



SPTC Advice on the Protection of Children (Scotland) Act (POCSA) and disclosure checks for PTAs & Parent Councils

The advice in this leaflet has been drawn up in discussion with officials from the Central Registered Body in Scotland (CRBS*). For more information also see <http://www.scotland.gov.uk/Publications/2008/07/21115427/0> for the Government's Guidance on the recent amendment to POCSA.

Please keep this leaflet in a safe place for future reference.

WHO SHOULD BE DISCLOSED?

The legal position is that **since the April 11th 2005** implementation of the Protection of Children (Scotland) Act, all PTAs & Parent Councils are required to ensure that they do not **appoint** someone who is on an **official list** of those disqualified from working with children to a paid or unpaid childcare position (as defined in Schedule 2 of the Act).

The way to check whether someone is on a list of those disqualified from working with children is to carry out an enhanced disclosure check.

In PTA or Parent Council terms, a **childcare position** (as defined in Schedule 2 of the Act) is held by those whose **normal duties** involve the supervision or care of children e.g. those running crèches, on rotas for walking buses, taking an after-school class or club; supervising children waiting to go to such classes/clubs or those expected to help at a series of pre-planned school discos.

In addition to this, **if the PTA or Parent Council is a registered charity** (most are not and the organisation would have a Scottish Charity number if it were a charity) then all the trustees (likely to be the Office Bearers) would have to be disclosed. This is a separate requirement in the legislation.

The following advice applies to ALL PTAs & Parent Councils.

PEOPLE WHO SHOULD NOT BE DISCLOSED

Not everyone on a PTA or Parent Council *can or should* be disclosed.

a) Disclosure only applies to **new** appointees to childcare positions, whether new to the PTA/Parent Council or moving within the organisation to a childcare position for the first time. Anyone who is continuing in a childcare position that they have held since before 11th April 2005 need not be disclosed.

b) It is contrary to other legislation to get someone who is **not in a childcare position** checked against the lists; this would include PTA/Parent Council members who never supervise children. For example, if someone only attends committee meetings or attends events simply to collect money, he/she would not be in a supervisory role/childcare position and so cannot be disclosed. Similarly, if the PTA/Parent Council only runs **family events** – family quizzes, discos, ceilidhs, school fairs, etc – and it is clearly stated that these are family events and no arrangements are made by the PTA/Parent Council to look after/supervise children – then no-one is in a planned supervisory role/childcare position (even if some children turn up unaccompanied) so **no-one can be disclosed under existing legislation.**

c) Where someone is asked to help out on an **ad hoc/one-off basis** they would not be considered as having been appointed to a childcare position, and there would, therefore, be no legal requirement under the Act for a check against the lists.

For example, in running school discos:-

- **The PTA Committee/Parent Council** members will have planned a number of discos at the beginning of the school year and there would be an expectation that some or all of them would be at the discos with responsibilities for running them. They would therefore need to be disclosed as their **normal duties** would be considered to bring them within a childcare position as defined in the Act.
- However, **anyone asked to help out at a specific disco**, on an ad hoc basis, with no pre-planning and no on-going expectation of involvement in future PTA/Parent Council activities, would not be regarded as having been appointed to a childcare position within the meaning of the Act and so **cannot be disclosed under existing legislation.**

WHAT IS THE DISCLOSURE FOR?

Part of the Protection of Children (Scotland) Act requires that Enhanced Disclosure checks should be done to determine whether the person due to undertake the childcare position is on a UK list – whether Scottish, English, Welsh or Northern Irish – of those considered unsuitable to work with children.

Disclosure checks are carried out for a specific position and will contain any conviction and non-conviction information held on the individual. In addition to confirming whether or not the individual is on one of the statutory lists of those disqualified from working with children, the information from the check can help the PTA/Parent Council decide if a person is unsuitable for the proposed childcare position.

However, **not every criminal conviction or all non-conviction information** can be seen as meaning that someone is unfit for a childcare role – for example a conviction for shop-lifting may not mean the person is unsuitable to work in a childcare position –

and it is important for the PTA/Parent Council to determine the relevance of any disclosure information to the post/activity in question. The vast majority (some 90%) of disclosure certificates are clean.

WHO IS RESPONSIBLE FOR DISCLOSURE?

