

## ABERDEEN CITY COUNCIL

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<b>COMMITTEE</b>	Staff Governance Committee
<b>DATE</b>	21 April 2025
<b>EXEMPT</b>	No
<b>CONFIDENTIAL</b>	No
<b>REPORT TITLE</b>	Disclosure (Scotland) Act 2020 - Update
<b>REPORT NUMBER</b>	CORS/25/077
<b>EXECUTIVE DIRECTOR</b>	Andy MacDonald
<b>CHIEF OFFICER</b>	Isla Newcombe
<b>REPORT AUTHOR</b>	Lesley Strachan
<b>TERMS OF REFERENCE</b>	General Delegation 8.7

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### 1. PURPOSE OF REPORT

- 1.1 This report has been prepared to provide Committee with information on the changes in relation to the Disclosure (Scotland) Act 2020 which come into effect on 1 April 2025.

### 2 RECOMMENDATIONS

That the Committee:

- 2.1 Notes the content of the report and changes to Disclosure Scotland and the Protection of Vulnerable Groups Scheme as a result of the new legislation, for assurance.

### 3 CURRENT SITUATION

#### 3.1 Background

- 3.1.1 Disclosure Scotland is an executive agency of the Scottish Government, responsible for providing criminal record checks and supporting the protection of vulnerable groups. It plays a crucial role in ensuring public safety by enabling employers to make informed decisions about individuals in positions of trust, such as working with children or vulnerable adults.
- 3.1.2 In an Aberdeen City Council context, currently where a role requires any form of Disclosure Scotland check, this is recorded against the specific role within the HR / Payroll system. Roles may require a basic or standard level Disclosure Check or membership of the PVG Scheme (if the role involves regulated work with children or protected adults or both).
- 3.1.3 During the recruitment process, where required, preferred candidates are informed of the level of disclosure required and are asked to complete a Disclosure Scotland online application form. The outcome of these checks are returned to the HR Service Centre team, and the preferred candidate is sent a copy of their Disclosure Scotland certificate at the same time, except

in cases where a basic Disclosure check is required, whereby the candidate receives the outcome, and is required to provide a copy of their certificate to the HR Service Centre.

- 3.1.4 From 1 April 2025, the majority of the provisions of The Disclosure (Scotland) Act 2020 come into effect. The aim of the Act is to focus on protecting the public, while balancing the need for people to move on from offending and to simplify the process for disclosing criminal history information. The Protection of Vulnerable Groups (PVG) scheme becomes a legal requirement on this date. This means that:
- anyone carrying out a regulated role must be a member of the PVG scheme for that type of work, for example, work with children and/or protected adults.
  - organisations must not offer any type of regulated role to an individual unless they have received a PVG scheme disclosure.
- 3.1.5 This report sets out the main changes to the scheme which include enhanced safeguarding for children and protected adults, and enhanced digital use in order to provide a more efficient, secure and accessible disclosure process for all users.
- 3.1.6 There will be a grace period of **three months** after the PVG scheme becomes a legal requirement from 1 April 2025 to ensure individuals and organisations don't commit an offence if there are individuals who are not PVG scheme members but are currently working in regulated roles. From 1 July 2025 onwards, it will become a criminal offence for individuals to carry out a regulated role if they are not a member of the PVG scheme, or to offer a regulated role to an individual who is not a member of the PVG scheme.
- 3.1.7 This adds to the existing offences under the Protection of Vulnerable Groups (Scotland) Act 2007. It will continue to be an offence for an individual to seek, agree to do or carry out a regulated role if the individual is barred from working with children, protected adults or both. Similarly, organisations must not offer a regulated role to someone who is barred from that type of regulated role.
- 3.1.8 From an ACC perspective, our position before this legislation was to consider the PVG scheme as mandatory (for roles involving regulated work) and as a result the move to a mandatory scheme is not a fundamental change for the Council. The changes are process related, resulting in a requirement to update our recruitment and selection guidance for managers, which will be undertaken and communicated to recruiting managers across the organisation within the grace period.

