Glasgow Kelvin College

Policy and Procedure for Protection of Vulnerable Groups (PVG) and Criminal Record Checks

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The Board of Management (or any person/group with delegated authority from the Board) reserves the right to amend this document at any time should the need arise following consultation with employee representatives. This Policy has been subject to an Equality Impact Assessment, which is published on our website: https://www.glasgowkelvin.ac.uk/equality-diversity/

Glasgow Kelvin College

Policy and Procedure for Protection of Vulnerable Groups (PVG) and Criminal Record Checks

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1. Introduction

The Protecting Vulnerable Groups Scheme (PVG Scheme) is established by the Protection of Vulnerable Groups (Scotland) Act 2007. The PVG Scheme allows Glasgow Kelvin College as a registered body to request and obtain information on whether an individual has any criminal convictions and whether or not they are barred from doing regulated work with children or protected adults where applicable. This document sets out the College'spolicy in relation to the PVG Scheme application process, its use of PVG Scheme information to inform decisions, and its storage and period of retention of PVG Scheme information. This document also sets out the policy which will apply to posts which are not covered by the PVG Scheme.

The aim of this Policy is to assist the College to make safer recruitment and placement decisions and assess the suitability of applicants, staff, learners and members of the Board of Management [1] , for positions of trust. TheCollege is committed to the promotion of equality of opportunity and will endeavour to treat all staff, applicants for positions (staff and Board) and learners for placements who have a criminal record fairly. It will not discriminate unfairly against an individual on the basis of conviction or other information revealed. Glasgow Kelvin College will ensure fair and appropriate use of information disclosed through a Criminal History check.

The College will ensure that its procedure for the management of personal sensitive data which is supplied as part of a criminal records check complies with:

- The Protection of Vulnerable Groups (Scotland) Act 2007;
- The Police Act 1997 (Part V);
- the Code of Practice published by the Scottish Ministers under section 122 of the Police Act 1997 (SG/2011/18) regarding the correct handling, use, storage, retention and disposal of disclosure information;
- the Equality Act 2010;
- the Data Protection Act 2018 and the General Data ProtectionRegulations 2018;
- the College's Document Retention Policy; and
- any other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of information.

[1] It should be noted that Board members are also charity trustees and any reference to Board members in College policy documents also refers to that role.

2. Scope

The Protection of Vulnerable Groups (Scotland) Act 2007 (the Act) places a duty on the College not to employ for regulated work with children or protected adults any person who is listed as barred from that type of work.

The College and the activities undertaken within its normal functions come within the legislation's definition of regulated work with children. Regulated work with children is defined in the legislation and is not solely in terms of working with children. Those covered include:

- staff;
- volunteers and work placements;
- members of the Board of Management;
- regular contractors are included within the terms of the Act; and
- learners who have a work placement involving regulated work with children or protected adults.

The Act also covers work with protected adults. The normal functions of the College do not fall under this part of the legislation but a few posts will be undertaking regulated work. The current posts in this category are included in the Procedure, Section 11, appendix 1. This list may be updated from time-to-time. Learners who have a work placement involving regulated work with protected adults will also be included.

Those carrying out regulated work have a legal duty to care towards young people under the age of 18 and/or protected adults. A protected adult is adults is defined as a person aged 16 or over who has received one or more type of care or welfare service either regularly or for a short period of time. More details on the definition of a protected adult can be found in Section 94 of the Protection of Vulnerable Groups Act (Scotland) 1997.

3.0 Principles

Individuals can only be a member of the PVG Scheme if they are not listed as barred from doing regulated work with children or working with protected adults. Being a member of the PVG Scheme is sufficient for the College to determine that an individual is not barred from doing this type of work.

All candidates invited for interview for employment, work placement, volunteers, Board members and learners accepted for specific programmes of study with the College will be advised in advance of the College's requirement for PVG Scheme membership and that a criminal records check will be requested in the event of being offered a position.

Failure to be, or become, a member of the PVG Scheme will result in the College not making a final offer of appointment. In the case of learners advice will be provided as to their potential future in their chosen programme of study.

In addition to The Act, Part V of The Police Act 1997 allows the College to seek a relevant criminal history check for the purposes of employment, placement in a position or learner work placement for example in a Children's Nursery or a Care Home for the Elderly.

