

## Briefing on ...

# Protection of Vulnerable Groups (Scotland) Act 2007

## Introduction of the PVG Scheme – November 2010

### **PVG Scheme**

The Protection of Vulnerable Groups Scheme (PVG) will come into force in Scotland on **30 November 2010**.

The scheme will apply to thousands of UNISON members working with children or vulnerable adults across the Health Service, social services, education, police, voluntary sector and many others.

From **30 November 2010** any person applying for or moving to a job in a position designated as regulated work in Scotland will be asked by their employer to become a member of the PVG scheme. This will replace their need to seek an Advanced Disclosure check as at

present. The employer will use the PVG scheme to check whether the person is able to be a member of one of the schemes, or is on one of the barred lists.

The scheme will then be phased in for existing staff over **the next 4 years**. It is expected that between 700,000 and 800,000 people will, over that time, become PVG scheme members.

**From the start of the PVG scheme in November it will be an offence for an organisation to recruit and employ a barred individual to do regulated work.**

### **Rest of the UK**

A similar scheme was being introduced for England, Wales and Northern Ireland which was intended to dovetail with the Scottish scheme. However, in July, the Home Office halted the voluntary registration aspect of that scheme, pending a review. The use of the

Independent Safeguarding Authority (ISA) to bar unsuitable people from working with children or vulnerable adults will, however, continue.

**This decision does not affect the Scottish Scheme, which will go ahead as planned.**

### **What does it mean for members?**

The Act introduces two new membership schemes and two barred lists - one for those working with children and one for those who work with vulnerable adults.

They will be run by Disclosure Scotland which is now an executive department of the Scottish Government

The Act also brings in a continuous vetting process, with retrospective checking. Any information relating to the person's suitability to work with either of the groups must be added to their record and their suitability to continue to work in regulated work will be assessed.

**Any person who is placed on one of the barred lists is committing a criminal offence if he or she engages in regulated work anywhere in the UK**

### **What is Regulated Work?**

The definition of work in the legislation is very broad – it includes paid, unpaid, contracted, statutory office, foster caring, caring for or supervising any individuals participating in any organised activity.

It does **NOT** include any work for a family member or individuals in the same household or unpaid work for a personal friend.

Regulated work is defined as those working with:

**Children – any individual under 18 years;**

**Vulnerable adults – An individual aged 16 or over in receipt of one or more of the following services:**

- Registered Care Services
- Health Services
- Community care services
- Welfare Services

The kind of work carried out is also important relating to the:

- **Activities (e.g. teaching)**
- **Establishments (e.g. care homes)**
- **Positions (e.g. trustees of certain charities)**
- **Day to day supervision or management**

These are different for work with children and protected adults and will need to be checked with the guidance.

Working with children or vulnerable adults has to be part of normal duties. No duration of contact with either group is specified, unlike in the English scheme, which has mainly caused all their difficulties.

**Specifically – the contact has to be *unsupervised* for it to be classed as Regulated Work**

## Further information:

**Protection of Vulnerable Groups (Scotland) Act 2007**  
<http://www.scottish.parliament.uk/business/bills/73-ProtVulGro/b73s2-aspassed.pdf>

**PVG Scheme Site**  
<http://www.scotland.gov.uk/Tpics/People/Young-People/children-families/pvglegislation>

**Guidance for PVG Scheme**  
[http://www.disclosurescotland.co.uk/pvg/316289\\_v6\\_20100628.pdf](http://www.disclosurescotland.co.uk/pvg/316289_v6_20100628.pdf)

**UNISON Briefing on secondary Legislation - 2007**  
<http://www.unison-scotland.org.uk/briefings/vulnerablegroups173.pdf>

**Consultation on Implementation - UNISON Response – Feb 2010**  
<http://www.unison-scotland.org.uk/response/Protection%20of%20Vulnerable%20Groups%20Scotland%20Act%202007%20>

## Fees

The following fees are payable for being a member of the scheme:

Protecting Vulnerable Groups Scheme CHECK TO PROTECT	
Circumstance	Fee
Joining the PVG Scheme	£59 – but disclosure record at same time is included.
Scheme Record	£59 – unless... £41 – within 30 days of SRU...
Scheme Record Update	£18
Scheme Membership Statement	£18 – for existing members
Volunteer working for qualifying voluntary organisation	FREE

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The fee for joining the scheme is a one-off fee and includes a scheme record if obtained when joining the scheme.

## UNISON Objections

UNISON has commented on all aspects of the legislation as it made its way through the Scottish Parliament.

In particular our three main concerns are:

- Fees for registration
- Duplication of Registration
- The right to a fair hearing.

Under existing legislation, costs are usually paid by employers. However, we have concerns that employers may move the costs of the PVG scheme on to individual employees. This is unfair and has a disproportionate effect on low-paid, part-time workers, most of whom are women.

We have urged the Scottish Government to make payable of fees mandatory on the employer.

Many UNISON members are already included on a professional register. We feel it is unfair for them to also have to be included in the PVG register and pay an additional fee.

We also have significant concerns about the judgements which Disclosure Scotland could make when considering whether an individual should be placed on one of the “barred” lists. UNISON believes that everyone has the right to a fair face-to-face hearing, based on the facts of the case, and to be provided with specific details about any charges laid against them.

## Action for Branches

- Raise the issue with employers to find out what arrangements are being made for dealing with the introduction of the Scheme;
- Seek agreement that the employer should pay fees;
- Seek to agree local procedures for handling cases for members;
- Contact your Regional Organiser for advice if a member is placed on one of the barred lists or is being considered for listing.
- Publicise amongst membership and use to recruit and organise non-members.

