



Disclosure Scotland and
Protection of Vulnerable Groups (PVG) Procedure

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1. INTRODUCTION

Disclosure Scotland is a service provided by the Scottish Government to manage and operate the Disclosure Service in Scotland. It is designed to help employers make safer recruitment and appointment decisions in relation to paid and unpaid positions.

Glasgow Life uses Disclosure Scotland checks to ensure a robust recruitment process is followed and that it discharges its legal responsibility to ensure the suitability of those who are recruited to work with children and/or protected adults through safer recruitment practices.

Glasgow Life has been confirmed by Disclosure Scotland as a Registered Body which enables the authority to countersign applications for Basic, Standard and Enhanced Disclosures and Protection of Vulnerable Groups Scheme Records and Updates. The People Strategy and Resources Manager is the Lead Signatory for Glasgow Life and senior managers within each service area have been registered as counter signatories.

This procedure details the role of Disclosure Scotland in providing this information and the processes to be followed by recruiting managers and counter signatories for disclosure relevant to the post and applies equally to all permanent, temporary and bank employees as well as volunteers.

The [Recruitment of Ex-Offenders Policy](#) should be read prior to following this procedure.

2. TYPES OF DISCLOSURE AND ELIGIBILITY

It is important to apply for the correct type of Disclosure check for the post e.g. if an applicant has PVG membership but applies for a post requiring a Basic Disclosure check the Basic Disclosure check must still be completed.

Recruiting managers should refer to the Disclosure Scotland Regulated Work 5 Step Assessment and Definition of Regulated Work with Children and Adults (Appendices 3 and 4.) to determine whether or not regulated work is being carried out in order to select the correct type of Disclosure check. If you are still unsure as to the most appropriate Disclosure check, contact your HR team for advice.

Basic Disclosures

Basic Disclosures are available to anyone, for any purpose, subject to confirmation of identity of the applicant and payment of the appropriate fee. The Basic Disclosure will contain details of convictions held in central police records which are unspent according to the Rehabilitation of Offenders Act 1974 or will state that there are no such convictions. A copy is sent to the applicant.

Standard Disclosures

Standard Disclosures are available for those applying for exempt positions listed in the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003 as amended. The disclosure contains details of spent and unspent convictions and any cautions (from Scotland, England, Wales and Northern Ireland) held on central records or it will indicate that there are no such matters held on central records. The Standard Disclosure is available, on payment of the appropriate fee, to individuals whose application is countersigned by a registered person. A copy of the disclosure is sent to the applicant and counter signatory.

Enhanced Disclosure

An Enhanced Disclosure is no longer used for those who work with vulnerable groups. The Enhanced Disclosure contains all conviction information, spent and unspent, and any other non-conviction information considered to be relevant by the police or other Government bodies.

The Enhanced Disclosure is available on payment of the appropriate fee to individuals whose application is countersigned by a registered person. A copy of the disclosure is sent to the applicant and counter signatory. It is unlikely that a Glasgow Life employee would be required to undergo an Enhanced Disclosure check.

Protection of Vulnerable Groups Scheme Record and Update

The Protection of Vulnerable Groups (Scotland) Act 2007 replaces the Protection of Children Act (Scotland) 2003 and introduces new requirements which affect all employees and volunteers who work in a position or a setting dealing with children and/or protected adults. The membership categories are PVG Children, PVG Protected Adult and PVG Children and Protected Adult

The PVG Scheme Record and Update replaces the Enhanced Disclosure check for individuals working with vulnerable groups as of 28 February 2011. Applying for a PVG Scheme Record gives the individual PVG Scheme membership which in turn allows Glasgow Life to satisfy itself that the individual is not barred from that type of regulated work i.e. working with children and/or protected adults.

The PVG Scheme Record and Update is available on payment of the appropriate fee, to individuals whose application is countersigned by a registered person. Disclosure Scotland will keep the individual's PVG Scheme membership and vetting information up to date. Any new vetting information that comes to light about a PVG Scheme member will be assessed by Disclosure Scotland, if the information means the individual is no longer suitable to work with children and/or protected adults the individual and Glasgow Life will be notified. Disclosure Scotland will only inform Glasgow Life if new vetting information is relevant to the regulated work undertaken and therefore impacts on their registration.

If the individual is not suitable to work with children and/or protected adults they will not be given PVG Scheme membership. If this is the case, Glasgow Life and the individual will be informed by letter. Anyone who is deemed unsuitable to work with children and/or protected adults will be added to a list barring them from doing that type of regulated work. Disclosure Scotland maintains the two lists detailing those barred from working with children or protected adults.

The Scheme Record

The Scheme Record shows basic membership information such as:

- The type of regulated work the individual is allowed to do i.e. with children and/or protected adults.
- If the individual is under consideration for listing for the type(s) of regulated work.

If the scheme record or scheme update shows that an applicant is under consideration for listing the job offer should be withdrawn.

The Scheme Record also indicates any vetting information that exists in relation to the individual. Vetting information is:

- Convictions and cautions held on central records in the UK.
- Whether the individual is included on the sex offenders register.