4.0 Criminal Record Information

The College is provided with criminal record information from Disclosure Scotland on behalf of Scottish Ministers is one of the prescribed forms listed below:

4.1 Scheme Record

This Record is designed for use by organisations when asking an individual who does, or is being recruited to do, regulated work, to join the PVG Scheme for the first time or where the Scheme Record Update reveals a change to vetting information. It is the individual who makes the application and both the individual and the College will be provided with a copy of the Scheme Record.

The Scheme Record provides:

- information of the types of regulated work for which the individual is a
- Scheme member and thereby not barred from regulated work of that type;
- if the individual is under consideration for listing for the type(s) of regulated work states that fact;
- convictions and cautions held on central records in the UK; and

- other relevant information which may include non-conviction information and prescribed civil orders. This level of check will apply for positions that carry out regulated work.

Scheme member's responsibility to:

- keep their unique scheme record number and their Scheme Record safe; and
- inform Disclosure Scotland of any change of name or gender and information on any change to their employment or personal circumstances.

The College will be notified by Disclosure Scotland if the individual ceases to become a Scheme member if their barred status should change which means they are now under consideration for listing or barred.

4.2 Scheme Record Update

The Scheme Record Update is designed for use by organisations when asking an individual who is already a scheme member (and who has a scheme record issued in the past) to do regulated work for them. As a registered body the College will be able to make use of this scheme.

The Scheme Record Update shows:

- information of the types of regulated work for which the individual is a Scheme member and thereby not barred from regulated work of that type;
- if the individual is under consideration for listing for the type(s) of regulated work states that fact;
- the date that the PVG Scheme member's Scheme Record was last disclosed (and the disclosure record number of the individual's copy);
- a statement as to whether the Scheme Record contained vetting information;
- either a statement confirming that no new vetting information has been added since the Scheme Record was last disclosed and the date of each addition;
- either a statement confirming that no new vetting information has been deleted since the Scheme Record was last disclosed or the date of each deletion; and

- the name address date of birth and PVG Scheme membership number of the individual, the unique number of the Scheme Record Update and the name and business address of the registered person and counter signatory details.

The Scheme Record Update does not include vetting information.

The College will use this when asking an individual who is already a Scheme member (and has a copy of their last Scheme Record) to do regulated work or undertake a work placement involving regulated work in the case of a learner.

4.2.1 Criminal Records Certificate

The Criminal Records Certificate applies to positions which:

- involve a degree of contact with children under 18 or vulnerable adults 18 or over which is not covered by the PVG Scheme; and
- are listed in the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013.

It will contain details of unspent convictions (in terms of the ROA) on record. Depending on the role, as defined in the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 13 it may contain information on spent convictions.

4.2.2 Basic Disclosure

Any individual can apply for a Basic Disclosure about themselves and this will be issued to such an individual, subject to confirmation of identity and payment of the appropriate fee. The application does not need to be countersigned by a registered person. One certificate is issued. This is normally sent to the individual's home address, however, with written consent of the individual, the certificate can be sent to another address, for example, a prospective employer.

The Basic Disclosure contains:

- unspent convictions held on central records in the UK or states that there are no such convictions: and
- whether the individual is included on the sex offenders register.

The College will require staff in certain posts to apply for a Basic Disclosure where they are not eligible to apply for membership of theProtection of Vulnerable Groups Scheme such posts include EveningLecturer.

5. Recruitment

A new employee is responsible for the cost of joining the PVG Scheme(s), a Criminal Records Certificate or a Basic Disclosure.

The College will pay the cost for the new entrant joining the PVG Scheme or Certificate/Basic Disclosure and recoup the cost from the employee's first salary. On accepting the offer of employment the individual agrees to the deduction of the fee from their salary.

The College will be responsible for funding any PVG updates going forward.

6. Storage and Access

The College will only collect the information required to submit an application to Disclosure Scotland for the PVG Scheme, PVG Scheme Update or Criminal Record Check. This is the information required by the application form.

Explicit consent from the individual to collect this information is given when the individual signs the application form. The College will retain PVG Scheme Records for as long as is necessary.

The Director of Human Resources will be the College's main contact and will be responsible for the security and destruction of disclosed information for staff. The Head of Faculty, Health Studies, Care and Learner Development will be responsible for the security and destruction of disclosed information for learners. All documents are stored in a secured location either in the Human Resources Department or the Head of Faculty. Access is strictly controlled and limited to those personnel who are entitled to see it as part of their duties.

