

# Policy and Procedure for Protection of Vulnerable Groups (PVG) and Criminal Record Checks

## Document Control Information

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The Board of Management (or any person/group with delegated authority from the Board) reserves the right to amend this document at any time should the need arise following consultation with employee representatives. This Policy has been subject to an Equality Impact Assessment, which is published on our website: <https://www.glasgowkelvin.ac.uk/equality-diversity/>

## **Glasgow Kelvin College**

### **Policy and Procedure for Protection of Vulnerable Groups (PVG) and Criminal Record Checks**

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## 1. Introduction

The Protecting Vulnerable Groups (PVG) Scheme, established under the Protection of Vulnerable Groups (Scotland) Act 2007, enables Glasgow Kelvin College, as a registered body, to request and access information on an individual's criminal convictions and whether they are barred from working in regulated roles with children or protected adults, where applicable. This document outlines the College's policy on the PVG Scheme, and its procedure to ensure that disclosure information properly and lawfully managed by persons who are entitled to receive and use that information, to ensure that disclosure information is handled, stored and securely disposed of appropriately.

The aim of this Policy is to assist the College to make safer recruitment and placement decisions and assess the suitability of applicants, staff, learners and members of the Board of Management, for positions of trust. The College is committed to the promotion of equality of opportunity and will endeavour to treat all staff, applicants for positions (staff and Board) and learners for placements who have a criminal record fairly. It will not discriminate unfairly against an individual on the basis of conviction or other information revealed. Glasgow Kelvin College will ensure fair and appropriate use of information disclosed through this process.

The Disclosure (Scotland) Act 2020 means that membership of the PVG Scheme is now a legal requirement and any individual who is to carry out a regulated role (paid or voluntary) with children, protected adults or both, must be a member of the PVG scheme, prior to carrying out that role. The Disclosure (Scotland) Act 2020 aims to protect the public, while balancing the need for people to move on from offending and simplify the process for disclosing criminal history information.

The College will ensure that its procedure for the management of personal sensitive data which is supplied as part of a criminal records check complies with:

- The Protection of Vulnerable Groups (Scotland) Act 2007 and Regulations.
- The Code of Practice (SG/2025/42)
- The Equality Act 2010.
- The Data Protection Act 2018 and the General Data Protection Regulations 2018.
- The Disclosure (Scotland) Act 2020.

- The College's Document Retention Policy.
- Any other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of information.

## **2. Scope**

The Protection of Vulnerable Groups (Scotland) Act 2007 (the Act) places a legal duty on the College not to employ any individual in a regulated role involving children or protected adults if that person is barred from undertaking such work.

As a Further Education institution, the College carries out functions that fall under the legislation's definition of regulated roles and activities involving children. The term "regulated roles with children," as defined by the legislation, extends beyond direct work with children. As such, the following individuals are included:

- staff;
- volunteers and work placements;
- members of the Board of Management;
- regular contractors are included within the terms of the Act; and
- learners who have a work placement involving a regulated role with children or protected adults.

The Act also covers work with protected adults. The normal functions of the College do not fall under this part of the legislation, but a few roles will be undertaking regulated activities. Learners who have a work placement involving a regulated role with protected adults will also be included.

Those carrying out a regulated role and activities have a legal duty to care towards young people under the age of 18 and/or protected adults. A protected adult is defined as a person aged 16 or over who has received one or more type of care or welfare service either regularly or for a short period of time. More details on the definition of a protected adult can be found in Section 94 of the Protection of Vulnerable Groups Act (Scotland) 1997.

### **3.0 Principles**

Individuals can only be a member of the PVG Scheme if they are not listed as barred from doing a regulated role with children or protected adults.

Being a member of the PVG Scheme is sufficient for the College to determine that an individual is not barred from doing this type of role.

All candidates invited for interview for employment, work placement, volunteers, Board members and learners accepted for specific programmes of study with the College will be advised in advance of the College's requirement for PVG Scheme membership and that a criminal records check will be requested in the event of being offered a position.

Failure to be, or become, a member of the PVG Scheme will result in the College not making a final offer of appointment. In the case of learners' advice will be provided as to their potential future in their chosen programme of study.

### **4.0 Criminal Record Information**

The type of disclosure accessed depends on the type of work that will be taken or the role that will be carried out. The College is provided with criminal record information from Disclosure Scotland on behalf of Scottish Ministers is one of the prescribed forms listed below:

#### **Level 1 Disclosure – General Employment**

Discloses unspent convictions, meaning it reveals criminal convictions that are not yet considered 'spent' and can continue to be disclosed. Section 1 of the Disclosure Act sets out what is contained in this disclosure in more detail.

