

# Protection of Vulnerable Groups Scheme Policy

October 2018

## Policy control

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<b>Approving Bodies</b>	HR Committee, Board Governors
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## **1. PURPOSE AND SCOPE**

GSA is committed to providing a safe and protected environment for staff and students at all times.

The Protecting Vulnerable Groups (PVG) membership scheme is managed and delivered by Disclosure Scotland. It helps make sure people whose behaviour makes them unsuitable to work with children and/or protected adults can't do 'regulated work' with these vulnerable groups.

The PVG Scheme ensures that those who have regular contact with vulnerable groups through the workplace do not have a history of inappropriate behaviour. It excludes people who are known to be unsuitable, on the basis of past behaviour, from working with children and/or protected adults.

The aim of the PVG Scheme is to:-

- help ensure that those who have regular contact with children and protected adults through paid and unpaid work do not have a known history of harmful behaviour;
- be quick and easy to use, reducing the need for PVG Scheme members to complete a detailed application every time disclosure check is required;
- strike a balance between proportionate protection and robust regulation making it easier for employers to determine who they should check to protect their client group.

This document sets out GSA's policy on the protection of vulnerable groups.

## **2. DEFINITIONS**

For the purposes of the Policy, the following definitions will apply:

### **Child**

An individual under the age of 18 years old

### **Protected Adult**

A person aged 16 or over, who receives one or more type of health, care or welfare service, whether regularly or for a short period of time

### **Regulated work**

Activities undertaken by employees who are specifically employed in caring for, supervising or advising children and/or protected adults.

### **3. ASSESSING REGULATED WORK**

#### **3.1 Identifying Regulated Work**

Work is regulated if the day to day activities include working with an individual or groups of individuals under the age of 18, or protected adults, carrying out the following activities:

- Caring for children or protected adults
- Teaching, instructing, training or supervising children or protected adults
- Being in sole charge of children or protected adults
- Unsupervised contact with children
- Providing advice or guidance to children or protected adults which relates to physical or emotional well-being, education or training
- Moderating a public electronic interactive communication service which is intended for the use wholly or mainly of children
- Providing or working for an organisation which provides care home services exclusively or mainly for children
- Providing or working for an organisation that provides an independent health care service exclusively or mainly for children
- Work on any part of a day care premises at times when children are being looked after
- Being a host parent<sup>1</sup>

#### **3.2 Exceptions to Regulated Work – Incidental Test**

The scope of regulated work is narrowed by the incidental test. Some, but not all, activities with children and 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 Lecturer who teaches undergraduate and postgraduate students; Lectures are aimed at the student group as a whole but may include some children in first year undergraduate classes. Despite the fact that some children attend GSA, teaching them is incidental to the teaching of adults and therefore Lecturers are not considered to be doing regulated work with children.

Conversely, a staff member whose specific job is to look after the welfare of first year students (as opposed to students in general) may be doing regulated work with children as their work is deliberately targeted at a group containing a significant number of children. An example would be the role of Level One Design Coordinator.

In the case of regulated work with protected adults the same principle would apply; however there will be very few HE employees undertaking regulated work in this context. Again, regulated work involves supervising, caring for, assisting and/or being in sole charge of protected adults and, as with children, this work must be the main focus of the job and not incidental to carrying out these tasks for all students.

Very few staff working for HE institutions would fall into this category. One example may be a Welfare Officer or Counsellor with a specific remit to provide support, assistance, advice or counselling to individuals with particular needs.

Those roles at GSA that are currently considered to be regulated work, and therefore eligible for PVG Scheme membership, are listed in Appendix 1. This is not an exhaustive list and the HR Department can provide further guidance in this respect.

#### **4. RECRUITMENT**

GSA will require individuals to whom regulated work is being offered to become PVG Scheme members. When an individual is required to join the PVG Scheme because they are undertaking regulated work as part of their employment, GSA will countersign the application and pay the required fee.

When an application is received by Disclosure Scotland they will check that the individual is not barred from undertaking regulated work by searching for vetting information from a range of sources <sup>2</sup>. If no relevant information is found a unique record of scheme membership will be created and the individual will become a member of the PVG Scheme. A Scheme record is issued to the individual as well as to the counter signatory.

If an individual considers the information recorded on the Scheme Record to be inaccurate then the individual can request a review of information from Disclosure Scotland but this must be undertaken within 3 months of the date of the scheme record being issued. Disclosure Scotland can provide more detailed information on the process should there be a dispute regarding accuracy. If the record is subsequently amended then a new Scheme Record will be issued.

