

# **Implementing the Protection of Vulnerable Groups (Scotland) Act 2007 in the Methodist Church in Scotland**

## **Step by Step Guide and Detailed Guidance**

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## INTRODUCTION

This document contains a brief 'step by step' guide to implementing the PVG scheme in Methodist Churches in Scotland and detailed guidance document for reference to the scheme.

The document forms part of the Methodist Connexional Safeguarding Handbook, as a section specifically available for use in Scotland. In particular, it does not replace the requirements for safe working practice as set out in Recruiting Safely.

The PVG scheme was introduced in Scotland on 28<sup>th</sup> February 2011. Its introduction is intended to be phased over 4 years This guidance will be updated in the light of any new information and the practical experience gained through the Scheme's implementation. Additional guidance will also be issued about when a Basic level criminal record disclosure, or any further safeguarding action, is required for those workers who do not meet the criteria for membership of the PVG Scheme.

Advice is available from:

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## STEP BY STEP GUIDE TO IMPLEMENTATION

*Note: The steps here relate specifically to PVG. You should also follow the safer recruitment requirements as set out in Section 3 Recruiting Safely Policy (and set out at the end of this document as an attachment).*

### **A. For when you are recruiting someone new to a position which you believe to be within the remit of the PVG scheme.**

- **Step 1. - Job description/role outline.** For all posts provide a job description or (for voluntary posts) a role outline. This must stipulate all work with children and/or adults who may be vulnerable. Ensure that it also states that the worker doing this role will be required to be a member of the PVG Scheme.
- **Step 2:- Ensure that any job advert stipulates whether a post requires the worker to undertake regulated work within the remit of the PVG Scheme.** (This applies to all adverts, whether in the press, with an agency, on the church website or simply within church bulletins). This step provides important protection for the church, as it is a criminal offence for any individual who is barred to apply for a role where it is stipulated to be regulated work.
- **Step 3: - Before appointment, ask the person whom you wish to appoint whether they are a member of the PVG Scheme.** If so, they are required to complete an Existing PVG Scheme Member application and you must ask to see their identity papers. This is submitted to Disclosure Scotland via the Churches' Agency for Safeguarding along with a completed verification form. If there is any further information noted, you then need to request a new scheme record. This process must be completed before making any offer of appointment.
- **Step 4: - Contract.** Ensure that the job contract or work agreement (for volunteers) states that the person will be undertaking regulated work as a normal part of their duties (stipulate whether this is with children, vulnerable adults or both) and that in order to do this work the person must be a member of the PVG Scheme. Also ensure that the contract/work agreement requires the individual to notify you if they are convicted of a relevant criminal offence during the period when they are employed/appointed in this role, or are found to have engaged in any other activity liable to put children or vulnerable adults at risk or discredit the Methodist Church.
- **Step 5: Updates.** Ensure that you have a system for updating the PVG membership according to the timescales indicated by Disclosure Scotland or the CRBS or whenever safeguarding concerns are raised. This will be done by requesting a Scheme Record Update. If new information is indicated, then you must obtain a full scheme record.

**B. For someone whose role changes during their employment, so that they now undertake regulated work with children and/or vulnerable adults.**

An application for membership of the PVG Scheme in relation to their new duties must be completed **before** they start their new duties and proof of membership received.

**C. When undertaking PVG checks for an existing member of the PVG Scheme or when safeguarding concerns are identified.**

- **Step 1.** Review of job description/work outline and contract. The opportunity should be taken to check that all the documentation accurately reflects any regulated work requirements – as in Step 1 and 2 above.
- **Step 2.** Scheme Record Update. An application should be submitted for a Scheme Record Update – if new information is indicated, a full Scheme Record should be obtained.

**D. Retrospective PVG Checks**

Employees and volunteers already undertaking regulated work in the Methodist Church with children, vulnerable adults or both and in possession of a Disclosure Certificate will be required to become members of the PVG Scheme through the retrospective checking process. Circuit Superintendents will be advised of the process for this and should compile a list of regulated work posts requiring to be checked retrospectively in preparation for this process.

- **Step 1.** Identify all those undertaking regulated work with children or vulnerable adults as defined by the PVG Guidance.
- **Step 2.** Ensure that all regulated work roles have a job description or role outline and employment contract or work agreement which clearly sets out the work that the person is expected to do. The work must fall within the definition of 'regulated work' as defined in the PVG Scheme Guidance.
- **Step 3.** The District Safeguarding Officer will provide Circuit Superintendents and Safeguarding Officers with information on when retrospective checks are to be made in accordance with guidance from the Central Registered Body for Scotland and the Churches' Agency for Safeguarding.
- **Step 4.** Apply for PVG Scheme Membership in line with the procedure outlined above.

# DETAILED GUIDANCE

## Introduction to the PVG Scheme Guidance

### Purpose and content of this guidance

The Protection of Vulnerable Groups (Scotland) Act 2007 (hereafter 'the Act') aims to regulate more closely those positions and circumstances which can leave children and vulnerable adults at risk of harm. This guidance details the Methodist Church's interpretation of the Act and embeds it within relevant Church policy and guidance. It consists of the following sections:

**Section 1:** Gives a brief overview of the Act and its practical implications for the work of the Methodist Church in Scotland.

**Section 2:** Aims to clarify the meaning of 'regulated work' within the specific context of the Methodist Church in Scotland and gives guidance on the vetting and management of roles in the Church.

**Section 3:** Gives only a brief summary of the PVG Scheme, the timescale for its implementation, the new disclosure checks available and the legal implications of retrospective checking, particularly with regard to individuals who may be 'barred' from regulated work.

### Relevant reference material

*Protecting Vulnerable Groups Scheme: Guidance for individuals, organisations and personal employers* (Disclosure Scotland, June 2010)

Training materials on the Act which are available on Disclosure Scotland's website.

This guidance draws on various sections of advice set out in the Connexional Safeguarding policies which were circulated to the Methodist Church in Scotland in November 2010; namely:

- *Safer Recruitment Policy* (2013)
- *Safeguarding Adults* (2010)
- *Safeguarding Children and Young People* (2010)

## SECTION 1

### Implications of the Protection of Vulnerable Groups (Scotland) Act 2007 for the Methodist Church in Scotland

**1.1. Why the Act is needed** - Since the 1970's, numerous inquiries into the abuse of individuals and groups, point to the bleak reality that some situations can expose people to an increased likelihood of being harmed. The receipt of some services (particularly health, care and welfare based services) does oblige us (to a greater or lesser extent) to put our trust in those who deliver the services. Inquiries show how these relationships of trust can be exploited. In addition, allegations of historical abuse within faith-based organisations have shown how some of those who were entrusted with the 'care of souls' have abused that trust and used both children and adults for their own gratification. These circumstances, and the inquiries which often arise out of them, point to the need for the 'state' to intervene and to review and tighten 'protection' legislation.

