

1.0 Introduction

Scottish Canals (SC) is committed to ensuring that children and young people (and where appropriate Vulnerable Adults) are safe in all respects when involved in SC activities: this includes paid or unpaid work and any volunteering activity.

We aim to do this through our policy and procedures which are designed to protect and safeguard children, young people and vulnerable adults. Adherence to our policy and procedure will also protect those within SC who work with children, young people and vulnerable adults.

There are specific legal definitions of ‘children, young people and vulnerable adults’ as well as the work activities which require to be safeguarded. These important terms are listed in full at Appendix 1. They must be read carefully and fully applied by all those within SC with responsibilities under this policy.

The provisions of this policy apply equally to paid employees and to volunteers (for ease of reference, the term employees will henceforth include volunteers who should be covered by this policy).

Note: Similarly, for the remainder of this document, where the term ‘children, etc’ is used, it should be taken to refer to children and adults as covered by the definitions in **Appendix 1**.

2.0 Policy

2.1 Employees will be provided with information, support and training in matters relating to the care and protection of children, etc, as appropriate. Employees must be fully aware of their responsibilities in dealing with children, etc.

Unless specifically stated as part of their role, employees should not directly supervise children, etc. For example, on school visits the group leader is responsible for the supervision and conduct of the visit and employees should not assume sole responsibility for children at any time.

Nevertheless, where an employee is required to work directly with (or assume some responsibility for) children, etc, he/she will be subject during the course of the recruitment process to the appropriate additional reference checks and vetting through Disclosure Scotland. The key decision is for HR to decide whether or not the “normal duties” of the work include “Regulated Activity”.

2.2 These formal terms are explained in full at Appendix 1 – Definitions, and must be used to inform decisions about vetting relevant employees and volunteers.

In having regard to its legal obligations as an employer, SC notes that:

- it is a criminal offence for a barred person to work, or volunteer, in regulated activity
- it is a criminal offence for an employer to knowingly employ (either on a paid or voluntary basis) a barred person in regulated activity, and
- where a person is removed from regulated activity by an employer, because the person has caused harm to a child or vulnerable adult, the Independent Safeguarding Authority must be notified.

2.3 If at any time, there is concern regarding an employee's conduct towards children, etc, HR should be advised, highlighting the concerns which they in turn will then investigate and deal with in accordance with our disciplinary policy and procedure and may result in dismissal.

3.0 Recruitment Procedure

3.1 If managers/supervisors identify that an employee's role will mean that they will undertake Regulated Activity including working directly with or assisting in activities involving children, they must immediately liaise with HR to ensure the following steps are taken:

- Ensure that the applicant understands that references will be taken up which will involve screening of police records via the PVG Scheme
- A face-to-face interview involving careful scrutiny of the applicant's details
- Appropriate background checks, including asking for and taking up references
- Application to Disclosure Scotland for PVG clearance where necessary – see Appendix 2

3.2 HR are responsible for ensuring that the necessary checks are carried out and this at the very least should involve obtaining two references.

Before commencing their duties, employees must be advised of the provisions of this policy and receive training as appropriate.

Good recruitment practices and continued vigilance are crucial to a successful safeguarding policy.

4.0 Guidance Notes for Employees and Volunteers who deal with Children, etc

Children and young people are involved in many aspects of Scottish Canals (SC) as visitors, volunteers and through education and community programmes. SC must show that all reasonable steps are taken to:

- provide a welcoming secure and comfortable environment for the benefit and enjoyment of children, etc
- keep them safe from harm while in the care of its people and volunteers
- comply with relevant statutory requirements
- support and protect the interests of people and volunteers who have contact with, or access to, children, etc
- safeguard the reputation of Scottish Canals

The Children Act 1989 gives children, and young people with special needs up to the age of 18, certain rights, including to:

- talk about any worries they have
- be protected if they are in danger or at risk of harm in any way
- be listened to.

SC will endeavour to ensure that any such concerns are brought to the attention of, and dealt with, by an appropriate responsible person. This guidance should also be taken into account when dealing with older vulnerable adults with special needs, such as people over 18 with learning or physical disabilities.

5.0 Activities and Involvement with Children and Young People

Activities and involvement that come within the scope of this document:

- Visits to SC property by young people, either unaccompanied or with families, schools or youth organisations
- Children's activities - events, storytelling, guided walks and educational visits
- Young members of voluntary groups
- Schoolchildren on holiday jobs
- Children and students under 18 on placements from school and college

In welcoming and working with young people, SC aims to:

- provide a friendly welcome for young people and promote their general welfare
- recognise that young people have rights as individuals and should be treated with dignity and respect
- consistently apply fair and objective methods of selecting employees and volunteers who will work with young people
- plan activities involving young people with care to minimise risks to their health and safety and opportunities for them to suffer harm or injury
- raise awareness of the dangers to which young people are susceptible
- develop appropriate procedures for responding to accidents, incidents and alleged or suspected harm

6.0 Planning Activities Involving Children & Young People

Activities involving young people and children must be planned with care to minimise risks to their health and safety and opportunities for them to suffer harm or injury.