7. Handling

In accordance with Section 124 of the Police Act 1997 and Sections 66 and 67 The Protection of Vulnerable Groups (Scotland) Act 2007, criminal

conviction and disclosure information is only passed to those who are authorised to receive it in the course of their duties. The College maintains a record of all those to whom criminal conviction and disclosure information has been revealed and recognise that it is a criminal offence to pass this information to anyone who is not entitled to receive it.

The College will process and manage any personal data collected in accordance with its Data Protection Policy.

8. Usage

The College will use PVG Scheme Records and criminal conviction information for the specific purpose for which it was requested.

9. Disposal

When a recruitment decision has been made the Criminal Conviction Self Declaration Form will be destroyed.

No image or photocopy of Scheme Records will be made. The PVG disclosure record will be held securely on file until an individual ceases to carry out regulated work, this will include:

- an existing employee has their record updated as recheck is undertaken;
- an existing employee who undertakes a different role and ceases to carry out regulated work in that role;
- an existing employee ceases to be employed by the College;
- Board member's no longer holds the Board position;
- an existing learner has their record updated as a recheck is undertaken; and
- an existing learner has completed their course of study and leaves the College.

10. Supporting Policies and Procedures

- Dignity and Respect Policy and Procedure
- Grievance Policy and Procedure
- Disciplinary Policy and Procedure

- Commendations and Complaints Procedure
- Public Interest Disclosure Policy
- Recruitment and Selection Policy and Procedure for Recruitment and Selection
- Equality and Diversity Policy
- Lone Working Policy
- Data Protection Policy

11. Procedures

11.1 Criminal History Check

11.1.1 New Staff, Learners and Board Members

The College undertakes criminal record checks on:

- all potential staff, prior to appointment. No one will commence employment with the College unless in exceptional circumstances and it is specifically agreed in writing by the Principal or Vice Principal;
- learners in certain academic areas when they are to be located in a relevant work placement; and
- all potential members of the Board of Management prior to appointment.

The College will require contractors and partner organisations, where the legislative criteria is met, to provide confirmation that individuals' providing a service to the College or who will be supervising or working with College learners within in the terms of regulated work with children are members of the PVG Scheme.

11.1.2 Existing Employees

It is a responsibility of all existing staff, regardless of contract status to alert the College to any criminal charges or convictions that they are givenas soon as they are able to do this.

If an employee is charged with or convicted of a criminal offence duringthe course of their employment and this impacts on their role with the College they must disclose this.

The employee should contact the Director of Human Resources to discussthe matter at the earliest opportunity.

If an employee is uncertain whether or not the offence impacts on their role they should seek advice by contacting the Director of Human Resources. Failure to do this may be managed in accordance with the College's Disciplinary Policy and Procedure and may lead to disciplinaryaction being taken up to and including dismissal. Such conduct may bedeemed as gross misconduct depending on the actions of the staff member around the situation.

Once disclosed the College may request that the employee complete a PVG Scheme application form in order to obtain an up to date record. Once this is received the College will consider whether the matter has an impact and is relevant to the post held by the employee. If the check results are considered not to be serious, and do not impinge an employee's ability to work in their existing role, the employee will be informed in writing. The College will give full consideration to the circumstances of the charge or conviction.

If the check results are considered to be of a serious nature and proved to be correct, the College may consider various options. Options may include:

- the introduction of safeguards;
- moving the employee to a more suitable job; and
- termination of employment.

If the introduction of safeguards or moving the employee to a more suitable role is not an option the matter will be dealt with in accordancewith the College's Disciplinary Policy and Procedure and may lead to disciplinary action being taken up to and including dismissal.

If the charge or conviction is for something the employee did within work the matter will be managed in accordance with the College's Disciplinary Policy and Procedure. If the charge is for something outside of work, the College will always consider what impact the charge or conviction may have on the employee's suitability to do their job and their relationship with the College, colleagues and learners.

For example, it might be reasonable to dismiss someone found guilty of theft outside the College if their job involves security, but it may be excessive to dismiss for a traffic offence, depending on the offence, if driving does not form part of their role.

11. Recruitment and Selection

All applicants invited to attend an interview will be required to complete a Criminal Conviction Self Declaration Form in accordance with the College's Recruitment and Selection Procedures.

The College encourages all applicants called for interview to provide details of their criminal record at an early stage in the application process. The College undertakes to ensure that this information is only viewed by the Human Resources Department and Vice Principal, Operations if required.