**1.2. What the Act does** - The Act does a number of things, it:

- Introduces the concept of regulated work and provides for the protection of two vulnerable groups: children and protected adults.
- Introduces a new Scheme (the PVG Scheme) through which information about individuals who undertake regulated work with children and/or protected adults is collated and made available via a process of disclosure checking.
- Introduces three new types of disclosure records which apply specifically to those who undertake regulated work.
- Allows for a more streamlined disclosure process.
- Gives personal employers access to disclosure information.
- Prevents ('bars') certain individuals from undertaking regulated work with children and/or protected adults by listing them on the Children's List and/or the Adults' List.
- Introduces a system which allows for the continuous collection and collation of vetting information about individuals after an initial disclosure check has been made.

**1.3. The 2007 Act and the Protection of Children (Scotland) Act 2003 (POCSA)** - Whilst the 2007 Act clearly builds on many of the processes which were introduced by POCSA, the 2003 Act is repealed by the new legislation. Although the definition of 'regulated work with children' is similar to that of 'child care position' under POCSA, it is important to understand that it is not exactly the same. Some posts which currently meet the requirement of a 'child care position' may not be defined as regulated work with children within the 2007 Act. The introduction of the new Act also



means that the Disqualified from Working with Children List (DWCL) is replaced with the Children's List.

**1.4. Implications for the Methodist Church in Scotland** - The Act commenced in February 2011 and the Scottish Government is allowing 4 years for the Act to be fully implemented. However, there are a number of things that the Methodist Church will need to do in the first year of implementation:

- a) Ensure that Ministers with Pastoral Care, members of Church Councils and Local Church Safeguarding Officers understand the requirements of the Act and its implications for the day-to-day work of the Methodist Church.
- b) Clarify the roles which are defined as regulated work with children or regulated work with adults within the definition of the 2007 Act (recognising that a small number will involve both).
- c) Ensure that those who are newly appointed to regulated work positions become members of the PVG Scheme.
- d) Identify existing workers who will need to be brought into the PVG Scheme and clarify with the District and Connexional Safeguarding staff how this will be done within the timetable outlined by Disclosure Scotland.
- e) Consider further those roles which do not involve regulated work with children but nevertheless still require completion of the Methodist Church's Confidential Declaration Form X. Further guidance will be issued about when a Basic level of disclosure check under the Police Act 1997, or any further action, is required.
- f) Review and, where necessary, revise recruitment material (e.g. application forms, job and role descriptions, reference request forms) so that it states whether or not a post involves regulated work.
- g) Ensure that procedures which deal with the management of alleged misconduct on the part of those who undertake regulated work are implemented in a manner which is consistent with the 'referral' requirements of the Act.

## SECTION 2

### Regulated Work with Children and Protected Adults within the Context of the Methodist Church in Scotland

**2.1.- Introduction** This section explores the definition of regulated work within the context of the Methodist Church. It considers relevant definitions in schedules 2 and 3 of the Act which define regulated work with children and regulated work with adults, and identifies those roles within the Church which **may** meet the definition of regulated work (and therefore be eligible to join the PVG Scheme) and those roles which fall outside the PVG Scheme.

**2.2. - Why 'may be eligible'?** The 2007 Act is designed to cover a broad cross-section of organisations, personal employers and individuals. This breadth makes the interpretation challenging because the legislative requirements have to be translated to fit the specific contexts of many different organisations. As an organisation which falls under the requirements of the Act, the Methodist Church must take all reasonable steps to comply with the Act and must be able to justify its interpretation when challenged. It will not be until the requirements of the Act are 'tested' (for example, through the disclosure application and 'referral' processes) that definitions such as regulated work will be more precisely defined.

**2.3. - What does 'work' mean within the Act?** Within the Act 'work' includes paid or unpaid work and other types of work. This means that all those who undertake roles on behalf of the Methodist Church (whether as an employee or volunteer) are doing 'work'.

**NOTE** In the Act, work which is done for an individual in the course of a family relationship or in the course of a personal relationship for no commercial consideration is not defined as work. Therefore, groups of adults (in Scotland a person over the age of 16 is an adult) who form their own informal prayer and Bible study groups which are not provided or supervised by the Church, are not considered to be undertaking 'regulated work'.

#### **Case study**

John Smith, a 37 year old man has recently joined his local church. Many people in the congregation find him very friendly and pleasant though a small number of people in the church find him a bit too 'charming and charismatic'! Over a period of a few months John seems to have attracted around him a group of adults, some of whom could be considered to be vulnerable because of their personal circumstances. One day, you discover that John and his friends have formed a prayer and bible study group which meets at John's house. John has been 'elected' to lead this group.

They are meeting as friends and John is not acting as in a leadership role which would constitute 'work' within the Church. Therefore this activity falls well outside of the scope of the PVG Act. However, from a wider 'protection perspective', should the Church be concerned about these types of groups and what does it do to ensure that those who attend informal prayer and study groups in people's houses are kept as safe as possible?

## 2.4.- What is regulated work?

Regulated work is defined in schedules 2 and 3 of the PVG Act. A person can apply to join the PVG Scheme in respect of:

- Regulated work with children
- Regulated work with adults
- Regulated work with both 'workforces'.

Within the Methodist Church, a number of roles will involve regulated work with children and adults. There will be a number of individuals who will be doing both types of regulated work.

The PVG Act defines regulated work according to:

- The **activities** that a person does
- The **position** that a person holds.
- The **establishments** in which a person works

The people for whom a person has **day to day supervision or management responsibility**

We look at what each of these **elements** mean below but before we do that, there are two key tests in the PVG Act which must be understood. These tests are the '**normal duties**' test and the '**incidental**' test. Both of these tests limit the scope of regulated work. Because of the nature of faith-based institutions such as the churches, where participation in activities is always discretionary (unless you are an employee of the church where participation can be compelled), the interpretation of the incidental test can be challenging.