Whenever an employee or volunteer works with children, etc (whether or not carers remain ultimately responsible) the following guidelines on appropriate planning and supervision must be observed to reduce the risk of harm:

- Carefully plan activities involving children, etc to ensure that maximum possible protection is provided at all times.

- Give particular attention to health and safety requirements, seeking appropriate advice from your line Manager, Events Organiser, or local safety specialist
- Ensure that parents, teachers, leaders, carers or other accompanying adults are with young people wherever possible
- If at any time you are solely responsible for any children, etc, know exactly who you are responsible for, the extent of that responsibility, where they are and what they are doing. SC strongly recommend that all children, etc are in the care of an accompanying responsible adult and do not become the direct responsibility of SC employees or volunteers
- Arrange for an appropriate number of adults to be present, bearing in mind the type of activity, the number and age range of the young people attending and any special needs
- Try to have responsible accompanying adults for every educational group of young people in a ratio of 1:10 or better (1:8 desirable for children under 8)
- Ensure that at least one other SC employee/volunteer or an external adult, e.g. parent/teacher, will be available to help
- Try to have both male and female helpers where practical

7.0 Code of Conduct

Some actions, no matter how well intentioned, may be misinterpreted and leave all parties vulnerable. The following points give guidance on appropriate conduct for employees and volunteers:

- Be alert to any potential harm or inappropriate behaviour in relation to young people
- Inform young people about the safety issues involved in visits to SC property and the best way of coping with them
- If circumstances arise where a single child needs attention, offer to stay with a class or group of children while the teacher/carer attends to the individual
- At all costs, a one-to-one situation should be avoided, but if unavoidable, ensure it is for a short period only, within earshot and preferably sight of others and never behind closed doors. Tell someone where you are going, with whom and for how long. Speak to your line manager if you are worried that you are going to be left on your own with a young person or you are concerned about a young person's safety
- You should not take a young person alone on a car journey, however short, or take them home without parental approval, except where unavoidable in emergencies
- You should not allow or engage in suggestive remarks, gestures or touching of a kind which could lead to misunderstanding
- Do not hesitate to tell your line manager if you have any concerns regarding the behaviour of any young people or other employees/volunteers who come into contact with them

8.0 Health & Safety Requirements

Health and safety requirements must be carefully considered when planning and carrying out activities involving children, etc. Particular points to be considered are:

- The suitability of the task to be tackled by the young people

- The provision of safety information to leaders and participants
- The provision of first aid facilities should also include trained personnel wherever possible
- Communications and emergency procedures, including action in the event of an accident
- Fire precautions
- The provision of appropriate training.

9.0 Risk Assessments for Young Employees

The Health & Safety (Young Persons) Regulations 1997 give additional protection to young people at work and are relevant when Scottish Canals employs anyone under the age of 18, including young persons on training schemes and children on work experience.

The regulations require Scottish Canals to:

- assess risks to the health and safety of an employee under 18 before they start work, taking account of their experience, immaturity and lack of awareness of existing or potential risks
- let parents of school-age children (not necessarily in writing) know the key findings of the risk assessment and the control measures taken via the school by the placement/visit organiser
- provide appropriate and correct size PPE
- where accidents occur these should be recorded as per SC accident reporting
- prevent young people from undertaking work:
 - beyond their physical or psychological capability
 - where they are unlikely to recognise or avoid the risks owing to their insufficient attention to safety, lack of experience or training
 - where they might be exposed to toxic, carcinogenic, or harmful substances, extreme cold or heat, noise or vibration
 - where prohibited by legislation, i.e. operation of certain types of machinery

These prohibitions do not apply where young people over minimum school leaving age are doing work necessary for their training, under proper supervision by a competent person, and providing risks are reduced as far as is reasonably practicable.

10.0 Awareness of Potential Dangers for Children & Young People

Types of harm/abuse:

Physical where young people receive physical hurt or injury.

Neglect where adults fail to care for young people and protect them from danger, seriously impairing their health, well-being or development.

Emotional where young people are intimidated by threats, taunts or bullying.

Sexual where young people are encouraged or forced to observe or participate in any form of sexual activity.

Who may harm?

An abuser is most often someone known to the young person, whether a parent, sibling, other relative, family friend or neighbour. Not only adults harm young people, they may suffer abuse from other children and young people. Sometimes the abuser may be an adult who holds a position of authority over young people. There is no certain way of identifying a would-be abuser. They can be people from any background and do not appear different from the rest of society.

