include, for example, individuals volunteering at church activities or chaplaincy services that are specifically targeted towards protected adults. This paragraph covers all religious denominations and beliefs.

It also includes where spiritual advice is provided to protected adults. The Scottish Government recognises that spiritual care can empower and benefit both the carer and cared for. Spiritual care can nurture the individual to celebrate and flourish during times of joy and growth, supporting people to find strength and comfort during times of transition, uncertainty and illness. Different faiths will involve different aspects of spiritual guidance.

---

[36] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 3, Part 2, paragraph 20
[37] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 3, Part 2, paragraph 21

The definition of providing these services should be taken to mean those who, as a necessary part of their role, are undertaking tasks that are involved in the actual provision to the delivery of the service to protected adults.

Driving or escorting protected adults in connection with transport services provided exclusively or mainly for use by protected adults[38]

This activity is intended to include individuals providing transport services specifically for protected adults, for example, the bus driver and escort providing transport as part of a specific care service provided by a health board or local authority.

Generally, these transport services will be part of a contract awarded to the provider to transport protected adults.

If the transport service is **not** part of a contract, it can still nonetheless be a regulated role with protected adults. However, for this to be the case outside of a contractual arrangement, the service being provided must involve contact with protected adults that is 'more than incidental'.

For example, a driver of a public bus would not be in a regulated role even if individuals who were ageing, disabled, infirm or ill were known to use their specific service regularly. This is because the contact with protected adults is incidental, as the public bus is open to everyone to use. The transport service must be aimed exclusively or mainly at protected adults for the individual to be considered to carrying out this activity.

[38] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 3, Part 2, paragraph 22

Holding a position of responsibility in an organisation which has one of its main purposes the provision of benefits for or to protected adults (regardless of whether the organisation has an additional purpose of providing benefits for or to another group of persons)[39]

This activity is intended to include, for example, individuals acting as charity trustees for organisations whose main purpose is to benefit protected adults. It can also include directors, committee or board members of such an organisation that provides benefits for or to protected adults, where they have contact with protected adults as a necessary part of their role. There is no definition of a 'position of responsibility' within the Disclosure Act or PVG Act, as this will be dependent on organisation's own governance and decision-making arrangements.

Where the purpose of the charity is also to provide benefits to children, they will be in a regulated role for both children and protected adults.

It is not the intention that every member of a committee governing an organisation with a main purpose of providing benefits is carrying out a regulated role. For this activity to apply, they must also have contact with children/protected adults as a necessary part of their role, which includes either exercising power and influence, physical contact or verbal, written or visual communication.

Where the role is a regulated role through this activity, but the purpose of the charity is to provide benefits for or to both children and protected adults, the individual will be carrying out a regulated role in relation to children and protected adults.

[39] Protection of Vulnerable Groups (Scotland) Act 2007, Schedule 3, Part 2, paragraph 23

For your regulated role assessment for this activity, please consider the following:

If the answer is 'yes' to Step 1 and Step 2 and 'yes' to either Step 3 or Step 4, it will be a regulated role. If the answer is 'no' to any of these steps, it is not a regulated role under this activity.

Step 1: Is the person's role a "position of responsibility" within the organisation?

Step 2: Is one of the organisation's main purposes the provision of benefits to protected adults? Organisations should consider whether the purpose of their organisation includes providing such benefits or not. The purpose may be included in the organisation's formal constitution but is not required to be for this activity under the PVG Act to apply.

Step 3: Do they have physical contact with protected adults as a necessary part of their role or do they have visual, written or verbal communications with protected adults as a necessary part of their role?

Step 4: If no to step 3, does the role involve exercising power or influence over protected adults as a necessary part of their role? (Note that exercising power and influence means any of the following:

(a) assisting, facilitating, permitting or impeding progress towards a desirable objective or outcome for a particular protected adult (note – this may also be for groups of protected adults. It is intended that the duties of the role contribute directly to the objective or outcome. Providing feedback for other bodies to consider in relation to the other body's objectives or outcomes is not intended to constitute exercising power and influence.)

(b) making decisions of an operational or strategic nature that could have an impact on a number of protected adults (note – organiations should consider

whether their input on decisions does constitute 'making decisions of an operational or strategic nature', or whether they are only being asked to provide feedback (without decision making responsibilities) on an operational process, procedure or strategy)

(c) persuading or putting pressure on a particular protected adult to behave or act in a certain manner for the financial gain or personal gratification of a person other than the protected adult

Contact with children or protected adults

As well as carrying out one or more of the activities listed in either (or both) of schedules 2 and 3 of the PVG Act, in order for an individual to be carrying out a regulated role they must also have contact with children, protected adults, or both while carrying out those activities.