## 3.2 **Summary of Changes**

The main changes are as follows:

### 3.2.1 **Changes to Disclosure Levels**

The Act simplifies and reduces the number of disclosure levels from the current basic, standard, enhanced and PVG to Level 1, Level 2 and PVG scheme Disclosures which will simplify the process for applicants and managers alike.

**3.2.2** This requires some process changes to be made which will be undertaken by COSLA, by 1 April 2025, and some changes to be made to our recruitment process at preferred candidate stage.

**3.2.3 Regulated Roles**

The Protecting Vulnerable Groups (PVG) scheme becomes a legal requirement for those aged 16 or over, who are carrying out regulated roles with children or protected adults. Under 16s will no longer be eligible to apply for PVG membership. In Scotland, a 'regulated role' refers to a position (paid and voluntary) that involves carrying out certain activities where you have contact with children or protected adults. This might be:

- jobs with caring responsibilities for children or protected adults
- teaching or supervising children or protected adults
- providing personal services to children or protected adults
- working directly with children or protected adults

**3.2.4** New regulated roles will be introduced as a result of the new legislation. This will require a review of our existing list of regulated roles in line with new criteria set by Disclosure Scotland.

**3.2.5 Candidate Review of Application Information ahead of Employer**

The legislation introduces a new process where individuals may apply for disclosure information to be reviewed, and decisions made about whether information should be disclosed, prior to the disclosure being issued to their countersignatory (employer who has requested the check). This provides individuals greater control in the disclosure process before their criminal history information is disclosed. This is known as 'making a review application'.

**3.2.6** If the applicant makes an application to review the Disclosure Scotland certificate, they have 10 days from the date of issue to notify Disclosure Scotland if they wish to apply. Thereafter, they have a further 10 days to submit an application.

**3.2.7** This differs to the current process whereby the certificate / outcome was released to the applicant and the employer simultaneously. As a result, in some cases, this may result in a delay in our recruitment process at preferred candidate stage, as we await candidates confirming to Disclosure Scotland that they give permission to release their Disclosure Certificate.

**3.2.8 Code of Practice Update**

The Code of Practice has been updated setting out responsibilities for accredited bodies, including Aberdeen City Council, regarding the use of disclosure information.

**3.2.9** A review of the updated Code of Practice will be required to ensure ongoing compliance with our responsibilities as set out in the Code.

**3.2.10 Regulated roles activity - holding a position of responsibility**

In addition to regulated roles, checks are also required for those holding 'a position of responsibility' in an organisation where one of their main purposes

is the provision of benefits to children and/or protected adults for example, a trustee, board member or management committee member. Anyone in a regulated role carrying out an activity must have contact with children, protected adults or both as part of their role. Contact includes physical, visual, written or verbal communication or exercising power or influence over children and/or protected adults. Exercising power or influence' means:

- (a) assisting, facilitating, permitting or impeding progress towards a desirable objective or outcome for a particular child or protected adult
- (b) making decisions of an operational or strategic nature that could have an impact on a number of children or protected adult
- (c) persuading or putting pressure on a particular child to behave or act in a certain manner for the financial gain or personal gratification of a person other than the child or protected adult

**3.2.11** From 1 April 2025, in order to sit on a committee that can affect regulated work / regulated roles, committee members (including designated deputies) must be a member of the PVG Scheme (there is a 3 month grace period till 1<sup>st</sup> July in order to comply with this).

**3.2.12** From an ACC perspective, this is in accordance with our current approach to PVG checking for Elected Members and does not require any further changes.

#### **3.2.13 Future Changes**

The current PVG scheme is a 'Lifetime' membership scheme, which means that when an applicant becomes a member, there is no need to renew their scheme membership.

