

Education, Children and Young People Committee  
Wednesday 19 February 2025  
6<sup>th</sup> Meeting, 2025 (Session 6)

## Subordinate Legislation

### Negative instruments

1. At its meeting today, the Committee will be considering the following negative instruments, as part of a package of SSIs—
  - The Protection of Vulnerable Groups (Prescribed Services and Activities) (Protected Adult) (Scotland) Regulations 2025 (**Annexe A**)
  - The Disclosure Information (Accredited Bodies) (Scotland) Regulations 2025 (**Annexe B**)
  - The Fees for Scheme Membership and Disclosure Applications (Scotland) Regulations 2025 (**Annexe C**)
2. More information about the instruments is set out in the annexes to this paper.

Clerks to the Committee  
February 2025

## Annexe A

# Note by the Clerk on The Protection of Vulnerable Groups (Prescribed Services and Activities) (Protected Adult) (Scotland) Regulations 2025 (SSI 2025/4)

## Overview

1. At this meeting, the Committee will consider the following Scottish Statutory Instrument (SSI), which is subject to annulment by resolution of the Parliament until 2 March 2025. The Committee is invited to consider the instrument and decide what, if any, recommendations to make.
2. More information about the instrument is summarised below:

**Title of instrument:** [The Protection of Vulnerable Groups \(Prescribed Services and Activities\) \(Protected Adult\) \(Scotland\) Regulations 2025 \(SSI 2025/4\)](#)

**Laid under:** [Disclosure \(Scotland\) Act 2020](#)

**Laid on:** 13 January 2025

**Procedure:** Negative

**Deadline for committee consideration:** 24 February 2025

**Deadline for Chamber consideration:** 2 March 2025

## Procedure

3. Under the negative procedure, an instrument is laid after it is made, and is subject to annulment by resolution of the Parliament for a period of 40 days beginning on the day it is laid.
4. Once laid, the instrument is referred to:
  - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and
  - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.
5. Any MSP may propose, by motion, that the lead committee recommend annulment of the instrument. If such a motion is lodged, it must be debated at a meeting of the Committee, and the Committee must then report to the Parliament (by the advisory deadline referred to above).
6. If there is no motion recommending annulment, the lead committee is not required to report on the instrument.

## **Delegated Powers and Law Reform Committee consideration**

7. The DPLR Committee considered the instrument on 21 January 2025 and reported on it in its [Subordinate Legislation considered by the Delegated Powers and Law Reform Committee on 21 January 2025 report](#).
8. The DPLR Committee agreed not to draw the instrument to the attention of the Parliament.

## **Purpose of the instrument**

9. These Regulations set out the health and community care services an individual must be receiving in order to be a protected adult under the Protection of Vulnerable Groups (Scotland) Act 2007.
10. The Policy Note accompanying the instrument is included in Appendix A. It includes a summary of consultation undertaken on the instrument, impact assessments carried out, and the anticipated financial effects.

## **Committee consideration**

11. So far, no motion recommending annulment has been lodged.
12. Members are invited to consider the instrument and decide whether there are any points they wish to raise. If there are, options include:
  - seeking further information from the Scottish Government (and/or other stakeholders) through correspondence, and/or
  - inviting the Minister (and/or other stakeholders) to attend the next meeting to give evidence on the instrument.
13. It would then be for the Committee, at the next meeting, to consider the additional information gathered and decide whether to make recommendations in relation to the instrument.
14. If Members have no points to raise, the Committee should note the instrument (that is, agree that it has no recommendations to make).
15. However, should a motion recommending annulment be lodged later in the 40-day period, it may be necessary for the Committee to consider the instrument again.

## Appendix A: Scottish Government Policy Note

### THE PROTECTION OF VULNERABLE GROUPS (PRESCRIBED SERVICES AND ACTIVITIES) (PROTECTED ADULT) (SCOTLAND) REGULATIONS 2025 SSI 2025/4

The above instrument was made in exercise of the powers conferred by section 94(1)(c) and (d) of the Protection of Vulnerable Groups (Scotland) Act 2007 as substituted by section 75(2) of the Disclosure (Scotland) Act 2020, and all other powers enabling them to do so. The instrument is subject to negative procedure.

### Summary Box

These Regulations set out the health and community care services an individual must be receiving in order to be a protected adult under the Protection of Vulnerable Groups (Scotland) Act 2007 (“the PVG Act”).

1. An individual is a protected adult if they are aged 18 or over and being provided with a “health service” by a person who is carrying out a regulated role that involves one or more of the activities mentioned in paragraphs 6 to 12 of Part 2 of schedule 3 of the PVG Act. The health service is a service provided or arranged by:
  - A Health Board or Special Health Board acting in exercise of functions conferred by the National Health Service (Scotland) Act 1978
  - A person providing a service on behalf of a Health Board in pursuance of an integration scheme prepared under section 1 or 2 of the Public Bodies (Joint Working) (Scotland) Act 2014
  - An independent hospital
  - A private psychiatric hospital
  - An independent clinic
  - An independent medical agency
  - An independent ambulance service
  
2. An individual is a protected adult if they are aged 18 or over and being provided with a “community care service” by a person who is carrying out a regulated role that involves any of the activities mentioned in paragraphs 15 or 17 of Part 2 of schedule 3 of the PVG Act. The community care service is a service provided or arranged by:
  - A council under the Social Work (Scotland) Act 1968 or the Mental Health (Care and Treatment) (Scotland) Act 2003
  - A person providing a service under either of those Acts, on behalf of a council in pursuance of an integration scheme prepared under section 1 or 2 of the Public Bodies (Joint Working) (Scotland) Act 2014

A person providing a community care service must be carrying out one of these activities before the person receiving it can be considered a protected adult. These are:

- Being engaged by or on behalf of a protected adult to support the protected adult to live independently, including providing personal care services, food preparation or recreational services.
- Providing counselling, therapy, advice, guidance or advocacy support in relation to health or wellbeing to children, other than where such counselling, therapy, advice, guidance or advocacy support is provided in a prison by a prisoner to another prisoner

## Policy Objectives

1. Disclosure Scotland is an executive agency of the Scottish Government that provides criminal record disclosures, maintains the PVG Scheme and keeps lists of individuals barred from working with children and protected adults on behalf of the Scottish Ministers.
2. The Disclosure (Scotland) Act 2020 (“the Disclosure Act”) reforms the disclosure regime in Scotland, repealing Part 5 of the Police Act 1997 as it applies in Scotland and also making amendments to the PVG Act under which the Scottish Ministers administer the PVG Scheme.
3. The meaning of protected adult is set out in section 94 of the PVG Act. Section 94 was substituted by section 75(2) of the Disclosure Act. These Regulations relate to section 94 as it was substituted. These amendments reflect a move away from the previous lengthy and complex definition to a narrower range of issues affecting a person’s wellbeing, capabilities and capacity. The revisions made by the Disclosure Act alter the definition of a protected adult to include consideration for the individual’s capacity to care for and protect themselves as a result of disability, illness, infirmity or ageing. It includes consideration of an individual’s personal circumstances, such as homelessness or domestic abuse where they are in receipt of counselling, therapy or guidance in relation to their health or wellbeing.
4. For these circumstances, namely paragraphs (a) or (b) of section 94 of the PVG Act as amended, the individual’s status as a protected adult is not affected by the nature of the activity carried out under schedule 3 of the PVG Act.
5. For those in receipt of services detailed in section 94(1)(c) of the PVG Act individuals only become protected adults if the person carrying out the role is undertaking one or more of the activities at paragraphs 6 to 12 of Part 2 of schedule 3 (health care). This means that an individual can be a protected adult on a transient basis, for example when seeing a GP or dentist.
6. For those in receipt of services detailed in section 94(1)(d) of the PVG Act, individuals only become protected adults if the person carrying out the role is undertaking one or more of the activities at paragraphs 15 or 17 of Part 2 of schedule 3 (health and care services). For example, where the individual receives support with the activities of daily life, such as dressing or preparing meals or where the individual receives counselling, therapy or advice in relation to their health or wellbeing.