The College may invite the candidate to attend a meeting to ask questions about their criminal record prior to a decision being taken about an offer of employment. At the meeting the College will ensure an open and measured discussion on the subject of any offences or other matter that might be relevant to the position. Failure to reveal information that is directly relevant to the position sought could lead to a withdrawal of a conditional offer of employment.

The College's Human Resources Department will check the evidence required for an applicant to become a member of the PVG Scheme. Disclosure Scotland, as part of their check, has the right to seek further confirmation if required.

12.1 Offer of Appointment

Receipt of confirmation of PVG Scheme membership and/or satisfactory criminal records check will be one factor considered by the College in making an employment decision. However membership of the PVG Scheme is a condition of employment. The information received as part of a PVG Scheme Record or Criminal Record Certificate is classed as sensitive personal information in terms of the Data Protection Act 1998 and as per the Code of Practice referred to earlier in this document.

The College will not, confirm an appointment until the individual has joined as a member of the appropriate PVG Scheme(s) or receives a satisfactory Criminal Records Certificate/Basic Disclosure. If the individual is barred from the PVG Scheme the employment relationship will be terminated.

A new employee is responsible for the cost of joining the PVG Scheme(s), a Criminal Records Certificate or a Basic Disclosure.

The College will treat as confidential all information received as part of Scheme Records and Criminal Records Certificates. It will restrict access to that information and will destroy the information as soon as it has served

its purpose for the College. Copies will be retained only as long as necessary and relevant and relates to the College's needs.

The PVG Scheme membership number, Scheme Record number or Scheme Record Update number and date of issue will be securely maintained in the College's computerised Human Resources system. A separate PVG Scheme Register will be maintained and held securely for Board members and learners. This data will be held only as long as necessary and will normally be destroyed when the individual leaves the College.

12.2 PVG Scheme Applications for College Staff, Potential Staff and Members of the Board of Management

An individual who undertakes regulated work with children or protected adults will be invited to join the PVG Scheme by completing an 'Application to Join PVG Scheme' or an 'Existing PVG Scheme Member Application' if they are currently a member.

A PVG Scheme application is made by an individual and that application is checked and countersigned by the College. The College's Lead Signatory is the Director of Human Resources. Key personnel are Counter Signatories including appropriate members of the Human Resources Department for staff and the Head of Faculty, and Senior Curriculum Managers and Faculty administrator for learners.

Information received from Disclosure Scotland will be received and checked by the above post holders.

A copy of the PVG Scheme Record is issued by Disclosure Scotland to the College and the individual concerned.

Receipt of the Scheme Record indicates that an individual is not barred from doing regulated work with children or protected adults.

Employees' vetting information contained in the Scheme Record will be checked against the applicants Criminal Conviction Self Declaration Form in the case of a new recruit. Where there is no vetting information the Criminal Conviction Self Declaration Form will then be destroyed by shredding. The PVG Scheme Record will be retained until the College carry

out a recheck or until the employee is no longer employed. If a Basic Disclosures is obtained this is the property of the applicant and shall be returned to them. The College will record the number of the Basic Disclosure in the individuals Personnel Record.

Board Members PVG Scheme Membership and Scheme Record number will be recorded in a secure file maintained by the College's Human Resources Department. The PVG Scheme Record will be retained until the College carry out a recheck or until the Board Member resigns their position.

Vetting Information - if an individual has a PVG Scheme Record (ie. not barred from regulated work with children) which discloses other vetting information this will be discussed with the Vice Principal.

These actions might include where the Scheme Record:

- indicates minor offences which occurred some time ago or offences which are more recent and the offences do not have an impact on the employee's employment or continued employment, no further action will be taken. The employee will be informed of this decision and their computerised HRS file will be endorsed to indicate a check has been undertaken and the Scheme Record was acceptable. In the case of a potential employee where the information contained in the Scheme Record differs from the Criminal Conviction Self Declaration Form or has an impact on the position for which they are being considered the College will make a decision related to the withdrawal of the conditional offer of employment;

- indicates more serious offences which may have an impact on the candidate's suitability for the post for which they are to be employed. The individual will be required to attend a meeting. The College will make a decision related to the conditional offer of employment or continued employment of the individual concerned in the case of an existing employee.
  If the individual is to continue in employment their record on the HRS will be endorsed to indicate that a criminal record check has been undertaken. In the case of a potential employee, where the information contained in the Scheme Record differs from the Criminal Conviction Self Declaration Form the College will make a decision related to the withdrawal of the conditional offer of employment; and

- involves a member of the Board of Management (who is not an employee of the College) or applicant for the Board of Management the information will be discussed with the Vice Principal and a decision will be made in relation to further action, where appropriate.