**3.2.14** With effect from 1 April 2026, this will change and the PVG scheme will become a time-limited membership scheme, requiring members to renew their membership every five years. We await further detail on how this will work in practice.

## **4. Next Steps**

4.1.1 Guidance and processes will be updated to take account of the changes associated with the new legislation and this will be communicated to managers across the organisation.

4.1.2 We will review the list of regulated roles set out within the new legislation to ensure this matched our defined regulated roles.

4.1.3 We will review the updated Code of Practice to ensure ongoing compliance with our responsibilities as set out in the Code.

4.1.4 We will continue to work with Disclosure Scotland to ensure we keep abreast of the future changes that will take effect in 2026.

## 5. FINANCIAL IMPLICATIONS

- 5.1 There are no direct financial implications resulting from the information in this report.

## 6. LEGAL IMPLICATIONS

- 6.1.1 The Disclosure (Scotland) Act 2020 obliges Aberdeen City Council to undertake specific checks depending on the role undertaken and how such information is handled. Non compliance could result in a number of offences.
- 6.1.2 Failure to comply with legislation could result in claims being made against the Council.

## 7. ENVIRONMENTAL IMPLICATIONS

- 7.1 There are no direct environmental implications arising from the recommendations of this report.

## 8. RISK

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H)  *taking into account controls/control actions	*Does Target Risk Level Match Appetite Set?
<b>Strategic Risk</b>	Potential impact on some hard to fill roles due to delays in recruitment process which could impact upon service delivery.	Recruitment and Selection Guidance will be updated along with information that is available to preferred candidates at pre-employment check stage. Recruiting Manager will maintain regular contact with the preferred candidate during the preferred candidate stage.	L	Yes
<b>Compliance</b>	Failure to handle Disclosure information in line with the Code of Practice	The impact of the changes have been identified and a plan put in place to ensure compliance.	L	Yes

	Failure to comply with legislation could result in claims being made against the Council.			
<b>Operational</b>	Potential delays in recruitment process at preferred candidate stage where applicant approving release of Disclosure Scotland certificate. This could mean it takes longer to confirm a start date.	Recruitment and Selection Guidance will be updated and communication issued to recruiting managers. Recruiting Manager will maintain regular contact with the preferred candidate during the preferred candidate stage.	L	Yes
<b>Financial</b>	No financial risks identified.			
<b>Reputational</b>	Potential risk to reputation if non compliance with legislative changes.	The impact of the changes have been identified and a plan put in place to ensure compliance.	L	Yes
<b>Environment / Climate</b>	No significant risks identified			

## 9. OUTCOMES

<b><u>COUNCIL DELIVERY PLAN 2024-2025</u></b>	
	<b>Impact of Report</b>
<b><u>Aberdeen City Local Outcome Improvement Plan 2016-26</u></b>	
Prosperous Economy Stretch Outcomes	This report supports 'Increasing the number of people in Aberdeen in sustained, fair work.'
<b>Regional and City Strategies</b>	<p>This report links to the Council's <a href="#">Workforce Delivery Plan</a> in relation to 'Right People: Building our capacity through attracting, recruiting, moving talent'.</p> <p>This also supports the Council's <a href="#">Equality Outcomes</a> and <a href="#">Equality, Diversity and Inclusion Action Plan</a>.</p>

## 10. IMPACT ASSESSMENTS

Assessment		Outcome
<b>Integrated Assessment</b>	<b>Impact</b>	No impact assessment required. I confirm this has been agreed with Isla Newcombe, Chief Officer – People and Citizen Services on 10/04/25
<b>Data Protection Assessment</b>	<b>Impact</b>	The need to complete / update a DPIA will be considered as part of the review of existing processes

## 11. APPENDICES

11.1 None.

## 12. BACKGROUND PAPERS

12.1 [Disclosure Scotland](#)

12.2 [Offences under the code - mygov.scot](#)

## 13. REPORT AUTHOR CONTACT DETAILS

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