7. The amendments by the Disclosure Act also alter the age a person must have attained to be regarded as a protected adult from someone aged 16 or older, to someone aged 18 or older. This is to prevent an overlap between the children's and protected adults' workforces under the PVG Scheme.
8. Regulation 2 of these Regulations sets out that a health service, for the purposes of section 94(1)(c) of the PVG Act (as substituted by section 75(2) of the Disclosure Act), is a service provided or arranged by:
  - A Health Board or Special Health Board acting in exercise of functions conferred by the 1978 Act
  - A person acting on behalf of a Health Board, in pursuance of an integration scheme prepared under section 1 or 2 of the Public Bodies (Joint Working) (Scotland) Act 2014
  - An independent hospital
  - A private psychiatric hospital
  - An independent clinic
  - An independent medical agency
  - An independent ambulance service
9. The type of facility which constitutes an independent hospital, clinic, medical agency or ambulance service or a private psychiatric hospital for the purposes of these Regulations are as defined in section 10F of the National Health Service (Scotland) Act 1978.
10. The health services set out in regulation 2 largely replicates the prescribed health services set out in the current definition of 'protected adult' in section 94(1)(b) of the PVG Act and the Protection of Vulnerable Groups (Scotland) Act 2007 (Prescribed Services) (Protected Adults) Regulations 2010 ("the 2010 Regulations"). Independent ambulance services are included as health services under the PVG Act for the purpose of the meaning of protected adult, to ensure a safeguarding gap does not emerge. This also ensures consistency with the inclusion of paramedics regulated by the Health and Care Professions Council as a regulated role, as is incorporated within The Regulated Roles with Children and Adults (Scotland) Amendment Regulations 2025.
11. Regulation 3 of these Regulations sets out that a community care service, for the purposes of section 94(1)(d)(v) of the PVG Act (as substituted by section 75(2) of the Disclosure Act), is a service provided or arranged by:
  - A council under the Social Work (Scotland) Act 1968 or the Mental Health (Care and Treatment)(Scotland) Act 2003
  - A person acting on behalf of a council in pursuance of an integration scheme prepared under section 1 or 2 of the Public Bodies (Joint Working)(Scotland) Act 2014, providing a service under either of those Acts.
12. The definition of a community care service set out in regulation 3 of these Regulations replicates the prescribed community care services set out in the current definition of protected adult in section 94(1)(d) of the PVG Act. This ensures that individuals who are currently considered to be protected adults if they are in receipt of community care services which have been arranged by or on behalf of the protected adult with the purpose of supporting them to live

independently continue to be considered protected adults.

13. These services can include providing personal care services, food preparation or recreational service or by providing counselling, therapy, advice or guidance in relation to health or wellbeing.
14. These Regulations also set out the relevant activities that a person providing a community care service must be carrying out before the person receiving it can be considered a protected adult. These are:
  - being engaged by or on behalf of a protected adult to support the protected adult to live independently, including providing personal care services, food preparation or recreational services.
  - providing counselling, therapy, advice, guidance or advocacy support in relation to health or wellbeing to children, other than where such counselling, therapy, advice, guidance or advocacy support is provided in a prison by a prisoner to another prisoner

## **UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility**

15. The Scottish Ministers have made the following statement regarding children's rights:

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Protection of Vulnerable Groups (Scotland) Act 2007 (Prescribed Services and Activities) (Protected Adults) Regulations 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

## **EU Alignment Consideration**

16. This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

## **Consultation**

17. The Disclosure Act received wide cross-party support during its passage through Parliament and was passed unanimously. Disclosure Scotland are continuing to engage with external stakeholders as part of the implementation of the Disclosure Act.
18. Disclosure Scotland published a consultation paper on 25 April 2018. This was distributed widely to a large number of stakeholders, including over 3,000 registered bodies. There were 353 responses, 269 from organisations and 84 from individuals. There were responses from a range of stakeholders with varying backgrounds including judicial bodies, the legal sector, local government, voluntary organisations, the health sector and individual scheme members.

19. There was extensive engagement with stakeholders during the consultation period. This included group discussions and meetings with individual groups or organisations, in total 38 engagement sessions took place during the formal consultation period. During this time Disclosure Scotland User Researchers also engaged with a variety of stakeholders. Since April 2016 the user research team carried out a significant amount of research, which has included a range of users, including;
- individuals with and without experience of using Disclosure Scotland’s services,
  - individuals with convictions,
  - care experienced people,
  - people with disabilities, including blind participants, deaf participants, people with low cognitive skills, dyslexia, dyspraxia,
  - organisations – including various roles e.g. HR, admin staff, countersignatories,
  - charities, and
  - voluntary organisations.
20. The results of the consultation generally informed further development of the policy and Disclosure (Scotland) Bill provisions. The definition of protected adult, as substituted, maintains the status quo in respect of adults being provided with health services to ensure that they benefit from the safeguarding measures of the PVG Act and in addition, expands the previous definition to include individuals who are inherently vulnerable due to physical or mental disability, illness or old age, which significantly impairs their ability to protect themselves from harm or which results in them requiring assistance to support their daily lives and a “protected adult” will now also include an individual aged 18 years or over who has experienced homelessness or domestic abuse where they are in receipt of counselling, therapy or guidance in relation to their health or wellbeing.
21. Following Royal Assent, alongside further engagement on regulated roles, Disclosure Scotland held 4 further online engagement events that specifically addressed the change to the definition of protected adults. These were attended by 27 stakeholders targeted due to the nature of their organisation meaning they were affected by the substituted definition. Stakeholders reported no concerns with the substituted definition during that engagement.
22. Disclosure Scotland will continue developing guidance for stakeholders to help their understanding and clarify their understanding of the revised Schedules 2 and 3 of the PVG Act, and the revised definition of protected adult brought about by these Regulations. This will help to ensure that the PVG scheme is only used where it is appropriate to do so. A communications campaign is also underway to raise awareness of the impact of the changes brought about by the Disclosure Act. Disclosure Scotland will also publish guidance on regulated roles, offering one to one advice to help organisations understand and establish whether their roles are regulated roles, along with providing training.
23. This commitment to providing improved resources to support stakeholders is one that will continue throughout the transition to the refreshed disclosure regime under the Disclosure Act.



## Impact Assessments

24. A suite of Impact Assessments was completed as part of the Disclosure (Scotland) Bill process:

- Disclosure (Scotland) Bill: Fairer Scotland Duty assessment (<https://www.gov.scot/publications/disclosure-scotland-bill-impact-assessment-fairer-scotland-duty/>)
- Disclosure (Scotland) Bill: children rights and wellbeing impact assessment (<https://www.gov.scot/publications/disclosure-scotland-bill-impact-assessment-crwia/>)
- Disclosure (Scotland) Bill: data protection impact assessment (<https://www.gov.scot/publications/disclosure-scotland-bill-impact-assessment-dpia/>)
- Disclosure (Scotland) Bill: equality impact assessment (<https://www.gov.scot/publications/disclosure-scotland-bill-impact-assessment-eqia/>)
- Disclosure (Scotland) Bill: partial Business and Regulatory Impact Assessment (<https://www.gov.scot/publications/disclosure-scotland-bill-impact-assessment-partial-bria/>)

25. An Equalities Impact Assessment and an Impact Assessment regarding Children's Rights and Wellbeing have been completed for these Regulations. These will be published alongside this instrument on legislation.gov.uk. No negative equality impact issues have been identified. No impact on children's rights have been identified.