#### **Level 2 Disclosure – General Employment**

Discloses both spent and unspent convictions, along with other relevant information held by the police. Level 2 disclosures can also include details on unspent cautions or children's hearing outcomes.

#### **Level 2 Disclosure (with barred list check) – General Employment**

A Level 2 check that is applicable for specific purposes which involve working with children or adults, but do not make an individual eligible for joining the PVG scheme. A Level 2 disclosure (with barred check) will include additional information about whether the individual is barred from regulated roles with children and/or adults. Section 16 of the Disclosure Act sets out what is contained in this disclosure in more detail.

### **PVG Scheme Disclosure – Regulated roles with Children and/or protected adults**

A Level 2 check with PVG scheme membership. This is a legal requirement for positions (paid or voluntary) that are regulated roles. A PVG Scheme Disclosure is specifically for those working in regulated roles with children or protected adults and includes additional information about potential barriers to working with vulnerable groups. It shows the baseline information of a Level 2 disclosure but also includes additional information about whether an individual is under consideration for inclusion on barred lists (which prevent them from working with children or adults) or has had any relevant civil court orders. It aims to ensure that only suitable individuals work in regulated roles with vulnerable groups.

The College normally requests criminal record information from Disclosure Scotland, either through a Level 1 Disclosure or participation in the PVG Scheme.

In accordance with the Disclosure (Scotland) Act 2020 all existing staff and members of the Board of Management will be required to renew their membership with the PVG Scheme every five years.

## **5. Recruitment**

A new employee is responsible for the cost of a Level 1 and Level 2 Disclosures and joining the PVG Scheme(s),

The College will pay the cost for the new entrant joining the PVG Scheme or Level 1 or Level 2 Disclosures and recoup the cost from the employee's first salary. On accepting the offer of employment, the individual agrees to the deduction of the fee from their salary.

The College will be responsible for funding any PVG updates going forward.

## **6. Confidentiality, Storage and Access**

The College will only collect the information required to submit an application to Disclosure Scotland for the PVG Scheme, Level 1 and Level 2 Disclosure.

All staff documents are treated as highly confidential and stored in a secured location within the Human Resources Department. Access is strictly controlled and limited to those personnel who are entitled to see it as part of their duties. The Director of People and Culture will be the College's main contact.

The Head of Human Resources and Organisational Development and will be responsible for the security and destruction of disclosed information for staff. The College will retain the PVG Scheme Disclosure for as long the employee remains in employment and held for no longer than is relevant to its purpose or need.

The College do not normally hold information for learners unless a paper disclosure has been issued, or a matter disclosed requires to be addressed. The Director of Corporate Services and Estates will be responsible for the security and destruction of disclosed information for learners. The College will retain the PVG Scheme Disclosure for as long the learner remains on their course and held for no longer than is relevant to its purpose or need.

## **7. Handling**

In accordance with The Protection of Vulnerable Groups (Scotland) Act 2007 and the Code of Practice, Disclosure Scotland (March 2025), criminal conviction and disclosure information is only shared with those who are authorised to access it in the course of their duties. The College maintains a record of all those to whom criminal conviction and disclosure information has been revealed and recognise that it is a criminal offence to share this information to anyone who is not entitled to access it.

The College will process and manage any personal data collected in accordance with its Data Protection Policy and Data Retention Schedule.

## **8. Usage**

The College will use Level 1 and PVG Scheme Disclosures and criminal conviction information for the specific purpose for which it was requested. A Level 2 Disclosure would only be requested if and when it is necessary.

## **9. Disposal**

The College will manage and retain a copy of the Disclosure in accordance with its Data Protection Policy and Data Retention Schedule. The information will be held securely by Human Resources Department and held on file until:

- an existing employee has their record updated and a renewed Disclosure is obtained;

- an existing employee takes up a different role and ceases to carry out a regulated role;
- an existing employee ceases to be employed by the College;
- Board member's no longer holds the Board position;
- an existing learner has their record updated and a renewed Disclosure is obtained;and
- an existing learner leaves the College.

## **10. Training and Development**

The Lead and Counter Signatories will receive regular training on Disclosure Scotland responsibilities - including privacy, data protection and procedural requirements.

Line managers and staff will be provided with periodic awareness training on the requirements of this Policy and Procedure.