**2.5.- The 'normal duties' test** The Act makes clear that '**normal duties**' mean something an individual might be expected to do on an ongoing basis. This means that the activity would usually appear in a person's job description or role outline. The Act does not say how frequently or for what duration an activity must be carried out. However, 'normal duties' does exclude one-off occurrences and unforeseeable events. The normal duties test applies to the **activities, establishments** and **supervisory elements** of the definition of regulated work.

**2.6.- The 'incidental' test** There is an 'incidental test' which, in the context of the Methodist Church must be considered in relation to the 'activities' and 'establishments' elements which make up the definitions of regulated work.

### 2.6.1 The 'incidental' test as it relates to activities

Sec. 2.7, paras. 92 and 93 of Disclosure Scotland's guidance on the PVG Act states:

*'The scope of regulated work is narrowed by the incidental test. Some, but not all, activities with children or protected adults are excluded from being regulated work if the activity is occurring incidentally to working with individuals who are not children or protected adults...An activity is likely to be incidental when:*

- *It is open to all (characterised by where the event is held, where it is advertised, admission policy etc.);*
- *It is attractive to a wide cross-section of society; or*

- *Attendance is discretionary.*

*An activity is unlikely to be incidental when:*

- *It is targeted at children or protected adults (characterised by where the event is held, where it is advertised, admission policy etc.);*
- *It is more attractive to children or protected adults than others; or*
- *Attendance is mandatory.'*

Paragraph 95 of the Guidance states that *'an important consideration is the degree to which it could be reasonably foreseen that children or protected adults would attend. Whether an activity is incidental or not is not so much about the numbers of children or protected adults attending but the purpose and intended client group for the activity.'*

### **Making sense of the incidental test as it applies to the activities which are prescribed in the Act**

One way of making sense of the incidental test is to ask the following questions:

- 'Which activities within the Methodist Church are specifically targeted at children and young people under the age of 18 years?
- 'Which activities within the Methodist Church are specifically targeted at adults who are 16 years or over?

What you should notice from your answer is that some of the activities which take place within the Methodist Church are actually open to people of all ages. Examples here are:

- Choir and music groups which are open to all church members and are led by worship/choir leaders;
- Preaching which is carried out by local preachers;
- Pastoral activities which are available to all church members and are not specifically targeted at the needs of children or adults with particular needs.

What this means is that those who carry out these activities on behalf of the Methodist Church will almost certainly not be eligible to join the PVG Scheme because 'the incidental test' will apply; in other words the activities are not limited to only children or adults.

### **Examples of activities where the incidental test does not apply**

Clearly, there are some activities which are specifically targeted at children or adults; examples of these are:

- Child care facilities (such as a church run crèche)
- Sunday schools
- Youth groups
- Pastoral support which is specifically targeted at children or adults who have particular needs.

## **2.6.2 The 'incidental' test as it relates to establishments**

There is also an incidental test which relates to work that the Church carries out in prescribed establishments. The question which is relevant here is:

'Does this work, which is done on behalf of the Church, in a prescribed establishment, give church workers the opportunity to have unsupervised contact with children or protected adults? And is the contact permitted or required by the work which is being done or is it merely incidental?'

## REGULATED WORK

We now look in detail at the two types of regulated work.

- Regulated work with children
- Regulated work with protected adults

### 2.7 REGULATED WORK WITH CHILDREN

The Act defines a child as a person who is under the age of 18 years. (Note the crossover with adults who can be 'protected' from the age of 16 upwards.)

We said above that the Act defines regulated work according to **activities, establishments, supervisory responsibilities** and **positions**. We now look in detail at each of these elements, focusing on those aspects which are relevant to the context of the Methodist Church. **Table 1** pulls this analysis together by summarising those roles which we consider are likely to involve regulated work with children within the Methodist Church in Scotland. (See Table 1).

#### 2.7.1. Activities

Within the Act, an individual may be doing regulated work if, as part of their **normal duties**, they undertake prescribed activities. Those prescribed activities (outlined in schedule 2 of the Act) that should be considered from the perspective of the Methodist Church are:

- **Caring for children:** This activity relates to those who work with children in church run child care facilities, for example, crèches. Those who care for children in the church do so as part of their **normal duties** and are working within an activity which is specifically targeted at children under the age of 18 years. The incidental test does not therefore apply. They are doing regulated work with children.
- **Teaching, instructing, supervising and providing advice and guidance:** Many people, working on behalf of the church undertake these activities as part of their **normal duties**. Within the Act, 'advice and guidance' relates to physical or emotional well-being, education or training. Providing advice or guidance in relation to spiritual matters or spiritual well-being is considered to be captured within this activity<sup>3</sup>.
- **Unsupervised contact with children:** Most of the work which is undertaken with children in the Methodist Church is supervised. This means that it takes place under the direction of a person who has been given responsibility by the church (and parents) for taking all reasonable steps to ensure the safety and wellbeing of children and young people who are taking part in church activities. Unsupervised contact with children within the Methodist Church is therefore very rare and will only be undertaken by a few people and in a small number of contexts (see section 2.7.2 below – establishments). Roles that involve unsupervised access to children demand a high level of trust and require the highest level of vetting.

- **Being in sole charge of a child** - Methodist Church guidance in *Safeguarding Children and Young People* (2010) and *Worth Doing Well* (2002) makes clear that a situation where a worker is left in sole charge of children should be very rare indeed<sup>1</sup>. Even when driving children in a private car on behalf of the church, Methodist Church guidance makes clear that there should be a non-driving adult escort as well as the driver in the car<sup>5</sup>. Possibly the only situation where a worker would find themselves in sole charge of a child would be in an emergency situation where the need to protect a child from harm far outweighs other issues. This means that in the context of the Methodist Church, being in sole charge of children is not something that would feature as a **normal duty** in the job/role descriptions of those who work with children under the age of 18 years in the Methodist Church.
- **Moderating a public interactive communication service** - This activity would not be considered to be part of any worker's normal duties within the Methodist Church and therefore is not relevant to regulated work within the church context. We have heard of volunteers who are in charge of church web sites.
- **Host parenting** - The Act gives organisations such as the churches some leeway in terms of deciding if host parenting constitutes regulated work within their specific contexts. The policy of the Methodist Church in Scotland (which may be amended following further discussions with the Connexion) is that host parenting does not constitute regulated work with children. However, any churches who do organise events which involve host parenting must adhere to the following guidance:
  - ✓ Ensure that the activity is planned well in advance of any child's stay with a host family.
  - ✓ During the planning stage, make sure that the host families who are matched with a child together with the parents of the child, who is to be accommodated by the host family, are strongly encouraged to contact each other.
  - ✓ Ensure that the parents, who are consenting to their child's stay with a host family, understand that they are responsible for their child's protection and must therefore satisfy themselves that their child will be safe with the host family (this responsibility should be set out in a parental consent form).
  - ✓ Make sure that any child who is considered to be especially vulnerable (perhaps because s/he has a disability which requires additional levels of care and/or supervision) is not accommodated without the presence of either his/her parents or another adult who has been nominated by the parents to provide care and supervision.
  - ✓ Wherever possible, try to make sure that children are accommodated in homes where there are children of a similar age.
  - ✓ During the stay, try to make sure that host parents are encouraging their child to stay in regular contact with their own parents.

