

ADULT PROTECTION AND THE LAW

[The Adult Support and Protection \(Scotland\) Act 2007](#) (ASP Act) along with the Adults with Incapacity (Scotland) Act 2000 and the Mental Health (Care and Treatment) (Scotland) Act 2003 provides a strong legislative framework that ensures situations where an adult is being harmed are dealt with properly. The 2007 Act provides legislative responses for people and situations which are not necessarily covered by either of the other Acts, in particular, the 2007 Act allows councils to make inquiries where they would otherwise have no power to do so. Following this initial inquiry, a council may choose to use other parts of the 2007 Act or may choose to respond using another Act or even a non-legislative route, such as developing a care plan.

The ASP Act tries to protect people from being harmed because some people may find it more difficult to stop harm happening to them. People in this situation 'adults at risk' and they are defined as those who:

- are unable to safeguard themselves, their property (their home, the things they own), their rights or other interests;
- are at risk of harm; and
- because they are affected by disability, mental disorder, illness or physical or mental infirmity, are more vulnerable to being harmed than others who are not so affected.

Having a particular condition such as a learning disability or a mental health problem does not automatically mean an adult is at risk. Someone can have a disability and be perfectly able to look after themselves. For an adult to be considered at risk, all three parts of the definition must be met.

[Protection of Vulnerable Groups \(Scotland\) Act 2007](#) (the PVG Act) consolidated a number of pieces of legislation and introduced a new membership scheme (the PVG Scheme) to replace and improve upon the previous disclosure arrangements for people who work with vulnerable groups. The PVG Scheme is intended to:

- Help to ensure that those who have regular contact with children and protected adults through paid and unpaid work do not have a known history of harmful behaviour.
- Be quick and easy to use, reducing the need for PVG Scheme members to complete a detailed application form every time a disclosure check is required.
- Strike a balance between proportionate protection and robust regulation and make it easier for employers to determine who they should check to protect their client group.

The PVG Scheme is managed and delivered by Disclosure Scotland which, as an executive agency of the Scottish Government, will take on additional responsibilities. This will include taking decisions, on behalf of Scottish Ministers, about who should be barred from working with vulnerable groups.

The PVG Act makes it an offence to employ a paid person or volunteer in a position involving 'regulated work' whose name appears on the list of those disqualified from working with children. The Methodist Church, as an employer of paid staff and volunteers, is also required to refer a person to Scottish Ministers who harms a child or puts a child at risk of harm and is dismissed or moved away from access to children as a consequence.