

POLICY ON REFERRALS TO DISCLOSURE SCOTLAND



Helensburgh Canoe Club (HCC)

Policy Statement

Introduction

1. As a provider of “regulated work”, as defined by Schedules 2 and 3 of the Protection of Vulnerable Groups (Scotland) Act 2007, HCC are legally obliged in certain circumstances (known as referral grounds) to submit referrals on individuals to Disclosure Scotland. The legal requirement to refer is contained with section 9 of the Protection of Vulnerable Groups (Scotland) Act 2007.

2. The obligation to refer to Disclosure Scotland exists irrespective of involvement of other agencies – e.g. police, regulatory bodies, local authorities etc.

Types of conduct

3. The obligation to refer arises when an individual in a “regulated work” role (i.e. the position is eligible for a PVG check) is responsible for one of the following:

- harming a child or protected adult
- placing a child or protected adult at risk of harm
- inappropriate behaviour involving pornography
- inappropriate behaviour of a sexual nature involving a child or protected adult
- giving inappropriate medical treatment to a child or protected adult

Harm

4. “Harm” can include:

- physical harm (including assault or inappropriate restraints);
- psychological/emotional harm (for example, placing a child/protected adults in a state of fear, alarm or distress) ;
- “damage to property, rights or interests”, such as theft, fraud, embezzlement or extortion
- attempts to harm
- trying to make others cause harm
- encouraging someone to self harm

5. Placing at “risk of harm” is a wide ranging category but may include behaviour or incompetence that may cause someone to be harmed (even if unintentional and/or where harm does not actually occur)

6. The above list of types of conduct is not exhaustive.

7. The conduct does not need to have happened in the workplace but must be something the organisation becomes aware of that subsequently leads to the below action or equivalent.

When to refer to Disclosure Scotland

8. A referral to Disclosure Scotland outlining the conduct need only be done if the behaviour meant that the staff member or volunteer involved:

- Was dismissed as a result
- Would have been dismissed but left before they could be – for example, resigning or making no further contact with the organisation immediately after the incident(s) or after starting but not concluding a disciplinary process or when an individual’s probation or fixed term contract is not extended because of a type of conduct outlined above.
- Was transferred permanently (not temporarily while under investigation) from regulated work with children/protected adults to a role within the organisation that does not involve regulated work with those groups.

9. The referral must be made within three months of the date of decision of HCC to either dismiss/permanently remove the individual from “regulated work” or the date that the individual would have been permanently removed had they not otherwise or already left.

10. The three month period to submit referrals to Disclosure Scotland is a statutory requirement, irrespective of any associated dismissal appeals or appeal periods etc. Even where an individual appeals against a decision to permanently remove from regulated work, the three month period begins on the date of the decision to either dismiss or permanently remove from regulated work.

11. The type of conduct committed by the individual must be in relation to the group that the individual is in regulated work with, whether that regulated work is for HCC or another organisation – for example, if an individual is permanently removed from post due to assaulting a child, but they are only in regulated work with protected adults, it is not possible under current legislation for the organisation to refer that individual to Disclosure Scotland.

How to refer an individual to Disclosure Scotland

12. An employer referral form is available on the Disclosure Scotland website, which asks for the information on the individual’s identity, type of “regulated work” involved

in for HCC, PVG Scheme number, information on the harmful behaviour and details (with documentation) relevant to the investigation carried out by HCC – and the outcome.

13. The referral should not identify any children or protected adults by name (for example, victims and witnesses) and should use a coded reference (e.g. child A, age 12).

14. The completed referral form and documentation can be submitted via e-mail to pucorrespondence@disclosurescotland.gsi.gov.uk or can be printed out and posted to the address provided in the form.

Contacts

15. More information on this can be found on the Disclosure Scotland website (<https://www.mygov.scot/disclosure-types/>) or by contacting Disclosure Scotland on 0300 0200 040 or via info@disclosurescotland.gsi.gov.uk.

16. The form recommended for completion to submit a referral can be found at <https://www.mygov.scot/pvg-referrals/>.

17. The Protection Unit or Customer Engagement Team at Disclosure Scotland are available to provide advice on whether a specific situation means a referral must be submitted to Disclosure Scotland.