



SPTC Advice on the Protection of Children (Scotland) Act and police checks for PTA/PAs.

The advice in this leaflet has been drawn up in discussion with officials from both the Scottish Executive and the Central Registered Body in Scotland (CRBS). It has their approval.

Please keep this leaflet in a safe place for future reference.

WHO SHOULD BE CHECKED?

The legal position is that **from the April 11th 2005** implementation of the Protection of Children (Scotland) Act, all PTA/PAs are required to ensure that they do not **appoint** someone who is on an **official List** of those disqualified from working with children to a paid or unpaid childcare position (as defined in Schedule 2 of the Act).

The way to check whether someone is on a list of those disqualified from working with children is to carry out Standard or Enhanced disclosure (police) checks.

In PTA/PA terms, **a childcare position** (as defined in Schedule 2 of the Act) means those specifically asked or expected to help at pre-planned events to supervise children, e.g. in running crèches, on rotas for walking buses, those taking an after-school class or club; those supervising children waiting to go to such classes/clubs; those organised to help at planned school discos.

In addition to this, **if the PTA is a registered charity** (most PTAs are not and a PTA/PA would have a Scottish Charity number if it were a charity) then all the trustees (likely to be the the Office Bearers) would have to be checked. This is a separate requirement in the legislation.

The following advice applies to ALL PTA/PAs.

PEOPLE WHO SHOULD NOT BE CHECKED

Not everyone on a PTA *can or should* be checked.

a) The requirement for checking only applies to **new** appointees to childcare positions, whether new to the PTA or moving within the PTA to a childcare position for the first time. Anyone who is continuing in an existing childcare position need not be checked.

b) It is contrary to other legislation to get someone who is **not in a childcare position** checked against the Lists; this would include PTA/PA members who never supervise children. For example, if someone only attends events to collect money, he/she would not be in a supervisory role/childcare position and so cannot be checked. Similarly, if the PTA only runs **family events** – family quizzes, discos, ceilidhs, school fairs, etc – and it is clearly stated that these are family events and no arrangements are made by the PTA to look after/supervise children – then no-one is in a planned supervisory role/childcare position (even if some children turn up unaccompanied) so **no-one can be checked under existing legislation**.

c) Where someone is asked to help out on an **ad hoc/one-off basis** they would not be considered as having been appointed to a childcare position, and there would, therefore, be no legal requirement under the Act for a check against the Lists.

For example, in running school discos:-

- **The PTA/PA Committee** members will have planned the disco at the beginning of the school year and there would be an expectation that some or all of them will be at the disco with responsibilities for running it on the day. They would therefore need to be checked as their normal duties would be considered to bring them within a childcare position as defined in the Act.
- However, **anyone asked to help out at a specific disco**, on an ad hoc basis, with no pre-planning and no on-going expectation of involvement in future PTA/PA activities, would not be regarded as having been appointed to a childcare position within the meaning of the Act and so **cannot be checked under existing legislation**.

WHAT ARE THE CHECKS FOR?

Part of the Protection of Children (Scotland) Act requires that Standard or Enhanced Disclosure checks should be done to determine whether the person due to undertake the childcare position is on a UK list – whether Scottish, English, Welsh or, in due course, Northern Irish – of those considered unsuitable to work with children.

Disclosure checks are only carried out for a specific position and will contain conviction and non-conviction information. In addition to confirming whether or not the individual is on one of the statutory lists of those disqualified from working with children, the information from the check can help the PTA/PA decide if a person is unsuitable for a proposed childcare position.

However, **not every criminal conviction or all non-conviction information** can be seen as meaning that someone is unfit for a childcare role – for example a conviction for shop-lifting may not mean the person is unsuitable to work in a childcare position – and it is important for the PTA/PA to determine the relevance of any Disclosure information to the post/activity in question.

WHO IS RESPONSIBLE FOR CHECKS?

