



Protection of Children and Protected Adults Policy

Purpose of Policy

This policy is designed to protect children and protected adults who come into contact with the University community by ensuring that there are clear guidelines and procedures for identifying risk and reporting concerns. This policy also sets out the University's policy in relation to the Protection of Vulnerable Groups Scheme and relevant criminal convictions.

Overview

The University is committed to ensuring that children and protected adults are safe whilst enjoying opportunities to develop their full academic, social and emotional potential. The University has therefore developed the procedures and guidance within this policy to allow the University to:

- establish standards of behaviour for working with children and/or protected adults;
- assess the risks of working with children and protected adults;
- manage membership of the Protection of Vulnerable Groups Scheme (the "PVG Scheme") introduced by the Protection of Vulnerable Groups (Scotland) Act 2007 (the "2007 Act"), ;
- assess the suitability of applicants for employment at the University where they possess a relevant criminal conviction; and
- report and manage concerns that arise while working with children and protected adults.

Scope: Mandatory Policy

This policy applies to all members of the University community which includes all staff, students, contractors or visitors to the University working with children and protected adults.

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Document control

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Approving authority

Curriculum and Student Progression Committee, the Combined Joint Consultative Negotiating Committee and the People Committee endorsed the policy. Central Management Group approved it.

Consultation undertaken

The task group included widespread representation from areas with responsibilities in this area, including Edinburgh University Students' Association, HR, SRA.

Section responsible for policy maintenance & review

Human Resources

Related policies, procedures, guidelines & regulations

The policy provides links to related areas

UK Quality Code

n/a

Policies superseded by this policy

n/a

Alternative format

If you require this document in an alternative format please email Academic.Services@ed.ac.uk or telephone 0131 650 2138.

Keywords

Children, protected adults, PVG, disclosure check

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1. Overview

- 1.1 The University community will regularly come into contact with children and protected adults. Examples of where contact may occur include the following:
- teaching;
 - as University students either whilst studying or on placement;
 - work experience placements carried out by children and/or protected adults; or
 - events taking place on University property.
- 1.2 The University is committed to ensuring that children and protected adults are safe whilst enjoying opportunities to develop their full academic, social and emotional potential. The University has therefore developed the procedures and guidance within this policy to allow the University to:
- establish standards of behaviour for working with children or protected adults;
 - assess the risks of working with children and protected adults;
 - manage membership of the Protection of Vulnerable Groups Scheme (the “PVG Scheme”) introduced by the Protection of Vulnerable Groups (Scotland) Act 2007 (the “2007 Act”);
 - assess the suitability of applicants for employment at the University where they possess a relevant criminal conviction; and
 - report and manage concerns that arise while working with children and protected adults.
- 1.3 The University assesses and mitigates risk towards children and protected adults in three key ways:
- 1.3.1 by assessing and managing risk;
- 1.3.2 by providing robust procedures for reporting and managing concerns; and
- 1.3.3 by ensuring that all individuals undertaking regulated work with children or protected adults are members of the PVG Scheme.

2 Scope

- 2.1 This policy applies to all members of the University community. The scope of this policy is to protect children and protected adults. However, the University recognises the need to take particular care to protect children under 16 years of age. This policy therefore includes provisions both to protect all children and particular provisions for the protection of children under 16 years of age.

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- 2.2 Edinburgh University Students' Association may have its own protection of children and protected adults policy. Where possible the Students' Association and the University will work together to ensure a consistent approach to the protection of children and protected adults.