For PTA/Parent Council organised activities and events, the PTA/Parent Council is responsible for disclosure. **Disclosure checks are issued for a specific post/position and cannot normally be transferred from one position to another.** However, when someone has a recent disclosure certificate (less than two years old), e.g. for their paid work or other voluntary post, is willing to show it to the group appointing him/her to the new position and where that group is happy to accept it, then a certificate issued for this different position can be accepted.

HOW ARE DISCLOSURE CHECKS DONE?

a) As voluntary organisations, PTAs & Parent Councils can have Enhanced Disclosure checks for their volunteers done free of charge. PTAs & Parent Councils can register with the CRBS who will then undertake the processing of all applications to Disclosure Scotland and the administration of disclosure certificates. CRBS can also offer additional support such as shredding certificates received by them from Disclosure Scotland, and calling the PTA/Parent Council to inform them of the content of the certificate. Registering with the CRBS for an individual PTA/Parent Council is a straightforward process (please see our leaflets ***Registering with CRBS: a step-by-step guide*** and ***Running a Disco, advice on safe practice***).

b) Alternatively, PTAs/Parent Councils can approach one of the local intermediary organisations (listed on the CRBS website at www.crbs.org.uk) who can act as an intermediary for the PTA/Parent Council in getting the checks done. The level of support offered by these groups will vary, depending on what they have agreed to undertake. In some cases, the PTA/Parent Council will still need to handle sensitive personal information relating to those who are being disclosed, and would have to appoint one of their members to handle this information confidentially and in accordance with the Data Protection Act.

c) Local Authorities may offer to act as intermediaries for PTAs & Parent Councils but, as non-voluntary bodies, Authorities have to pay for checks and may pass this charge on. On the other hand, Authorities may be in a position to handle the whole process, including dealing with confidential information. PTAs & Parent Councils would need to approach their own Local Authorities and agree a local contract with them.

CHILD PROTECTION BEYOND THE ACT

The legislation and disclosure checks are only one, very specific aspect of child protection. It is important that PTAs & Parent Councils think generally about child protection and put in place sensible policies for all those involved. They need to work out how they will cope safely with a child who is injured/upset and in need of one-to-one care; operate a system of mutual and agreed adult-to-adult supervision; supervise children who are not collected at the end of the event, etc.

Moreover, there can be a false sense of security arising from disclosure checks. The checks detail what is on the police records; they do not say whether someone is

suitable for looking after children or not. They only detail relevant information up to the point of the check. They cannot say what the person might do in the future.

SAFE PRACTICE FOR PTA AND PARENT COUNCIL EVENTS

Our advice to all PTAs/Parent Councils is that it is important to adopt good practice regardless of the need for or use of disclosure checks.

- In planning an event, it is important to think of any child protection issues.
- Helpers should be consciously aware of each other and operate a system of mutual supervision. This is important both for the protection of children and to protect adults from false allegations. (This is similar to the advice we give for counting money – having two people not only ensures accuracy; it also protects against false charges of fraud.)
- It is important to anticipate possible situations that might leave an adult in sole charge of a child, and have agreed procedures. For example, if a parent helper needs to deal with a child with a nose bleed, they should inform another adult what they are about to do and why, and then report back to that same adult when they and the child return.
- If a child approaches an adult and makes a complaint about another adult, the child should be listened to, the incident recorded and followed up as appropriate.
- Set up an incident log book. Each event should have a separate entry, giving date and type of event. The details of any incident should be recorded **at the time**, and signed by **two** helpers. If there are no incidents, this should also be noted at the end of the event and signed by two helpers. If any inquiries come up later, the log book should be evidence as to what happened on the night.
- It is important to work out what will happen at the end of the event. This will clearly depend on the age of the youngsters. If you decide that children should be collected, it is important to make sure that parents are aware of this policy from the start. If a parent feels that their child can go home alone or with a friend, you should ask the parent to give written notification of this – providing a tear-off slip might be useful.
- If you have an “adult must collect” policy, work out what you will do if a child gets left behind.

FINALLY

The whole business of disclosure checks is very complicated. It is ongoing and applies to all new appointments. It is therefore worth noting that where a **PTA/Parent Council never takes on a supervisory role** with children, only runs events for adults or whole families (with no planned arrangements for the supervision of children), they never appoint anyone to a childcare position as defined by the Act and so no one needs to be, or indeed under the law can be, disclosed.

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