

---

**ARGYLL AND BUTE COUNCIL**

**POCSA TASK GROUP**

---

**PROTECTION OF CHILDREN (SCOTLAND) ACT 2003  
PROTECTION OF VULNERABLE GROUPS (SCOTLAND) ACT 2007  
REPORT TO STRATEGIC MANAGEMENT TEAM**

---

**1. SUMMARY**

The report addresses:-

1. Implementation issues in relation to the Protection of Children (Scotland) Act 2003 and
2. The introduction of a new vetting and barring scheme in terms of the Protection of Vulnerable Groups (Scotland) Act 2007.
3. Areas of Concern and Update. The task group seek to update the SMT on the work of the Task Group and to seek guidance on areas of concern. A copy of the minutes of the meeting of 8 September 2008 is attached for information. (Appendix 1)
4. Provides comments on the internal audit report as requested by SMT on 1<sup>st</sup> April 2008.

**2. AREAS FOR CONSIDERATION**

- 2.1
  - 1) Handling of Disclosure Information Policy Statement
  - 2) Statement on the recruitment of Ex Offenders
  - 3) Procedure for Disclosure Checks for Foreign Nationals and People who have Lived Abroad

Attached to this report are the proposed new policy and statements for handling disclosure information, recruitment of Ex Offenders and procedure for Disclosure re foreign nationals and people who have lived abroad. (Appendix 2) This has been prepared on the basis that there has been no unified policy within the Council. Approval is being sought for this to be adopted by the Council. It will thereafter be cascaded to all relevant departments in order that a consistent approach is taken.

2.2 Retrospective Checking

The Scottish Government have never introduced the section requiring retrospective checking of existing employees. The Task Group have been considering whether or not to recommend notwithstanding the fact that it is not a current legal requirement that the Council should introduce its own system of retrospective checking so that all employees and not just new or promoted employees have been checked. The Group is recommending that no retrospective checking

## APPENDIX 8

be carried out until the results on the consultation for the new vetting and barring scheme are carried out. It is understood this is proposed to be introduced in 2009. This is on the basis that the new scheme will require retrospective checking of all employees. If it was introduced prior to this there would be potential contractual issues if an employee refuses to have a check done. However, if there is further delay in the introduction of the new scheme, the recommendation may change.

### 2.3 Retrospective Referrals

All retrospective referrals have now been dealt with.

## 3. **THE PROTECTION OF VULNERABLE GROUPS (SCOTLAND) ACT 2007**

The new scheme will relate to both children and vulnerable adults. A summary of the new scheme is attached for information. (Appendix 3) it is not clear when the new legislation will be introduced but currently it is being stated as due to implemented in Autumn 2009.

## 4. **COMMENTS ON INTERNAL AUDIT REPORT**

The POCSA Group have considered the terms of the internal audit report on the Disclosure Scotland Framework Review and would comment as follows.

### 4.1 Background

It is considered that it may be helpful to detail the remit of the POCSA Working Group established by SMT in December 2003.

The meeting on 16<sup>th</sup> December 2003 agreed to appoint a group to be led by Colin Bromley and comprising representatives of Personnel Services, Operational Services, Education and Social Work to prepare appropriate information and advice for Services and to review and bring forward to the Management Team recommendations in respect of how the retrospective aspects of the legislation would be dealt with. On the 20<sup>th</sup> April 2004 it was agreed that the group should:-

Prepare a detailed note and revised Personnel procedures as part of information package to be made available to all employees to third tier manager. That there should be a presentation to Heads of Service. To prepare a suitable explanatory article for inclusion in work4ce. To take appropriate steps to bring the attention to our partner agencies the matters referred to and to look further at the Council's vetting procedures in the context of the Bichard Inquiry and bring forward a further report to Management Team.

The Group were further asked on the 24<sup>th</sup> August 2004 that they draw up an appropriate vetting system for persons or organisations hiring Council premises. Whilst carrying out this remit the Group has looked at other areas pertinent to this work.

## APPENDIX 8

The Council has always carried out disclosure checks on relevant employees and checks required in terms of POCSA have expanded this area of work.

### 4.2 RECOMMENDATIONS OF INTERNAL AUDIT

In order to correct this situation, it is recommended that:

1. The SMT consider the merits of integrating actual disclosure checking, with only 2 departments within the Council carrying out the actual checks.

- The Corporate Services Department would remain responsible for Councillors and members of other relevant committees and panels,
- The Community Services Department would be responsible for the rest of disclosure checking for staff across the Council, with a centralised function being established using the Education Service model recently audited by Disclosure Scotland. See Appendices 2 & 3.

We consider that the centralisation of record keeping and review of any conviction information, which appears on only 15% of disclosures, would be more focussed, and form a separate step within the recruitment process. It would also facilitate the identification of all individuals requiring disclosure checking who have crossed departmental boundaries. We understand however, that this does not accord with the views of the relevant Heads of Service.

