

Disclosure (Scotland) Act 2020

Disclosure
SCOTLAND

Personal Assistant Programme Board update

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Latest update

- changes disclosure system in Scotland, including PVG Scheme
- Royal Assent given July 2020
- period of revising systems, processes and guidance, along with implementation of various provisions since 2020
- continuing to work with our stakeholders to make transition to a full digital service offering
- remaining provisions come into force **1 April 2025**

Key provisions for SDS sector

- Full details of the Act at www.mygov.scot/the-disclosure-scotland-act
- PVG Scheme will become mandatory on 1 April 2025 – it will be an offence to undertake a regulated role without being a member of the PVG Scheme
- It will **not** become an offence for a personal employer to employ someone in regulated work without a PVG check
- Exceptions to regulated role (no PVG check required) continue to include where the activity is:
 - carried out in the course of a family relationship (persons who live in same household)
 - carried out in the course of a personal relationship for no commercial consideration and for benefit of member of their family or friend

Key provisions for SDS sector

- move from lifetime membership to 5 year membership
- ability for Disclosure Scotland to impose conditions on individuals under consideration for listing
- ability for umbrella bodies to obtain full Scheme Records (containing vetting information) on behalf of personal employers

Enhanced umbrella body role

- Umbrella body will receive all unspent convictions, certain spent convictions and other relevant information
(www.mygov.scot/convictions-higher-level-disclosures)
- Umbrella body role will include risk assessing the vetting information and advise the personal employer on whether the individual is suitable
- Conviction and other relevant information cannot generally be shared with the personal employer by the umbrella body
- Notifications of consideration for listing/barring will be sent to the “personal employer”

Enhanced umbrella body role

Section 56 of the Disclosure (Scotland) Act 2020

Sharing of Level 2 disclosure information by accredited bodies

(1) An accredited body may countersign an application for a Level 2 disclosure under section 11—

(a) on its own behalf, or

(b) if the condition mentioned in subsection (2) is met, at the request of another person who—

(i) falls within any of paragraphs (a) to (c) of section 47(3) (but who is not an accredited body), or

(ii) is an individual who does not employ other persons in the course of business.

(2) The condition is that the person referred to in subsection (1)(b)(i) or (ii) is asking a question about the individual who is the subject of the Level 2 disclosure for the purpose of the disclosure.

(3) Where a Level 2 disclosure is made available to an accredited body by virtue of an application for a Level 2 disclosure made at the request of another person mentioned in subsection (1)(b)(i), the accredited body may disclose information contained in the Level 2 disclosure to that person if the body is satisfied that disclosure to the person would comply with the code of practice published under section 55.

(4) Where a Level 2 disclosure is made available to an accredited body by virtue of an application for a Level 2 disclosure made at the request of an individual mentioned in subsection (1)(b)(ii), the accredited body—

(a) must not disclose the information contained in the Level 2 disclosure to the individual,

(b) but may provide advice based on the information to the individual relating to the question referred to in subsection (2).

What you can do now

- Consider the umbrella body role for your organisation
- Continue links between Personal Assistant Programme Board and Disclosure Scotland's Stakeholder Engagement Group during 2024 and 2025
- Participate in engagement and consultation opportunities as these arise before April 2025

Keep up to date

- Review the guide to the Act at www.mygov.scot/the-disclosure-scotland-act
- Keep up to date by following Disclosure Scotland Follow Disclosure Scotland on [Twitter](#), [Facebook](#) and [LinkedIn](#), and [sign up](#) to our quarterly e-bulletin
- Contact Disclosure Scotland if any questions (DisclosureAct@disclosurescotland.gov.scot)