- Relevant non-conviction information provided by police forces. This is information which the Chief Officer of a relevant police force thinks is relevant to the regulated work carried out by a scheme member. This information may relate to civil orders, fixed penalty fines, pending cases or police intelligence; and
- Prescribed civil orders. These are orders made by a court under civil rather than criminal proceedings and are usually designed to prevent future harm to others. The civil orders included on the scheme record are:
 - a sexual offences prevention order (or interim order) under the Sexual Offences Act 2003 (“the 2003 Act”);
 - a foreign travel order under the 2003 Act;
 - a risk of sexual harm order (or interim order) under the 2003 Act;
 - a notification order (or interim order) under the 2003 Act; and
 - a risk of sexual harm order (or interim order) under the Protection of Children and Prevention of Sexual Offences (Scotland) 2005.

The Scheme Record also includes the following personal membership information:

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

A Scheme Record will only confirm whether an individual is allowed to do the type of regulated work either with children or with protected adults as specified in the application. For example: If an employee has a PVG Scheme membership allowing them to work with children and they then apply for a job working with protected adults they will need to apply for another PVG Scheme membership to allow them to work with protected adults. However, there is a quicker procedure in place for existing PVG members as Disclosure Scotland already hold the necessary information to process the application. Recruiting managers must ensure that applicants have the right scheme membership for the type of regulated work they are will be undertaking.

Scheme Record Update

The Scheme Record Update is designed for use by Glasgow Life when recruiting an individual who is already a PVG Scheme member (and who already has a Scheme Record) to a post which is undertaking the same type of regulated work. A Scheme Record Update shows the same basic membership and personal information as the initial Scheme Record membership.

The Scheme Record Update also includes:

- the date that the PVG Scheme member’s Scheme Record was last disclosed.
- a statement as to whether that Scheme Record contained vetting information.
- either a statement confirming that no vetting information has been added since the Scheme Record was last disclosed or the date of each addition; or
- a statement confirming that no vetting has been deleted since the Scheme Record was last disclosed or the date of each deletion.

The Scheme Record Update does not include any vetting information.

Where there is no new vetting information, the combination of the new Scheme Record Update and the existing Scheme Record provides the information needed about the individual. If the Scheme Record Update indicates that new vetting information has been added since the last Scheme Record the Service should upgrade to a full Scheme Record. This must be done within 30 days of the date of issue of the Scheme Record Update.

3. WHO WILL UNDERGO DISCLOSURE AND PVG CHECKING?

Where Glasgow Life recruits into roles deemed eligible for Disclosure/PVG application, the following are required to undergo Disclosure/PVG check:

- All external candidates recruited into regulated work/role requiring Disclosure certificate, regardless of any checks completed prior to conditional offer at Glasgow Life.
- All internal candidates recruited into regulated work/role requiring Disclosure certificate.

The only exception applies where internal candidates who are already PVG checked are moving in to the same role within the organisation.

4. APPLICATION PROCESS

Applying for Basic Disclosures, Standard Disclosures and PVG Scheme Records

All new recruits into an 'eligible post' will be subject to the relevant Disclosure or PVG Scheme Record checks prior to being confirmed in post. The preferred candidate must be advised that the offer of employment is conditional and subject to receipt of the Disclosure/PVG check being satisfactory. Once the counter signatory confirms that the outcome of the check is satisfactory the recruiting manager can confirm the appointment and agree a start date.

Disclosure

As part of the Recruitment and Selection Procedure, candidates must be notified at the application stage whether the post is eligible for a Basic or Standard Disclosure Scotland check. Applicants must be advised that the check will be undertaken for the preferred candidate only and that employment will be subject to receipt of the Disclosure Check being satisfactory.

Following completion of the selection process, the preferred candidate must be offered the post "subject to the outcome of the Disclosure check being satisfactory". The recruiting manager must request the candidate complete the relevant Disclosure Scotland application form. Once completed this must be forwarded to the counter signatory who will send it to Disclosure Scotland. A list of all counter signatories within Glasgow Life is held and maintained by HR.

As of March 2019 applicants are required to pay any fees in relation to their Disclosure Scotland check. Glasgow Life will continue to pay the fee on behalf of volunteers under the direct responsibility of Glasgow Life and requiring a Disclosure check.

When the counter signatory receives the certificate they will advise the recruiting manager whether there are any convictions detailed.

- If there are no convictions then the appointment can be confirmed and the candidate given a start date.
- If there are convictions listed then the procedure for Interpreting Disclosure and PVG information below should be followed by the counter signatory.

If appointed then the recruiting manager should arrange for the disclosure certificate number to be sent to CBS Recruitment for their records. The certificate should then be disposed of as detailed in the handling, storage and disposal section.

Enhanced Disclosure checks are no longer appropriate for posts which involve working with children or protected adults. Please refer to PVG Scheme Record/Updates for this type of work.

PVG Scheme Record and Update

Existing employees recruited into a new post who don't have PVG Scheme Record membership must not be given a start date until the PVG Scheme Record has been received and confirmed satisfactory by the counter signatory.

Existing employees recruited into a new post who already have a PVG Scheme Record for that type of regulated work require a scheme record update. Employees must not be given a start date until the update has been confirmed as satisfactory.

External preferred candidates without PVG Scheme membership must not be given a start date until the PVG Scheme Record has been received and confirmed satisfactory by the counter signatory.

External preferred candidates with PVG Scheme membership must not be given a start date until the PVG Scheme Record Update and if required Scheme Record have been received and confirmed satisfactory by the counter signatory.

