

Protecting Vulnerable Groups Scheme

CHECK TO PROTECT

PROGRESS UPDATE - NO 5 APRIL/MAY 2010

This is the **fifth** Progress Update newsletter on the new Protecting Vulnerable Groups Scheme (PVG Scheme) which is expected to be introduced in Scotland at the end of this year. The purpose of this is to help keep you up to date with implementation activities and to give you the opportunity to consider what your organisation may need to do to prepare for commencement of the PVG Scheme.

More information about the PVG Scheme, FAQs and previous Progress Updates are on [PVG Scheme pages of the Scottish Government website.](#)

SECONDARY LEGISLATION UPDATE

Adam Ingram

Minister for Children and Early Years



I am delighted that the [consultation on the secondary legislation](#) required to fully implement the PVG Scheme attracted over 100 responses from a broad range of individuals, groups and organisations that work with vulnerable groups. It is very encouraging to see both the continued level of interest in the implementation of the PVG Scheme and the quality of the responses we have received.

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This gives me confidence that the Scottish Government is designing a system that will meet the needs of those who will interact with it and that strikes the balance between the necessary protection and a fair and proportionate approach.

Thank you to everyone who responded to the consultation. All of the responses received have been carefully considered and used to review and finalise the Scottish Statutory Instruments (SSIs) which are now being introduced to the Scottish Parliament.

I look forward to discussing the detail of the PVG Scheme with my colleagues in the [Scottish Parliament's Education, Lifelong Learning and Culture Committee](#) as they scrutinise the SSIs.

My officials and I have listened carefully to your views and as a consequence have changed and improved on some of the legislative proposals. We have also taken into account, your thoughts on how to strengthen the guidance associated with the PVG Scheme to ensure it is as clear and concise as possible.

The [Response to the Consultation](#), published on 23 April summarises the responses and explains the changes we have made to the SSIs and the other non-legislative actions that we plan to take. In this article I would like to highlight some of the key developments.

Voluntary sector respondents were particularly concerned about the public benefit test associated with the definition of a qualifying voluntary organisation which was outlined in the draft regulations relating to the fees. Some were concerned that the interpretation of the legislation might undermine the stated policy of free checks for volunteers working in the voluntary sector while others were concerned that the proposed public benefit test was too burdensome.

The definition of what is a qualifying voluntary organisation remains necessary in order to deliver our agreed policy on free checks for volunteers in the voluntary sector. However, I have come to the decision that the public benefit test achieves nothing in determining qualification and so have removed this from the regulations.

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Some respondents sought clarity on the annual registration charge which was outlined in the earlier consultation on policy proposals in 2008. Scottish Ministers propose to replace the existing charges (a one-off charge of £150 plus £10 per counter-signatory) with an annual registration charge of £15 per counter-signatory – subject to a minimum annual charge of £75.

The purpose of introducing a recurring registration fee is two-fold. Firstly to ensure that employers keep their lists of counter-signatories up to date. This will enable [Disclosure Scotland](#) to maintain accurate records and reduce the possibility of fraudulent disclosure requests from individuals who are no longer employed in that capacity.

Secondly, it is important that the people who receive disclosures are themselves suitable and won't use this privileged information inappropriately. Disclosure Scotland checks suitability when a person applies to become a counter-signatory and re-checks periodically from then on. Periodic re-checking has identified a number of people who have acquired quite serious convictions and so have had to be removed from their counter-signatory role. The new IT system being developed will allow for continuous review of suitability, delivering additional protection to both employers and the public.

The additional work associated with this is reflected in the very modest annual subscription fee. As nearly 90 per cent of organisations currently registered with Disclosure Scotland have four or less counter-signatories, the cost impact on most organisations will be small. This change is dependent on provisions in the Criminal Justice and Licensing (Scotland) Bill currently before Parliament and any changes will be introduced after the PVG Scheme goes live.

A number of consultation respondents felt that the proposed 14 day time period allowed to upgrade from a PVG Scheme Record Update to a Scheme Record Disclosure would be too short. In response to this concern I have revised the time period to 30 days and this is prescribed in the regulations relating to the fees.

Some respondents expressed concerns about the costs associated with phasing the vulnerable groups' workforce onto the PVG Scheme.

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I will give further consideration to whether we should extend the period of retrospective checking beyond four years. The purpose of this would be to help organisations to spread the costs of joining the scheme. However, it will also be necessary to balance the need to spread the cost impact with the desire to introduce the protection that the PVG Scheme offers as quickly as possible.