#### **Views of POCSA Group**

**The group does not consider it appropriate that disclosure checking should be integrated with only two departments carrying out actual checks. The relevant Heads of Service consider it appropriate that they continue to do the checks for the staff for whom they are responsible and that it would not be appropriate for example for Community Services to carry out checks for employees who are for example employed by Operational services. The responsibility for individuals who cross departmental boundaries in their work should remain with the employing department with any other relevant department within whose area that the individual is also working being entitled to be advised if a check has been carried out although not the details thereof and this should be done routinely.**

#### **Internal Audit Recommendation**

*2. The SMT review the remit and composition of the current POCSA group and form a renamed group to reflect the introduction and revised requirements of the Protection of Vulnerable Groups (Scotland) Act 2007. This group should provide objectivity and guide the development of corporate policy, with the emphasis for implementation being delegated mainly to the Community and Corporate Services Department representatives, subject to acceptance of our recommendations at 3.1 above.*

#### **Views of POCSA Group**

**The Group feels that the composition of the Group should not be restricted to Community Services and Corporate Services representatives. They consider this defeats the purpose of the Council having a corporate approach and ensuring dissemination of all relevant information to all departments.**

## APPENDIX 8

### **Internal Audit Recommendation**

3. The SMT instruct the renamed group to prepare a corporate handbook covering all relevant disclosure guidelines and procedures involving recruitment. This should be placed on the Council website. In order to help develop the handbook another Council has provided their draft policy document and has offered joint working to assist in developing operational procedures for a handbook;

4. We recommend that the corporate handbook should be maintained on-line to ensure that all departments have access to the most current version, and facilitate updating by the working group.

### **Views of POCSA Group for 3.3 and 3.4**

The Group agree that a corporate handbook should be prepared and placed on the Council website. This is currently being progressed by the Group.

### **Internal Audit Recommendation**

5. Where a disclosure has been requested by the Council, the current Disclosure Scotland system does not notify any subsequent convictions, thereby only providing a snapshot in time. Pending development of systems under the new legislation, Disclosure Scotland recommend that re-checking should be carried out on a regular basis.

Guidance has been issued by the Care Commission that a 3 yearly cycle of checking should be implemented for disclosure checking Social Workers. Consideration should be given to rolling out of this cycle for all currently disclosed staff across the Council, apart from Councillors where a 4 year cycle is considered to be more appropriate.

6. Legislation has not been enacted to enforce the retrospective checking of existing employees when disclosure checking was introduced. However, to further address the risk of continuing to employ an unsuitable or listed person, the SMT should consider the implementation of a corporate timescale for disclosure checking of existing employees. Although there are employment contract issues to be overcome, this would address the risk to the Council and accord with best practice. It is recognised however that only a few Councils have implemented retrospective checking at this time.

### **Views of POCSA Group for 3.5 and 3.6**

The Group have concerns with regard to the recommendations under bullet points 5 and 6 of the Internal Audit recommendation and would refer the Team to Para 2.2 of this report for the reasons for this.

### **Internal Audit Recommendation**

7. Consideration should be given to the arrangements for checking individuals who cross departmental boundaries to ensure that all relevant individuals are checked, and this check evidenced to the department that they are working in.

### **Views of POCSA Group**

Reference is made to the first bullet point. It is agreed that this should

## APPENDIX 8

be done on the basis the employing department does the check and provides the disclosure number to the department the employee is working in.

### **Internal Audit Recommendation**

*8. At present there are no formal training procedures, or records thereof, for persons with responsibility for the identification of roles requiring disclosure or for the recruitment of staff. SMT should request the POCSA group to enable formal disclosure training to be implemented and recorded for all staff involved in recruitment and disclosure roles, who must be familiar with the Disclosure Scotland Code of Practice, and understand the significance of an exempted question.*

*We understand that the relevant Heads of Service are of the view that all appropriate staff are, or have been, appropriately trained on disclosure checks but this is not formally recorded in all instances.*

### **Views of POCSA Group**

**The Heads of Service in the Group are now clear that all appropriate staff are or have been appropriately trained on disclosure checks, although they accept that this has not been formally recorded and further training will be given once the policy statement is approved by SMT. To ensure corporate consistency there will be refresher training for all staff involved . Further training will be required once vetting and barring is introduced.**

### **Internal Audit Recommendation**

*9. In line with other Councils, the Resourcelink system could provide the facility to store disclosure numbers against individuals within Personnel records. This would enable due date rechecking to be identified and implemented. In addition it would provide surety that all relevant employees have been disclosure checked.*

*A number of valid difficulties or limitations have been highlighted with using the Resourcelink system. However, there are significant benefits in centralising the system recording and it is recommended that the use of Resourcelink should be investigated further.*