26. A Fairer Scotland Duty Assessment and an Island Communities Impact Assessment screening exercise was undertaken. No impacts were identified during screening as relate to the package of SSIs that this falls within and, therefore, a full impact assessment was not done.

## Financial Effects

27. The Minister for Children, Young People and the Promise confirms that a BRIA has been completed for this instrument, however it has no financial effects on the Scottish Government, local government or on business.

Scottish  
Government  
Disclosure  
Scotland

January 2025

## Annexe B

# Note by the Clerk on The Disclosure Information (Accredited Bodies) (Scotland) Regulations 2025 (SSI 2025/5)

## Overview

1. At this meeting, the Committee will consider the following Scottish Statutory Instrument (SSI), which is subject to annulment by resolution of the Parliament until 2 March 2025. The Committee is invited to consider the instrument and decide what, if any, recommendations to make.
2. More information about the instrument is summarised below:

**Title of instrument:** [The Disclosure Information \(Accredited Bodies\) \(Scotland\) Regulations 2025 \(SSI 2025/5\)](#)

**Laid under:** [Disclosure \(Scotland\) Act 2020](#)

**Laid on:** 13 January 2025

**Procedure:** Negative

**Deadline for committee consideration:** 24 February 2025

**Deadline for Chamber consideration:** 2 March 2025

## Procedure

3. Under the negative procedure, an instrument is laid after it is made, and is subject to annulment by resolution of the Parliament for a period of 40 days beginning on the day it is laid.
4. Once laid, the instrument is referred to:
  - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and
  - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.
5. Any MSP may propose, by motion, that the lead committee recommend annulment of the instrument. If such a motion is lodged, it must be debated at a meeting of the Committee, and the Committee must then report to the Parliament (by the advisory deadline referred to above).
6. If there is no motion recommending annulment, the lead committee is not required to report on the instrument.

## **Delegated Powers and Law Reform Committee consideration**

7. The DPLR Committee considered the instrument on 21 January 2025 and reported on it in its [Subordinate Legislation considered by the Delegated Powers and Law Reform Committee on 21 January 2025 report](#).
8. The DPLR Committee agreed not to draw the instrument to the attention of the Parliament.

## **Purpose of the instrument**

9. These Regulations make further provision in connection with the register of accredited bodies maintained by the Scottish Ministers under section 46 of the Disclosure (Scotland) Act 2020 and registration in it.
10. The Policy Note accompanying the instrument is included in Appendix B. It includes a summary of consultation undertaken on the instrument, impact assessments carried out, and the anticipated financial effects.

## **Committee consideration**

11. So far, no motion recommending annulment has been lodged.
12. Members are invited to consider the instrument and decide whether there are any points they wish to raise. If there are, options include:
  - seeking further information from the Scottish Government (and/or other stakeholders) through correspondence, and/or
  - inviting the Minister (and/or other stakeholders) to attend the next meeting to give evidence on the instrument.
13. It would then be for the Committee, at the next meeting, to consider the additional information gathered and decide whether to make recommendations in relation to the instrument.
14. If Members have no points to raise, the Committee should note the instrument (that is, agree that it has no recommendations to make).
15. However, should a motion recommending annulment be lodged later in the 40-day period, it may be necessary for the Committee to consider the instrument again.

## Appendix B: Scottish Government Policy Note

### THE DISCLOSURE INFORMATION (ACCREDITED BODIES) (SCOTLAND) REGULATIONS 2025 SSI 2025/5

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 49(5) and (7)(c)(iii), 51(5), 54 and 61 of the Disclosure (Scotland) Act 2020 and all other powers enabling them to do so.

This instrument is subject to the negative procedure.

### Summary Box

These Regulations make further provision in connection with the register of accredited bodies maintained by the Scottish Ministers under section 46 of the Disclosure (Scotland) Act 2020 (“the Disclosure Act”) and registration in it.

An accredited body is a person registered the register of accredited bodies in relation to:

- a) the making of applications for Level 1 disclosures under section 2 of the Disclosure Act on behalf of an individual,
- b) the countersigning of applications for Level 2 disclosures under section 11 of the Disclosure Act, or
- c) both the making of applications for Level 1 disclosures under section 2 and the countersigning of Level 2 disclosures under section 11.

### Policy Objectives

1. Disclosure Scotland is an executive agency of the Scottish Government that provides criminal record disclosures, maintains the Protecting Vulnerable Groups Scheme (“the PVG Scheme”) and keeps lists of individuals barred from working with children and ‘protected’ adults on behalf of Scottish Ministers.
2. The Disclosure Act reforms the disclosure regime in Scotland repealing Part 5 of the Police Act 1997 (“the Police Act”) as it applies in Scotland and also making amendments to the Protection of Vulnerable Groups (Scotland) Act 2007 (“the PVG Act”) under which Scottish Ministers administer the PVG Scheme.
3. Part 1 of the Disclosure Act makes provision for new disclosure products. The new Level 1 disclosure replaces the criminal conviction certificate (known as the basic disclosure) issued under the Police Act. The Level 2 disclosure replaces the criminal record certificate (known as the standard disclosure)

and the enhanced criminal record certificate (known as the enhanced disclosure) issued under the Police Act and the scheme record and short scheme record issued under the PVG Act. Level 2 disclosures will be known as higher level disclosures, which is a collective term for types of disclosure that provide for access to spent convictions.

#### Background and changes to registration

4. Under section 120 of the Police Act, a person can become a registered person to countersign applications for higher level disclosure. The Disclosure Act replaces that register with the register of accredited bodies.
5. A person may apply to be registered in the register of accredited bodies to apply for disclosure information if they are: a body corporate or unincorporated, a statutory office holder or an individual who is 18 years of age or older and employs other persons in the course of a business.
6. An accredited body is a person registered in the register of accredited bodies in relation to:
  - a) the making of applications for Level 1 disclosures under section 2 of the Disclosure Act on behalf of an individual
  - b) the countersigning of applications for Level 2 disclosures under section 11 of the Disclosure Act, or
  - c) both the making of applications for Level 1 disclosures under section 2 and the countersigning of Level 2 disclosures under section 11.
7. An individual can make an application for a Level 1 disclosure without an accredited body in accordance with section 2 of the Disclosure Act. However, organisations can also make a Level 1 disclosure on behalf of an individual or individuals in accordance with section 3 of the Disclosure Act. If an organisation wishes to do so they must be registered as an accredited body.
8. All applications for Level 2 disclosure must be countersigned by an accredited body.
9. Section 56 of the Disclosure Act allows an accredited body to countersign a Level 2 disclosure application on their own behalf, for example, for their own employees or volunteers. They can also countersign on behalf of others, this is often referred to as an “umbrella body” service, as is provided for by section 43 of the Disclosure Act. Umbrella bodies exist to help organisations who seek support for the day to day administration of the disclosure process. Organisations who apply via an umbrella body remain bound by the Code of Practice and other legal obligations under the Disclosure Act and PVG Act.