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<sup>1</sup> See Guideline 2, page 9 *Worth Doing Well* and relevant sections of Appendix D Code of Safer Working Practice in the Connexion's policy *Safeguarding Children and Young People* (2010). <sup>5</sup> See Appendix D: Code of Safer Working Practice in the Connexion's *Safeguarding Children and Young People policy* (2010).

- ✓ When a concern arises in relation to a child who is staying with host parents, do not hesitate to act in accordance with agreed policy and practice.

### 2.7.2. - Establishments

In relation to regulated work with children, the Act prescribes a number of establishments:

- An institution which is mainly for the detention of children
- A hospital which is exclusively or mainly for the reception and treatment of children
- A school
- A further education institution
- A hostel used mainly by pupils attending a school or further education institution
- A home which is exclusively or mainly for children and is provided by a council under social work or mental health legislation.

These establishments are prescribed in the Act because they are considered to be places where children and young people, because of their needs and the services/activities which are provided for them, are potentially vulnerable to harm.

Within the Act, work in these establishments is only regulated work if, in the course of doing anything permitted or required in connection with the role, a person has **unsupervised contact** with children (see section 2.6 above – the incidental test). Unsupervised contact means contact with a child in the absence of a ‘responsible person’; for example the child’s parent/carer or a person who is employed in a position of trust and responsibility within the establishment.

### 2.7.3. - Day to day management or supervision of workers

The Act says that a person may be doing regulated work with children if they are responsible for the day to day supervision or management of those who do regulated work, either because they undertake prescribed activities and/or work in a prescribed establishment. This management/supervision must be part of that person’s **normal duties**. Posts in the Methodist church which seem to meet this criteria, include (for example):

- Presbyters
- Youth and children’s workers who manage and supervise other workers
- Pastoral workers who manage and supervise pastoral workers who work specifically with targeted groups within the church
- Designated safeguarding leads on the Church Council or Circuit Meeting (i.e. those who have a supervisory/management role in relation to all safeguarding matters for an on behalf of the Circuit.



#### 2.7.4. - Positions

The Act says that a person is doing regulated work with children if they hold one or a number of prescribed positions. The only one of any relevance to the Methodist Church is that of a 'charity trustee of a children's charity'. However, the Methodist Church in Scotland notes that within the Act a charity trustee is excluded from regulated work where the main purposes of the charity are aimed at adults or the population more generally<sup>26</sup>. The Methodist Church in Scotland has therefore interpreted this to mean that, apart from those members who have direct responsibility for safeguarding in the church (e.g. Minister in Pastoral Charge), members of church councils or circuit meetings do not undertake regulated work. However, Methodist Church policy does make clear that its Trustees (meaning those members of Church Councils or Circuit Meetings) should be asked to sign Declaration form X which confirms their suitability to fulfil the role. This form can be downloaded from the Safeguarding section of the Methodist Church's website.

#### Those who are barred from membership of Church Councils and other trustee positions within the church

Section 8.18 of the Church's interim Recruiting Safely policy makes clear that if someone is barred by the PVG Scheme they must not work as Trustees of charities for children or protected adults. To do so would constitute an offence.

**Table 1** details those posts which, based on the above interpretations, may constitute regulated work with children (as defined under the Act). (See Table 1)

## 2.8 REGULATED WORK WITH PROTECTED ADULTS

It was stated earlier in this section that only a small number of roles undertaken on behalf of the Methodist church may involve regulated work with adults. (See Table 2).

### 2.8.1. The definition of a protected adult

Within the Act a protected adult is defined as a person who is 16 or over. Note the crossover with the definition of child as anyone under the age of 18.) There are 4 categories of services, receipt of any one of which makes an individual a protected adult:

- Registered care service
- A health service
- A community care service
- A prescribed welfare service

The only one of these services which is relevant to the Methodist Church is that of a **prescribed welfare service**.

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<sup>2</sup> See sec.58 of *Protecting Vulnerable Groups Scheme: Guidance for individuals, organisations and personal employers* (Disclosure Scotland, June 2010).

### 2.8.2. - Definition of a prescribed welfare service

The Act provides that a welfare service includes any service which provides support, assistance, advice or counselling to individuals with **particular needs** and meets the following conditions:

- a) It must be provided in the course of 'work' to one or more persons aged 16 or over;
- b) It must be delivered on behalf of an organisation – in this case the Methodist Church;
- c) It must require **training** to be undertaken by the person delivering the service - training in things such as the worker's duties and standards of conduct etc. can constitute training.
- d) There must be a **frequency** or **formality** attached to the service and should not be done on an informal, unforeseen or ad hoc basis. AND
- e) **EITHER**
  - (i) it must require a contract to be agreed between the service provider and the recipient of the service prior to the service being carried out **OR**
  - (ii) it must be personalised to an individual adult's needs.

In order to qualify as a welfare service, the service **MUST** include all the mandatory elements (a) to (d) and, in addition, one or other of the elements in (e).

Under the PVG Act a person is only a 'protected adult' whilst s/he is **receiving** a service.

**The meaning of particular needs within a 'welfare service'** - A welfare service must be provided to individuals with particular needs. The Act says that particular needs are those which are over and above the general needs that any individual might have. In the church context, government advice has stated that 'particular needs' can be taken to mean 'advice and guidance in relation to spiritual matters'.