Disclosure Scotland is currently working with employers and with the [Central Registered Body in Scotland](#) to determine the most effective and efficient way to phase in the existing workforce. The outcomes of that work along with the relevant responses to the consultation will be used to inform the drafting of the regulations. These will be consulted on ahead of laying in the Scottish Parliament in 2011 - ahead of the planned start of the retrospective checking process.

Finally, many respondents provided helpful comments on the draft guidance. These related to structure, terminology and definitions, cross border issues and the procedures outlined, for example, the process for making organisational referrals.

My intent is to create guidance and training materials that are as clear and concise and user-friendly as possible. The comments received have been generally very positive in that respect and are now being considered by my officials with the support of the [Guidance Advisory Group](#). I would like to take the opportunity to acknowledge the huge contribution that group, drawn from the voluntary and statutory sectors, has made in shaping the guidance. Their input has been invaluable in helping to produce clear and authoritative guidance. The group will do a further review in the light of the consultation comments. I expect that the guidance and a package of training materials will be ready for publication in the summer when I also expect to be able to announce the exact commencement date.

The laying of the SSIs before Parliament marks a significant step towards commencing a scheme that is robust and proportionate without compromising on the need for a system that is quick and easy and cheaper in the long run for people to use.

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None of us will forget the tragic murders in Soham in 2002 that prompted the recommendation from Sir Michael Bichard that that new arrangements should be introduced requiring those who work with children and vulnerable adults to be registered.

The PVG Scheme is Scotland's response to this recommendation.

SYSTEMS UPDATE

The IT system being developed to support the implementation of the PVG Scheme is sophisticated, secure and resilient, ensuring that the scheme will be able to process applications, maintain the records of scheme members and continue operating even if the entire Disclosure Scotland building were out of service.

Great progress is being made with its implementation and the first major milestone was successfully delivered in March, when the first round of User Acceptance Testing (UAT) was successfully completed. There are six rounds of UAT in total. Three before the scheme goes live at the end of 2010 and a further three associated with the introduction of new functionality including on line accounts and the extension of the system to the Central Registered Body in Scotland in the summer of 2011.

UAT is the first opportunity that Disclosure Scotland staff who will use the system have to actually test it out and make sure that it works as intended. The first round of testing has gone well and the end result was that the numbers of defects found were within acceptable levels. The Scottish Government's IT provider, BT, is now fixing the defects identified and there will be a second round of UAT during June.

Successful completion of the second round of UAT is required before the Scottish Government can announce the exact commencement date for the PVG Scheme. Scottish Ministers expect to be in a position to announce this date in the summer of 2010 and continue to work towards commencement at the end of 2010.

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GUIDE TO THE DISCLOSURES TYPES AVAILABLE UNDER THE PVG SCHEME

The PVG Scheme introduces three different types of disclosures, tailor made to suit different needs and to make the disclosure process for people who work with vulnerable groups as quick, efficient and, in the longer term, cheap as possible.

During most of the first year after the PVG Scheme goes live the application process will be paper based. Around the summer of 2011, the new, secure, electronic system will become available which means that people will be able to interact with the PVG Scheme online. A paper based system will continue to be available for those who wish it.

The following aims to explain the purpose and benefits of each disclosure type.

1. PVG Scheme Record - £59

A PVG Scheme Record will be requested by an employer who is employing an individual to do regulated work when the individual is joining the PVG Scheme for the first time.

In addition, an employer will also be able to request a PVG Scheme Record when a PVG Scheme Record Update (see below) highlights that new vetting information about an individual has become available or if, they think it is necessary to see the full content of the individual's membership record.

A PVG Scheme Record will:

- confirm that the person is a PVG Scheme member in respect of working with children, protected adults or both and not barred from that type of regulated work;
- include all vetting information (which is criminal history information and information that the police consider relevant to the post);
- indicate whether the person is under consideration for listing.

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A PVG Scheme Record will be sent to both the individual and the employer and when relevant, to a regulatory organisation.

2. PVG Scheme Record Update - £18

A PVG Scheme Record Update will be requested by an employer who is recruiting an existing PVG Scheme member for the first time or as part of a regular review of existing employees. The application form for any type of disclosure for existing PVG Scheme members will be very short because all of the information provided when the original application for PVG Scheme membership was made will still be held by Disclosure Scotland.

This will remove the need for people who have already become PVG Scheme members to complete a detailed application form every time a disclosure check is required, saving time and resources.

The PVG Scheme Record Update will:

- confirm that the person is a PVG Scheme member in respect of working with children, protected adults or both, and not barred from that type of regulated work;
- specify the date of the last PVG Scheme Record;
- state whether any existing vetting information was included in the member's scheme record when they joined the PVG Scheme;
- indicate whether any new vetting information has been added to the member's scheme record and the date each item was added (without detailing the substance of any such vetting information);
- indicate whether any vetting information has been removed and the date it was removed (without detailing the substance of any such vetting information). For example, this may happen if a conviction is weeded from police information systems after a period of time has passed, meaning that it can no longer be disclosed;
- indicate whether the person is under consideration for listing.