## **11. Supporting Policies and Procedures**

<https://www.glasgowkelvin.ac.uk/policies-procedures/>

- Disciplinary Policy and Procedure
- Grievance Policy and Procedure
- Dignity and Respect Policy
- Equality, Diversity and Inclusion Policy
- ICT Acceptable Use Policy
- Social Media Procedures for Staff
- Data Protection Policy
- Data Retention Schedule
- Safeguarding Children, Young People and Vulnerable Adults Policy and Procedure
- Public Interest Disclosure Policy
- Recruitment and Selection Policy and Procedure
- Commendations and Complaints Procedure
- Code of Learner Behaviour
- Staff Guide to Challenging Behaviour



## **11. Procedures**

### **11.1 Criminal History Check**

#### **11.1.1 New Staff, Learners and Board Members**

The College undertakes criminal record checks on:

- All potential staff, prior to appointment. No one will commence employment with the College unless the appropriate Disclosure has been undertaken.
- Learners in certain academic areas when they are to be located in a relevant work placement undertaking a regulated role.
- All potential members of the board of management prior to appointment.

The College will require contractors and partner organisations, where the legislative criteria is met, to provide confirmation that individuals' providing a service to the College or who will be supervising or working with College learners within in the terms of a regulated role with children or protected adults are members of the PVG Scheme or have the appropriate level of Disclosure.

#### **11.1.2 Recruitment and Selection**

All applicants invited to attend an interview will be required to complete a Criminal Conviction Self Declaration Form in accordance with the College's Recruitment and Selection Procedures. The self-declaration form will only ask for convictions that are not protected under the 2020 Act and 2013 Order.

The College encourages all applicants called for interview to provide details of their criminal record at an early stage in the application process. The College undertakes to ensure that this information is only viewed by the Human Resources Department and discussed with Vice Principal, if required.

The College may invite the candidate to attend a meeting to ask questions about their criminal record prior to a decision being taken about an offer of employment. At the meeting the College will ensure an open and measured discussion on the subject of any offences or other matter that might be relevant to the position. Failure to reveal information that is directly relevant to the position sought could lead to a withdrawal of a conditional offer of employment.

The College's Human Resources Department will check the evidence required for an applicant to become a member of the PVG Scheme. Disclosure Scotland, as part of their check, has the right to seek further confirmation if required.

When a recruitment decision has been made the Criminal Conviction Self Declaration Form will be destroyed.

### **11.1.3 Offer of Appointment**

Receipt of confirmation of PVG Scheme membership and/or satisfactory Level 1 or Level 2 will be one factor considered by the College in making an employment decision. However, membership of the PVG Scheme is a condition of employment in most cases. The information received as part of this process is classed as sensitive personal information in terms of the Data Protection Act 2018 and as per the Code of Practice referred to earlier in this document.

The College will not, confirm an appointment until the individual has joined as a member of the appropriate PVG Scheme(s) or receives a satisfactory Level 1 or Level 2 Disclosure. If the individual is barred from the PVG Scheme the employment relationship will be terminated.

A new employee is responsible for the cost of joining the PVG Scheme(s), a Level 1 or Level 2 Disclosure.

The College will treat as confidential all information received as part of this process. It will restrict access to the information and will destroy the information as soon as it has served its purpose for the College. Copies will be retained only as long as necessary and relevant and relates to the College's needs.

If the individual does not provide consent to share their Disclosure with the College, the conditional offer will be withdrawn.

#### **11.1.4 Existing Employees**

##### **Membership details**

Membership for regulated roles with children, protected adults or both groups will be managed by the College. If an employee is going to work with a group that is not listed on their membership, they should inform the College and the College will invite the employee to apply to update their membership.

The employee must keep their membership details up to date and inform [Disclosure Scotland](#) if they change name, address or leave the College's employment. This is requirement under section 50 of the PVG Act and must be carried out within three months of the date of the change.

##### **Criminal Charges or Convictions**

If an employee, regardless of contract status, is charged with or convicted of a criminal offence during the course of their employment; and where this may impact on their role with the College, it is the responsibility of the employee to disclose this and alert the College as soon as they are able to do this.

If an employee is uncertain whether or not the offence impacts on their role, they should seek advice by contacting the Head of Human Resources and Organisational Development. A meeting will be arranged to discuss the matter at the earliest opportunity.

Failure to do this may be managed in accordance with the College's Disciplinary Policy and Procedure and may lead to disciplinary action being taken up to and including dismissal. Such conduct may be deemed as gross misconduct depending on the actions of the staff member around the situation.