If a candidate already has PVG Scheme Record membership it must be for the type of regulated work for which they have applied. If not, PVG Scheme membership for the correct regulated work must be obtained before a start date is given.

As part of the Recruitment and Selection Procedure, candidates must be notified at application stage whether the post is eligible for a PVG Scheme Record. Applicants must be advised that the check will be undertaken for the preferred candidate only and that employment will be subject to receipt of the PVG Scheme Record being satisfactory.

Following completion of the selection process, the preferred candidate must be offered the post subject to PVG Scheme membership. The recruiting manager must request the candidate complete a PVG Scheme application form or a PVG existing member application form depending on whether the applicant is already a PVG Scheme member or not.

- If completing the PVG existing member application form the applicant must ensure the correct information is detailed in Part A regarding the type of membership they currently hold. e.g. if an applicant is a PVG member for protected adults and the application is in respect of children the applicant would need to ensure a Scheme Record for children is requested and that they detail that they do not have scheme membership for all types of regulated work.
- If the scheme record indicates that new vetting information has been added since the last Scheme Record the Service should upgrade to a full Scheme Record. This must be done within 30 days of the date of issue of the Scheme Record Update.

As of March 2019 applicants are required to pay any fees in relation to their PVG check. Glasgow Life will continue to pay the fee on behalf of volunteers under the direct responsibility of Glasgow Life and requiring a PVG check.

The PVG Scheme Record application forms require to be signed by a registered counter signatory within the prior to submission to Disclosure Scotland. A list of all counter signatories within Glasgow Life is held and maintained by HR.

Disclosure Scotland will issue the candidate and the counter signatory with the PVG Scheme Record. When the counter signatory receives the certificate they will advise the recruiting manager whether there are any convictions detailed.

If appointed then the counter signatory should arrange for the disclosure information to be sent to CBS Recruitment for their records. The certificate should then be disposed of as detailed as detailed in the handling, storage and disposal section.

Individuals listed as barred to work with children and/or protected adults will not receive a PVG Scheme Record, the individual and Glasgow Life will be sent a letter advising of this instead.

PVG Applications for New Posts

It is an offence for an organisation to carry out a PVG check on any individual who is not undertaking regulated work, therefore Disclosure may query whether or not PVG is applicable in the absence of relevant supporting information. To avoid delays, it is advisable to include the person specification for any new posts, highlighting the areas which confirm that regulated work will be undertaken. Disclosure Scotland maintain a log of Glasgow Life's role requiring PVG, therefore once Disclosure are satisfied that the application for PVG is justified, future applications for the same role will be processed without dispute.

Application Completion Errors

Disclosure Scotland monitors Glasgow Life's application completion errors therefore it is important that applications are checked for avoidable errors prior to being sent to Disclosure for processing. Satisfactorily completed application forms will also reduce delay to the recruitment process. The following guidance documents can be used for application checking:

[Guide to Checking and Completing Application to Join PVG Scheme](#)

[Guide to Checking and Completing Existing Member Application](#)

5. INTERPRETING DISCLOSURE AND PVG INFORMATION

Upon receipt of the Disclosure Certificate or the PVG Scheme Record the counter signatory should identify whether any convictions are detailed.

- If there are no convictions or other relevant non conviction or other government information, then the counter signatory should advise the recruiting manager that the appointment can be confirmed.
- If convictions, relevant non convictions or other government information are detailed the counter signatory should refer to the Criminal Conviction Declaration Form (CCDF) which was completed by the candidate.

The counter signatory is responsible for ensuring that the Disclosure Certificate/PVG Scheme documentation information matches that detailed on the CCDF.

- If the information matches, the counter signatory should proceed to consider the information disclosed, as detailed in the next paragraph.
- If the information does not match and the candidate appears to have falsified or omitted information, a meeting with the recruiting manager should be arranged to discuss the discrepancy.

If the applicant disputes the information on the Disclosure Certificate or PVG Scheme documentation (Scheme Record or Scheme Record Update) it is a matter for them to challenge and resolve this directly with Disclosure Scotland.

The PVG scheme record or scheme record update may show that the applicant is under consideration for listing. If the applicant is external the offer of employment must be withdrawn. If the applicant is internal please contact HR.

It is important to highlight that PVG information may contain other relevant non conviction information. The applicant may not have declared this information in the Criminal Conviction Declaration Form (CCDF) because they deemed it not relevant. For example a Scheme Record/Update may state that "Police were called to the house of the applicant where a domestic disturbance took place. The applicant was spoken to by police about this incident." The applicant may not have declared this information on the CCDF because in his/her opinion, it was not relevant to the application i.e. since it was not a conviction and no action was taken against the applicant. The police may have an alternative view and deem that it is relevant to the post applied for. This can be a common form of discrepancy between the PVG Scheme Record/Update and the CCDF. If the counter signatory and recruiting manager are satisfied with the reasons for the discrepancy, the counter signatory should proceed to consider the information disclosed, as detailed below. If the decision is taken to withdraw the offer of employment, this should be confirmed to the candidate in writing.

Satisfied that the Disclosure Certificate/PVG Scheme Record/Update information matches the CCDF or with the explanation provided for any discrepancy, the counter signatory should now fully consider the information detailed, taking into consideration any additional information provided during the discussion. . The candidate should always be given the opportunity to provide additional information and clarification. Steps should be taken to verify any additional information shared and explanations provided. The information detailed may be discussed with other managers involved in the recruitment process and HR.