3 Definitions

- 3.1 "Adults' List" means the list of individuals maintained by Disclosure Scotland as being barred from undertaking regulated work with protected adults under Section 1 of the 2007 Act.
- 3.2 "Child" means any person under the age of 18 years.
- 3.3 "Children's List" means the list of individuals maintained by Disclosure Scotland as being barred from undertaking regulated work with children under Section 1 of the 2007 Act.
- 3.4 "Listed individual" means an individual listed on either the Adults' List or the Children's List.
- 3.5 "Lists" means the Adults' List and Children's List.
- 3.6 "Protected Adult" means any person aged 16 years or over who is provided with a type of care, support or welfare services as defined by Section 94 of the 2007 Act. A protected adult may be a person who has a learning or physical disability; a physical or mental illness, chronic or otherwise, including an addiction to alcohol or drugs; or a reduction in physical or mental capacity.
- 3.7 "Regulated work" has the same meaning as provided by Section 91 of the 2007 Act and "regulated work with children" and "regulated work with adults" is work of the type described by Schedules 2 and 3 to the 2007 Act respectively, and as further defined in section 15 of this policy.
- 3.8 "University community" means members of the University community and includes all staff, students, contractors or visitors to the University working with children or protected adults in the course of activities undertaken on behalf of the University.

STANDARDS OF BEHAVIOUR, REPORTING AND ROLES

4 Standards of Behaviour

- 4.1 The University expects the highest standards of behaviour from the University community when working with children and protected adults. In particular, the University expects the University community to adhere to the following standards:
- Treat all children and protected adults with fairness, dignity, equality and respect.

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- Be sensitive to children or protected adults' appearance, race, culture, religion and/or belief, sexual orientation, gender or disability.
- Respect a child or protected adult's right to privacy.
- Always work in an open environment, and where possible avoid situations where you are alone with a child or a protected adult¹. If it is necessary to hold a confidential interview or a one-to-one meeting, these should be conducted in a room where the exit is clearly visible and, where possible and appropriate, the door to the room is left open.
- Maintain a safe and professional distance in relationships with children and protected adults. You should not share your personal telephone number, personal email or home address, and you should not connect with them over social media except where that is specifically related to the University activity.
- When in a position of trust do not engage in sexual relationships with children and/or protected adults. This is an abuse of a position of trust and a criminal offence.
- Avoid rough, physical or sexually provocative conduct with children or protected adults.
- Do not provide children or protected adults with access to alcohol (where that would be unlawful or inappropriate) or banned substances.
- Be a good role model to children or protected adults. This includes avoiding the use of inappropriate language (including sexually suggestive comments), and challenging any unacceptable behaviour.
- Where appropriate ensure you have written consent before taking photographs or making video or audio recordings² of children or protected adults.
- If you are required to administer first aid to a child or protected adult you should ensure, wherever possible, that another employee is present, especially if you are concerned that necessary physical conduct may be misconstrued.

4.2 The University expects members of the University community to comply with these standards of behaviour so far as is reasonably practicable. However, the University accepts that there may be occasions on which compliance with these standards of behaviour will not be possible or appropriate, for example, in an emergency. The University will apply this policy in a reasonable and proportionate manner.

¹ This does not apply to situations where one-to-one meetings are the agreed University approach, for example a meeting between a Personal Tutor and tutee, or a meeting with a research supervisor.

² This does not apply to recording of lectures, tutorials etc which are a routine part of course delivery or which are covered by the University's Accessible and Inclusive Learning Policy:

http://www.ed.ac.uk/files/atoms/files/accessible_and_inclusive_learning_policy.pdf

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5 Reporting

5.1 Reports of a breach of this policy should be made to the Designated Officer, who is described in section 6 below. A report to the Designated Officer must be made where:

- a child or protected adult discloses abuse;
- a person makes an allegation of abuse about a member of the University community;
- there are suspicions or indicators that a child or protected adult is being abused; for example, where there are observable changes in a child or protected adult's behaviour that may be related to abuse; or
- the behaviour of any person towards a child or protected adult causes concern or there is suspicion that a child or protected adult is being harmed.

5.2 Guidance as to what may constitute abuse is provided at section 7 below.

5.3 In all other circumstances members of the University community should use their discretion when deciding to make a report to the Designated Officer for a breach of this policy. The University would not normally expect a report to be made in the event of minor breaches of this policy, unless such a breach forms part of a persistent pattern of behaviour which places a child or protected adult at risk of harm.

