

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 (see below).
- Unsupervised contact with children under arrangements made by a responsible person (see below)
- Providing advice or guidance to a child or to particular children which relates to physical or emotional well-being, education or training (see below).

Normal Duties

The activities above must be part of the person's "normal duties" to be considered regulated work. Normal duties can be considered as something the individual might be expected to do as part of their post on an ongoing basis, for example appearing in a job description.

Normal duties exclude one-off occurrences and unforeseeable events, as these would be seen to be incidental. An activity or work is unlikely to be "normal duties" when done in response to an emergency (unless by an emergency worker); arranged at the last minute to stand in for sickness or other unexpected absence of another worker; or done as a one-off activity of short duration which is not part of the individual's normal routine or occupation.

Placement/work experience for under 18 year olds (over 16)

1. If children under the age of 18 are engaged in work for the University (paid or unpaid), individuals working with those children do not have to become members of the PVG Scheme.

However there are some exceptions to the rule for children under the age of 16 not undertaking paid employment/apprenticeship. The example given in the guidance is that of a Scout leader supervising a group of 14 year olds calling door-to-door to do odd jobs for money. The Scout leader would have to join the scheme.

2. Children on work experience

If children aged 16 or 17 are on work experience within the University, individuals working with them are exempt from becoming members of the scheme as the children themselves are considered to be working.

In respect of younger children on work experience, there is no such exemption, however, it is to be expected that most individuals 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, Disclosure Scotland says that any care offered to

children on 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.

Teaching, instructing, training or supervising children

Teaching, instructing, training or supervising children requires PVG except where the teaching, instructing, or training children which is merely incidental to teaching, instructing, or training individuals who are not children.

Therefore, University lecturers and other staff are exempt from PVG re. contact with students under the age of 18 because HEIs are educational establishments whose target audience is adults so it is considered incidental that a small number of students may be under 18 e.g. if they're teaching a class aimed at adults that might happen to have some 17 year-olds, there's no PVG required.

Being in sole charge of children

Being in sole charge of children might include, for example: a contracted taxi or minibus driver taking children to school classes; the operator of a bouncy castle, where parents may be absent and the individual does have charge of what happens on the castle. It may also capture some aspects of school trips where a helper is not undertaking other kinds of activity which qualify as regulated work, for example escorting a group of children between venues.

Unsupervised contact with children

Unsupervised contact with children under arrangements made by a responsible person is regulated work with children.

The PVG Act defines "unsupervised contact with children" to mean contact with children in the absence of:

- (a.) a responsible person;
- (b.) a person doing regulated work with children by virtue of caring, teaching, instructing, training, supervising or being in sole charge of children; or
- (c.) an individual who, in relation to a child, has agreed to supervise the contact under arrangements made by the child's parent or guardian or any person aged 18 or over with whom the child lives in the course of a family or personal relationship.

The PVG Act defines "responsible person" to mean, in relation to a child, any of the following persons:

- (a.) the child's parent or guardian;
- (b.) any person aged 18 or over with whom the child lives;
- (c.) the person in charge of any establishment in which the child is accommodated, is a patient or receives education (and any person acting on behalf of such a person);

(d.) a person who provides day care of children, within the meaning of section 2 of the 2001 Act;

(e.) any person holding a particular position of trust and responsibility; and

(f.) a charity trustee of a children's charity.

Family relationship and personal relationship have the same meanings as in section 95 (meaning of "work").

Note that any contact with the child which is supervised by a person who has agreed to do so with the child's parent, guardian or any other adult with whom the child lives is not unsupervised contact. The parent, guardian or adult resident must have agreed to the supervision of the contact by the friend or relative.

For example, suppose a voluntary organisation organises a pantomime trip by coach involving the organiser, adult A and the coach driver, adult B. If 30 children come along, 28 accompanied by a parent but two come unaccompanied, the provision referred to in paragraph 32(c) means that where the parents of those two children agree to nominate another person (perhaps another parent on the trip) to supervise their children in respect of contact with adults A and B that contact would not be unsupervised. This provision puts beyond doubt that no-one on the trip is doing regulated work with children, so long each child is supervised either by a responsible person or by someone nominated by the responsible person for that child.

The meaning of "agreed" in the preceding example does not require such agreement to be in writing, but any organisation not requiring PVG Scheme membership on the basis of such agreement should make a contemporary record of it.

Providing advice or guidance to children

Providing advice or guidance to children covers positions such as workers on telephone advice lines and children's magazine agony aunts. The provision does not cover general broadcasting to children, such as children's television or radio programmes. Advice or guidance in relation to spiritual matters or spiritual well-being is considered to be captured by advice on emotional well-being and so is within the scope of this provision.

ESTABLISHMENTS

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.

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 children".