When considering the Disclosure Certificate/ PVG Scheme Record/Update information the following should be assessed

- The relevance to the position in question
- The nature and seriousness of any offence revealed
- The length of time since the offence was committed
- Whether the applicant has a pattern of offending behaviour
- Whether the applicant's circumstances have changed since the offending behaviour
- The circumstances surrounding the offending behaviour and any explanation offered by the candidate

One of the following decisions should be reached by the counter signatory and the appropriate action(s) taken:

- Convictions are not relevant, the counter signatory should advise the recruiting manager that the appointment can be confirmed
- Convictions are relevant, but on assessment do not render the candidate unsuitable - the counter signatory should advise the recruiting manager that the appointment can be confirmed
- Convictions are relevant, and on assessment there are serious concerns about the candidate's suitability. The counter signatory may decline to offer employment due to unsatisfactory Disclosure/PVG check. Alternatively, the counter signatory may seek advice from HR before proceeding.

Individuals will not be given PVG Scheme membership if they are unsuitable to undertake regulated work with children and/ or protected adults. Therefore any vetting information on the Scheme Record/Update will not legally stop the individual being employed to undertake this type of work. The decision to employ and individual with vetting information on their record will be taken by the counter signatory.

6. ADMINISTRATION

Changing Employee Details

PVG Scheme members must inform Disclosure Scotland of any changes to their name, address or gender within three months of the change. This should be done by a letter from the employee. If this is not done the employee is committing an offence under the PVG Act.

Handling, Storage and Disposal of Disclosure and PVG Scheme Record Information

Disclosure and PVG Scheme Record information must only be used for the specific purpose for which it was requested and should not be disclosed in a manner incompatible with that purpose. Once a recruitment decision has been made and the certificate information sent to CBS, Disclosure certificates and PVG Scheme Records must be shredded. Certificates may only be kept where a recruitment decision is outstanding.

New Information

All employees are responsible for bringing to the attention of their line manager any information which might indicate that someone working with children or protected adults (whether voluntary or paid) has abused a child/protected adult, or placed a child/protected adult at risk from abuse. In such circumstances this information must be passed to HR as well as informing Social Work, the Police, or the Children's Reporter's Service in accordance with NESPC Guidance.

It is important that all the Agencies mentioned above, who have legal responsibility for investigating such matters, do so without their actions being compromised by unauthorised investigations being undertaken internally. Only once the matter has been fully investigated can HR consider whether there is a need to pursue procedures in relation to making a referral to the PVG Lists. The two PVG lists are lists of individuals barred from doing regulated work with either children or protected adults.

Consideration for Listing

When an individual applies for a PVG Scheme Record or Update through Glasgow Life, Disclosure Scotland will note Glasgow Life as an interested party. This means that Disclosure Scotland will notify Glasgow Life if any individual employed doing regulated work is considered for listing in respect of that type of work.

If Disclosure Scotland are considering listing an existing employee with PVG Scheme membership, they will contact the Lead Counter signatory to check that the individual is still an employee. Should the Lead Counter signatory confirm this is the case, Disclosure will then write to indicate that the employee is being put "under consideration for listing".

Consideration must be given as to whether to allow the employee to continue undertaking regulated work whilst the Disclosure Scotland assessment by Scottish Ministers is being undertaken. It is not a criminal offence to allow the individual to continue in the regulated work. The matter must be discussed with the employee and a risk assessment undertaken. This should take into account the circumstances of the case and the individual's work. It may be appropriate to make adjustments to the employee's duties until the Disclosure Scotland assessment is complete.

It can take a number of months for Scottish Ministers to make a determination in relation to being listed or not. If the outcome of the consideration process is that the applicant is placed on one or both lists, then they must be removed from doing that type of regulated work. Failure to remove the individual from the appropriate post is a criminal offence. The barring could result in employment being terminated.

If the outcome of the consideration process is that the individual is not barred, then they should not be treated any differently than they were before. Any temporary change to duties due to the consideration process should cease, unless there were other reasons for the change in duties.

When an applicant is being considered for listing, this fact is added to their Scheme Record. Correspondence from Disclosure Scotland in relation to a “under consideration for listing” will be held electronically and securely by HR, whilst the consideration case is ongoing.

Following an outcome of the individual not being listed, this will be deleted and disposed of by the Lead Countersignatory in line with the Record Retention Schedule. Following an outcome of the individual being listed, this will be placed in their personnel file.

If during the recruitment process an external applicant’s Scheme Record shows that they are being considered for listing they must not be offered the post. The recruiting manager should inform the candidate that due to unsatisfactory pre-employment checks, no offer of employment will be made.

If during the recruitment process an internal applicant’s Scheme Record shows that they are being considered for listing the counter signatory must contact a member of HR.

Retrospective Checking

It is the Scottish Government’s expectation that all individuals doing regulated work in Scotland will eventually become PVG Scheme members. Individuals recruited to do regulated work after the PVG Act comes into force should be asked to join the PVG Scheme. Over time, this will result in more and more individuals becoming PVG Scheme members. However, there are many individuals who will already be doing regulated work when the PVG Act comes into force and these people too will eventually join the PVG Scheme. The process of checking existing workers and bringing them onto the PVG Scheme is known as retrospective checking.