### 2.8.3. - When is an adult a protected adult in the Methodist church?

It is important to understand that the Act defines a protected adult according to the services which s/he receives. This means that a person is only a protected adult whilst receiving a specified service. There will be some situations which will mean that a person is a protected adult for a considerable amount of their time; for example when they receive care services as a result of living in residential care accommodation. At the other end of the spectrum are the many adults who receive primary health care services. They will only be protected adults whilst receiving these services.

Within the church context it is important to differentiate between those who are protected adults outwith and within the church context. A person is only a protected adult within the Methodist Church if s/he receives a prescribed welfare service from the church. For example, a church member who receives targeted pastoral support from a pastoral worker on a one to one basis is only a protected adult within the church whilst receiving that service.

By contrast, a church member who receives therapeutic services provided by a health service, is a protected adult with the health service but only whilst he is receiving the required service. Likewise, a church member who receives home support services from a local authority social work department is a protected adult with the social work department but only when she receives the services.

However, there may be times when the receipt of a prescribed service means that a person is a protected adult within the church setting. An example here could be where a person's attendance in church is supported by a 'responsible person' who provides this support as part of a personal care plan. However, the person receiving this support would still not be a protected adult under the jurisdiction of the church but under that of the relevant welfare provider.

Those who undertake pastoral care within a church setting will often know who in their congregation is in receipt of prescribed services and is therefore a protected adult for some aspect of their life. Within pastoral relationships, this personal and sensitive information can be helpful when trying to find ways to support people in the congregation who may have particular needs which are over and above the general needs that any individual may have.

#### **2.8.4. - Within the church, who does regulated work with protected adults?**

As with regulated work with children, determining who does regulated work with adults is determined through an analysis of:

- The **activities** that a person does
- The **establishments** in which a person works
- The people for whom a person has day to **day supervision or management responsibility**
- The **position** that a person holds.

#### **2.8.5. - Activities**

Within the Act, an individual may be doing regulated work if, as part of their **normal duties**, they undertake prescribed activities. Those prescribed activities (outlined in Schedule 3 of the Act) that are relevant to the church setting are:

- Teaching, instructing, training or supervising protected adults
- Being in sole charge of a protected adult
- Providing assistance, advice or guidance to a protected adult or particular protected adult which relates to physical or emotional well-being, education or training.

In order to be doing regulated work with adults, the above activities must be considered in relation to the definition of a 'welfare service' and undertaken as part of a person's **normal duties**.

## **Unsupervised contact with a protected adult/being in sole charge of a protected adult**

It is the policy of the Methodist Church in Scotland that any worker who, as part of his/her normal duties, provides a targeted welfare service to a protected adult or particular protected adults, **in an unsupervised situation**, (irrespective of the location) will be required to be vetted to the highest standards as these situations demand high levels of trust.

### **2.8.6. - Establishments**

In relation to regulated work with protected adults, the Act prescribes a number of establishments:

- A care home – meaning accommodation occupied mainly or exclusively by individuals aged 16 or over which is provided by an organisation carrying on a care home service.
- A residential establishment or accommodation occupied exclusively or mainly by individuals aged 16 or over which is provided by, or the provision of which is secured by, a council under social work or mental health legislation.

These establishments are prescribed in the Act because they are considered to be places where adults, because of their needs and the services/activities which are provided for them, are potentially very vulnerable to harm.

However, work in these establishments is only regulated work if, in the course of doing anything permitted or required in connection with the role, a person has **unsupervised contact** with protected adults. Unsupervised contact means contact with a protected adult in the absence of a 'responsible person'; for example, a person who is employed in a position of trust and responsibility within the establishment.

Therefore, those in the Methodist Church who undertake work, as part of their **normal duties**, in a prescribed establishment, will only be doing regulated work if it gives **unsupervised contact** with protected adults.

### **2.8.7. - Day to day management or supervision of workers**

The Act says that a person may be doing regulated work with protected adults if they are responsible for the day to day supervision or management of those who do regulated work, either because they undertake prescribed activities and/or work in a prescribed establishment. This management/supervision must be part of that person's **normal duties**.

Posts in the Methodist church which may meet this criteria, include (for example):

- Presbyters
- Pastoral workers who manage and supervise pastoral workers who undertake targeted work and meet the definition of regulated work
- Safeguarding officers in Connexional, District, Circuit or Church contexts
- Designated safeguarding leads on the Church Council or Circuit Meeting (i.e. those who have a supervisory/management role in relation to all safeguarding matters for an on behalf of the Circuit.
- Youth workers who supervise those who work with young people who are 16 and over.

### **2.8.8. - Positions**

**Table 2** details those posts which, based on the above interpretations, may constitute regulated work with adults (as defined under the Act). (See Table 2 on page 22).

**TABLE 1: Regulated work with children in the Methodist Church**

**1a) Roles in the Methodist Church which may involve regulated work with children**

Role(s)	As part of normal duties, undertakes prescribed activities which are targeted at children (i.e. the participation of children is NOT incidental).	As part of normal duties, works in prescribed children’s establishments and undertakes activities which may involve unsupervised access to children.	As part of normal duties, manages/supervises workers who undertake regulated work with children.
Presbyter	√	√	√
Deacon	√	√	√
Those responsible for safeguarding at District, Circuit or Church level (e.g. Minister in Pastoral Charge, LCSO, circuit steward with SG responsibility, District Head of Safeguarding).	-	-	√
Youth workers/children’s workers/youth club leaders and helpers.	√	Will depend on the requirements of the role.	Only where the person is in a ‘senior’ supervisory role.
Pastoral/family workers and church approved home visitors who work specifically with children or adults in a targeted way.	√	-	Only where the person is in a ‘senior’ supervisory role.
Sunday school teachers and helpers.	√	-	Only where the person is in a ‘senior’ supervisory role.

Leaders/assistant leaders church parent and toddler groups/crèche workers.	√	-	Only where the person is in a 'senior' supervisory role.
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**1b) Roles in the Methodist Church which require the completion of the Methodist Church's Declaration Form X. (Further guidance will be issued about when a Basic level disclosure check is required, or any further action).**

- Pastoral workers who work within the whole congregation and not in a targeted way (i.e. providing activities specifically for children or a welfare service to adults)
- Worship leaders /choir leaders/directors of music
- Church organist
- Local preachers
- Church/church hall cleaners/caretakers
- Church tour guides
- Church approved drivers for church sponsored arrangements for children

**1c) Roles in the Methodist Church which would not usually qualify for a PVG check**

**Roles which would not usually qualify for a PVG check**

- Adult choir members
- Those who serve refreshments
- Flower arrangers
- People who are part of a church welcome team
- Key holders
- Visitors who only have brief contact with children
- Contractors who work on site
- Volunteers and parents who are host parents
- Those who transport children or vulnerable adults where this is agreed by the parents/carers directly.