It is a condition of employment and to join the Board of Management that an individual must be a member of the PVG Scheme.

Having a criminal record (while being a member of the PVG Scheme) will not necessarily bar employees from working with the College. This will depend on the nature of the position and the circumstances and background of the offences.

13. PVG Scheme Applications for College Learners

Learners on programmes that require placements which involve doing regulated work with children or protected adults must be or become a member of the PVG Scheme. Not being a member of the PVG Scheme may impact on the learner's choice of study and future employment area.

Having a criminal record (while being a member of the PVG Scheme) will not necessarily bar learners being eligible for placements connected with their course of study. This will depend on the nature of the course of study and the circumstances and background of the offences. It will be the responsibility of the host organisation to decide whether or not a learner is suitable for placement.

PVG Scheme applications for College learners will relate to learners on particular courses who will require to undertake a placement in a setting doing regulated work. If the learner declines or is unable to become a member of the PVG Scheme the College will not progress any placement in a regulated work situation.

The learner will be issued with the appropriate PVG Scheme application form by their course tutor at an appropriate stage in their programme. The learner will complete and return the appropriate PVG Scheme application to their course tutor and they in turn will check the Applications andcomplete the relevant identity checks. The form will be signed by the Head

of Faculty or a Senior Curriculum Manager, recorded by the Faculty Administrator and forwarded to Disclosure Scotland for processing.

The learner will be issued with a copy of the Policy and Procedure for Protection of Vulnerable Groups (PVG) and Criminal Record Checks by whoever issues the form. The Faculty will maintain a register of the applications which have been sent to Disclosure Scotland for tracking purposes.

If other vetting information on a PVG Scheme Record indicates an offence or offences which could influence the individual's employment or placement in the sector of their choice the Head of Faculty or Senior Curriculum Manager will liaise with the Course Tutor for the area in which the learner is studying. The Course Tutor will discuss the concerns with the learner and any impact this may have on the learner's choice of study and future employment area.

The learner and the College will receive a copy of the PVG Scheme Record from Disclosure Scotland. The learner should use their copy to present to the placement organisation and that organisation will decide if the student can be placed.

Scheme Records will be securely held on file until a recheck is undertaken or until the learner leaves the College within the Head of Faculty's Office.

The appropriate training and advice will be provided to counter signatories.

14. Contractors and Partner Organisations

The College will require contractors and partner organisation's staff or volunteers who are likely to come into unsupervised contact with College learners, as part of their normal duties, to be members of the PVG Scheme.