10. The persons on whose behalf an accredited body can act must either be someone who would be eligible in terms of section 47(3) to become an accredited body (but who is not registered as an accredited body), or an individual who employs other persons but not in the course of a business. The ability to act on behalf of another person is subject to the condition that the person is asking a question about the individual who is the subject of the disclosure for the purpose of the disclosure, which may, for example, be in connection with recruitment into paid or voluntary work.

The purpose of the accredited bodies register

11. A system of registration of accredited bodies is important to ensure the protection of personal data. Disclosures issued by Disclosure Scotland may contain sensitive and personal information, including convictions, cautions and in the case of Level 2 disclosures, other relevant information. In order to protect the rights and privacy of individuals to whom this information relates, it is important that this information is handled appropriately by those organisations to whom it is released.

12. Individuals applying to be registered in relation to the countersigning of Level 2 disclosures will be vetted by Disclosure Scotland and suitability checks will continue to be made while they are registered. Suitability decisions will be made having regard to the following information:

- such details as may be prescribed under section 8(1)(a) of every criminal disposal incurred by the individual that is recorded in central records (i.e. equivalent to the content that would be appear on a Level 2 disclosure)
- whether the individual is barred from regulated roles with children, adults or both
- whether the Scottish Ministers are considering whether to list the individual in the children's list or the adult's list

13. Individuals applying to be registered in the register of accredited bodies to make Level 1 disclosures only will not be subject to suitability checks. This is a proportionate approach based upon the more limited access to disclosure information through a Level 1 disclosure in comparison to Level 2 disclosures, with the latter including content such as spent conviction information and other relevant information, which do not appear on a Level 1 Disclosure.

14. All accredited bodies, even those who only countersign Level 1

disclosures, must comply with the Code of Practice in connection with the use of disclosure information. This is published on Disclosure Scotland's website (<https://www.mygov.scot/disclosure-code-of-practice>). It covers the handling of disclosure information and sets out in detail what the responsibilities of accredited bodies are and what they must do. Accredited bodies must put in place robust procedures for handling disclosure records securely. Disclosure Scotland can carry out audits of accredited bodies, alongside other engagement, to ensure they are complying with the Code of Practice.

15. Disclosure Scotland also use their communications channels (such as e-bulletins, social media, website news articles and other publications) to promote the Code of Practice to organisations who will become accredited bodies, and also provide free training for accredited bodies that includes guidance on the Code of Practice.
16. The Disclosure Act sets out, in sections 46 to 56, some provisions in relation to the register of accredited bodies and registration in it. These Regulations make further necessary provision in relation to the register and registration in it.
17. Regulation 2 and the schedule of these Regulations set out the information about an accredited body that is to be included in the register.
18. Part 2 of the schedule provides that information about the type of registration that any accredited body holds must be included in the entry for the accredited body in the register.
19. Part 2 also provides that, where the accredited body is registered to countersign Level 2 disclosures, details of the purpose (or purposes) that will be stated by the accredited body when countersigning a Level 2 application in accordance with section 12(1)(b) of the Disclosure Act are to be included in the register. This is so that a cross-check can be completed by Disclosure Scotland, against the register, to ensure that the Level 2 disclosure that the accredited body is countersigning is for a valid purpose and is in accordance with that accredited body's registration.
20. Section 12(2) of the Disclosure Act sets out that the purpose of a Level 2 disclosure must be one in relation to which the usual rules in sections 4(2)(a) and (b) of the Rehabilitation of Offenders Act 1974, about not having to disclose conviction when asked about criminal history, have been excluded by another made by the Scottish Ministers. The Rehabilitation of Offenders Act 1974 (Exclusion and Exceptions) (Scotland) Order 2013 ("the 2013 Order") made under section 4(4) of the 1974 Act sets out circumstances in which an individual cannot deny the existence of a criminal conviction, even if it is

spent. Article 4 of the 2013 Order excludes the application of section 4(2) in relation to questions that are listed in schedule 3 of the 2013 Order – those are questions asked to assess the suitability of an individual for a variety of occupations, positions, licences and registrations. The reference to “questions” in this context is to be read in the context of section 4(2)(a) and (b) of the 1974 Act and means questions about a person’s previous convictions, offences, conduct or circumstances is put to him or to any other person otherwise than in proceedings before a judicial authority.

21. Part 2 of the schedule also provides that details of whether the accredited body is countersigning applications for Level 2 disclosures for itself or on another person’s behalf in accordance with section 56(1)(b) of the Disclosure Act (i.e. as an “umbrella body”) is to be included in the register. If the accredited body is acting as an umbrella body, details of the nature of the questions to be asked for the purpose of any disclosure by the other person on whose behalf the accredited body is acting must also be included in the register. Again, this is so that a cross-check can be completed by Disclosure Scotland, against the register, to ensure that the Level 2 disclosure that the accredited body is countersigning on behalf of the other person is for a valid purpose.
22. Parts 3, 4 and 5 of the schedule provide for the relevant personal and business information that must be included relevant to the type of accredited body applying for registration. This is required for the purposes of carrying out suitability checks, and to allow Disclosure Scotland to correspond with accredited bodies, lead signatories and countersignatories as required.
23. Regulation 2 also sets out that an accredited body must notify Scottish Ministers about any changes to the information held in the register in relation to that accredited body.

Accredited bodies: refusal of registration and removal from the register of accredited bodies

24. Regulation 3 of these Regulations makes further provision in relation to a decision by the Scottish Ministers to refuse an accredited body’s registration in, or remove an accredited body from, the register of accredited bodies under the Disclosure Act. This includes provision about the time period within which an applicant or accredited body may make representations when given the opportunity to do so.
25. Regulation 3 also provides that where Scottish Ministers receive information that a relevant individual in relation to an accredited body has died or is incapable, due to physical or mental impairment, of acting in relation to a disclosure request, the Scottish Ministers may take necessary



steps to verify this information.

26. Regulation 4 of these Regulations sets out the details of a lead signatory or a countersignatory that must be included in an application made under section 51 of the Disclosure Act which contains a nomination of a lead signatory or countersignatory.

27. Section 51 of the Disclosure Act section sets out what nominations must or can be made by a person applying for registration in the register of accredited bodies. These are set out below:

- Where an application for registration in the register of accredited bodies is made by a body corporate or unincorporated or a statutory office-holder, they must nominate a lead signatory. A lead signatory is an individual authorised to act in relation to the registration of an accredited body and who has overall responsibility for the accredited body acting in relation to any disclosure requests (i.e. making a Level 1 application on behalf of an individual or countersigning an application for Level 2 disclosure).
- If the body corporate or unincorporated or statutory office holder are seeking registration for the purposes of countersigning Level 2 disclosures, they may also appoint one or more countersignatories. A countersignatory is an individual authorised to countersign only applications for Level 2 disclosures on behalf of the accredited body. The lead signatory can also act in the capacity of a countersignatory.
- Where the accredited body application is made by a sole business proprietor in relation to the countersigning of applications for Level 2 disclosure, they may nominate one or more countersignatories.

28. If the Scottish Ministers accept the nomination of a lead signatory or countersignatory then they must include the details set out in regulation 3 of these Regulations in the entry for the accredited body in the register.

29. An individual cannot act as lead signatory or a countersignatory of an accredited body unless those details are included in the entry for the accredited body in the register of accredited bodies.

30. Regulation 5 of these Regulations makes further provision in relation to a decision by the Scottish Ministers to refuse the nomination of a lead signatory or countersignatory under the Disclosure Act. This includes provision about the time period within which a lead signatory or countersignatory may make representations when given the opportunity to do so.

