

PVG and Charity Trustees

The Protection of Vulnerable Groups (Scotland) Act 2007 - the PVG Act - allows some charities to carry out disclosure checks on their trustees. The interpretation and application of this part of the legislation has sometimes proved to be challenging. This guide has been written to help you decide if you can access a PVG check for your trustees.

Firstly, your organisation needs to be a registered charity. This means that you will be registered with OSCR in Scotland or the Charities Commission in England and Wales. Both maintain lists of registered charities on their websites.

In Scotland, the trustees of a charity are the people who have the 'general control and management' of it, no matter how they have been appointed or elected. These people may be called Directors, Trustees, Committee Members etc.

Children's Charity Trustees

In order to qualify for a PVG check as a trustee in a children's charity, both of the following conditions need to be met:

- The charity must be a children's charity. This does not necessarily mean that you work only with children but your 'main purpose is to provide benefits for children'. This would normally mean that children are listed as your beneficiaries on the OSCR website.
- The 'principal means of delivery of benefits' is by workers doing regulated work with children. In practice this means that some of your staff/volunteers are doing regulated work with children and that this is the main method of delivering your services. This therefore excludes charities which raise money to give to other charities.

If your charity meets both of these conditions then all of your trustees are doing regulated work with children.

Protected Adults' Charity Trustees

In order to qualify for a PVG check as a trustee in a protected adults' charity, both of the following conditions need to be met:

- The main purpose of the charity is to provide benefits for protected adults. This does not necessarily mean that you work only with protected adults but your 'main purpose is to provide benefits for protected adults'. Protected adults are those who are in receipt of care, health, community care or welfare services as defined in PVG legislation.
- The 'principal means of delivery of benefits' is by workers doing regulated work with protected adults. In practice this means that some of the staff/volunteers of the charity are doing regulated work with protected adults and that this is the main method of delivering your services. This therefore excludes charities which raise money to give to other charities.

If your charity meets both of these conditions then all of your trustees are doing regulated work with protected adults.

Points To Note

- For the purpose of PVG, trustees cannot be doing regulated work with both children and protected adults. This is because a charity cannot be a children's charity and at the same time have as its main purpose to work with protected adults. The only exception to this is where the trustees are doing other regulated work as well as being trustees.
- Where a trustee does not meet the criteria for PVG but they are doing other regulated work your organisation, you can access a PVG check for the other regulated work they are doing.
- If you cannot define your single main purpose, the trustees are not doing any regulated work. This is because the PVG legislation requires that your main purpose is to provide benefits for either children or protected adults but not for both equally.
- If the position 'Trustee' meets the criteria for regulated work, all of the trustees will be doing regulated work meaning that they will all need to complete a PVG form. Charities will be committing an offence if they appoint a trustee who is barred from the kind of regulated work they will be doing.
- If your trustees join PVG for regulated work with children, Disclosure Scotland will not inform you if a trustee is barred from regulated work with protected adults. Equally, if your trustees join PVG for regulated work with protected adults, you will not be told if they are barred from doing regulated work with children.

What We Need From You

In order for us to assess your Trustee position as regulated work, we need you to provide the following information to us either by letter or by email:

1. The main purpose of your charity (is this to provide benefits for children/adults/protected adults/both children and adults/protected adults?)
2. The principal means of delivery of those benefits (is this by workers doing regulated work with children/adults/protected adults/ both children and adults/protected adults?)
3. Information about the various services your charity offers, detailing who you provide your services to.
4. How you feel your charity trustees meet the criteria for regulated work.

If you would like to discuss charity trustees further, please contact our office on 01786 849777 and choose option 1.

Further Information

Volunteer Scotland provides information and support including training on PVG. Information can be found on our website www.volunteerscotland.net/disclosure-services

OSCR provides a list of charities along with the details of their purpose and beneficiaries. It also provides guidance about legislation surrounding charities in Scotland. www.oscr.org.uk

Disclosure Scotland provides guidance on the PVG legislation on their website www.disclosurescotland.co.uk.