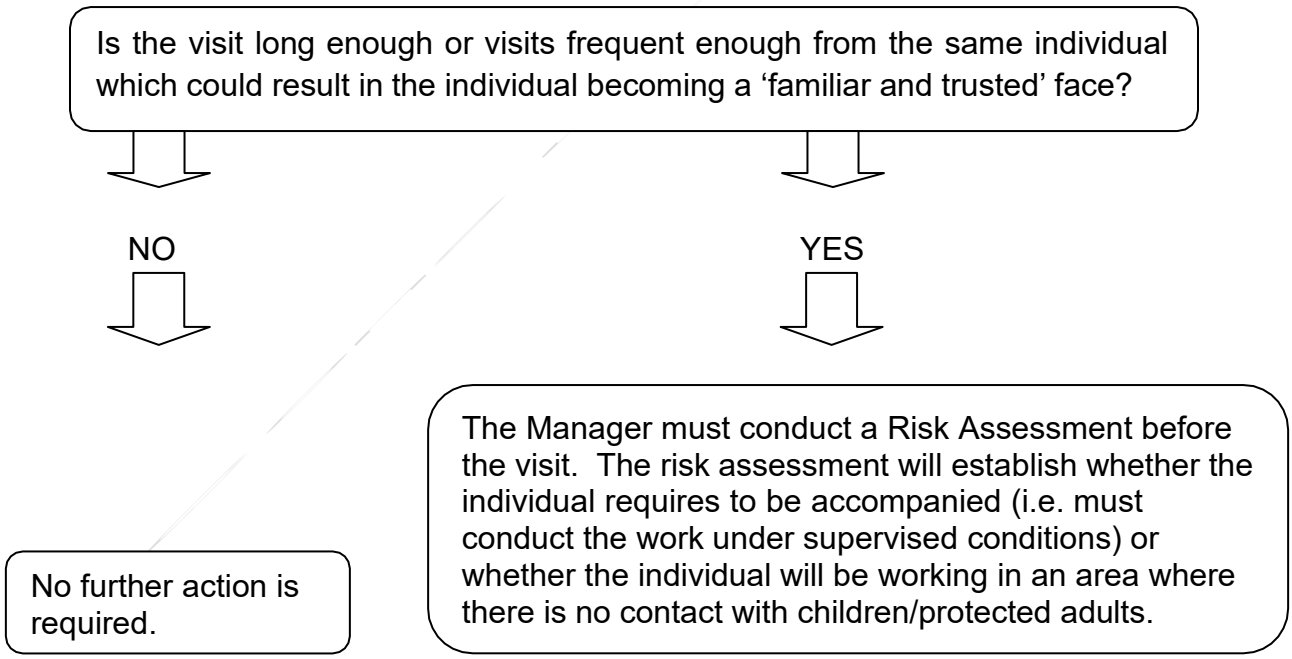
15.1 Engagement of Contractors

The College must be satisfied that contractors (including the College's own in-house contracting services) comply with the terms of the Protection of Vulnerable Groups (Scotland) Act 2007. Contractors should be subject to the same restrictions and arrangements that apply to non-disclosed employees. The Manager responsible for engaging a contractor must

undertake a risk assessment before a contractor can commence work. Where that risk assessment indicates that the nature of the work may involve contracting staff having unsupervised contact with children or other vulnerable groups, that Service Manager must ensure that he/she is provided with written confirmation that all such staff have been PVG vetted.

The College will require contractors to provide confirmation that individuals being placed in the College by a contractor, on a permanent or regular basis are members of the PVG Scheme. A letter of confirmation will require to be submitted by the contractor. The Head of Facilities and Environmental Sustainability or manager organising the contract/work shall ensure that this is obtained. This will be required on an annual basis if the contractor remains on site year on year. The letter will be retained on file with the Director of Corporate Services.

Where contractors/trades persons carry out minor maintenance at the College the Manager responsible for engaging the contractor/trades persons must apply the following test:



15.2 Partner Organisations, Engagement of Volunteers and Other Workers

The College will require partner organisations to provide confirmation that individuals being placed in the College, on a permanent or regular basis, where relevant, are members of the PVG Scheme. A letter of confirmation will require to be submitted by the partner organisation. This should be

sought by the manager organising the partnership arrangement. The letter will be retained on file with the appropriate Vice Principal.

Where appropriate, services must assess whether volunteers and other workers engaged in work with children or protected adults are carrying out regulated work and require PVG membership.

Appendix 1

Glasgow Kelvin College

Management of Criminal Records Information Policy and Procedure

Membership of the PVG Scheme - List of Posts

The College undertakes a risk assessment approach for each individual post to consider whether or not they are involved in regulated work with children or protected adults in accordance with The Protection of Vulnerable Groups (Scotland) Act 2007. The undernoted roles have been identified, as a guide, as requiring PVG Scheme membership for the purpose of this Policy. However each individual post will be considered on its own merit based on the requirements of work undertaken.

Regulated Work with Children

Under the Act all Members of the Board of Management are automatically held tobe doing regulated work with children.

All College staff (except some evening only staff), volunteers, work placements and regular contractors, refer to section 5.1 (except those who work out of College hours) are included within the terms of the Act where their normal duties involve the opportunity for unsupervised contact with children. Learners who have a work placement involving regulated work with children will also be included.

Regulated Work with Protected Adults

The Protection of Vulnerable Groups (Scotland) Act 2007 also covers work with protected adults. The normal functions of the College are not covered within the legislation but a few posts will be undertaking regulated work. The current posts in this category include:

- Teaching staff where programmes are specifically aimed at those fromprotected groups where appropriate.
- Advice and Guidance staff where advice relates to emotional wellbeing or education.
- Managers who manage any of the above groups of staff.

Board Members are not eligible to join the PVG Scheme for protected adults.

Learners who have a work placement involving regulated work with protectedadults will also be included.