

PROTECTION OF CHILDREN SCOTLAND ACT (2003)
Questions arising from Information Sessions March/April 2005 and answers
from published sources

1) If an individual becomes provisionally listed due to being reported by one employer, how can another employer judge the severity of the issue to know what action to take?

2) What are the implications if someone is provisionally listed and then not fully listed? What can potential future employers take into account? What information will be available about the nature of the accusations and why the individual was not fully listed?

The following relevant answers are from the CRBS POCSA FAQs webpage
Question 10

Will rejected referrals, or provisional listings, which have subsequently been rejected and the person has not been fully listed be seen on Disclosure Certificates as non-conviction information?

Answer 10

No. Under part V of the Police Act it is only information which police consider relevant to the post applied for which is added to enhanced certificates. The police will not have access to the Ministers records.

information about referrals which do not result in provisional or full listings will not be disclosed.

Question 12

Will those referrals which have been rejected, for whatever reason, be recorded and the information kept by ministers?

Answer 12

In the wake of the Soham case this could be likely but the data protection issues still have to be worked through.

3) What responsibility does an employer have to refer to the Register a former employee who has been dismissed because of concerns about harming a child if that dismissal happened prior to the new legislation coming in to force?

The Act allows for, but does not require, organisations to make retrospective referrals. An organisation may refer the case of an individual to the DWCL where a child was harmed or put at risk of

harm and the dismissal, resignation, retirement, redundancy, or transfer took place prior to the Act coming into force. There is no time bar on making referrals. It will be the organisation's judgement as to the nature of the harm or risk of harm to a child, the availability and adequacy of the information about the case and the wider public interest that will be of importance rather than the age of the case on its own. (Protection of Children Scotland Act 2003 Guidance for Organisations)

Any enquiries about the referral process can be posted to

The Manager
PO Box Number 23628
Edinburgh
EH6 6ZH

sent to:

DWCL@scotland.gsi.gov.uk or
Fax 0131 244 0709

A general enquiry line is available at Tel 0131 244 1567

4) Who can help individual small employers who have no governing body or national umbrella organisation?

SOSCN, CRBS, Youthlink, Local Childcare Partnership

**FOR LINKS TO LEGISLATION AND SCOTTISH EXECUTIVE PUBLICATIONS
THE SCOTTISH EXECUTIVE WEBSITE HAS A SECTION ON THE
PROTECTION OF CHILDREN SCOTLAND ACT**

<http://www.scotland.gov.uk/about/ED/CnF/00017834/childprotection.aspx>