**TABLE 2: Regulated work with adults in the Methodist Church**

**1a) Roles in the Methodist Church which may involve regulated work with adults**

<b>Roles</b>	<b>As part of normal duties provides a prescribed welfare service* which is targeted** at persons who are 16 over.</b>	<b>As part of normal duties works in a prescribed adult establishment and undertakes activities which may involve unsupervised access to protected adults.</b>	<b>As part of normal duties manages/supervises workers who undertake regulated work with adults.</b>
Presbyter	√	√	√
Deacon	√	√	√
Those responsible for safeguarding at District, Circuit or Church level (e.g. Minister in Pastoral Charge, LCSO, circuit steward with SG responsibility, District Head of Safeguarding).			√
Lay pastoral workers/home visitors who specifically provide a welfare service (as defined under the PVG Act)	√	√	Only where the person is in a 'senior' supervisory role.
Youth workers who work with young people over the age of 16.	√	Will depend on the requirements of the role.	Only where the person is in a 'senior' supervisory role.



\* **Welfare service** – means here the provision of advice and guidance to a protected adult or particular protected adults which relates to their physical, emotional and/or spiritual well-being.

\*\* **Targeted** – means here that the participation of protected adults in the service being provided is not incidental (i.e. freely open to all) in that it is specifically and clearly directed towards the individual needs of the adult.

\*\*\* **Particular needs** – means here ‘those that are over and above the general needs that any individual might have’ (sec. 23 Disclosure Scotland *Protecting Vulnerable Groups Scheme: Guidance for Individuals, organisations and personal employers* (2010)).

## **2.9.- Additional information relating to the recruitment and vetting of roles in the Methodist Church**

### **2.9.1. - Pastoral workers/visitors**

The Methodist Church in Scotland has carefully considered the various definitions within the Act and has decided that the majority of pastoral visitors will **NOT** qualify for PVG Scheme membership. The reason for this is that the ‘incidental test’ would seem to apply to the work that many pastoral workers do (i.e. the pastoral activities are open to all members of the congregation). The exception to this is where pastoral activities are targeted specifically and clearly towards meeting the needs of children and/or adults. Clearly those workers in the Methodist Church will be undertaking regulated work when (as part of their **normal duties**) they are working with children or adults in one of the ‘**prescribed establishments**’ and this work gives the opportunity for **unsupervised access** – see Tables 1 and 2.

The Taking Care Group and the Connexional Safeguarding Adviser will work together to identify more precisely those activities undertaken by pastoral workers which lie within and outwith the definition of regulated work.

NB - Pastoral workers who do not meet the definition of regulated work must complete the Methodist Church’s Declaration Form X. Further guidance will be issued about the requirement for a Basic level disclosure application.

### **2.9.2. - Ordained presbyters and deacons and candidates for ordained ministry**

It is the policy of the Methodist Church to require PVG checks on all successful candidates before they enter training. This applies to all appointments being made for both deacons and presbyters. Once the PVG Scheme is fully implemented at the end of the four year phased introduction, all candidates will be required to apply to join the Scheme. References for candidates will always be taken up, including one from a previous recent employment situation.

All presbyters and deacons require a disclosure check and those currently in post must be brought into the Scheme as part of the retrospective checking process which the District will agree with the Connexion. For any role where there is a query concerning eligibility for disclosure checking and/or PVG Scheme membership, the requirement shall be determined by the General Secretary in

Consultation with the Connexional Safeguarding Adviser, with the assistance of legal advice where necessary.

PVG checks will continue to be required on a five yearly basis thereafter. Refusal or failure to do so will be regarded as a disciplinary matter.

A *Confidential Declaration Form* should be completed before each application for PVG membership. For presbyters, deacons and those candidating for the ministry, the forms should be returned to the Secretary of Conference at the Connexional Team.

### **2.9.3. - Those working from home**

The Application form to join the PVG Scheme contains a question about whether the applicant works from home (Part E box E2 of the form). All presbyters and deacons should tick this box. However, in relation to other roles and in order to minimise intrusion into a person's private life (as a result of the vetting undertaken by the police in relation to a person's address), the 'working from home' box should only be ticked if direct work with children or protected adults is to take place on the home premises. For example a group meeting in an applicant's home means that the box should be ticked. However a youth worker, who returns home after a club session and writes up his or her notes, would not need to tick the box if that is the only work which is being done.

### **2.9.4. - 'One-off' visitors or helpers**

Where a volunteer's role will be on the basis of a 'one-off' activity such as accompanying staff and children on a day outing or helping at an event (e.g. a holiday club), it is not necessary to undertake extensive vetting, provided that the person is known to the church and is always supervised.

It is not necessary to obtain a disclosure check for visitors who will only have contact with children on an ad hoc or irregular basis for short periods of time. However, it is good practice to ensure that visitors sign in and out and are escorted whilst on the premises by a member of staff or appropriately vetted volunteer.

### **2.9.5. Overseas applicants and candidates**

For overseas candidates who have not previously lived in the UK and also UK candidates who have lived abroad for significant periods, the recruiting manager should make an additional check by obtaining a certificate of good conduct/police record from the relevant embassy or police force, where that is available. The Disclosure Scotland website gives further guidance on this: [www.crbs.org.uk/news/documents/OverseasDisclosurechecksaguide.pdf](http://www.crbs.org.uk/news/documents/OverseasDisclosurechecksaguide.pdf)

Where an applicant is from, or has lived in a country where criminal record checks cannot be made for child protection purposes, or is a refugee with leave to remain in the UK and has no means of obtaining relevant information, the manager should take extra care in taking up references and carrying out other background checks. For example, additional references should be sought and references followed up by phone as well as letter.

Overseas applicants should apply for PVG Scheme membership before arriving to take up pre-arranged work or apply once they arrive. They should not start work until PVG membership is confirmed.

#### **2.9.6. Contractors, agency staff or other sources of recruitment**

If volunteers are to be recruited by another organisation, e.g. for a joint ecumenical event, a district or Connexional event, suitable assurances should be obtained from the 'home' church or organisation which first recruited that the relevant workers have been appropriately vetted.