6 Designated Officer

6.1 The overall responsibility for implementing this policy lies with the University Court. The University Court has designated responsibility for implementing, promoting and maintaining oversight of this policy to the University Secretary as the Designated Officer. In addition to the implementation, promotion and maintenance of this policy, the Designated Officer will also be responsible for:

- 6.1.1 ensuring that appropriate information, advice and training on handling children and protected adults is available;
- 6.1.2 being the contact point for allegations or concerns about the treatment of children or protected adults;
- 6.1.3 maintaining confidential records of allegations of abuse of children or protected adults and actions taken; and
- 6.1.4 establishing and maintaining contacts with external organisations (e.g. the police, social services).

6.2 The University Secretary may delegate the role of Designated Officer to an appropriate employee within the University. The Designated Officer is supported in this role by the three

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College Deans of Students, for matters involving students, and by the Director of Human Resources where employees are involved.

6.3 Where a complaint of abuse is reported the Designated Officer will investigate the allegation. The Designated Officer may delegate any investigation to an appropriate employee within the University.

6.4 Once an allegation has been investigated the Designated Officer may:

- take no further action;
- put in place measures to ensure the safety of the child(ren)/protected adult(s);
- refer the matter to be dealt with under the relevant internal procedure, including but not limited to the Student Conduct and Fitness to Practice Procedures, and/or Employee Disciplinary Procedures;
- make a referral to a relevant external agency e.g. police/social services;
- refer an individual to Disclosure Scotland for consideration for inclusion on the Children's List and/or Adults' List; or
- take any such further action as is necessary in the circumstances.

6.5 The Designated Officer will keep records of complaints or allegations and their outcomes. Records shall be held securely in accordance with the Data Protection Act 1998 and in line with the University's Records Retention Schedule.

6.6 When the University is asked to provide information about an allegation in respect of a child or protected adult any information must be shared in a manner consistent with the Data Protection Act 1998. The Designated Officer should be consulted before information is provided to an external organisation.

7 Types of abuse

7.1 Definitions of abuse are included below and have been produced from external guidelines¹.

7.2 Definitions of abuse include, but are not limited to:

- **Abuse** – is a violation of an individual's human and civil rights and may be a single or repeated act. Abuse may be physical, verbal, psychological, financial or sexual. Abuse can be an act of neglect or omission to act, or be the unintended result of a person's actions.

¹ National Guidance for Child Protection in Scotland 2014. <http://www.gov.scot/Resource/0045/00450733.pdf>

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- **Physical Abuse:** may involve hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating, or otherwise causing physical harm, including by fabricating the symptoms of, or deliberately causing ill-health.
- **Emotional or Psychological Abuse:** is the persistent emotional ill-treatment of a child or protected adult such as to cause severe and persistent adverse effects on the child and/or protected adult's emotional development. This may include threats of harm or abandonment, humiliation, verbal or racial abuse, demeaning and denigrating remarks, isolation or withdrawal from services or supportive networks.
- **Sexual Abuse:** involves the actual or likely sexual exploitation of a child/vulnerable adult and to which a protected adult has not or could not consent and/or was pressured into. The child/protected adult may be dependent and/or developmentally immature.
- **Neglect:** is the persistent failure to meet a child or vulnerable adult's basic physical and/or psychological needs, likely to result in the serious impairment of health and development.

7.3 In many instances abuse will constitute a criminal offence.

RISK ASSESSMENT

8 Risk Assessment

- 8.1 The University recognises that a suitable and sufficient risk assessment is one of the most effective ways of mitigating risks to children and protected adults.
- 8.2 The University of Edinburgh Health and Safety Service provide generic risk assessment templates, and guidance on how to carry out a risk assessment. These can be found on the University website: <http://www.ed.ac.uk/health-safety/risk-assessments-checklists/risk-assessments>

9 Risk management plans - students who are children under 16 or vulnerable adults

- 9.1 The University's policy is to prepare a risk management plan in respect of students who are admitted whilst under the age of 16 or are protected adults. A risk management plan will not normally be prepared for students that are 16 or 17 years old. A risk management plan should be prepared by the relevant School and should include the following:
- An identification of the roles and responsibilities of members of the University staff in respect of the student whilst on campus.
 - Identification of any medical or behavioural issues pertaining to the student.
 - An emergency plan including the contact details of first aiders and the student's next of kin and/or parent(s)/guardian(s).

