



# Disclosure (Scotland) Bill

# Today's Aims

- To ensure stakeholders are informed about the general principles of the Disclosure (Scotland) Bill.
- To provide a clear understanding on the Parliamentary process the Bill must go through.
- Highlight how you can support the Bill and its implementation.
- To provide DS with information on what proposals are most important to our stakeholders.

# Stakeholder Engagement So Far

- Met with thousands of stakeholders over the operation of the Scheme since 2011
- Statutory Consultation on changes to disclosure regime in Scotland ran in **Summer 2018**
- Received **353 responses**; **269 from organisations** and **84 from individuals** across varying backgrounds
- Produced [government report](#) that has shaped proposed changes in the Disclosure (Scotland) Bill
- Continued Stakeholder Engagement key to ensure the system that is developed works for you

# Bill Process



- “Considering the General Principles”

- AUTUMN 2019\*

- “Amending the Bill”

- EARLY 2020\*

- “Final Consideration Process”

- MID 2020\*

- “How the Bill Comes into Force”

- LATE 2020\*

*\* Projected dates as of June 2019, subject to change*

**EXISTING SERVICE CONTINUES**

# Disclosure (Scotland ) Bill Changes

Proposed changes break down into 3 general principles:

**Safeguarding**  
**Simplifying**  
**Privacy**

# PROPOSED CHANGES SAFEGUARDING

# Safeguarding - Key Proposal

## Mandatory PVG Scheme

- Anyone doing work with vulnerable groups will be required to be a member of the PVG Scheme
- It would be an offence to work in such a role without first joining the PVG Scheme
- Also becomes an offence to employ someone in a regulated role who is not a PVG scheme member
- Strengthens safeguarding provisions in PVG Scheme
- Huge support from stakeholders during consultation

# Safeguarding - Key Proposal

## Regulated Roles

- Replace the concept of ‘doing regulated work’ with ‘**Regulated Roles**’ that trigger mandatory PVG scheme membership
- DS would publish list of set ‘**Regulated Roles**’
- Roles determined by power or influence they have over children or adults who are vulnerable as a result of receiving a service
- For newly created roles, the presence of specific activities as characteristics of the role will determine the disclosure type
- Simpler for employers to identify when to utilise PVG Scheme
- DS would work with stakeholders to develop and maintain the list



# Safeguarding - Key Proposal

## Standard Conditions

- DS would have new powers, when justified, to impose certain conditions on scheme members who are being considered for listing
- Conditions only imposed in most serious of cases
- Conditions need to balance safeguarding with fairness and proportionality
- Similar to existing powers of Regulatory Bodies to impose conditions
- Would be developed in conjunction with stakeholders

# Safeguarding - Key Proposal

## Personal Employment / Self Directed Care

- Introduce provisions around permitting umbrella bodies acting on behalf of those receiving personal care through self directed support to receive vetting information and support safe & fair recruitment
- Avoids adding burden of 'accreditation' process to individuals and personal employers
- Strengthens safeguard provisions in this area

# Safeguarding - Key Proposal

## Local Authority Referrals

- Existing legislation does not provide for private citizens who employ personal assistants to refer their employees to DS.
- Consultation highlighted the appetite for personal employers to have an appropriate mechanism to do so.
- Local authorities would be given powers to make referrals to DS within the context of their Adult and Child Protection roles.
- Would strengthen safeguarding around self-directed support and personal employment.
- Restricted to referring individuals who are in the PVG Scheme.

# PROPOSED CHANGES SIMPLIFYING

# Simplifying - Key Proposal

## Simplifying Disclosure Products

- Aim of simplifying disclosure process for applicants through more ‘user focused’ products.
- Users should only need to understand the role they are seeking, not the disclosure system.
- Products would be across 2 distinct levels (**Level 1** & **Level 2**).
- DS is committed to increasing training and guidance to ensure that customers get the best out of the new system.
- DS will also continue to engage stakeholders through development and implementation.

# Simplifying Disclosure Products

Basic Disclosure



Level 1

Standard Disclosure  
Enhanced Disclosure



Level 2

Enhanced Disclosure (with Children & Adults Suitability)  
Enhanced Disclosure (with Children Suitability)  
Enhanced Disclosure (with Adults Suitability)



Level 2 with  
Suitability

PVG Scheme Record  
PVG Scheme Record Update



Level 2 PVG

# Simplifying - Key Proposal

## Digital Delivery

- Our intention is to have simple and accessible digital services so that people will prefer to carry out their task online.
- Existing legislation constrains attempts to develop digital solutions. Digital delivery will offer services for both applications and informing parties of results.
- Will speed up employment checks, reducing administrative burden on employers and applicants.
- Will also provide a non-digital alternative to avoid excluding those unable to or unwilling to use services online.

# PROPOSED CHANGES PRIVACY



# Privacy - Key Proposal

## Membership Length

- End lifetime PVG scheme membership, replace with proposed time-limited membership of **5 years**.
- Those joining the PVG Scheme tend to remain in it long after they no longer do regulated work.
- Members can make multiple PVG applications during 5 year period at no additional cost, making it more portable.
- Helps to ensure employers are not notified of sensitive information on an individual after they have left regulated work, reducing the **GDPR / Data Protection Act 2018** risk to employers.

# Privacy - Key Proposal

## Age Restrictions

- There should be a minimum age of **16 years** on obtaining a criminal record check.
- Exceptions made to avoid preventing individuals under 16 years of age from applying for work or college places which require a disclosure on anticipation of them turning 16.
- No circumstances in which an individual under the age of 16 can apply to join the PVG Scheme.

# Privacy – Other Key Proposals

- **Childhood Convictions Proposal**
  - No possibility of automatically disclosing convictions accrued under the upper age limit on any type of disclosure
- **Application Process for Removable Convictions**
  - Introduce an internal application to Disclosure Scotland for removal of relevant spent conviction information from a disclosure
- **Other Relevant Information (ORI)**
  - Police Scotland would have a duty to consider representations from applicants before they decide that ORI should be included on a disclosure
  - Applicants will be given the right to apply to the independent reviewer for review of the police decision to disclose ORI

# Key Proposals

- **Mandatory PVG Scheme**
- **Regulated Roles**
- **Standard Conditions**
- **Personal Employment**
- **Referrals**
- **Simplifying Disclosure Products**
- **Digital Delivery**
- **Accredited Bodies**
- **Membership Length**
- **Age Restrictions**
- **Childhood conviction proposal**
- **Application Process for Removable Convictions**
- **Reduce Disclosure Period for Certain Convictions**
- **Other Relevant Information (ORI)**

# What About Now?

- Current PVG Scheme will continue during Bill process.
- DS will continue to offer training and support to organisations
- Workshops are published on our events page: [disclosurescotland.eventbrite.com](https://disclosurescotland.eventbrite.com)
- DS can also speak to individual organisation or arrange bespoke sessions
- Keep up to date with DS:



# In Summary

- Bill currently in **Stage 1** and will need to go through several stages of scrutiny over extended period.
- Proposed changes are under 3 general principles:
  - **Safeguarding:** *Mandatory PVG, Regulated Roles, Standard Conditions*
  - **Simplifying:** *Simpler Products, Digital Delivery, Accredited Bodies*
  - **Privacy:** *Fixed Membership Length, Age Restrictions, Childhood Conviction Proposal*
- Information on amendments will be scrutinised at **Stage 2**.
- Proposals around transitional arrangements & fees will be included in secondary legislation.
- Existing services will continue along with support from DS.
- Stakeholder Engagement will continue as Bill progresses.

# Thank You!

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