Any individual undertaking regulated work when barred is committing an offence, if this comes to light during retrospective checking the employee should be removed from doing that type of regulated work. Disclosure Scotland will inform the police. If the employee is added to either PVG List they must be removed from doing that type of regulated work.

It is possible that when existing employees apply to join the PVG Scheme, it may reveal vetting information which leads to consideration for listing and possibly inclusion in one or both lists. If this is the case the procedure for consideration for listing for existing employees should be followed.

For further advice and guidance on any of the above please contact HR.

Retrospective checking may identify other convictions which may not lead to listing or consideration for listing but may still be cause for concern. These will be dealt with on a case by case basis.

When a PVG Scheme Record Member Leaves Glasgow Life

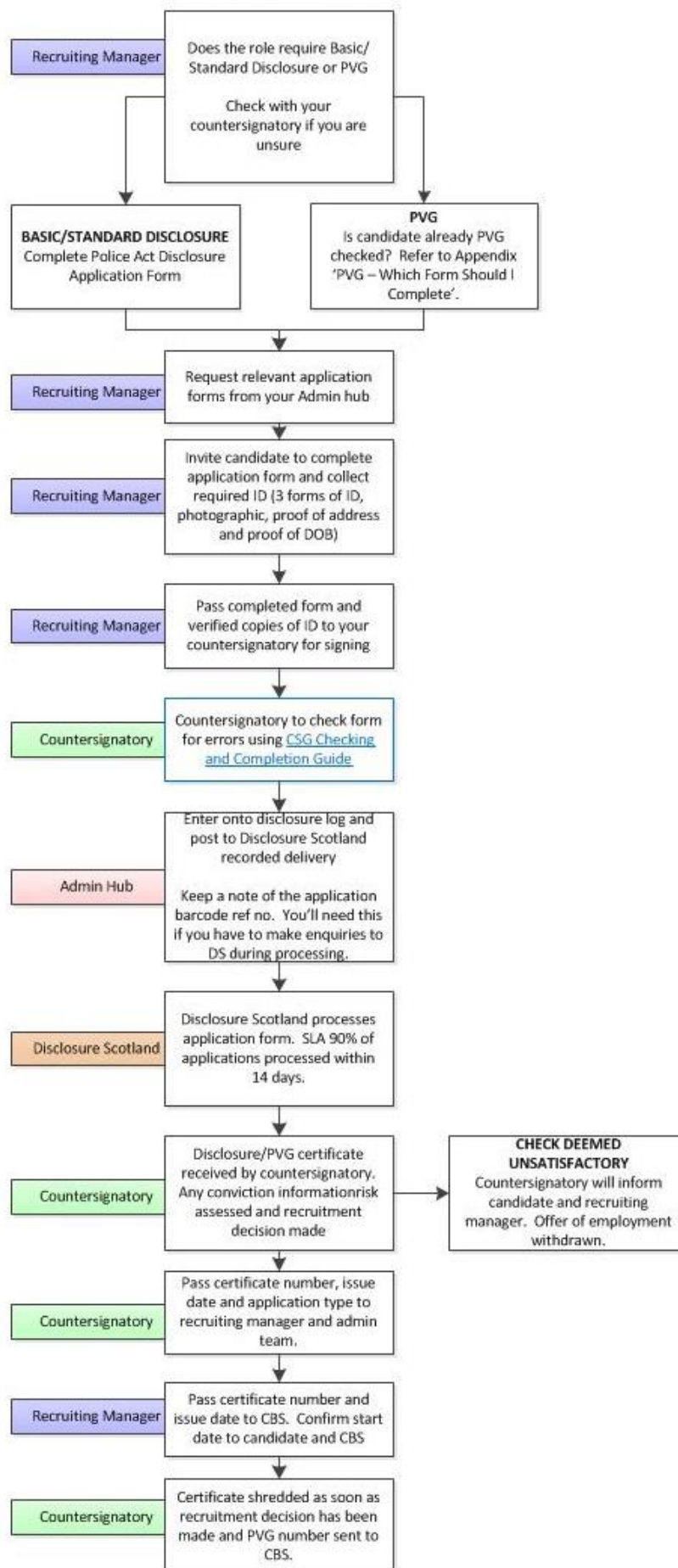
When an employee leaves a post within the regulated work it is their responsibility to inform Disclosure Scotland of this. Glasgow Life also carries out routine notification of PVG Scheme Record Member leavers to Disclosure Scotland.

Information Relating to Ex-Employees

In the event of the Lead Signatory receiving a letter asking if an employee still works for Glasgow Life the Lead Signatory will contact Disclosure Scotland to advise them that the employee no longer works for the Glasgow Life. The Lead Signatory will then dispose of the letter following the Records Retention Schedule.