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- Any other relevant safeguarding arrangements.

10 Risk management plans - activities

10.1 There are a wide range of planned and organised activities taking place across the University, or which are organised by the University off-campus which involve the known participation of children under 16 and protected adults. These include:

- recruitment and widening access events;
- outreach activities undertaken in schools and other venues away from University premises;
- mentoring;
- academic study on undergraduate or continuing education programmes;
- short term work placements;
- participation in research studies;
- sports activities; and
- planned external organised events involving residence in University accommodation.

10.2 The above list is not exhaustive and each School and department needs to review their own range of activities to ensure they prepare a risk management plan where appropriate.

10.3 A risk management plan should include:

- Clarity about if and when the University will take supervisory responsibility for the children or protected adults attending the activity or event.
- Clear arrangements for supervision of the children or protected adults during the activity, which set out the roles and responsibilities of University staff and those of any accompanying adults e.g. teachers visiting with school pupils.
- Identification of any problems which are likely to occur during the activity, the steps which will be taken to reduce the risk of these occurring, and who is responsible for each action.
- An emergency plan including the contact details of first aiders, the University security service, the local police service and any other relevant services.
- Any other relevant safeguarding arrangements.

10.4 A risk management plan does not require to be completed prior to normal academic activities such as lectures, seminars or mentoring for current students.

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THE PVG SCHEME

11 PVG Scheme

- 11.1 Any person who carries out regulated work with children and/or protected adults under the 2007 Act is required to be a member of the PVG Scheme.
- 11.2 Appendix 1 sets out the roles and responsibilities of specific positions in relation to the University's operation of the PVG Scheme.

12 Regulated Work

- 12.1 Under the 2007 Act there are two types of regulated work (paid or unpaid):
 - 12.1.1 regulated work with children; and
 - 12.1.2 regulated work with adults.
- 12.2 There are five steps to assessing whether an individual is undertaking regulated work. This involves the consideration of:
 - 12.2.1 Whether the person is working with children or protected adults.
 - 12.2.2 The duties of the person.
 - 12.2.3 Whether any of those duties are an 'activity' under the 2007 Act.
 - 12.2.4 Whether the activity forms part of the person's normal duties.
 - 12.2.5 Whether any exceptions might apply under the 2007 Act.
- 12.3 The University is not a specified establishment under the 2007 Act and in most cases the incidental exception under the 2007 Act applies. This is because the University is a higher education establishment whose target audience is adults. A small number of students are under 18 and some students are protected adults. Contact with students under the age of 18 or protected adults are likely to be incidental to the main duties of the University community.

13 Principles

- 13.1 The University will carry out its obligations under the 2007 Act in accordance with the following principles:

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13.1.1 The University will carry out checks only where they are necessary and required under the law.

13.1.2 Processes will be workable, proportionate and consistent.

13.1.3 Information will be processed and handled sensitively and confidentially and in full compliance with the Data Protection Act 1998 and other relevant legislation (“data protection legislation”).

13.1.4 The University will adhere to the Code of Practice as issued by Scottish Ministers under Part V of the Police Act 1997 as can be found at <http://www.gov.scot/Publications/2002/04/14540>

13.2 Having a criminal record will not necessarily prevent employment with the University. This will depend upon the nature of the position in question, together with the circumstances surrounding and background to the offences committed.

14 Regulated work and University posts

14.1 University employees will only be required to become PVG Scheme members where their job means that they will be undertaking regulated work with children and/or protected adults as part of their normal duties. Where the University is advertising a vacancy, the job description should state whether PVG Scheme membership is required. Where an offer of employment is made for such posts, as a condition of offer the individual will be required to become a member of the PVG Scheme.

15 PVG Scheme Application

15.1 There are PVG Countersignatories for the purposes of applications for PVG memberships or updates (“PVG Countersignatories”) in each College. The PVG Countersignatories are responsible for the process of ensuring that the PVG Scheme is administered correctly.