The same enquiries should be made of any contractor the church uses to provide services that give rise to their staff having contact with children, including vetting procedures and relevant information found arising from these procedures.

On a wider note, the Methodist Church does have a policy on the hire or use of church premises by others – see section 5.13 of the Connexional *Safeguarding Children and Young People* policy (2010).

#### **2.9.7. Appointing children and young people to posts in the Methodist Church**

Those under 16 must not be in roles where they have responsibility for children of any age. Young people over the age of 16 will need to have PVG Scheme membership before working with either children or protected adults.

#### **2.9.8. Students on placement**

When offering student placements for professional or vocational training where there is a practice placement element, a disclosure check should be applied for when a place on the programme has been accepted, so that disclosure checks are received prior to the trainee commencing the work-based elements of their training. Organisations working with children and protected adults have discretion to allow an individual to begin the work-based elements pending the outcome of the disclosure application process (under stringent arrangements). The trainee must always be appropriately supervised in the placement location.

## SECTION 3

### THE PVG SCHEME, ITS IMPLEMENTATION, DISCLOSURE CHECKS, REFERRAL AND BARRING, IMPLICATIONS FOR ENGLAND AND INFORMATION SHARING

This section gives only a brief summary of the PVG Scheme, the timescale for implementation, the disclosure checks available and the legal implications of retrospective checking, particularly with regard to individuals who may be 'barred' from regulated work.

Comprehensive information on the PVG Scheme and the new disclosures is available on Disclosure Scotland's website.

**3.1. - The PVG Scheme** Membership of the PVG Scheme is available for individuals doing, seeking or planning to do regulated work with children and/or vulnerable adults. The Scheme will allow the Methodist Church to check whether such individuals are barred from regulated work. The PVG Scheme is managed and delivered by Disclosure Scotland as an executive agency of the Scottish Government. Disclosure Scotland also delivers the others types of disclosure which are still available under the 1997 Act where a post does not meet the definition of regulated work.

The PVG Scheme ends the use of disclosure checks under the Police Act 1997 for those who work in a 'child care position' and/or with 'adults at risk'. They are replaced by the new disclosures under the PVG Act.<sup>3</sup>

**3.2.- Registering for the Scheme** Organisations which require access to Scheme records and Scheme record updates (see below) must be registered with Disclosure Scotland or enrol with a registered body such as CRBS. The Methodist Church uses the Churches Agency for Safeguarding (CAS) as its registered body. CAS can be contacted with any queries about the Scheme.

**3.3. - Timescale for implementing the Scheme** The PVG Scheme went live in Scotland at the end of February 2011. Although it is the Scottish Government's expectation that all persons who do regulated work in Scotland should eventually become Scheme members, the Scheme is being phased in over a 4-year period. The Scottish Government expects that the retrospective checking process to transfer existing workers into the Scheme will take three years. The guidance makes clear that the process should be managed in such a way as to minimise the administrative burden on organisations and Disclosure Scotland. The 'phasing in' process will be managed by Disclosure Scotland in partnership with its registered persons and bodies.

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<sup>3</sup> Further guidance will be provided about when a basic level disclosure application, or any other action, is required for those who do not meet the criteria for PVG membership.

### **3.4. - Continuous updating of Scheme records**

Once an individual is a PVG Scheme member, Disclosure Scotland will keep the individual's PVG Scheme membership and vetting information up-to-date. This process is called continuous updating and is one of the biggest differences between enhanced disclosure and the PVG Scheme. Any new vetting information that comes to light about a PVG Scheme member will be assessed. If the information suggests that the PVG Scheme member may have become unsuitable to do regulated work with children or protected adults, then they will be placed under consideration for listing on one or both of the Lists – the Children's List and the Adults' List.

### **3.5. - The new Scheme disclosure checks**

- **Scheme Record** is available for those who apply to join the PVG Scheme for the first time.
- **Scheme Record Update** is available for those who are already PVG Scheme members (and therefore already have a Scheme Record). The update can be requested for the type of regulated work (i.e. children or protected adults) for which the person is already a Scheme member.
- **Scheme Membership statement** – this is requested by a personal employer or an individual themselves in anticipation of doing regulated work in the future.

**3.6. - The Scheme Record** - The Scheme Record is designed for use by organisations like the Methodist Church when asking an individual to join the PVG Scheme for the first time **and** where that person is being recruited to do regulated work with children or protected adults.

The Scheme Record includes any vetting information that exists in relation to the individual and personal membership information, the types of regulated work in respect of which the individual is a PVG Scheme member (thereby confirming that the individual is not barred from regulated work of that type) and whether the individual is under consideration for listing for the type(s) of regulated work.

A Scheme Record will not be issued if the individual is barred from the type of regulated work which s/he has applied to do; instead a letter will be issued to the individual and the registered body. When wanting to recruit a new employee, or appoint a volunteer, the person with responsibility for the recruitment within the Methodist Church must always either require PVG membership, or ask to see the Scheme Record for someone who is already a member.

**3.7. -The Scheme Record Update** - The Scheme Record Update is a new type of disclosure. It is designed to be a quicker, cheaper and simpler check for organisations recruiting individuals who are already PVG Scheme members. It is designed for use by an organisation when asking an individual who is already a PVG Scheme member (and who has already had a Scheme Record issued in the past) to do regulated work for them.

In respect of content, the Scheme Record Update does NOT include any vetting information. One reason for this is to allow for it to be viewable on-line through a normal web browser as part of the on-line functionality of the Scheme.

Where a Scheme Record Update indicates that new vetting information has been added since the last Scheme Record was issued, the organisation may request an update to the Scheme Record.

**3.8. - The Scheme Membership Statement** - The Scheme Membership Statement is designed for personal employers who ask an individual to do regulated work for them or for pre-emptive use by individuals who intend to do regulated work at some point in the future. As it is for sharing with personal employers, it does not contain vetting information.

**3.9. - 'Referral', 'Listing' and 'Barring'** - The PVG Act requires two Lists to be maintained: one which contains the names of all those individuals who are unsuitable to do regulated work with children and another for those who are unsuitable to do regulated work with protected adults.

#### **3.9.1. 'Referral to the List(s)'**

As an organisation which recruits individuals to do regulated work, the Methodist Church is under a duty to refer to one or both Lists an individual doing regulated work who:

- a) Has done something to harm a child or protected adult or has placed a child or protected adult at risk of harm; and
- b) The impact is so serious that the Methodist Church has (or would) permanently remove the individual from regulated work.