Whether the activity is carried out with children or protected adults, 'contact' must be at least one of the below:

- physical contact
- visual, written or verbal communication
- exercising power or influence

Visual communication generally means communication via British Sign Language or where the individual interacts with children or protected adults via digital means (for example, online teaching). Children or protected adults viewing pre-recorded video footage of others is not considered to be contact with those on the video footage for the purposes of the PVG Act.

The concept of power or influence in the PVG Scheme was introduced by the Disclosure Act with the intention of strengthening safeguarding of children and protected adults. Exercising power and influence over a child or protected adult is considered to be contact in itself to ensure that roles that include making decisions about safeguarding procedures or about children's prospects or opportunities are within the scope of the PVG scheme.

Exercising power or influence' over children or protected adults means:

- **assisting, facilitating, permitting or impeding progress towards a desirable objective or outcome for a particular child, children or protected adult(s) (note – this may also be for groups of protected adults. It is intended that the duties of the role contribute directly to the**

objective or outcome. Providing feedback for other bodies to consider in relation to the other body's objectives or outcomes is not intended to constitute exercising power and influence.)

or

- **making decisions of an operational or strategic nature that could have an impact on a number of children or protected adults (note – organiations should consider whether their input on decisions does constitute 'making decisions of an operational or strategic nature', or whether they are only being asked to provide feedback (without decision making responsibilities) on an operational process, procedure or strategy)**

or

- **persuading or putting pressure on a particular child to behave or act in a certain manner for the financial gain or personal gratification of a person other than the child, children or protected adult(s)**

It is not possible to provide an exhaustive list of what constitutes power and influence in a particular environment, as whether this is applicable will depend on each organisation's own governance and decision-making arrangements.

In most cases, contact with children or protected adults while carrying out the activity does not need to be unsupervised for it to amount to a regulated role. This is because some roles allow individuals to exert such power or influence over children or protected adults to such a degree that, even if contact with the child or protected adult occurs within the presence of another person (for example, a family member or teacher), the role requires membership of the PVG scheme.

The only activities which can amount to a regulated role where there is an opportunity for unsupervised contact only, are:

activities carried out in an educational institution, hospital, nursery, day care premises, hospice, hostel, residential care setting or secure accommodation for children (for a regulated role with children)

Or

activities carried out in a care home, hospital, hospice, day care centre. or adult placement setting (for a regulated role with protected adults)

For all other activities, contact does not need to be unsupervised to make the role regulated.

Example – A regulated role

John is a football agent and represents children in their future recruitment, training or employment with football clubs. In that role, John possesses power or influence over the children over their future career prospects, even if contact with children occurs in the presence of a parent or other responsible person (for example, a teacher).

Therefore, John is in a regulated role.

Example - A regulated role

Gemma is a plumber for a building firm. Gemma is the one who always does work on school premises if the building firm get a call because of their specialist knowledge of their heating systems. In carrying out this aspect of their work, Gemma has an opportunity for unsupervised contact with children, even if actual callouts occur quite infrequently. The callouts are a necessary part of Gemma's role.

Gemma is in a regulated role.

Example – Not a regulated role

Paul is a builder and is working on a contract in a school. The work is scheduled to take place during summer school holidays. No children are permitted in the section of the school premises where Paul is carrying out the building work. Paul is only permitted in the section of the school premises where the work is being carried out. Paul has no opportunity for unsupervised contact.

Paul is not in a regulated role.

Example - Not a regulated role

For example, a teacher in a school is carrying out a regulated role with children, but a teacher running woodwork classes in a community centre in the evening aimed at adults (but not exclusively protected adults) is not carrying out a regulated role with children or protected adults, even if one or two children, or a protected adult, attends the class. This is because the presence of children (and the teaching of children), the presence of the protected adult (and the teaching of protected adults), is incidental to the main activity and purpose of the class which is to teach adults generally.

This is not a regulated role.

‘Incidental’ contact

Deciding whether contact is ‘incidental’ is important in ensuring that membership of the PVG scheme is appropriately targeted and is proportionate. Whether contact is incidental is something that **must** be considered as part of establishing if a role is regulated or not.

If contact is incidental, carrying out the activity towards or for the child or protected adult will not amount to a regulated role.

In considering whether contact is incidental, you should consider who the service is intended for, whether that be the general population or, more specifically, for children and/or protected adults.

An activity is likely to involve incidental contact when it is:

- part of a service that is intended to be open to all, which could be indicated by the location of an event, where it’s advertised and what the admission policy is
- attractive to a wide cross section of society, rather than being intended for children or protected adults

Conversely, contact is likely to be considered more than incidental when an activity:

- is part of a service intended to be for children or protected adults,
- is positioned or presented to be more attractive to children or protected adults than others

For example, a fitness class is run by a gym and intended for the general population but is available for anyone aged 16 and above. Any 16 and 17 years old that attend are treated in the same way by the instructors as the adults who attend. Contact would be likely to be incidental, as the service itself is not particularly intended for children and the activities remain the same for children participating.