15.2 An individual who has applied for a post requiring PVG Scheme membership will be sent a Disclosure Scotland PVG Scheme application and guidance notes either with the offer of interview or the offer of employment.

15.3 Individuals must not join the PVG Scheme with respect to regulated work with children AND with protected adults unless they will be undertaking both types of regulated work during the course of their employment.

15.4 Where individuals are offered and accept a position with the University and already possess PVG Scheme membership, the University will apply for a Scheme Update.

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Where the Scheme Update indicates that new information in relation to the individual has been added since the previous Scheme Record was undertaken, the University reserves the right to require that the individual provides a further PVG Scheme Record to be able to fully assess suitability for work.

- 15.5 In addition to joining the PVG Scheme, an individual of any nationality who has been resident in a country outside the UK for a period of 3 months or more, either during the past 5 years, or since reaching the age of 16, will be required to provide a criminal records check certificate or equivalent from each country where they have been resident.
- 15.6 Individuals who have accepted an offer of employment must submit the PVG Scheme application and any necessary overseas criminal records check certificates to the relevant employing College as soon as possible after firmly accepting their offer of employment, or where not possible prior to the commencement of their employment with the University, as soon as possible after the commencement of employment.
- 15.7 The PVG Scheme application must be accompanied by at least three forms of identification which confirm the individual's name, date of birth, and current home address (e.g. passport, national identity card, driving licence, utility bill, rental agreement/mortgage, bank statement), one of which should be photographic. A list of acceptable forms of identification is provided on the PVG Scheme application form.
- 15.8 A certified translation will be required for all documents other than passports, identity cards and photographic driving licences which are used for identification purposes, if these are not written in English.
- 15.9 On receipt of the PVG Scheme application, the PVG Countersignatory will verify the details on the application and check the personal identification documents, before signing the application and forwarding it to Disclosure Scotland. The PVG Countersignatory should retain copies of the identification documents in order to compare the details with those on the PVG Scheme Record when it is received by the PVG Countersignatory.
- 15.10 Once the application has been processed by Disclosure Scotland, both the individual and the University receive a copy of the PVG Scheme Record. The University's copy will be sent directly to the PVG Countersignatory who countersigned the application.
- 15.11 The PVG Scheme Record will detail the type(s) of regulated work in respect of which the individual is a PVG Scheme member (thereby confirming that they are not barred from regulated work of that type), whether or not the individual is under consideration for listing, and any vetting information.

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15.12 If the PVG Scheme Record confirms Scheme membership, confirms that the individual is not under consideration for listing, and contains no vetting information, no further checks need to be carried out and the applicant can be considered suitable for entry and regulated work.

15.13 The University will pay for PVG Scheme membership and any updates required.

16 Sharing Disclosure Records

16.1 Employees of the University will only share an individual's PVG Scheme Record with other employees of the University for the purposes of enabling the University to determine suitability for regulated work.

16.2 The University will not share an individual's PVG Scheme Record outwith the University except where required to by law. In all other circumstances, the University will only share an individual's PVG Scheme Record outwith the University with the consent of the individual.

17 Effect of listing or consideration for listing

17.1 Where the University is advised by Disclosure Scotland that an individual who has been offered a position or is being considered for a position by the University requiring PVG Scheme membership, but has not yet commenced employment, is a listed individual, the University will withdraw their offer of employment. In such instances the University reserves the right, but shall not be obliged, to offer the individual alternative employment which does not involve regulated work.

17.2 Where the University is advised by Disclosure Scotland that an individual who has been offered a position or is being considered for a position by the University requiring PVG Scheme membership is being considered for listing on the Children's List or Adults' List, the University may withdraw their offer of employment or make their offer conditional upon the individual not becoming a listed individual. In such instances the University reserves the right, but shall not be obliged, to offer the individual alternative employment which does not involve regulated work.