Where an advertised post involves, or may involve regulated work, it will be stated within the job description for the role that PVG Scheme membership is a requirement and must be attained before employment commences. If a successful applicant is already a member of the PVG Scheme, GSA will apply to Disclosure Scotland for a Scheme record update.

It is an offence for an organization to either offer regulated work to someone who is barred or to fail to remove someone from regulated work if notified that they are barred. GSA is entitled to use all vetting information to inform recruitment or retention decisions and will refuse to recruit or continue to employ an individual to do regulated work if they refuse to consent to PVG Scheme membership without reasonable grounds to do so

#### **5. CHECKING AND RE-CHECKING**

Staff who have been entered into the Scheme, will be required to undergo further checks every two years from the date membership commenced.

Scheme updates should also be undertaken for any hourly-paid staff engaged in regulated work every time they are re-engaged.

In circumstances where an individual is already a PVG scheme member through employment elsewhere, it is imperative that a PVG checks be carried out by GSA also. This is to ensure that Disclosure Scotland are aware of GSA as a contact for the individual should a matter arise requiring GSA to be notified.

## **6. NOTIFICATION OF CHANGES**

The PVG Act requires members of the Scheme to notify Disclosure Scotland of any change of name, gender, home address, telephone contact number or email address within three months of the change taking effect.

Any PVG member who leaves GSA's employment and is no longer doing regulated work should apply directly to Disclosure Scotland to leave the Scheme. Disclosure Scotland will seek confirmation of this from GSA. When an individual remains employed but ceases to do regulated work for GSA, it is GSA's responsibility to de-register interest in that individual directly with Disclosure Scotland.

If an individual subsequently wishes to return to regulated work at GSA or any other employer then the individual will be required to undertake the full initial application process again.

## **7. HANDLING, USE, STORAGE AND RETENTION OF INFORMATION**

GSA will only use PVG or Disclosure information for the purpose for which it has been requested and provided – to determine suitability for work. The information provided by an individual will not be used or disclosed in a manner incompatible with this purpose, although an individual may share their own disclosure record with another organisation should they choose to do so.

GSA will not retain Disclosure Scotland certificates. The relevant details will be logged electronically and the paper copies securely destroyed immediately after logging. The information is contained in an encrypted password-protected file which is only accessible to authorised and named individuals who are entitled to see such information in the course of their duties or responsibilities.

## **8. MAKING A REFERRAL**

If information arises about an individual who is undertaking regulated work that indicates that they may be unsuitable, GSA is required to pass this information to Disclosure Scotland.

GSA must make a referral under the following circumstances:

- An individual undertaking regulated work has done something to harm<sup>3</sup> a child or protected adult (which does not need to have taken place in the workplace or be connected to their work in any way);

**AND**

- The impact is of such a serious nature that GSA has (or would) permanently remove that individual from regulated work.

If appropriate GSA may also involve the police but this should not replace the process of making a referral to Disclosure Scotland.

The grounds of referral for those doing regulated work with children and/or protected adults are:

- They have harmed a child or protected adult, or;
- Placed a child or protected adult at risk of harm<sup>4</sup>, or;
- Engaged in inappropriate conduct involving pornography, or;
- Engaged in inappropriate conduct of a sexual nature involving a child or protected adult, or;
- Given inappropriate medical treatment to a child or protected adult.

The information required by Disclosure to be included in a referral is based on what information is held by GSA and does not require that GSA make any further or wider enquiries.

The information required for referral includes:

- Identity details of the individual;
- Details of the referral ground(s);
- Contact details for the relevant GSA contact;
- Details of the regulated work undertaken by the individual;
- Details of any relationship between the child or protected adult involved;
- Details of any action taken by GSA to date.

On receipt of this information Disclosure Scotland will undertake an assessment process. If the person is a PVG member then any organisation that has requested a disclosure record in respect of the individual for regulated work will be notified, along with any appropriate regulatory body.

An individual is not barred by Disclosure Scotland from doing regulated work when they are under consideration for listing. In such circumstances a meeting will be held with the individual and risk assessment undertaken and, if considered appropriate, an individual may be removed from part or all of their duties during this period.

The Disclosure Scotland referral process is a separate process from any formal Disciplinary procedures and GSA may, if it considers it appropriate, progress formal disciplinary procedures at any time during the referral process, prior to any listing decision being taken by Disclosure Scotland.