### **Views of POCSA Group**

**The use of Resourcelink may actually not be of particular benefit. Resourcelink only holds the details of the last disclosure check, does not have the ability to hold historical information, and is unable to record more than one disclosure check per person which means that it cannot record multiple disclosure checks for multiple post holders. In addition, it only has space for 11 characters whereas Scottish Disclosure checks have a 17 digit number allocated to them. It is considered that each service that carries out disclosure checks should have a database detailing which employees have been checked, the date of the check and the disclosure number and that other departments should be entitled to have access to this information for an employee who is also working in their department e.g. cleaner employed by Operational Services working in a school. The Human Resource Board could be asked to look at the possibility of using Resource link.**

## APPENDIX 8

### 4. CONCLUSIONS

#### **Views of Internal Audit**

1. *Variations in the level of governance being exercised by departments at the time of our audit regarding delegated responsibilities has increased the risk of unsuitable people gaining access to children or vulnerable adults through their work or volunteering.*

#### **Views of POCSA Group**

1. The Group whilst accepting there may be an increased risk, do not feel that there is a high risk of unsuitable people gaining access to children or vulnerable adults through their work or volunteering. In respect of the view in variations in level of governance the relevant members of the Group advised that they had participated in an exercise at the introduction of POCSA to ensure all individuals in jobs defined as child care had previously been checked. It has been identified that some cleaners have not been treated as in a 'child care' position when working in schools when children are not present but that it has been clarified that they would fall within the definition as they work in schools and therefore Operational Services are reviewing the position with the Education Service to ensure all relevant staff are checked.

#### **Views of Internal Audit**

2. *The current approach to Disclosure checking for the Council collectively currently detracts from the Council corporate objective for Social Change which is critical to the continued wellbeing of vulnerable people in the community at large.*

#### **Views of POCSA Group**

2. Disclosure checking is being carried out by the relevant departments for the staff they employ and the approval of the Disclosure Information Policy Statement will ensure that there is a corporate approach.

#### **Views of Internal Audit**

3. *By revising the arrangements for handling disclosures, a consistent approach such as the model operated by the Education Service, can harness experience, improve performance and enhance learned skills.*

#### **Views of POCSA Group**

3. It is agreed that the arrangements for handling disclosures should be consistent and this is an area that the POCSA Group were looking at prior to the Internal Audit Report being instigated we would refer to 2.1 of this report which seeks

## APPENDIX 8

approval to a disclosure policy being adopted by all departments.

### **Views of Internal Audit**

*4. By implementing a rolling programme of disclosure checks for the Community Services Department, particularly in the Education Service, which was initially proposed for implementation in September 2005, the Council, can aspire to Best Practice evidenced in a few other Councils.*

### **Views of POCSA Group**

4. With reference to the rolling programme of disclosure checks we would refer to the recommendations in terms of 2.2 of this report. The Scottish Government have not introduced a legal requirement for such checks and the Heads of Service for the relevant employing departments do not consider it appropriate that these checks should be introduced until the new system on vetting and barring is introduced having due respect to the corporate risk.

### **Views of Internal Audit**

5. *There are cost implications, which require to be fully quantified, in extending the current disclosure checks. However, the importance of addressing the corporate risk of unsuitable people gaining access to children or vulnerable adults through their work or volunteering must not be prejudiced.*

### **Views of POCSA Group**

**5. It is estimated that approximately 4110 staff would require to be checked. This figure does not include seasonal or casual staff employed by Operational Services. The cost of each disclosure check is £20 so the approximate cost of extending the current disclosure checks would be £82,200.**

## **DECISIONS TO BE TAKEN**

1. Approval of Handling of Disclosure Information Policy Statement
2. Approval of statement on Recruitment of Ex Offenders
3. Approval of Procedure for Disclosure regarding Foreign Nationals and People who have lived Abroad
4. Whether or not to implement a programme of retrospective checking of existing employees prior to the introduction of the vetting and barring scheme
5. Agree after what period checks should be rechecked
6. Agree reconstitution of POCSA group and remit thereof
7. Whether they wish further investigation options for holding information on disclosure checks centrally
8. Consider whether to delegate disclosure checks to only two departments or remain with the status quo

## APPENDIX 8

### POCSA WORKING GROUP

Enc.

For further information contact: Sheila MacFadyen, Tel: 01546 604198

### **APPENDICES**

1. Minute of POSCA Group on 8 September 2008
2.
  - 1) Handling of Disclosure Information Policy Statement
  - 2) Statement on the recruitment of Ex Offenders
  - 3) Procedure for Disclosure Checks for Foreign Nationals and People who have Lived Abroad
3. Summary of the Protection of Vulnerable Groups (Scotland) 2007 Scheme