Once disclosed the College may request that the employee complete a PVG Scheme application form in order to obtain an up-to-date disclosure. Once this is received the College will consider whether the matter has an impact and is relevant to the post held by the employee. If the check results are considered not to be serious, and do not impinge an employee's ability to work in their existing role, the employee will be informed in writing. The College will give full consideration to the circumstances of the charge or conviction.

If the check results are considered to be of a serious nature and proved to be correct, the College may consider various options. Options may include:

- the introduction of safeguards;
- moving the employee to an alternative role; and
- termination of employment.

If the introduction of safeguards or moving the employee to a more suitable role is not an option, the matter will be dealt with in accordance with the College's Disciplinary Policy and Procedure and may lead to disciplinary action being taken up to and including dismissal.

If the charge or conviction is for something the employee did within work the matter will be managed in accordance with the College's Disciplinary Policy and Procedure. If the charge is for something outside of work, the College will always consider what impact the charge or conviction may have on the employee's suitability to do their job and their relationship with the College, colleagues and learners.

For example, it might be reasonable to dismiss someone found guilty of theft outside the College if their job involves security, but it may be excessive to dismiss for a traffic offence, depending on the offence, if driving does not form part of their role.

## **12. Process - PVG Scheme Applications for College Staff, Potential Staff, Members of the Board of Management and Learners**

An individual who undertakes a regulated role with children or protected adults for the College will be invited to join the PVG Scheme. If a staff member, potential staff member, Member of the Board of Management or Learner does not provide consent or withdraws consent to share their Disclosure information the College will consider this as a conduct matter which may be managed through the appropriate formal process. In accordance with the Disclosure (Scotland) Act 2020 all existing staff and members of the Board of Management will be required to renew their membership with the PVG Scheme every five years.

The College will ensure that disclosure applications made under the Disclosure Act, are properly and lawfully made, this applies to applications for:

- Level 1 disclosures
- Level 2 disclosures
- Level 2 (with barred list check)

- PVG Scheme

A PVG Scheme electronic application is started by the College, the individual will receive an email with a link to complete the application. The College need to start the PVG application for individuals, individuals cannot apply direct. The College's Lead Signatory is the Director of People and Culture. Key personnel are Counter Signatories including appropriate members of the Human Resources Department for staff and the Director of Curriculum, and Senior Curriculum Managers and Faculty administrator for learners.

After the application is processed the individual will receive the disclosure which they can share with the College. Information received from Disclosure Scotland will be checked by one or more of the above post holders.

The Disclosure itself will be provided to the individual by Disclosure Scotland. Under section 18 of the Disclosure Act, the individual has **10 working days** within which to check the disclosure information and either notify the Scottish Ministers that they intend to apply for a Disclosure review or, give permission to the Scottish Ministers to share the disclosure information with the College who countersigned the application.

If the applicant notifies the Scottish Ministers of their intention to apply for a Disclosure review, the application must be made within **10 working days** from the date on which the applicant notified Ministers of their intention. The Disclosure review application can be in relation to the accuracy of any of the information contained in the disclosure or the inclusion of any reviewable information contained in the disclosure.

Once the applicant has agreed to share their disclosure, Disclosure Scotland will send an email with a secure link to the lead signatory or a countersignatory, depending on who countersigned that application. The countersignatory then has 14 days to view the disclosure, starting from when the result is first viewed. After that 14-day period, the countersignatory will no longer be able to view the disclosure. The applicant will be able to access their disclosure indefinitely via their ScotAccount.

Receipt of the PVG scheme disclosure indicates that an individual is not barred from doing a regulated role with children or protected adults.

## **12.1 Employees**

Employees' vetting information contained in the PVG Scheme Disclosure will be checked against the applicants Criminal Conviction Self Declaration Form in the case of a new recruit. Where there is no vetting information the Criminal Conviction Self Declaration Form will then be destroyed by shredding. The PVG Scheme Disclosure will be retained in accordance with Section 9 of the Policy for Protection of Vulnerable Groups and Criminal Records. If a Level 1 Disclosure is obtained in paper format this is the property of the applicant and shall be returned to them.

The College will record the number of the Level 1 Disclosure in the individuals electronic Personnel Record.

## **12.2 Board Members**

Board Members PVG Scheme Membership and Scheme Record number will be recorded in a secure file maintained by the College's HumanResources Department. The PVG Scheme Disclosure details will be retained until the College carry out a recheck or until the Board Member resigns their position.