By contrast a health or social care service that can be accessed by children and protected adults is likely to be **more** than incidental contact. This is because the service is particularly intended for both children and protected adults, rather than being intended for the general population or for only one of the vulnerable groups.

For example, an event advertised on a website for the general public may or may not attract some participants who are children or protected adults. Regardless of the level of actual participation of the children and protected adults, the instructing of these groups in this situation is still an incidental activity as the service is not particularly intended for children or protected adults.

If an event is advertised for 'vulnerable groups,' the organisation advertising or delivering the service must be clear in the advertisement whether the service is targeted at children, protected adults or both groups. Definitions of children and protected adults are contained in this guidance.

Example – Not a regulated role

Paula teaches a woodwork class in a community centre in the evening. The class is aimed at anyone over the age of 16. Two members of the class are 17. While those two class members are children, the class is open to all and is attractive a wide cross section of society. Therefore, the contact with children is not more than incidental.

Paula is not carrying out a regulated role.

If you are unsure whether any contact children or protected adults is incidental or more than incidental, please contact Disclosure Scotland for advice.

Example – Not a regulated role

John advertises their outdoor events on a website aimed at the general public. John leads the events on their own. For their events, on some occasions, they have high involvement from children or protected adults. In other events, they have little or no involvement from children or protected adults.

The events are aimed at the general public, not specifically at children or protected adults.

John is not carrying out a regulated role.

Further support

We are committed to making sure our customers can easily access our services and understand how to use them. We are also committed to helping our customers and stakeholders in their assessment of whether their roles are regulated.

An online tool is available on the Disclosure Scotland website to help you assess whether yours is a regulated role. As with this guidance, the tool should only be used as a guide to help you assess if a role needs PVG scheme membership. .

You can sign up to free training about regulated roles on Disclosure Scotland's events page.

Volunteer Scotland Disclosure Services help the voluntary sector process checks and understand the disclosure system. This service is free of charge. Further details can be found on the Volunteer Scotland website.

Further reading

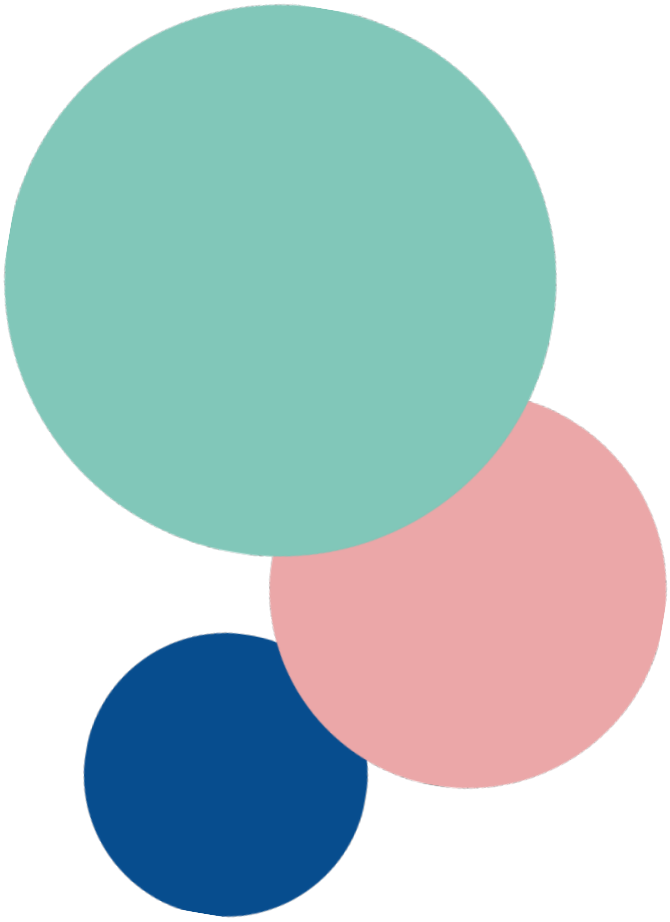
The full text and explanatory notes for the Disclosure (Scotland) Act 2020 can be found on legislation.gov.uk.

We are committed to supporting informed, safe and inclusive recruitment. As part of the 'Scotland Works for You' alliance, we have developed guidance with public, private and voluntary sector partners to give advice to employing organisations on how to fairly and safely assess an individual's convictions. A summarised version of this guidance is available online.

Feedback

We are committed to providing guidance that will support our stakeholders in understanding their responsibilities. This helps us to provide the best possible service to all of our customers.

If you'd like to provide feedback on this guidance, please contact Disclosure Scotland's Customer Engagement Team.



Contact information

This document was produced by Disclosure Scotland.

If there are any issues with the information contained in this document, or if you have any questions, please contact us by email.

Email: customerengagement@disclosurescotland.gov.scot