The first of these criteria is known as the referral ground. The referral must correspond with the type of regulated work which the individual does. This means that a worker in the Methodist Church who only undertakes regulated work with children cannot be referred to both Lists. S/he can only be referred for listing on the Children's List. The referral is made to Disclosure Scotland.

Government regulations on the referral process within the PVG Act are available on the Scottish Government website. Assistance is available from the Connexional Safeguarding Adviser or the Scotland Taking Care Group. In addition, the following Methodist Church policies give detailed guidance on how to manage a possible referral to one or both of the Lists:

- *Safeguarding Children & Young People* (201) – section 6, responding to concerns;
- *Safeguarding Adults* (2010) – section 8, responding to abuse;
- *Safer Recruitment Policy* (2013) – section 6, safer recruitment practice.

#### **3.9.2. 'Listing'**

Any individual who is doing or has done regulated work can be considered for listing on one or both of the Lists. There are two stages to the listing process:

- an initial assessment of the referral information to see whether there are grounds for a possible listing; and
- a full assessment, called a consideration for listing, in order to establish if the individual is unsuitable to work with vulnerable groups.

A person who is under consideration for listing is not barred from continuing to do the corresponding regulated work can continue to do regulated work. Where an individual is being considered for listing for one list only, this has no bearing on their status in respect of the other workforce.

### **3.9.3. - 'Barring'**

'Barring' is the consequence of being listed. An individual who is barred from regulated work under the PVG Act in Scotland is barred from undertaking that work across the rest of the UK. Section 5.3 of the Methodist Church's interim Recruiting Safely policy (2010) states that if an individual is barred from regulated work, they may still be able to take part in some activities. It notes that a risk assessment will need to be undertaken in order to establish the level of risk which the individual poses to children and other vulnerable people and, where appropriate, identify activities which the barred individual can do. Detailed guidance on Ministering to those who pose a risk is given in section 9 of the Connexion's Policy – Safeguarding Children & Young People (2010).

### **3.9.4. - The legal implications of 'barring' during the PVG phasing-in process**

It is an offence for the Methodist Church to recruit a barred individual to do regulated work. However, it is a defence for the Church to prove that it did not know, and could not reasonably be expected to have known, that the individual was barred from doing that regulated work. From the start of the PVG Scheme it will also be an offence for the Methodist Church not to remove an individual from regulated work when told by Disclosure Scotland that an individual is barred from regulated work. However, it is not an offence for an organisation to continue to employ a barred individual doing regulated work until such time as specified in the retrospective checking regulations. These checking regulations will set the time frame for organisations to get all their existing workers (where they are assessed as doing regulated work) into the PVG Scheme.

An individual who is doing regulated work when barred is committing an offence from the implementation date of the PVG Scheme. If it comes to light (for example through a process of retrospective checking or otherwise) the matter will be reported to the police and this could lead to prosecution. What should be noted here is the responsibility on the individual who is barred not to apply to do, or continue to do regulated work.

### **3.10 - Implications for the Methodist Church outside Scotland**

The long term vision is for membership of the Vetting and Barring Scheme (with the Independent Safeguarding Authority in England and Wales and membership of Scotland's PVG scheme will enable complementary trust, so that a person registered in England can travel with young people to Scotland without needing to join the Scottish scheme as well. (This needs rewording – it is now the Disclosure and Barring Scheme and not a membership scheme in England and Wales).

The different dates of implementation make this vision as yet impossible. For this reason, it is a requirement that people join the PVG scheme if they are undertaking work in Scotland which, if they were based in Scotland, would require PVG membership.

For further information, contact Churches Agency for safeguarding or the Connexional Safeguarding Adviser.

### 3.11 - Information Sharing and the PVG Scheme

- Safeguarding information can and should be shared within the Methodist Church when it is important to do so in the interests of promoting safety.
- Information about potential risk may be disclosed to the Methodist Church through a PVG Scheme Record or a Scheme Record Update. Schedule 3 of the Data Protection Act 1998 allows for the sharing of information with others where a risk to others is perceived.
- As employer / appointers to a voluntary role, the person who is leading the recruitment carries the responsibility for notifying Disclosure Scotland
  - a) when the person is appointed (via request for the Scheme Record or Update) or
  - b) if the person (whether or not a PVG member) is *not* appointed because of safeguarding concerns
- The person who manages the person appointed is expected to notify Disclosure Scotland as and when any person who is a PVG member moves on from the Methodist Church.
- The Methodist Church also carries responsibility for notifying Disclosure Scotland if an individual (whether or not a PVG scheme member) is dismissed or removed from voluntary work due to safeguarding concerns OR where, if they leave for any other reason (e.g. retirement), they would have been dismissed for safeguarding reasons had they stayed. This is a legal responsibility and there is no time limit on this duty – i.e. it applies to disclosures about non-recent abuse as well as current concerns.



## APPENDIX

### Joint Statement of Safeguarding Principles for the Church of England and the Methodist Church of Great Britain

The Methodist Church works in partnership with other Christian Churches and other agencies in delivering safeguarding. In partnership with the Church of England, the following statement of principles appears at the head of each safeguarding policy:

We are committed to:

- the care, nurture of, and respectful pastoral ministry for all: children, young people and adults
- the safeguarding and protection of children, young people and all adults
- the establishing of safe, caring communities which provide a loving environment where victims of abuse can report or disclose abuse and where they can find support and best practice that contributes to the prevention of abuse.

To this end:

- We will carefully select, support and train all those with any responsibility within the Church, in line with Safer Recruitment principles, including the use of criminal records disclosures and registration/membership of the relevant vetting and barring schemes.
- We will respond without delay to every complaint made, that any adult, child or young person may have been harmed, cooperating with the police and local authority in any investigation.
- We will seek to offer informed pastoral care to anyone who has suffered abuse, developing with them an appropriate ministry that recognises the importance of understanding the needs of those who have been abused, including their feelings of alienation and/or isolation.
- In as far as we can we will protect survivors of sexual abuse from the possibility of further harm and abuse
- We will challenge any abuse of power, especially by anyone in a position of trust.
- We will seek to offer pastoral care and support, including supervision, and referral to the appropriate authorities, to any member of our church community known to have offended against a child, young person or vulnerable adult.
- We will follow legislation, guidance and recognised good practice.