## **12.3 Vetting Information**

If an individual has a PVG Scheme Disclosure (ie. not barred from a regulated role) which discloses other vetting information this will be discussed with the Vice Principal or Principal.

These actions might include where the PVG scheme disclosure :

- indicates minor offences which occurred some time ago or offences which are more recent, and the offences do not have an impact on the employee's employment or continued employment, no further action will be taken. The employee will be informed of this decision, and their computerised HRS file will be endorsed to indicate a check has been undertaken and the PVG scheme disclosure was acceptable. In the case of a potential employee where the information contained in the PVG scheme disclosure differs from the Criminal Conviction Self Declaration Form or has an impact on the position for which they are being considered the College will make a decision related to the withdrawal of the conditional offer of employment;
- indicates more serious offences which may have an impact on the candidate's suitability for the post for which they are to be employed. The individual will be required to attend a meeting. The College will make a decision related to the conditional offer of employment. In the case of a

potential employee, where the information contained in the PVG scheme disclosure differs from the Criminal Conviction Self Declaration Form the College will make a decision related to the withdrawal of the conditional offer of employment. In the case of an existing employee the matter will be considered in accordance with the National Disciplinary Policy and managed under the College's Disciplinary Procedure; and

- involves a member of the Board of Management (who is not an employee of the College) or applicant for the Board of Management the information will be discussed with the Vice Principal or Principal and a decision will be made in relation to further action, where appropriate.

It is a condition of employment with the College and to join the Board of Management that an individual must be a member of the PVG Scheme.

Having a criminal record (while being a member of the PVG Scheme) will not necessarily bar employees from working with the College. This will depend on the nature of the position and the circumstances and background of the offences.

## 12.4 Learners

Learners on programmes that require placements which involve doing a regulated role with children or protected adults must be or become a member of the appropriate PVG Scheme. Not being a member of the PVG Scheme may impact on the learner's choice of study and future employment area.

Having a criminal record (while being a member of the PVG Scheme) will not necessarily bar learners being eligible for placements connected with their course of study. This will depend on the nature of the course of study and the circumstances and background of the offences. It will be the responsibility of the host organisation to decide whether or not a learner is suitable for placement.

The learner will be issued with a copy of the Policy and Procedure for Protection of Vulnerable Groups (PVG) and Criminal Record Checks at induction. The learner will receive an email with a link to complete the application at an appropriate point during their course.

It is the responsibility of the learner to ensure that the College is granted access to view the Disclosure information within the **10 working day** period, failure to grant access may lead to a delay in the placement commencing or its cancellation.

If the learner declines or is unable to become a member of the PVG Scheme the College will not progress any placement in a regulated role situation.

If other vetting information on a PVG Scheme Record indicates an offence or offences which could influence the individual's employment or placement in the sector of their choice the Director of Faculty or Senior Curriculum Manager will liaise with the Course Tutor for the area in which the learner is studying. The Course Tutor will discuss the concerns with the learner and any impact this may have on the learner's choice of study and future employment area.

### **13 Contractors and Partner Organisations**

The College will require contractors and partner organisation's staff or volunteers who are likely to come into unsupervised contact with College learners, as part of their normal duties, to be members of the PVG Scheme. To check if a role needs a PVG Scheme membership visit [Check if a role needs PVG scheme membership - mygov.scot](https://mygov.scot/gov/scot/check-if-a-role-needs-pvg-scheme-membership) If the manager is still unsure contact either Human Resources or Corporate Services.