31. Regulation 5(3) and (4) provides that where an accredited body has been notified that the Scottish Ministers have refused to accept the nomination of a lead signatory or removes a lead signatory's details from the accredited body's entry in the register, the accredited body must nominate a substitute lead signatory within 28 days of the date of receipt of that notification.
32. Regulation 5(5) provides that no individual may be nominated as a lead signatory or countersignatory of an accredited body if the Scottish Ministers have, within 2 years prior to the date on which the nomination application is received by them—
- refused to accept, or refused to continue to accept, the nomination of the individual as a countersignatory under regulation 4(3) of the Registration Regulations
  - refused to accept the nomination of the individual as a lead signatory or countersignatory of an accredited body under section 52(2) of the Disclosure Act, or
  - removed all of the prescribed details of the lead signatory or countersignatory from the entry of an accredited body under section 52(3) of the Disclosure Act
33. Regulation 6 of these Regulations provides that where a decision has been reviewed by the Scottish Ministers (in accordance with section 53(6) of the Disclosure Act), the Scottish Ministers must notify the person who applied for the review of the outcome.
34. Regulation 7 of these Regulations sets out the time period which must elapse before any accredited body refused registration, or removed from the register, may apply again for registration. In the case of an individual removed from the register under the Disclosure Act, or a registered person under the Police Act 1997 (Criminal Records) (Registration) (Scotland) Regulations 2010 ("the Registration Regulations") because of them being no longer likely to countersign disclosure requests, the time period is 28 days.
35. In the case of an accredited body removed under the Disclosure Act, or a registered person under the Registration Regulations, removed or refused on the basis of unsuitability or breached conditions of their registration, the time period is 2 years. The purpose of this two-year period is to give sufficient time to allow for a change of circumstances or relevance with regard to the reason for refusal. It does not automatically mean that the individual will be accepted on to the register after the two year point. This continues the same arrangements as are in place for the register previously held under the Police Act.
36. Regulations 5(5) and 7 of these Regulations apply to both existing registered persons included in the register under the Police Act and accredited bodies

registered in the register under the Disclosure Act to ensure that anyone refused or removed under the previous legislation continues to be subject to the applicable periods.

37. Regulation 9 of these Regulations sets out the meaning of relevant police force for the purposes of section 49(5) of the Disclosure Act. This is a police force that has indicated on central records that it holds non conviction information relating to the individual or the Scottish Ministers have reason to believe hold non conviction information in relation to the individual. Central records are defined in section 69 of the Disclosure Act and are prescribed in regulation 3 of the Level 1 and Level 2 Disclosure Information (Scotland) Regulations 2024<sup>1</sup>. This also includes information shared via the Police Local Cross Referencing database (PLX), a system that allows UK police forces to share information and intelligence about individuals.

#### Prescribed body

38. Regulation 10 of these Regulations prescribes the tri-service serious crime unit as a body for the purposes of section 49(7) of the Disclosure Act to whom requests for information may be made under section 49(2) of that Act. This is required following amendments that were made to the list of relevant police forces in the Police Act 1997 (Criminal Records) (Scotland) Regulations 2010 by [The Armed Forces \(Tri-Service Serious Crime Unit\) \(Consequential Amendments\) Regulations 2022 \(S.I. 2022/1051\)](#) (<https://www.legislation.gov.uk/ukxi/2022/1051/contents/made>).

39. Regulation 10 also sets out that any reference to the chief officer of a police force in section 49 of the Disclosure Act is taken to be a reference to the Provost Marshal for serious crime.

40. Regulation 8 of these Regulations sets out a condition for registration in the register of accredited bodies. Any registration fee payable by an accredited body under these Regulations must be paid within 14 days of the Scottish

41. Ministers requiring payment or the Scottish Ministers may suspend the accredited body and refuse to process disclosure application made by the accredited body.

42. Regulations 11, 12 and 13 set out the fees payable for:

- (a) applications for registration and for nomination of lead signatories and countersignatories in the register of accredited bodies,
- (b) an annual fee for continued registration, and
- (c) a change in registration type

---

<sup>1</sup> [The Level 1 and Level 2 Disclosure Information \(Scotland\) Regulations 2024](#)

## **UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility**

43. The Scottish Ministers have made the following statement regarding children's rights:

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view, the Disclosure Information (Accredited Bodies) (Scotland) Regulations 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

## **EU Alignment Consideration**

44. This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU Consultation.

## **Consultation**

45. The Disclosure Act received wide cross-party support during its passage through Parliament and was passed unanimously. Disclosure Scotland are continuing to engage with external stakeholders as part of the implementation of the Disclosure Act.

46. Disclosure Scotland published a consultation paper on 25 April 2018. This was distributed widely to a large number of stakeholders, including over 3,000 registered bodies. There were 353 responses, 269 from organisations and 84 from individuals. There were responses from a range of stakeholders with varying backgrounds including judicial bodies, the legal sector, local government, voluntary organisations, the health sector and individual scheme members.

47. There was extensive engagement with stakeholders during the consultation period. This included group discussions and meetings with individual groups or organisations, in total 38 engagement sessions took place during the formal consultation period. During this time Disclosure Scotland User Researchers also engaged with a variety of stakeholders. Since April 2016 the user research team carried out a significant amount of research, which has included a range of users, including;

1. individuals with and without experience of using Disclosure Scotland's services,
2. individuals with convictions,
3. care experienced people,
4. people with disabilities, including blind participants, deaf participants,

- people with low cognitive skills, dyslexia, dyspraxia,
5. organisations – including various roles e.g. HR, admin staff, countersignatories,
  6. charities, and
  7. voluntary organisations.
48. The results of the consultation informed further development of the policy and (Disclosure) (Scotland) Bill provisions. The Scottish Government published its [response](https://www.gov.scot/publications/government-response-protection-vulnerable-groups-disclosure-criminal-information-consultation/pages/1/) (<https://www.gov.scot/publications/government-response-protection-vulnerable-groups-disclosure-criminal-information-consultation/pages/1/>) to the consultation on 13 June 2019. The need for a mandatory scheme received overwhelming stakeholder support at various stages of engagement and consultation on the Bill. It was also recommended in the [Health and Sport Committee's report on Child Protection in Sport](https://digitalpublications.parliament.scot/Committees/Report/HS/2017/4/26/Child-Protection-in-Sport#Introduction) (<https://digitalpublications.parliament.scot/Committees/Report/HS/2017/4/26/Child-Protection-in-Sport#Introduction>).
49. A communications campaign is underway to raise awareness of the impact of the changes brought about by the Disclosure Act. Disclosure Scotland use a range of communication channels to inform stakeholders of the new mandatory requirements, the associated offences.
50. Throughout the implementation period, Disclosure Scotland have undertaken targeted engagement with people and organisations who will become accredited bodies to maximise awareness of the changes being made within the Disclosure Act and these Regulations.
51. Consultation and engagement on increasing accredited body fees was undertaken in 2018 and again in 2024. [Disclosure Scotland fees: discounting, waiver and accredited bodies consultation](https://consult.gov.scot/disclosure-scotland/fees-discounting-waivers-and-accredited-bodies/) (<https://consult.gov.scot/disclosure-scotland/fees-discounting-waivers-and-accredited-bodies/>) ran for 12 weeks from March to May 2024, formally consulting on a narrow range of proposals on changes to Disclosure Scotland's discounting and waiver approach, including on proposed fee model for accredited bodies. To support the public consultation, online and in-person engagement sessions were held for specific sectors and businesses, including:
- Public sector
  - Private sector
  - Disclosure services (Umbrella body)
  - Volunteer involved organisations (including sports, health and social care, children's services and faith & belief organisations)
52. A further 23 events were held with 268 attendees across 175 organisations.
53. The Scottish Government [reported on analysis](https://www.gov.scot/publications/disclosure-scotland-fees-discounting-waivers-accredited-bodies-consultation-analysis-report/) (<https://www.gov.scot/publications/disclosure-scotland-fees-discounting-waivers-accredited-bodies-consultation-analysis-report/>) including on accredited body fee approach, in January 2025. No significant issues were raised around the increase by organisations directly impacted. In the

quantitative figures there was a relatively high level of opposition, however, due to media attention on fees for volunteers, there was a trend of respondents providing narrative in the qualitative questions that made it clear they had not understood the nature of registration or accredited bodies and were answering each question in the consultation solely in relation to individuals volunteering. In-person engagement – where officials were able to give clarification on questions – found a higher rate of support with 31% supportive, 17% unsupportive and 52% of those attending unsure at that point of engagement.

