

Protection of Children (Scotland) Act 2003 - Disclosure for GP Practice Staff

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In recent months, Local Medical Committees (LMCs) have raised with the Scottish General Practitioners Committee (SGPC) the issue of Disclosure and how this applies to GP practice staff, particularly in relation to provisions within the Protection of Children (Scotland) Act 2003. SGPC has sought advice on this matter from the Scottish Executive Health Department (SEHD) and from the British Medical Association (BMA) Legal Department.

Organisations commit an offence under The Protection of Children (Scotland) Act 2003 if they:

- offer work in a child care position to an individual who is disqualified from such work
- fail to remove an individual who is disqualified from such work
- fail to refer to Scottish Ministers an individual who has been dismissed from a child care position for harming a child

It is for each employer to satisfy itself that it is acting in accordance with the above statutory requirement.

SEHD has advised that, as far as the provision of general medical services under a contract with a NHS Board is concerned, the Department's view is that there is no automatic requirement for practices to require prospective employees to obtain a Disclosure. However, the Department considers that if a practice concludes that any post within the practice falls within the definition of a child care position, as set out in Schedule 2 to the Protection of Children (Scotland) Act 2003, the practice will wish to carefully consider whether a Disclosure should be sought.

The BMA Legal Department has advised that, in relation to the definitions of "child care position" set out in Schedule 2, only 1(d) of the Act could be relevant to GP practices. Paragraph 1(d) specifies that for the purposes of the Act a "child care position" is a position "whose normal duties include caring for, training, supervising or being in sole charge of children". For the purposes of the Act, a "child" means a person under the age 18. Consequently, if a GP practice believes that any existing or prospective member of practice staff could, in terms of the duties they undertake, be considered to be caring for, training, supervising or being in sole charge of anyone aged under 18 years, the practice should seek a Disclosure on that member of staff if that member of staff is not already covered by Disclosure in relation to a professional registration.

Practices should also ensure that they:

- remove from a "child care position" any individual who is disqualified from such work
- refer any individual who they dismiss from a "child care position" to Scottish Ministers

To seek Disclosure on a member of staff, or prospective member of staff, application should be made to Disclosure Scotland. Details of the application process can be found at the Disclosure Scotland website. [Go to the Disclosure Scotland website.](#) Applications for Standard and Enhanced Disclosures must be countersigned by an authorised person who has registered in advance with Disclosure Scotland, and who is acting on behalf of the organisation offering the employment. Smaller organisations and employers may choose to group together and seek registration as an umbrella organisation, or may apply for Disclosures through an existing registered Umbrella Body. Consequently, LMCs/GP Subcommittees will wish to discuss with their NHS Board whether the Board is willing to act as the umbrella organisation and allow GP practices to seek disclosures on their staff under the Board's registration. SGPC understand that some of the larger NHS Boards have already discussed this with their LMCs/GP Subcommittees.

In due course and following consultation between SEHD and SGPC, Scottish GPs will themselves be required to obtain Disclosure in order to be included in Primary Medical Services Performers Lists. These provisions have already been introduced for GPs in England.