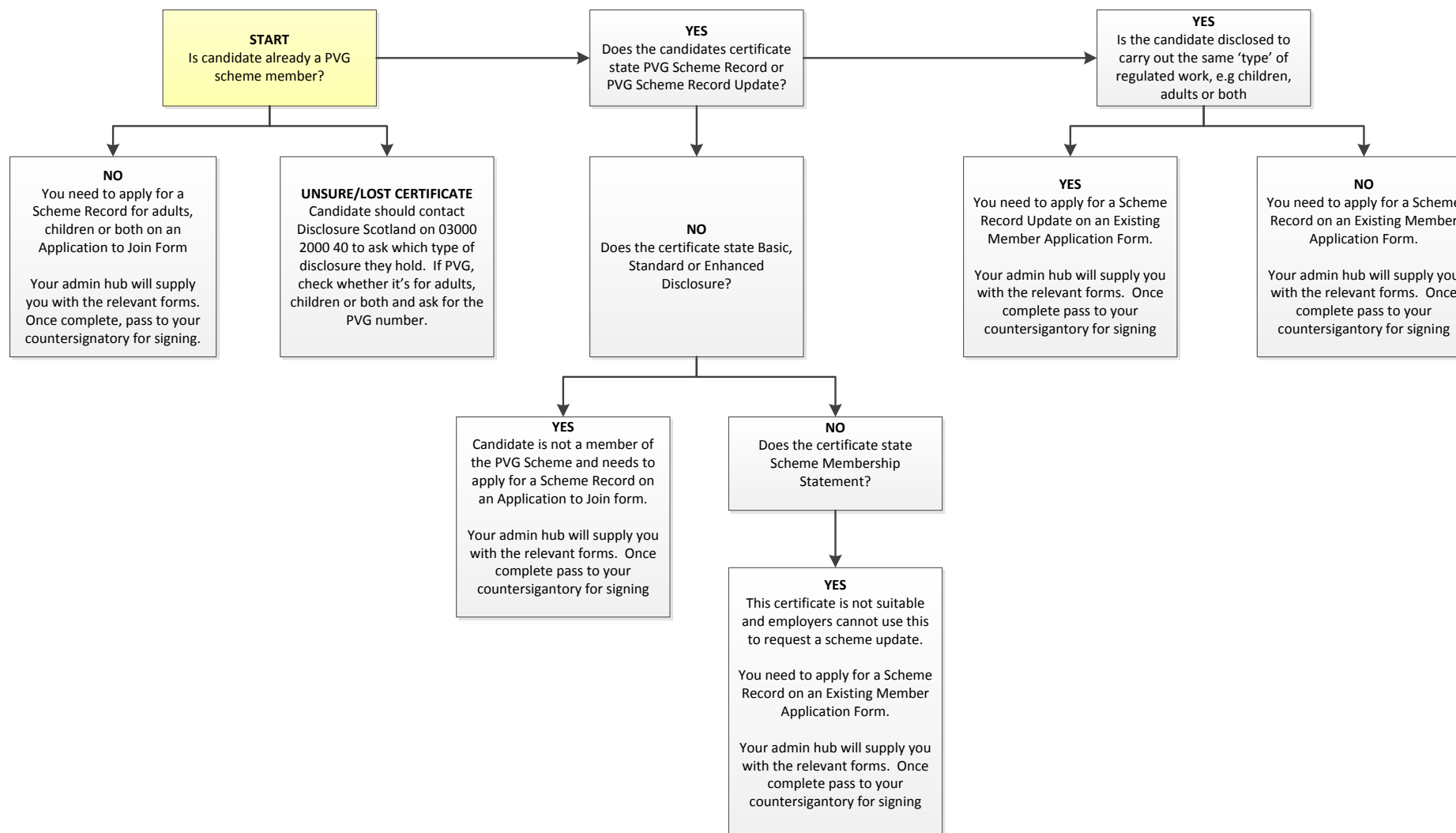
APPENDIX 1.

DISCLOSURE/PVG APPLICATION PROCESS



APPENDIX 2.

PVG – WHICH FORM SHOULD I COMPLETE?



APPENDIX 3.

Disclosure
SCOTLAND

 @disclosurescot
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Regulated Work

5 Step Assessment

Establishing Regulated Work

Considering the following steps will help you to establish if the tasks and activities relating to the post you are looking to fill would be eligible for an application to the PVG Scheme as they fall into the category for Regulated Work

Step 1 – Is it ‘work’?

Work includes:	Work does not include:
<ul style="list-style-type: none">• Paid or unpaid work• Work under a contract• Foster caring• Students on a course involving a work placement	<ul style="list-style-type: none">• If done in the course of a personal relationship for no commercial consideration• In the course of a family relationship

Step 2 – who are they working with?

Children:	Protected Adults:
<ul style="list-style-type: none">• An individual under the age of eighteen	Aged 16 or over, and in receipt of certain prescribed services <ul style="list-style-type: none">• Registered care service• Health service• Community care service• Welfare service

More about the services that, by receiving such, means someone is a protected adult while in receipt of the service

1. Registered Care Service (regulated by the Care Inspectorate)
2. Health Service – secured or provided by a health body (e.g. Board, medical/dental practice, independent hospital etc.)
3. Community Care Service – Social work or mental health services provided or secured by a council.
4. A welfare service must involve providing support, assistance, advice or guidance to individuals with “particular needs”. It must also:
 - a) Be provided in the course of work to one or more persons aged 16 or over; **and**
 - b) Be delivered on behalf of an organisation; **and**
 - c) Require training to be undertaken by person delivering the service; **and**
 - d) Has a frequency and formality attached to the service, **and**
 - e) one of the following:
 - i. requires a contract to be agreed between the service provider and service user, **or**
 - ii. is personalised to an individual’s needs

Definition of particular needs

“A particular need is a specific requirement an individual may have arising from either physical or mental ill-health, or physical or mental disability which may disadvantage that person when compared to the rest of society.”

