

PROTECTION OF CHILDREN SCOTLAND ACT (2003)

Further Questions and Answers on employers responsibilities in relation to the Protection of Children Scotland Act

(also see Questions raised by participants at Drew McCanney's presentation at SOSCN Childcare Strategy Seminar, October 2004 and answers from Central Registered Body Scotland available at www.soscn.org/policy)

We are grateful to representatives of providers in different parts of Scotland for raising these questions and to the Scottish Executive and the Care Commission for their replies.

The CRBS website provides further information <http://www.crbs.org.uk/>

1) There are concerns about delays in obtaining disclosure checks for staff and the problems this could cause in relation to compliance with Care Commission requirements and the Protection of Children (Scotland) Act 2003.

Answer from Scottish Executive:

It will be for organisations to decide in the context of their activities whether or not they can engage an individual in a supervised capacity on a provisional basis in advance of the receipt of a disclosure, taking account of the risks involved in such action.

2) From the adult care sector we have heard that where students are on placements, it seem to be accepted that their college can be responsible for Disclosures, does this also apply to students on placement in Childcare settings?

Answer from Care Commission:

You will be aware that it is the provider who is responsible for ensuring the fitness of staff. If the college is conducting disclosure checks and checking whether the student is or is not on the list of unsuitable adults, the provider would need to have assurance that this was done. Preferably, that assurance should be in writing. Whether the college indicated on the disclosure application that the student was going into child care positions would need to be carefully checked. The provider should also consider when the check was carried out.

3) Where young people under 18 are involved in work experience, do they count as "children" as far as staff: child ratios are concerned?

Answer from Care Commission:

Young people under 18 years on work experience would not count as children on adult :child ratios. They should not count as adults either as they should not be used as regular staff.

4) We have been informed that there are some good practice guidelines in existence which say that staff should not have children who attend their OSC visiting them in their homes. Representatives of services in rural areas are concerned about the practicalities of this in small communities and have advised staff to keep a list of those children (children of friends and relatives, friends of their own children) who attend their OSC and also visit them at home. Is this what the Care Commission recommend?

Answer from Care Commission

The Care Commission has no policy position on this question. This is a matter for the provider, parents and young people. The Care Commission regulates the service and this does not extend to the staff member's home. Care Commission would advise, however, that where this practice exists there should be complete openness. Parents should know of and approve of the arrangement.

SOSCN's Policy Briefing on the Protection of Scotland Act (updated 2004) is at:

<http://www.soscn.org/policy.html>

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March 2005