54. There was concern from some volunteer involved organisations and volunteers about increasing registration costs impacting annual budgets. Organisations will still be able to access disclosures through umbrella body services, including Volunteer Scotland Disclosure Services which is funded by Disclosure Scotland to provide this function for the sector.
55. Disclosure Scotland have also undertaken engagement sessions with organisations to gather feedback on the current Code of Practice to inform its development for the purposes of implementation.
56. In addition to the publication of the Code of Practice itself, Disclosure Scotland will continue to provide training and guidance on the Code of Practice and obligations placed upon an accredited body by the Disclosure Act and these Regulations. This commitment to providing improved resources to support stakeholders is one that will continue throughout the transition to the refreshed disclosure regime under the Disclosure Act.

## Impact Assessments

57. A suite of Impact Assessments was completed as part of the Disclosure (Scotland) Bill process:
  - Disclosure (Scotland) Bill: Fairer Scotland Duty assessment (<https://www.gov.scot/publications/disclosure-scotland-bill-impact-assessment-fairer-scotland-duty/>)
  - Disclosure (Scotland) Bill: children rights and wellbeing impact assessment (<https://www.gov.scot/publications/disclosure-scotland-bill-impact-assessment-crwia/>)
  - Disclosure (Scotland) Bill: data protection impact assessment (<https://www.gov.scot/publications/disclosure-scotland-bill-impact-assessment-dpia/>)
  - Disclosure (Scotland) Bill: equality impact assessment (<https://www.gov.scot/publications/disclosure-scotland-bill-impact-assessment-eqia/>)
  - Disclosure (Scotland) Bill: partial Business and Regulatory Impact Assessment (<https://www.gov.scot/publications/disclosure-scotland-bill-impact-assessment-partial-bria/>)
58. An Equalities Impact Assessment and an Impact Assessment regarding Children's Rights and Wellbeing have been completed for these Regulations. These will be published alongside this instrument on

legislation.gov.uk. No negative equality impact issues have been identified. No impact on children's rights have been identified.

59. A Fairer Scotland Duty Assessment and an Island Communities Impact Assessment screening exercise was undertaken. No impacts were identified during screening and, therefore, a full impact assessment was not done.

## Financial Effects

60. A Business and Regulatory Impact Assessment (BRIA) has been completed and published alongside the regulation. The impact of this policy is an increase in costs to the fees currently payable for registration. This will impact people and organisations who need to be registered. This will account for a £125 increase for responsible bodies who chose to register and are not already registered bodies as there is no fee and a £50 increase for registered bodies.
61. There has also been a cost of the public budget from providing the 'responsible body' function to organisations – primarily private businesses - without charging them for registration, despite the costs to the Government being the same as administering registration for registered bodies. Charging a fee for this will ensure that private sector businesses benefiting from this government service pay towards maintenance of their registration.
62. Raising the fee is projected to increase income modestly from registration from £370,000 to £555,000 in 2025-26, assisting in covering the cost of delivering this aspect of Disclosure Scotland's services.
63. The "umbrella body" function currently offered will continue. An organisation who does not want to register with Disclosure Scotland can use another registered company to process their staff disclosures.
64. The Scottish Ministers have had regard to the circumstances in which the fees are payable and the desire to maintain an appropriate balance between quality of the performance of the PVG Scheme, costs of achieving that quality and the income from fees.

Scottish  
Government  
Disclosure  
Scotland

January 2025

## Annexe C

# Note by the Clerk on The Fees for Scheme Membership and Disclosure Applications (Scotland) Regulations 2025 (SSI 2025/25)

## Overview

16. At this meeting, the Committee will consider the following Scottish Statutory Instrument (SSI), which is subject to annulment by resolution of the Parliament until 23 March 2025. The Committee is invited to consider the instrument and decide what, if any, recommendations to make.

17. More information about the instrument is summarised below:

**Title of instrument:** [The Fees for Scheme Membership and Disclosure Applications \(Scotland\) Regulations 2025 \(SSI 2025/25\)](#)

**Laid under:** [Protection of Vulnerable \(Groups\) \(Scotland\) Act 2007](#) and [Disclosure \(Scotland\) Act 2020](#)

**Laid on:** 3 February 2025

**Procedure:** Negative

**Deadline for committee consideration:** 17 March 2025

**Deadline for Chamber consideration:** 23 March 2025

## Procedure

18. Under the negative procedure, an instrument is laid after it is made, and is subject to annulment by resolution of the Parliament for a period of 40 days beginning on the day it is laid.

19. Once laid, the instrument is referred to:

- the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and
- a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.

20. Any MSP may propose, by motion, that the lead committee recommend annulment of the instrument. If such a motion is lodged, it must be debated at a meeting of the Committee, and the Committee must then report to the Parliament (by the advisory deadline referred to above).

21. If there is no motion recommending annulment, the lead committee is not required to report on the instrument.



## **Delegated Powers and Law Reform Committee consideration**

22. It is expected that the DPLR Committee will consider the instrument on 18 February 2025 and will report on it following that meeting. The Committee will be informed when the report is published.

### **Purpose of the instrument**

23. The purpose of these Regulations is to make provision enabling the Scottish Ministers to charge a fee for Level 1 and Level 2 disclosures and for joining the PVG scheme. It also provides for the waiving of fees in certain circumstances, including in relation to volunteers in qualifying voluntary organisations.

24. The Policy Note accompanying the instrument is included in Appendix C. It includes a summary of consultation undertaken on the instrument, impact assessments carried out, and the anticipated financial effects.

### **Committee consideration**

25. So far, no motion recommending annulment has been lodged.

26. Members are invited to consider the instrument and decide whether there are any points they wish to raise. If there are, options include:

- seeking further information from the Scottish Government (and/or other stakeholders) through correspondence, and/or
- inviting the Minister (and/or other stakeholders) to attend the next meeting to give evidence on the instrument.

27. It would then be for the Committee, at the next meeting, to consider the additional information gathered and decide whether to make recommendations in relation to the instrument.

28. If Members have no points to raise, the Committee should note the instrument (that is, agree that it has no recommendations to make).

29. However, should a motion recommending annulment be lodged later in the 40-day period, it may be necessary for the Committee to consider the instrument again.