WHAT IS A PARTICULAR NEED?	
EXAMPLES OF PARTICULAR NEEDS	NOT ACCEPTED AS PARTICULAR NEEDS
Physical or mental ill-health, disability or impairment (temporary or permanent)	Common ailments such as cold or flu
Degenerative diseases	Debt problems
Prolonged impairment in doing ordinary tasks	English as a second language
People with drug or alcohol problems	People in detention
	Unemployed or economically deprived
	Literacy or numeracy problems (unless part of a condition which does give rise to particular needs)
	Friends or relatives of protected adults/people with particular needs

Step 3 – (1) what are they doing?

Regulated activities with children includes:

- Caring for children
- Teaching, instructing, training or supervising children
- Being in sole charge of children
- Unsupervised contact with children under arrangements made by a responsible person
- Providing advice or guidance to a child or to particular children which relates to physical or emotional well-being, education or training
- Work on any part of day care premises at times when children are being looked after in that part
- Providing, or working for an organisation which provides, an independent health care service which is provided exclusively or mainly for children

(2) are they working in a regulated establishment?

Regulated establishments (PVG):

- school;
- FE college;
- school hostel;
- children's hospital;
- children's home;
- children's detention unit

(NB when working in these establishments, there must be an opportunity for unsupervised contact with children to be regulated work)

Regulated activities with protected adults

- Caring for adults
- Teaching, instructing, training and supervising adults
- Being in sole charge of adults
- Providing assistance, advice or guidance to adults
- Inspecting care services on behalf of the Care Inspectorate or Healthcare Improvement Scotland

Regulated establishments protected adults (PVG):

- Care home
- Residential establishment or accommodation occupied exclusively or mainly by individuals 16+ and provided by (or on behalf of) a council under either:
 - Social work Scotland Act 1968 or;
 - Mental Health (Care and Treatment) (Scotland) Act 2003

Step 4 – normal duties or incidental?

What you need to consider:

- Is the regulated activity or work in the regulated establishment part of their normal duties?
- Is the regulated activity 'incidental'?

Normal Duties:

- Can be considered as something an individual might be expected to do as part of their post on an ongoing basis, for example appearing on a job description.
- Work is unlikely to be “normal duties” when done in an emergency, or a one-off which is not part of the individual’s normal role.

Incidental:

- Is likely to be incidental when open to all (characterised by where the event is held, where it is advertised, admission policy etc), or attendance is discretionary.
- An activity is unlikely to be incidental when targeted at children or protected adults, more attractive to children or protected adults than others, or attendance is mandatory.

Step 5 – are there exceptions that apply?

An example of an exception:

- What if the worker themselves is a child – how does this affect your other staff? There are specific exceptions to mean that this does not mean that all staff working alongside children – contact DS for advice on this one!

Supervisor/line manager

Eligibility:

- “A position whose normal duties include day to day supervision or management of an individual doing regulated work with children/protected adults”
- **Must** be direct line manager/supervisor of individual undertaking regulated work

Regulated Positions of Trust

Positions of trust – children includes:

- Charity trustee
- Foster carer
- Some council committee members
- Chief Social Work Officer
- Chief Education Officer

Positions of trust – protected adults:

- Chief Social Work Officer
- Some council committee members
- Charity Trustee

Appendix 4.

Definition of Regulated Work with Children and Adults

Regulated work with Children

An individual may be doing regulated work with children if their work involves any of the following activities (as part of their normal duties):

- Caring for children.
- Teaching, instructing, training or supervising children.
- Being in sole charge of children
- Unsupervised contact with children under arrangements made by a responsible person
- Providing advice or guidance to a child or to particular children which relates to physical or emotional well-being, education or training
- Moderating a public electronic interactive communication service which is intended for use wholly or mainly by children
- Providing, or working for an organisation which provides, a care home service which is provided exclusively or mainly for children.
- Providing, or working for an organisation which provides, an independent health care service which is provided exclusively or mainly for children.
- Work on any part of day care premises at times when children are being looked after in that part.
- Being a host parent

An individual may be doing regulated work with children if they work in any of the following establishments (as part of their normal duties):

- An institution which is exclusively or mainly for the detention of children.
- A hospital which is exclusively or mainly for the reception and treatment of children.
- A school
- A further education institution
- A hostel used mainly by pupils attending a school or further education institution.
- A home which is exclusively or mainly for children and is provided by a council under social work or mental health legislation.

Work in an establishment is not regulated work with children unless doing anything permitted or required in connection with the position gives the person the opportunity to have unsupervised contact with children. This means that any individual working in an establishment, or part of an establishment, where no children are present is outside the scope of regulated work. Secondly, any individual working in an establishment where children are present but who is supervised is not by this fact alone within the scope of regulated work. The phrase “doing anything permitted or required in connection with the position” precludes individuals who might have opportunity for unsupervised contact with children if they act outside their authority.

An individual is considered a child for the purposes of PVG when under the age of 18.