For PTA/PA organised activities and events, the PTA/PA is responsible for undertaking the checks. **Police checks cannot be transferred from one position to another**, so anyone who has been checked for a different position e.g. for their paid work or a school activity, should be checked again for the PTA/PA activity. This is because a Disclosure Check is carried out against a specific position and should not be used for any position other than that for which it was applied.

HOW ARE CHECKS DONE?

a) As voluntary organisations, PTA/PAs can have Standard and Enhanced Disclosure (police) Checks for their volunteers done free of charge. PTA/PAs can register with the CRBS who will then undertake the processing of all applications to Disclosure Scotland and the administration of Disclosure Certificates. CRBS can also offer additional support such as shredding Certificates received by them from Disclosure Scotland, and calling the PTA/PA to inform them of the content of the Certificate. However, registering with the CRBS for an individual PTA can be time consuming – for example it requires the PTA/PA to provide their constitution and documents on their childcare policy.

b) Alternatively, PTA/PAs can approach one of the local intermediary organisations (listed on the CRBS website at www.crbs.org.uk) who can act as an intermediary for the PTA/PA in getting the checks done. The level of support offered by these groups will vary, depending on what they have agreed to undertake. In some cases, the PTA/PA will still need to handle sensitive personal information relating to those who are being checked, and would have to appoint one of their members to handle this information confidentially and in accordance with the Data Protection Act.

c) Local Authorities may offer to act as intermediaries for PTA/PAs but, as non-voluntary bodies, Authorities have to pay for checks and may pass this charge on. On the other hand, Authorities may be in a position to handle the whole process, including dealing with confidential information. PTA/PAs would need to approach their own Local Authorities and agree a local contract with them.

CHILD PROTECTION BEYOND THE ACT

The legislation and police checks are only one, very specific aspect of child protection. It is important that PTA/PAs think generally about child protection and put in place sensible policies for all those involved. They need to work out how they will cope safely with a child who is injured/upset and in need of one-to-one care; operate a system of mutual and agreed adult-to-adult supervision; supervise children who are not collected at the end of the event, etc.

Moreover, there can be a false sense of security arising from police checks. The checks detail what is on the police records; they do not say whether someone is suitable for looking after children or not. They only list convictions up to the point of the check. They cannot say what the person might do in the future.

Safe Practice for PTA and PA events

Our advice to all PTAs/PAs is that it is important to adopt good practice regardless of the need for or use of police checks.

- In planning an event, it is important to think of any child protection issues.
- Helpers should be consciously aware of each other and operate a system of mutual supervision. This is important both for the protection of children and to protect adults from false allegations. (This is similar to the advice we give for counting money – having two people not only ensures accuracy; it also protects against false charges of fraud).
- It is important to anticipate possible situations that might leave an adult in lone control of a child and have agreed procedures. For example, if a parent helper needs to deal with a child with a nose bleed, they should inform another adult what they are about to do and why, and then report back to that same adult when they and the child return.
- If a child approaches an adult and makes a complaint about another adult, the child should be listened to, the incident recorded and followed up as appropriate.
- It is important to work out what will happen at the end of the event. This will clearly depend on the age of the youngsters. If you decide that children should be collected, it is important to make sure that parents are aware of this policy from the start. If a parent feels that their child can go home alone or with a friend, you should ask the parent to give written notification of this – providing a tear-off slip might be useful.
- If you have an “adult must collect” policy, work out what you will do if a child gets left behind.

FINALLY – THE SOLUTION?

The whole business of police checks is very complicated. It is ongoing and applies to all new appointments. It is therefore worth noting that where a **PTA/PA never takes on a supervisory role** with children, only runs events for adults or whole families (with no planned arrangements for the supervision of children), they never appoint anyone to a childcare position as defined by the Act and so no one needs to be, or indeed under the law can be, checked.

**This leaflet has been produced by the Scottish Parent Teacher Council
53, George Street, Edinburgh EH2 2HT Tel: 0131 226 4378/1917
Email: sptc@sptc.info Website www.sptc.info**

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