## Appendix C: Scottish Government Policy Note

### THE FEES FOR SCHEME MEMBERSHIP AND DISCLOSURE APPLICATIONS (SCOTLAND) REGULATIONS 2025 SSI 2025/25

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 70(1) and (2) of the Protection of Vulnerable (Groups) (Scotland) Act 2007<sup>2</sup> and section 61(1), (2)(a) and (b) and (3) of the Disclosure (Scotland) Act 2020 and all other powers enabling them to do so. The instrument is subject to negative procedure.

### Summary Box

The purpose of these Regulations is to make provision enabling the Scottish Ministers to charge a fee for Level 1 and Level 2 disclosures and for joining the PVG scheme.

It also provides for the waiving of fees in certain circumstances, including in relation to volunteers in qualifying voluntary organisations.

### Policy Objectives

#### Background

1. Disclosure Scotland is an executive agency of the Scottish Government that provides criminal record disclosures, maintains the Protection of Vulnerable Groups Scheme (“the PVG Scheme”) and keeps lists of individuals barred from working with children and protected adults on behalf of the Scottish Ministers.
2. The Disclosure (Scotland) Act 2020 (“the Disclosure Act”) reforms the disclosure regime in Scotland, repealing Part 5 of the Police Act 1997 (“the Police Act”) as it applies in Scotland and making amendments to the Protection of Vulnerable Groups (Scotland) Act 2007 (“the PVG Act”) under which the Scottish Ministers administer the PVG Scheme.
3. The Disclosure Act provides for two new types of state disclosure certificate, replacing the criminal conviction certificate (known as a Basic Disclosure), criminal record certificate (known as a Standard Disclosure) and enhanced criminal record certificate (known as an Enhanced Disclosure) under the Police Act and the PVG scheme record and the PVG short scheme record under the PVG Act.

---

(1) <sup>2</sup> Section 70 of the Protection of Vulnerable Groups (Scotland) Act 2007 was amended by paragraph 10(41) of schedule 5 of the Disclosure (Scotland) Act 2020 (asp 13) (“the Disclosure Act”). Section 97(1) contains a definition of “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made.

4. The new types of disclosure are:
  - **Level 1 disclosure (replacing Basic Disclosure):** which can contain the prescribed details of every unspent conviction (including an unspent childhood conviction) of the individual that is recorded in central records.
  - **Level 2 disclosure (replacing Standard and Enhanced Disclosure):** which can contain unspent convictions, certain spent convictions and children's hearings outcomes, other relevant information from the chief constable in Scotland or chief officer of a police force in England and Wales or relevant overseas police force, if the individual is subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 and certain civil orders.
5. A Level 2 disclosure can include barred list information where the disclosure application is being made in relation to a non-PVG scheme member for a purpose which requires this information to be available, for example, where someone is seeking to adopt a child (see section 16 of the Disclosure Act)<sup>3</sup>.
6. A PVG Scheme Level 2 disclosure is a Level 2 disclosure to which section 17 of the Disclosure Act applies. PVG Scheme Level 2 disclosures replace scheme records and short scheme records. A PVG Scheme Level 2 disclosure can be applied for in relation to a PVG scheme member for to the purposes of enabling or assisting a person (or any other person for whom the person acts) to consider the applicant's suitability to carry out, or to be offered or supplied for, a type of regulated role, either work with children, protected adults or both.
7. These Regulations exercise the power to charge fees in respect of applications for Level 1 and Level 2 disclosures and applications to join the PVG Scheme. They also exercise the power to waive fees in certain circumstances, including for volunteers working for qualifying voluntary organisations.

## The Regulations

### *Fee levels*

8. Regulations 2 and 3 set the fees for PVG scheme membership, confirmation of scheme memberships and for Level 1 and Level 2 disclosures. For Level 1 and Level 2 disclosures, the fee will be £25. For PVG Scheme Level 2 disclosures, the fee will be reduced to £18.
9. For those joining the PVG scheme for the first time, the fee is £59. Where an individual is joining the other 'workforce' after initially joining the scheme for one workforce, the fee will be £59.

---

<sup>3</sup> The Level 1 and Level 2 Disclosure Information (Scotland) Regulations 2024

10. The disclosure products under the Disclosure Act are not the same as those under the Police Act and the PVG Act. This means that there is not a direct products. However, looking at eligibility to apply for certain types of disclosure, the effect on the customer will be that:

<b>Current product / Equivalent product</b>	<b>Current cost</b>	<b>Cost under these regulations</b>
Criminal conviction certificate (Basic Disclosure) / Level 1 disclosure	£25	£25
Criminal record certificate (Standard Disclosure) / Level 2 disclosure	£25	£25
Enhanced criminal record certificate (Enhanced Disclosure)/Level 2	£25	£25
PVG scheme record / PVG Scheme Level 2 disclosure (at point of join)	£59	£59
PVG scheme record / PVG Scheme Level 2 disclosure (Existing scheme member)	£59	£18
PVG short scheme record / PVG Scheme Level 2 disclosure (Existing scheme member)	£18	£18
Statement of scheme membership / Confirmation of scheme membership	£59 (Join) / £18 (Existing)	£59 (Join) / £18 (Existing)

11. The Scottish Government has taken a decision to retain broadly equivalent fees for disclosures issued under the Disclosure Act as were previously issued under the Police Act and PVG Act, in recognition of our desire, in particular, to continue to support organisations providing vital services to children and protected adults by maintaining disclosure fee levels at the broadly equivalent levels they have been at since 2011.

12. The Scottish Public Finance Manual<sup>4</sup> sets out that the standard approach to setting charges for public services is full cost recovery. Charging for services helps to avoid unnecessary public expenditure and eliminate hidden subsidies. Charging also provides an incentive to use goods and services economically, efficiently and effectively. The fees set out in these Regulations are below cost recovery. This is discussed further under Financial Effects.
13. In setting the fees, the Scottish Ministers have had regard to the circumstances in which the fees are payable and the desirability of maintaining an appropriate balance between quality of the performance of the PVG Scheme, costs of achieving that quality and the income from fees. However, they also considered affordability for customers, particularly those on the lowest incomes. Stakeholder feedback (as noted in the 'consultation' section of this note and in the Business Regulatory Impact Assessment (BRIA)) indicated that, in the context of the current challenging financial climate, even a relatively modest increase would negatively impact upon those services and those who provide them.
14. These issues have been explored in the cost modelling (explored in the Business and Regulatory Impact Assessment) and have led to the proposal to retain broadly equivalent fee levels for Level 1 and Level 2 disclosures as were set for disclosures issued under the Police Act and the PVG Act.

#### *Fee waivers*

15. Regulation 4(1) makes provision for the waiver of the fee for one request for a confirmation of scheme membership under section 54 of the PVG Act where that request is made at the same time as the individual applies to join the PVG Scheme. This means that the individual is charged only in relation to their application to join the PVG Scheme, which will cost £59.
16. Regulation 4(2) makes provision for the waiver of the reduced fee for a PVG Scheme level disclosure where the application for that disclosure is made at the same time as the individual applies to join the PVG Scheme, again, so that the individual is charged only in relation to their application to join the PVG Scheme, which will cost £59.
17. Regulation 5 makes provision for volunteers working for qualifying voluntary organisations to join the PVG Scheme and receive PVG Scheme Level 2 disclosures free of charge. The provision made in regulation 5 aims to preserve current arrangements. Volunteers, with the same organisations currently eligible as qualifying voluntary organisations, will be covered by the waiver. The Scottish Government have decided to retain the fee waiver following a public consultation, and in recognition of the wider funding pressures faced by the third sector.

