

EAST AYRSHIRE COUNCIL

CABINET

17 NOVEMBER 2010

PROTECTION OF CHILDREN AND ADULTS AT RISK

Report by Executive Director of Finance and Corporate Support

1. PURPOSE OF REPORT

1.1 The purpose of this report is to:

- (i) advise Cabinet of the introduction of the PVG Scheme under the Protection of Vulnerable Groups (Scotland) Act 2007;
- (ii) recommend the arrangements for payment of the fees associated with the PVG Scheme; and
- (iii) advise Cabinet of the proposals regarding arrangements for Disclosure / PVG re-checking for all employees in relevant posts.

2. BACKGROUND INFORMATION

- 2.1 The Protection of Vulnerable Groups (Scotland) Act 2007 introduces a new concept of regulated work which supersedes the existing child care and adults at risk definitions and establishes a new membership scheme to replace and improve upon the current disclosure arrangements for people who work with vulnerable groups. Regulated work is defined by the PVG Act by reference to the activities that a person undertakes; 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 .
- 2.2 The Act also replaces the Disqualified from Working with Children List (DWCL), established under the Protection of Children (Scotland) Act 2003, with the PVG Children's List and makes provision for those individuals already included in the DWCL to be transferred onto the PVG Children's List automatically. It also establishes for the first time in Scotland a list of those individuals who are unsuitable to do regulated work with adults, the PVG Adults' List.
- 2.3 The Scottish Government have advised of a delay in the implementation of the new membership scheme, the Protecting Vulnerable Groups Scheme (PVG Scheme) which was previously scheduled to commence on 30 November 2010. However this has been postponed until February 2011 to ensure that the system which supports the Scheme is as robust as it can be before it goes live. The Scheme will initially apply to individuals who are being offered regulated work with children and / or regulated work with adults with the Council for the first time.
- 2.4 The PVG Scheme will only apply to regulated work. For those posts which are not classed as regulated work but involve access to children or protected adults, enhanced disclosures will still be able to be requested from Disclosure Scotland. All posts currently subject to the Disclosure process will require to be re-assessed to determine whether they meet the definition of regulated work.

- 2.5** Existing procedures will require to be amended to ensure compliance with the new PVG Scheme.
- 2.6** The Corporate Management Team at its meeting on 1 November 2010 considered a report on the introduction of the PVG Scheme and agreed:
- that new employees undertaking regulated work and existing employees appointed to a new area of regulated work will require to meet the costs associated with PVG Scheme membership;
 - that existing employees who will require to join the PVG Scheme should meet the cost of their initial membership;
 - that all employees in regulated work and in posts which meet the enhanced disclosure criteria be subject to re-checking every 3 years with the associated costs being met by the employee;
 - that Heads of Service review the potential operational and financial impact of the PVG Scheme on non-employee groups within their respective Services;
 - to put in place arrangements salary deductions for employee payments; and
 - that a report be submitted to Cabinet for approval.

3. CURRENT SITUATION

- 3.1** The current cost of a disclosure is £23 and this will increase to £25 when the PVG Scheme goes live during February 2011. The PVG Scheme will have 2 levels of fee; £59 for joining the Scheme and obtaining Scheme Records and £18 for subsequent Scheme Record Updates. However, where a Scheme Record Update indicates a criminal conviction then an additional fee of £41 will be required in order to obtain the necessary details.
- 3.2** Under the current Disclosure arrangements, all new employees and existing employees being appointed to a relevant post are required to meet the cost of the Disclosure Application.
- 3.3** Existing employees whose role or post location is subsequently changed as a result of management action and who therefore meet the criteria for Disclosure Scotland vetting, are not required to meet the disclosure payment which is met by the Council.
- 3.4** Cabinet at its meeting on 2 September 2009 agreed that retrospective checks be carried out on those existing employees in relevant occupations who have not been subject to the Enhanced Disclosure process and that a system of routine Disclosure re-checking for all employees in relevant occupations be developed. It was agreed that the Council would meet the cost of Disclosure vetting for employees who would be subject to a retrospective and / or recurring Disclosure check.
- 3.5** The retrospective disclosure check programme is nearing completion whilst the re-checking process will be incorporated into the revised Disclosure / PVG Scheme procedures.

4. MATTERS FOR CONSIDERATION

- 4.1** As outlined in paragraph 3.4 above, a system of routine re-checking is proposed for all employees in relevant occupations. It is recommended that all employees in regulated work and in posts which meet the enhanced disclosure criteria be subject to re-checking every 3 years with the associated costs being met by the employees concerned. The 3 year timescale is in line with the Care Commission's comment concerning Safer Recruitment and also reflects the preferred re-checking period proposed within the outcome of the PVG consultation exercise.
- 4.2** All existing employees who are undertaking regulated work will require to join the PVG Scheme and although the process has not yet been formally agreed, this exercise is expected to take place on a phased basis over the 3 year period 2011 to 2014. There will be further consultation with Registered Bodies later this year and in the spring of 2011. The cost of joining the PVG Scheme is £59 for each employee and Cabinet is asked to agree that existing employees should meet the cost of initial membership.
- 4.3** Heads of Service will require to review the potential operational and financial impact of the PVG Scheme on non employee groups within their respective services, including volunteers and foster carers, as well as external contractors and undertake appropriate risk assessments to decide who should become PVG Scheme members.

5. FINANCIAL IMPLICATIONS

- 5.1** Any additional costs arising from the above developments will be met from within existing departmental budgets.

6. POLICY/LEGAL/RISK IMPLICATIONS

- 6.1** The proposed actions will ensure that the Council continues to meet its legislative requirements as an employer and conforms to the Improving Community Safety Theme contained within the Community Plan.

7. TRADE UNIONS

- 7.1** The proposals are subject to Trade Union consultation.

8. RECOMMENDATIONS

- 8.1** Cabinet is asked to:

- (i) agree that new employees undertaking regulated work and existing employees appointed to a new area of regulated work will require to meet the costs associated with PVG Scheme membership;
- (ii) agree that existing employees who will require to join the PVG Scheme should meet the cost of their initial membership;
- (iii) agree that all employees in regulated work and in posts which meet the enhanced disclosure criteria be subject to re-checking every 3 years with the associated costs being met by the employees concerned;

- (iv) instruct Heads of Service to review the potential operational and financial impact of the PVG Scheme on non-employee groups within their respective Services; and
- (vi) otherwise note the contents of the report.

Alex McPhee
Executive Director of Finance and Corporate Support
4 November 2010

LIST OF BACKGROUND PAPERS

1. Report by Elizabeth Morton, Depute Chief Executive/Executive Director of Corporate Support on Protection of Children and Adults at Risk to Cabinet of 2 September 2009
2. Protection of Vulnerable Groups (Scotland) Act 2007
3. Report on Protection of Children and Adults at Risk to Corporate Management Team of 16 May 2007
4. Protection of Children (Scotland) Act 2003
5. Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003, as amended.

Anyone wishing further information on this report should contact Martin Rose, Head of Human Resources telephone 01563 576092.

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