

## CHILD PROTECTION AND THE LAW

The overarching framework for the protection of children sits under the United Nations Convention on Human Rights and the Convention on the Rights of the Child. The United Nations Convention on the Rights of the Child (UNCRC) is an international agreement that protects the human rights of children under the age of 18 and it was ratified by the UN General Assembly in 1989. On the 16th December 1991, the United Kingdom of Great Britain and Northern Ireland formally agreed to make sure that every child in the UK has all the rights listed in the convention.

The principles of the UNCRC are translated into a Scottish legal framework through various pieces of legislation intended to provide for the appropriate protection of children and young people from harm, abuse and neglect and for supporting them to develop properly into fully active and participating citizens with the opportunity to achieve as much as they can in their life.

The principal piece of Scottish legislation in this respect is the [Children \(Scotland\) Act 1995](#). This provides for child care policy and law in Scotland and it sets out eight clear principles to incorporate the philosophy of the UNCRC:

- Every child should be treated as an individual;
- Children have the right to express their views about any issues or decisions affecting or worrying them;
- Every effort should be made to preserve the child's family home and contacts;
- Parents should normally be responsible for the upbringing and care of their children;
- Children, whoever they are and wherever they live, have the right to be protected from all forms of abuse, neglect and exploitation;
- Every child has the right to a positive sense of identity;
- Any intervention in the life of a child or family should be on formally stated grounds, properly justified, in close consultation with all the relevant parties;
- Any intervention in the life of a child, including the provision of supportive services, should be based on collaboration between all the relevant agencies.

Since the 1995 Act was introduced, a number of developments have taken place that impact on the way in which child protection has developed in Scotland. The Dunblane shootings in 1996 led to the introduction of the 1997 Police Act which introduced the system of checks for those working unsupervised with children in either a paid or a voluntary role. This led to the establishment of Disclosure Scotland and the Central Registered Body for Scotland (now known as Volunteer Scotland), the intermediary organisation that the Methodist Church uses to process PVG Scheme membership applications.

The recommendations from the enquiry by Sir Michael Bichard into the 2002 murders of Holly Wells and Jessica Chapman in Soham, Cambridgeshire, underpin the [Protection of Vulnerable Groups \(Scotland\) Act 2007](#). The 2007 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 2007 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 SEC, 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. The responsibility for making referrals to the Scottish Ministers for the SEC lies with the Provincial Officer for the Protection of Children and Vulnerable Adults.