---

<sup>4</sup> <https://www.gov.scot/publications/scottish-public-finance-manual/fees-and-charges/fees-and-charges/>

18. Volunteer Scotland Disclosure Services (VSDS) processes the majority of free disclosure checks for volunteers working in voluntary organisations and determines whether any particular position or organisation qualifies administratively using a number of criteria. This free service will continue for the voluntary sector, in addition to the fee waiver set out in regulation 5 itself.
19. Regulation 5(3) provides for the circumstances which must be met in order for an application to qualify for the fee waiver. Regulation 5(3)(a) requires the application to be accompanied by a statement by an accredited body which says it is in connection with a regulated role for a qualifying voluntary organisation. The accredited body can be the qualifying voluntary organisation or an umbrella body, for example VSDS. The effect of regulations 5(3)(a) and 5(3)(b) is to ensure that the volunteer is doing a regulated role in a voluntary and unpaid capacity for a qualifying voluntary organisation.
20. Regulation 5(3)(c) requires that the application must solely be in respect of that voluntary role, precluding the waiver from being used to circumvent the payment of fees in other circumstances, such as where the individual does other paid work for the organisation as well as volunteering.
21. Regulation 5(4) defines what constitutes a qualifying voluntary organisation. By application of regulation 5(4), the definition excludes, for example, non-departmental public bodies, councils, health boards, schools and further education institutions, along with most private-sector businesses, large financial institutions and publicly listed companies. Regulation 5(4), however, does include organisations which solely provide early learning and childcare within the meaning of Part 6 of the Children and Young People (Scotland) Act 2014, for example, voluntary organisations offering education for pre-school children. Regulation 5(4) preserves current arrangements under the Protection of Vulnerable Groups (Scotland) Act 2007 (Fees for Scheme Membership and Disclosure Requests) Regulations 2010 (as amended).
22. The definition of a QVO has been preserved from the previous regulations following discussion with voluntary sector organisations, VSDS and having regard to the Scottish Council of Voluntary Organisations' definition.

## **UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility**

23. The Scottish Ministers have made the following statement regarding children's rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Fees for Scheme Membership and Disclosure Applications (Scotland) Regulations 2025 are compatible with the UNCRC requirements as defined by section 1(2) of the Act.

## EU Alignment Consideration

24. This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

## Consultation

### *Fee levels*

25. Bodies and representative groups have been consulted on fee levels, including:

- COSLA
- Coalition of Care and Support Providers in Scotland
- NHS Health Improvement Scotland
- NHS Forth Valley
- NHS Greater Glasgow and Clyde
- Access To Industry
- The Educational Institute of Scotland
- NASUWT – The Teacher's Union
- National Union of Students – Scotland
- University of the Highlands and Islands
- Scottish Council of Independent Schools

26. This is not a complete list due to the volume of organisations engaged with, and instead represents the range of sector engaged with. The Business and Regulatory Impact Assessment includes further information on engagement and approaches.

### *Fee waivers and discounting*

27. Further, a public consultation took place from March to May 2024 on options around fee waivers and discounting, including moving from a full waiver to a discount for volunteers in qualifying voluntary organisations. The consultation received 1236 responses, primarily from volunteers.

28. This consultation was supported by in-person and digital engagement sessions available to stakeholders generally and to specific sectors. Disclosure Scotland hosted 23 events as part of the consultation process to 268 attendees from 175 organisations.

29. The themes emerging from engagement sessions broadly reflected those set out in the analysis above. Those who engaged through these sessions were encouraged to respond to the consultation, with their earlier views also captured to ensure that the views of those which did not have time or capacity to respond in writing were included in the policy development.

30. The main theme resulting from the consultation was the importance to volunteer involved organisations and Scottish communities of the fee waiver

for volunteers in qualifying voluntary organisations and as a result that policy has been retained in these Regulations. It was noted that the financial and administrative impact of moving to a discount would be significant and for many services would require the diversion of funds for service delivery into safeguarding to cover the cost.

31. A full list of those consulted and who agreed to the release of this information is attached to the consultation report published on the Scottish Government website.<sup>5</sup>

## Impact Assessments

32. A suite of Impact Assessments was completed as part of the Disclosure (Scotland) Bill process:

- Disclosure (Scotland) Bill: Fairer Scotland Duty assessment (<https://www.gov.scot/publications/disclosure-scotland-bill-impact-assessment-fairer-scotland-duty/>)
- Disclosure (Scotland) Bill: children rights and wellbeing impact assessment (<https://www.gov.scot/publications/disclosure-scotland-bill-impact-assessment-crwia/>)
- Disclosure (Scotland) Bill: data protection impact assessment (<https://www.gov.scot/publications/disclosure-scotland-bill-impact-assessment-dpia/>)
- Disclosure (Scotland) Bill: equality impact assessment (<https://www.gov.scot/publications/disclosure-scotland-bill-impact-assessment-eqia/>)
- Disclosure (Scotland) Bill: partial Business and Regulatory Impact Assessment (<https://www.gov.scot/publications/disclosure-scotland-bill-impact-assessment-partial-bria/>)

33. An Equalities Impact Assessment, Fairer Scotland Duty Assessment and an Impact Assessment regarding Children's Rights and Wellbeing have been completed for these Regulations. These will be published alongside this instrument on legislation.gov.uk. No negative equality or socio-economic impact issues have been identified resulting from these Regulations. The decision to retain fees at their equivalent to current levels has been taken in recognition of a risk of negative impact on protected characteristics and socio-economic factors in the aftermath of the cost crisis.

34. The Children's Rights and Wellbeing Impact Assessment identified that these Regulations, in setting fees for disclosure products which are used to support the care and protection of children, interacts with Article 3 (Best interests of the child) insofar as the fee level must be set at a level which customers can afford. There was a risk that some organisations may not value the safeguarding benefits and legal requirement of the PVG Scheme and try to

---

<sup>5</sup> <https://www.gov.scot/publications/disclosure-scotland-fees-discounting-waivers-accredited-bodies-consultation-analysis-report/>



cut costs if fee levels are set too high. Some voluntary groups also told the Scottish Government that they thought this risk also existed in relation to moving to a fee discount (rather than waiver) for volunteers working in qualifying voluntary organisations too. Disclosure Scotland will work with Police Scotland to monitor for compliance with the legal requirement to join the PVG Scheme, regardless of fee level.

35. The fee waiver for volunteers working in qualifying voluntary organisations is relevant to Article 31 (Leisure, play and culture) by supporting volunteers, and the clubs they work in, to safely provide play and sport activities. As fees and fee waivers are remaining broadly the same, there is no change in the impact on children's rights. The impact from the existing system was previously assessed as neutral on fee levels and positive for the fee waiver for volunteers.
36. An Island Communities Impact Assessment screening was undertaken. No differential impact on island communities was identified during screening and a full impact assessment was not done.

## Financial Effects

37. A Business and Regulatory Impact Assessment (BRIA) has been completed and is attached. The impact of this policy on business is minimal, as costs under these regulations have been retained at the equivalent levels they have been at since 2011. This includes retention of the fee waivers that have been in place since 2011. No business will be liable for additional costs as a result of the proposals in these regulations.
38. These regulations also do not change how the fees are collected by Disclosure Scotland. There is therefore no impact on businesses with regard the method of collection, or who is liable for the fees. There is no evidence held that suggests that businesses are unable to pay their disclosure fees
39. In deciding to retain broadly equivalent fees, the Scottish Ministers have had regard to the circumstances in which the fees are payable – in particular, the desire to support those on the lowest incomes.

Scottish  
Government  
Disclosure  
Scotland

January 2025