If the outcome of the consideration process is that the individual is to be prevented from undertaking regulated work then GSA will be legally required to remove the individual from such work.

## Appendix 1

This is not an exhaustive list and the HR Department can provide further guidance in this respect.

E.g.

Open Studio Staff and Tutors	Student Contact (Working with under 18 year olds not necessarily school children but school age)
Learning Support and Dev. Tutor	Vulnerable adult contact
Lecturer (MSA, Stage 1)	Student contact
Stage Leader (MSA, Stage 1)	Student contact
Student Counsellor	Vulnerable adult contact
Student Residence Manager	Student contact
Student Welfare Advisor	Vulnerable adult contact
Design Coordinator (Level 1)	Student Contact

- <sup>1</sup> A “host parent” is a person-
  - (a) who provides overnight accommodation for, or otherwise looks after, a child (as if the child were part of that persons family)in connection with an organized activity in which the child is participating but
  - (b) who are not responsible for looking after the child when the child is participating in that activity
- <sup>2</sup> Convictions and cautions held on central UK records; sex offenders register; non conviction information held by police force; prescribed civil orders
- <sup>3</sup> Harm includes physical harm, psychological harm or unlawful conduct
- <sup>4</sup> Risk of harm includes attempting to harm another; attempting to get someone else to harm another; encouraging someone to harm themselves; conduct otherwise causing, or likely to cause, another to be harmed



## Appendix 2

### RESPONSIBILITIES UNDER THE PVG SCHEME POLICY

**Recruiting Managers** (for paid or unpaid work) are responsible for:

- discussing with HR any posts which will involve working with children and/or protected adults to ensure that appropriate Protection of Vulnerable Groups Scheme membership checks are undertaken prior to that person starting work. A list of those roles at GSA eligible for registration under the PVG scheme can be provided by HR;
- ensuring where a post involves regulated work, it **must** be stated in the job description for the role that PVG Scheme membership is a requirement, that the job description fully reflect the duties of the role as it relates to regulated work, and it **must** be obtained before employment commences;
- ensuring the necessary disclosure checks and PVG Scheme membership applications or updates are undertaken for all new relevant appointees where necessary;
- ensuring disclosure checks or PVG Scheme membership applications or updates are carried on existing staff who are transferring into a post requiring a disclosure check or PVG Scheme membership where necessary;
- ensuring no regulated work is undertaken by an individual before PVG Scheme membership in respect of that individual is obtained or an existing PVG Scheme membership is updated;
- keeping themselves up to date with PVG policy and guidance, including seeking guidance and support from HR where appropriate;
- Notifying HR if information arises about an individual who is undertaking regulated work that indicates that they may be unsuitable. The Recruiting Manager is required to notify HR, and GSA is required to pass this information onto Disclosure Scotland.

**HR** is responsible for:

- providing guidance and support to recruiting managers;
- maintaining a central list in HR of all roles at GSA eligible for registration under the PVG scheme;
- ensuring that appropriate records in relation to individual PVG Scheme memberships and updates are maintained. HR will not retain Disclosure Scotland certificates. The relevant details will be logged electronically and any paper copies destroyed; immediately after logging. The information is contained in an encrypted password-protected file which is only accessible to authorised and named individuals who are entitled to see such information in the course of their duties or responsibilities;
- ensuring that if a successful applicant is already a member of the PVG scheme, GSA will apply to Disclosure Scotland for a scheme record update where necessary;
- ensuring that if information arises about an individual who is undertaking regulated work and HR is aware of information that indicates that they may be unsuitable, GSA is required to pass this information onto Disclosure Scotland;
- keeping up to date with legal and statutory matters in relation to the PVG Scheme, associated guidance and secondary legislation, Disclosure Scotland and in particular the Code of Practice.

**Employee (PVG Scheme member)** is responsible for:

- complying with PVG scheme membership if applying for and offered a role where the post involves regulated work. GSA will refuse to recruit, or will not continue to employ an individual to do

regulated work if the individual refuses to consent to PVG Scheme membership without reasonable grounds to do so.

- ensuring that as a PVG scheme member, you must notify Disclosure Scotland of any change of name, gender, home address, telephone contact number or e-mail address within three months of the change taking effect.
- ensuring that as a PVG scheme member, if you leave GSA's employment, and no longer carrying out regulated work the individual should apply directly to Disclosure Scotland to leave the scheme. Disclosure Scotland will then seek confirmation of this from GSA.