11.0 Procedure for Dealing with Alleged or Suspected Abuse

If a young person has talked about harm, or harm is suspected, the employee or volunteer must not act alone, start to investigate or make assumptions of guilt or innocence.

The employee or volunteer must immediately:

- Notify their line manager. The incident should not be investigated internally. The police should be informed and will call on the local Social Services Child Protection Team Contact the police, social services, NSPCC/Children 1st (Scotland) or other appropriate agency directly if a young person is in imminent danger and or your line manager/Events Manager are not available. Any relevant employees should be informed as soon as possible. The local Social Services Child Protection Team has the main responsibility for investigating abuse of young people and they will normally liaise with the police
- Notify relevant employees if they suspect a member of SC or a volunteer is involved in harming a young person. The employee/volunteer should be immediately removed from access to young people, be assured that no presumptions will be made and that any allegations will be fully investigated by the authorities. If misconduct is suspected, it may be appropriate to suspend the employee as a precaution. These matters will be dealt with through Line Managers with HR assistance.

Any employee or volunteer who discloses abuse of any kind may feel that they need to speak to a child care professional for reassurance that they have done the right thing. The safeguarding agencies operate a 24-hour advice line for anyone concerned about a child.

12.0 Accurate Notes, Confidentiality and Sensitivity

Full and accurate notes must be written as soon as possible, recording the date and time of the alleged incident or disclosure, parties involved, what was alleged and action taken. Records must be kept as they may be valuable to the investigation and used as evidence in court.

The legal principle, that the “welfare of the child is paramount”, means that the considerations of confidentiality which might apply to other situations in the organisation should not be allowed to override the right of children to be protected from harm. However, every effort should be made to ensure that confidentiality is maintained for all concerned when an allegation has been made and is being investigated.

A sensitive approach should be taken with the accused to explain why an investigation has to take place and to reassure them that the matter will be handled discreetly and fairly by SC.

No assumptions of guilt should be made unless and until an actual conviction has been obtained in child protection proceedings. However, there may be sufficient concerns which could warrant termination of contract or voluntary work. These matters will be dealt with through Line Managers with the assistance of HR.

13.0 Guidance on Responding to Concerns

If a young person wants to talk about something that is concerning them, it is essential that the employee or volunteer:

- never promises to keep it a secret
- listens carefully and calmly to what the young person is saying
- reassures them and if possible gets advice from a Manager
- explains to the young person that to help them someone else must be told and that you cannot promise secrecy
- reassures them that they are not to blame
- is aware that they may have been threatened if they tell
- does not push for more information and never asks leading questions e.g. did someone hurt you?
- lets them know what will happen next and keep them informed
- writes down what they say as soon as possible

Appendix 1

DEFINITIONS

For the purposes of this Policy, the following statutory definitions are applied in accordance with the following legislation: the Protection of Children Act 1999, supplemented by the Care Standards Act 2000, and the Safeguarding Vulnerable Groups Act 2006 and Protection of Vulnerable Groups (PVG) Scotland Act 2007.

The definition of a 'child'

- A Child is anyone under the minimum school leaving age (just before or just after their 16th birthday)
- A Young Person is anyone under 18 years (unless the person is employed i.e. the definition does not apply to 16 or 17 year old staff)

The definition of a 'vulnerable adult'

Does not apply to people just because they may be older or have a disability.

The term is defined according to the service, setting or situation where staff or volunteers are in a position of trust and people have a right to expect that trust will not be abused.

A person is described in the legislation as a vulnerable adult if they have attained the age of 18 and are

- living in residential accommodation, such as a residential care home, a nursing home or a residential special school
- living in sheltered housing
- receiving domiciliary care in his or her own home
- receiving any form of healthcare
- detained in a prison, remand centre, young offender institution, secure training centre or attendance centre, or under the powers of the Immigration and Asylum Act 1999
- in contact with probation services
- receiving support, assistance or advice to help them live independently, for example, through the Supporting People programme receiving a service or participating in an activity that is specifically targeted at people with age-related needs or disabilities
- expectant or nursing mothers in residential accommodation
- receiving direct payments from Health and Social Care Trusts in lieu of social care services; or
- in need of assistance in the conduct of his or her own affairs

Barred Person

Is someone who is to be prevented from working (and seeking to work) with children, young people and vulnerable adults as a result of a decision by the Independent Safeguarding Authority or Disclosure Scotland. Identification is to be achieved by the employer carrying out a CRBS check.

Definition of Regulated Activity

As a result of the enactment of The Protection of Vulnerable Groups Act 2007 tighter regulations and stricter controls have replaced previous arrangements that determine who is to be prevented from working with children and vulnerable adults.