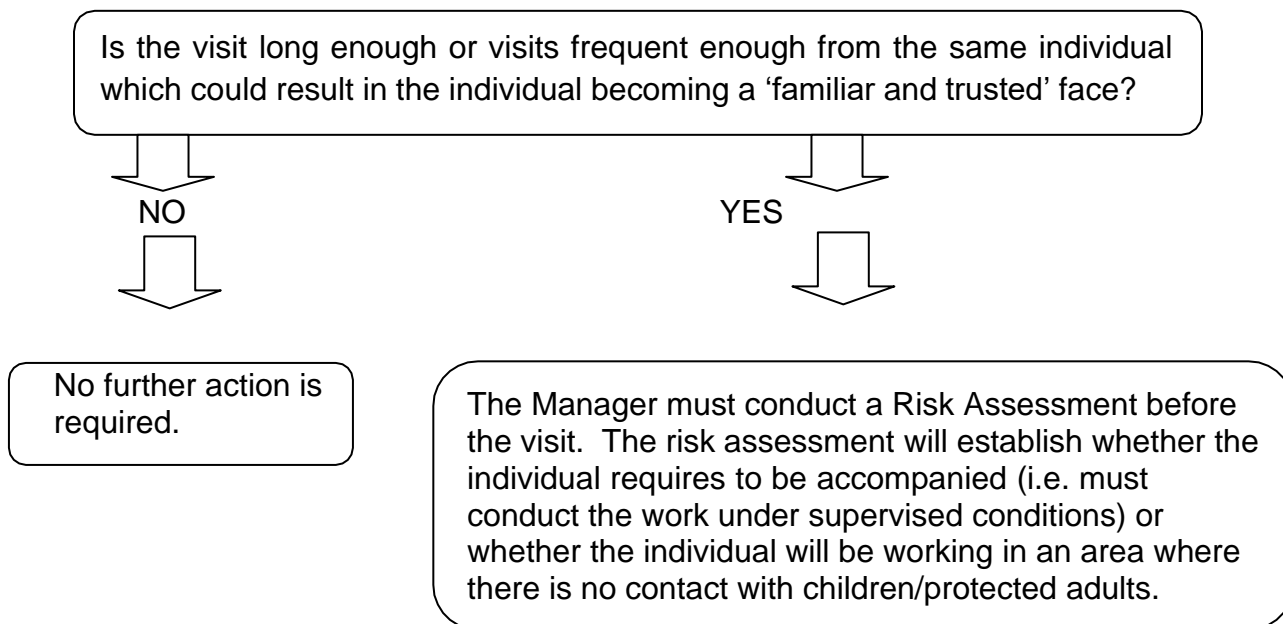
#### **13.1 Engagement of Contractors**

The College must be satisfied that contractors (including the College's own in house contracting services) comply with the terms of the Protection of Vulnerable Groups (Scotland) Act 2007. Contractors should be subject to the same restrictions and arrangements that apply to non-disclosed employees. The Manager responsible for engaging a contractor must undertake a risk assessment before a contractor can commence work. Where that risk assessment indicates that the nature of the work may involve contracting staff having unsupervised contact with children or other vulnerable groups, that Manager must ensure that he/she is provided with written confirmation that all such staff have been PVG vetted.

The College will require contractors to provide confirmation that individuals being placed in the College by the contractor, on a permanent or regular basis are members of the PVG Scheme. This requirement will form part of any tender application process. A letter of confirmation will require to be submitted by the contractor. The Head of Facilities and Environmental Sustainability or manager organising the contract/work shall ensure that this is obtained. This will be required on an annual basis if the contractor remains on site year on year. The letter will be retained on file with the Director of Corporate Services.



Where contractors/trades persons carry out minor maintenance at the College the Manager responsible for engaging the contractor/trades persons must apply the following test:



### 13.2 Partner Organisations, Engagement of Volunteers and Other Workers

The College will require partner organisations to provide confirmation that individuals being placed in the College, on a permanent or regular basis, where relevant, are members of the PVG Scheme. A letter of confirmation will require to be submitted by the partner organisation. This should be sought by the manager organising the partnership arrangement. The letter will be retained on file with the appropriate Vice Principal.

Where appropriate, services must assess whether volunteers and other workers engaged in work with children or protected adults are carrying out a regulated role and require PVG membership.

## **Appendix 1**

### **Glasgow Kelvin College**

#### **Membership of the PVG Scheme – Regulated Roles**

The College undertakes a risk assessment approach for each individual post to consider whether or not they have a regulated role with children or protected adults in accordance with The Protection of Vulnerable Groups (Scotland) Act 2007.

##### **Regulated Role with Children**

Under the Act all Members of the Board of Management are automatically held to have a regulated role with children.

All College staff (except some evening only staff), volunteers, work placements and regular contractors are included within the terms of the Act where their normal duties involve the opportunity for unsupervised contact with children. Learners who have a work placement involving regulated roles with children will also be included.

##### **Regulated Work with Protected Adults**

The Protection of Vulnerable Groups (Scotland) Act 2007 also covers work with protected adults. The normal functions of the College are not covered within the legislation, but a few posts will be undertaking regulated work. The current posts in this category include:

- Teaching staff where programmes are specifically aimed at those from protected groups where appropriate.
- Advice and Guidance staff where advice relates to emotional wellbeing or education.
- Managers who manage any of the above groups of staff.

Board Members are not eligible to join the PVG Scheme for protected adults.

Learners who have a work placement involving regulated roles with protected adults will also be included.