18 Pre-Employment Assessment Panel

18.1 If a PVG Scheme Record or update, or disclosure check in relation to an individual who has received an offer of employment with the University confirms a relevant criminal conviction, and, where the post requires PVG Scheme membership, the individual is not a listed individual, the PVG Countersignatory should make an initial assessment of whether the information provided has any potential relevance to the post. If there is clearly no potential relevance the individual will be sent a letter confirming appointment.

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- 18.2 The PVG Countersignatory may seek additional details from the individual regarding the information contained in the PVG Scheme Record or Update or disclosure check, and shall be obliged to do so where the PVG Countersignatory is considering referral to an Assessment Panel. Generally this detail will include a written account from the individual and, in some cases, they may be asked to produce additional information, for example from probation officers or social workers involved in the case. The individual may ask for up to two character references to be considered, and must provide contact details for the referees.
- 18.3 If the check confirms an individual has a relevant criminal conviction which has potential relevance to the post, the case will be referred by the PVG Countersignatory to an Assessment Panel. The PVG Countersignatory will also refer any information received from the individual.
- 18.4 The Assessment Panel will comprise of the Chair of the applicant's interview panel, a member of the local HR team and a member of the University HR Services Employee Relations team. Should the offer of employment include an honorary NHS contract, the panel will comprise a representative of the NHS.
- 18.5 The Assessment Panel will meet with the individual concerned. The aim is to achieve a structured, open and honest discussion between all parties.
- 18.6 The following factors shall be taken into account by the Assessment Panel in reaching its decision:
- 18.6.1 The seriousness of the offence and its relevance to the safety of other employees, students, research subjects and members of the public.
 - 18.6.2 The length of time since the offence occurred.
 - 18.6.3 Any relevant information offered by the applicant about the circumstances of the offence.
 - 18.6.4 Whether the applicant has history or pattern of behaviour or offending.
 - 18.6.5 The country or state in which the offence was committed.
 - 18.6.6 Whether the offence has been decriminalised since the applicant committed the offence.
 - 18.6.7 The degree of remorse, or otherwise, expressed by the applicant for the offence.

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- 18.7 The Assessment Panel will then take a decision as to whether the applicant should be appointed and the applicant formally informed of the decision. In reaching its decision, the Assessment Panel must consider each of the above criteria.
- 18.8 The decisions available to the Assessment Panel are:
- 18.8.1 To uphold the individual's offer of employment without imposing any conditions.
 - 18.8.2 To uphold the individual's offer of employment subject to specific conditions to be determined by the Assessment Panel, which may include alterations to the individual's employment roles or duties.
 - 18.8.3 To withdraw the individual's offer of employment.
- 18.9 If the decision is to withdraw the individual's offer of employment, a letter should be sent to the applicant confirming the reasons and withdrawing any offer made.
- 18.10 Where applicable, and in line with data protection legislation, the Assessment Panel may seek further advice from relevant professional bodies.
- 18.11 All information received by Assessment Panel members will be treated confidentially and in accordance with Appendix 2, and the Data Protection Act 1998.
- 19 On-going vetting**
- 19.1 After an individual has commenced employment with the University and joined the PVG Scheme, Disclosure Scotland will continuously update their vetting information. Any new vetting information will be assessed by Disclosure Scotland. If such information suggests that the employee may have become unsuitable for carrying out regulated work with children and/or protected adults, they will be placed under consideration for listing and the employee and the University, as an organisation with an interest in the employee, will be informed.
- 19.2 The outcome of Disclosure Scotland's considerations may result in the employee being barred from carrying out regulated work. In this instance, the employee will be unable to undertake further placements involving regulated work and may, therefore, be unable to undertake their duties of employment.
- 19.3 Where the employee has become a listed individual, the University shall remove the employee from any regulated work and reserves the right to take further disciplinary action. Such a decision will be taken by the employee's line manager with support from the relevant College/Support Group HR Team.

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19.4 Where the employee is under consideration for listing or where vetting information on the employee's PVG Scheme Record indicates that the employee may have become unsuitable for carrying out regulated work with children and/or protected adults, the University may remove the employee from any regulated work, and reserves the right to take further disciplinary action. Such a decision will be taken by the employee's line manager with support from the relevant College/Support Group HR Team.