For Scottish Canals the key point is that anyone barred from Regulated Activity with children, etc must not be allowed to work in that kind of activity.

The PVG Act defines regulated work by reference to: the activities that a person does; the establishments in which a person works; the position that they hold; or the people for whom they have day to day supervision or management responsibility.

The Act contains detailed guidance on defining where an individual may be doing regulated work. The criteria most applicable to the work of SC are as follows, but further guidance should be obtained if in doubt about a specific situation within Scottish Canals:

- Caring for children/vulnerable adults
- Teaching, instructing, training or supervising children/vulnerable adults
- Being in sole charge of children or having unsupervised contact with children/vulnerable adults
- Such work is part of normal duties

It is important to note that by no means all individuals who come into contact with children or vulnerable adults through their work are doing regulated work. The person's normal duties, as defined here, are the main criterion for determining whether or not they are conducting regulated work.

NORMAL DUTIES

The concept of normal duties is extremely important in limiting the scope of regulated work. For an activity or work in an establishment to be regulated work, the carrying out of the activity or the work in the establishment must be part of the individual's normal duties.

- i. 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.
- ii. Normal duties exclude one-off occurrences and unforeseeable events.
- iii. No particular frequency for undertaking the work or duration of work are specified in the Act as these will depend on the context.
- iv. An activity or work is likely to be "normal duties" when:
 - it appears in an individual's job description, task description or contract (but these should not be manipulated to stretch the boundary of the PVG Scheme)
 - it can reasonably be anticipated; or
 - it occurs regularly
- v. 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.

The full guidance on Regulated Activity is available for reference, if required, using the following link:

http://www.disclosurescotland.co.uk/guidance/infofororg/chap2_regulatedwork/index.html

Appendix 2

Operation of the PVG Scheme

1. Scheme Details

- 1.1. The PVG Scheme (Protection of Vulnerable Groups) was introduced to simplify the process for handling information about anyone working with children, young people and vulnerable adults by creating a membership scheme that continually updates relevant for each person registered with the scheme. The previous system required a complete new check each time it was necessary to establish whether or not a reason existed to disbar someone from working with these groups.
- 1.2. The Scheme applies to employees and volunteers working for the SC.
- 1.3. When asking an individual to do regulated work with children and / or regulated work with adults for them for the first time (whether an existing or new member of staff), the organisation should ask the individual to join the PVG Scheme. This is very similar to the decision they would have made about whether they needed to ask for enhanced disclosure (see para 4 below).
- 1.4. SC will ask existing staff with valid Enhanced Disclosures to join the PVG Scheme as part of existing practice of re-checking employees or volunteers from time to time.

2. Application

- 2.1. There is a new PVG Scheme application form, issued by Disclosure Scotland, which looks similar to the previous enhanced disclosure application form although it is a different colour.

3. Application Fees

- 3.1. Joining the PVG Scheme costs £59 (as at February 2013), though Volunteers are exempt (see 2.4 below).
- 3.2. The formal responsibility for paying the PVG membership fee rests with the applicant i.e. the employee, because the record created is 'portable' to subsequent employment and the full fee does not have to be paid again at the subsequent employment.
- 3.3. However, SC may choose to continue the previous BW practice of paying the fee on behalf of the applicant.
- 3.4. The Central Registered Body in Scotland will continue to process free checks for volunteers working in the qualifying voluntary sector, which covers SC by virtue of its charitable status (see definition below*).

4. Where the position does not involve regulated activity, the person responsible for the recruitment will decide as normal whether or not a CRB check is required. If it is, application should be made to the CRBS for a Standard Disclosure (see definitions below).

Standard Disclosure covers:

- Unspent convictions
- Spent convictions
- Cautions

Enhanced Disclosure covers:

- Unspent convictions
- Spent convictions
- Cautions
- Inclusion on children's or adults' lists
- Other relevant information held by police forces and other Government Bodies

5. Retention of disclosure records

- 5.1. Disclosure records retained by an organisation (for however long or short a period) must be stored securely.
- 5.2. Organisations should not retain disclosure records indefinitely.
- 5.3. Organisations should be aware at all times of the need to comply with the Data Protection Act 1998 which requires that personal information should be kept only for as long as it is required for the purposes for which it was obtained.

6. When a PVG Scheme member leaves the organisation

Where a PVG Scheme member ceases to do regulated work for an organisation, the individual should notify Disclosure Scotland. If that happens, Disclosure Scotland will seek confirmation from the organisation.

***NOTE**

A “qualifying voluntary organisation” is an organisation which-

- i. is not a further education institution, a school, a public or local authority, or which is not under the management of a public or local authority; and
- ii. is not conducted primarily for profit, and any profit generated is used to further the objectives of the organisation and not distributed to its members.