Incidental activity

The scope of regulated work is narrowed by the incidental test. Some, but not all, activities with children or protected adults are excluded from being regulated work if the activity is occurring incidentally to working with individuals who are not children or protected adults. For example, a teacher in a school is doing regulated work with children but a college lecturer running woodwork classes in the evening aimed at adults is outside the scope of regulated work, even if one or two children attend his class. This is because the presence of

children (and the teaching of children) is incidental to the main activity and purpose of the class which is to teach adults.

An activity is likely to be incidental when:

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

An activity is unlikely to be incidental when:

- targeted at children or protected adults (characterised by where the event is held, where it is advertised, admission policy etc.);
- more attractive to children or protected adults than others; or attendance is mandatory.

Please find below PVG guidance with respect to work experience and the PVG scheme:

Work with children themselves in work

Some activities are excluded from regulated work with children if they are carried out in relation to children aged 16 or 17 in the course of the children's work. This means, for example, that a shop manager recruiting or supervising children aged 16 or 17 as assistants (whether as employees or volunteers) is not within the scope of regulated work with children.

Work with children themselves in employment

Some activities are excluded from regulated work with children if they are carried out in relation to children under the age of 16 in the course of the children's employment. Employment means paid employment whether under a contract of service or apprenticeship or under a contract for services. Work is much wider than employment in the PVG Act. This means, for example, that a shopkeeper employing a 14 year old to do a paper round is outside the scope of regulated work but a scout leader supervising a group of 14-year-old scouts calling door-to-door to do odd jobs for money is within the scope of regulated work.

Younger children on work experience

Individuals working with children aged 16 or 17 on work experience are exempt by paragraph 2(a) of schedule 2 as the children are themselves working. In respect of younger children on work experience (and who are not themselves employed), neither paragraph 2(a) or (b) of schedule 2 offers any exemption. But it is to be expected that most employees in the host organisation working with such children would not be doing regulated work because their interaction with the children would either: not be one of the activities; not be their normal duties; or be incidental. For example, any care offered to children on a work placement would have to be above and beyond what is normally provided to employees for this to be any more than incidental. In practice, only any individual(s) allocated special responsibilities for the children for the entire duration of their placement is (are) likely to be doing regulated work.

REGULATED WORK WITH PROTECTED ADULTS

Simply working with a vulnerable group does not automatically mean that an individual will be eligible for the PVG scheme for this work. The PVG scheme deals with protected adults rather than vulnerable adults, this is a service based definition rather than labelling individuals due to the fact that they have a particular vulnerability, such as being elderly.

A protected adult is defined as an individual aged 16 or over who is provided with (and thus receives) a type of care, support or welfare service. An individual is only deemed to be a

protected adult for the duration of time they are receiving the relevant service. There are four categories of services, receipt of any one of which makes an individual a protected adult:

1. Registered care services

A service by a person carrying on:

- (a.) a support service
- (b.) an adult placement service
- (c.) a care home service, or
- (d.) a housing support service.

2. Health services

A service provided or secured by a public health body concerning the treatment, care and support of, and provision of advice and assistance to individuals in relation to health and well-being, or similar services provided by an independent health care service provider .

3. Community care services

Social work and mental health services provided or secured by a council, or self-directed support paid for by a council. The most recent guidance on this states a community care service is defined in the Social Work Scotland Act 1968 as:

“community care services” means services, other than services for children, which a local authority are under a duty or have a power to provide, or to secure the provision of, under Part II of this Act or section 7 (functions of local authorities), 8 (provision of after-care services) or 11 (training and occupation of the mentally handicapped) of the Mental Health (Scotland) Act 1984;

4. Welfare services

A welfare service includes any service which provides support, assistance, advice or counselling to individuals with particular needs, meeting the following conditions. The service must be a service that:

- (a.) is provided in the course of work to one or more persons aged 16 or over.
- (b.) is delivered on behalf of an organisation
- (c.) requires training to be undertaken by the person delivering the service
- (d.) has a frequency and formality attached to the service, and
- (e.) either
 - (i.) requires a contract to be agreed between the service provider and the recipient of the service prior to the service being carried out, or
 - (ii.) is personalised to an individual adult's needs.

In addition, in order to be eligible for the PVG Scheme an individual must be doing one of the following activities with protected adults (as part of their normal duties):

- Caring for protected adults.
- Teaching, instructing, training or supervising protected adults.
- Being in sole charge of protected adults.
- Providing assistance, advice or guidance to a protected adult or particular protected adults which relates to physical or emotional well-being, education or training.
- Inspecting adult care services (including inspecting any premises used for the purposes of providing such services)

An individual may be doing regulated work with adults if they work in any of the following establishments (as part of their normal duties):

- A care home - meaning accommodation occupied mainly or exclusively by individuals aged 16 or over which is provided by an organisation carrying on a care home service.
- A residential establishment or accommodation occupied exclusively or mainly by individuals aged 16 or over which is provided by, or the provision of which is secured by a council under the Social Work (Scotland) Act 1968 (c.49), or section 25 (provision of care and support services by local authority) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13).

One exception applies to positions in all these establishments, namely that such positions are not regulated work unless:

- doing anything permitted or required in connection with the position gives the person the opportunity to have unsupervised contact with protected adults; and
- any contact with protected adults, when the holder of the position is doing anything permitted or required in connection with the position, is more than incidental.