Where the University becomes aware that an employee has received a relevant criminal conviction in accordance with section 22.5 of this policy, the employee's line manager, with support from the relevant College/Support Group HR Team, will assess whether the employee should be subject to the University's employee disciplinary procedures.

19.5 Where the employee has undertaken the activities referred to in section 20.1 and this information has come to the attention of the University, the employee's line manager will assess, with support from the relevant College/Support Group HR Team, whether the employee should be subject to the University's employee disciplinary procedures and what action should be taken in respect of the employee's current duties of employment.

20 Referrals by the University

20.1 The University will refer individuals to Disclosure Scotland for consideration for inclusion on the Children's List and/or Adults' List where the University becomes aware that a member of the University community has:

20.1.1 harmed a child or protected adult;

20.1.2 placed a child or protected adult at risk of harm;

20.1.3 engaged in inappropriate conduct involving pornography;

20.1.4 engaged in inappropriate conduct of a sexual nature involving a child or protected adult; or

20.1.5 given inappropriate medical treatment to a child or protected adult.

20.2 The Designated Officer will be responsible for making the referral.

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21 Other types of check

- 21.1 For non-regulated work the University may require the applicant to obtain a disclosure check from Disclosure Scotland. The University will provide the applicant with information as to the type of disclosure required for the role in question.
- 21.2 The University will pay all fees in connection with the provision of a disclosure check.

22 Disclosure Information

- 22.1 The University recognises that in some instances, an individual applying for a post at the University will not be a listed individual, but may otherwise hold a criminal record which the University requires to investigate before it can be satisfied that the individual is suitable to work with children and protected adults.
- 22.2 Spent convictions as defined by the Rehabilitation of Offenders Act 1974 should not be taken into account (except where the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 applies) and current convictions only if they are relevant to the work to be undertaken in line with the University's Recruitment of Ex-Offenders Policy.
- 22.3 Employment or programmes which involve regulated work under the 2007 Act are exempt from the Rehabilitation of Offenders Act 1974, and any criminal convictions, including sentences and cautions (including verbal cautions), reprimands and bind-over orders, are considered relevant.
- 22.4 Sanctions which are regarded as 'relevant criminal convictions' for the purposes of this policy include offences in respect of which sentences are imposed by a court of law, cautions, admonitions, reprimands, final warnings, bind over orders or similar received in the UK, or equivalent convictions received in any other country; in relation to one or more of the following non-exhaustive list of relevant offences:
- 22.4.1 Any kind of violence including (but not limited to) threatening behaviour, offences concerning the intention to harm or offences which resulted in actual bodily harm.
- 22.4.2 Offences listed in the Sexual Offences Act 2003 or the Sexual Offences (Scotland) Act 2009.
- 22.4.3 The unlawful supply of controlled drugs or substances where the conviction concerns commercial drug dealing or trafficking.
- 22.4.4 Offences involving firearms.

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22.4.5 Offences involving arson.

22.4.6 Offences listed in the Terrorism Act 2006.

22.4.7 Offences listed in Schedule 1 to the Protection of Vulnerable Groups (Scotland) Act 2007.

22.4.8 Where not otherwise listed above, convictions listed within Schedules A1 and B1 to the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013.

22.5 Warnings, penalty notices for disorder (PNDs), anti-social behaviour orders (ASBOs), Fixed Penalty Notices (FPNs) or violent offender orders (VOOs) are not classed as relevant convictions, unless an applicant has a contested PND or has breached the terms of an ASBO, FPN or VOO and this has resulted in a criminal conviction.

22.6 Any conviction involving an offence similar to those set out above, made by a court outside the UK, which would not be considered as spent under the Rehabilitation of Offenders Act 1974, is considered to be a relevant criminal conviction.

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Appendix 1 PVG Roles and Responsibilities

1. **Recruiting Managers (for paid or unpaid work) alongside the relevant Head of School or School Administrators are responsible for:**
 - 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;
 - identifying posts and job content that may constitute regulated work in terms of the 2007 Act;
 - ensuring job descriptions fully reflect the duties of the role as it relates to regulated work;
 - 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;
 - commencing checks at the application and interview stage and obtaining the necessary information to allow the full application to be processed; and
 - keeping themselves up to date with policy and guidance under the 2007 Act, including seeking guidance and support from College/Support Group HR where appropriate.

2. **College/Support Group HR Teams are responsible for:**
 - ensuring that the processes and procedures in relation to the protection of children and protected adults within their areas are robust and meet the requirements of the 2007 Act and relevant statutory guidance;
 - ensuring that the employment contract is not released before employees start employment in relevant posts or, where employment has begun that they are followed up and obtained promptly;
 - ensuring that appropriate records in relation to individual PVG Scheme memberships and updates are maintained;
 - giving guidance and support to their client group;
 - keeping up to date with legal and statutory matters in relation to the 2007 Act and its associated guidance and secondary legislation, Disclosure Scotland and in particular the Code of Practice.

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Appendix 2 – Processing and Handling of Disclosure Information

1. General Principles

- 1.1. The University recognises that criminal record checks and PVG Scheme Records contain sensitive personal information and must be handled responsibly and in a sensitive manner.
- 1.2. The University complies fully with the Code of Practice issued by the Scottish Ministers under Part V of the Police Act 1997 (the “Code of Practice”) regarding the correct handling, holding and destruction of information provided by Disclosure Scotland. It also complies fully with the Data Protection Act 1998 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of sensitive personal data.

2. Usage

- 2.1. Information received in connection with a PVG Scheme Record/Update or disclosure checks will only be used for the purpose for which it has been provided. The information provided by an individual for a position within the University of Edinburgh will not be used or disclosed in a manner incompatible with the purpose for which it has been provided.

3. Handling

- 3.1. The University recognises that it is a criminal offence to disclose information received in connection with a PVG Scheme Record/Update or disclosure check to any unauthorised person. It is, therefore, only passed to those who are authorised to see it in the course of their duties.
- 3.2. It is not an offence if the written consent of the subject of the PVG Scheme Record/ Update or disclosure check has been obtained to allow the information to be shared with third parties. The 2007 Act prevents third parties who are not directly employing, or considering employing somebody to do regulated work, from asking a PVG Scheme member for sight of their disclosure record.
- 3.3. The University will not disclose information provided under section 113 (b) 5) of the Police Act 1997, namely information which is not included in the disclosure, to the applicant.

4. Processing Disclosure Information

- 4.1. The counter signatory or nominated person must be the person who checks all the proof of identification. The counter signatory completes the counter signatory page after the applicant has completed the relevant sections. They must comply with the conditions of the Code of Practice.

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5. Access and Storage

- 5.1. PVG Scheme or disclosure information must be stored in secure conditions. Documents should be kept in lockable, non-portable storage units (e.g. filing cabinets). Access must be strictly controlled and restricted to named individuals, who are entitled to handle such information in the course of their duties. PVG Scheme or disclosure information should not be kept on an employee's personnel file and no photocopies should be taken of the disclosure form.

6. Retention

- 6.1. PVG Scheme or disclosure information must not be retained for longer than is relevant for its needs. This is in line with the Data Protection Act 1998 which requires that personal information only be kept for as long as it is required for the purposes for which it was obtained. For PVG Scheme Records this may be the date that an individual ceases to carry out regulated work for the University.
- 6.2. Although the PVG Scheme Record or disclosure form itself is destroyed, a record must be kept of the date of issue of the disclosure, the name of the subject, the disclosure type, the position for which the disclosure was requested, the unique reference number of the disclosure and details of the recruitment decision taken. It is also recommended that a written record is kept of all those to whom disclosure information is passed for audit purposes.

7. Disposal

- 7.1. The destruction of all types of disclosure information should be by suitable means, for example, shredding, pulping or burning. It should not be kept in any insecure receptacle, such as a waste bin or confidential waste sack, whilst awaiting destruction. No photocopy or other image of the disclosure information may be retained.