The purpose of the PVG Scheme Record Update is to enable employers to check quickly, easily and cheaply that employees or potential employees are PVG Scheme members and therefore not barred from working with vulnerable groups.

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The reason it will be quicker and cheaper is because over 90 per cent of enhanced disclosures currently show no new vetting information. This means that there will be no vetting information on the vast majority of PVG Scheme Records. This in turn means that there will no need for employers to request a full PVG Scheme Record when, for a fraction of the cost, a PVG Scheme Record Update will provide them with the same information.

In the minority of instances where there is new vetting information, the employer will be able to request the PVG Scheme Record. This will enable them to see the detail of the vetting information and consider whether it is relevant to the post.

The total cost of this will add up to the same as the cost of the PVG Scheme Record (£59).

A PVG Scheme Record Update will be sent to both the individual and the employer.

An article that explains how the application form for a PVG Scheme Record update will look is on page 10 of this Progress Update Newsletter.

3. PVG Scheme Membership Statement - £59 to join the PVG Scheme and £18 for subsequent updates

A PVG Scheme Membership Statement will be available to people in anticipation of taking up regulated work, either on a unilateral basis, on a self-employed basis or if an individual is working for a personal employer who wishes to confirm that the individual is a PVG Scheme member.

The PVG Scheme Membership Statement will:

- confirm that the individual is a scheme member in respect of working with children, protected adults or both and not barred from that type of regulated work;
- indicate whether the individual is under consideration for listing.

A PVG Scheme Membership Statement, for example, could be requested by a personal employer such as a parent wishing to employ a sports coach for their child or a person with disabilities wishing to employ a personal carer.

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A PVG Scheme Membership Statement can be provided either when the person first joins the scheme or when requested by any personal employer.

The PVG Scheme Membership Statement will be provided to the individual and to the personal employer where one is identified.

FEES

The PVG Act legislates that the correct fee is paid by somebody and it does not legislate who should pay. It will be for each organisation to decide who should pay. In most instances, under the current arrangements, employers pay for the cost of disclosures.

Applications for volunteers working in the qualifying voluntary sector will continue to be handled free of charge.

QUICK GUIDE TO DISCLOSURE TYPES

| Type of PVG Scheme Disclosure | Context/Use | Cost |
|------------------------------------|--|--|
| 1. PVG Scheme Record | When a person joins the PVG Scheme for the first time to work for an organisational employer or when a employer requires disclosure of the full PVG Scheme Record. | £59 or £41 if requested after a PVG Scheme Record Update has indicated that new vetting information is available. |
| 2. PVG Scheme Record Update | For any subsequent updates for organisational employers on an existing PVG Scheme member. | £18 |
| 3. PVG Scheme Membership Statement | For self-employed people or people seeking to work with vulnerable groups to confirm that they are members of the PVG Scheme. | £59 when joining the PVG Scheme for the first time. £18 for any subsequent applications. |

For more information on the cost benefits associated with the PVG Scheme, check out the previous [Progress Update Newsletter \(Issue 4\)](#) on the Scottish Government website.

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WHAT WILL THE PVG SCHEME RECORD UPDATE APPLICATION FORM LOOK LIKE?

The PVG Scheme application forms will be very similar to the current disclosure forms and will be familiar to the many thousands of individuals and organisations who currently interact with Disclosure Scotland.

Guidance notes for each application form will be available on PVG Scheme section of the [Disclosure Scotland website](#). To make it simpler for customers, the mandatory fields on the forms will be highlighted. This should help to minimise errors and/or delays in processing applications.

Should customers experience any difficulties completing the application forms, there will be a dedicated PVG Scheme telephone helpline which will be operated by Disclosure Scotland staff.

Here is a [sample](#) of the application form for PVG Scheme Record Update. As highlighted in the previous article, it is much shorter than the application form available under the current system because all of the information provided when the original application for PVG Scheme membership was made will still be held by Disclosure Scotland.

DETERMINING UNSUITABILITY TO WORK WITH VULNERABLE GROUPS

A seminar on 30 March 2010 asked key stakeholders and experts to contribute to the development of a reliable and fair approach to deciding who should be barred from working with vulnerable groups.

Thirty-six invited delegates attended the seminar, representing a range of interests and organisations including:

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- child and adult protection,
- health,
- regulatory bodies,
- voluntary sector,
- the police,
- the Crown Office and Procurator Fiscal Service,
- the Risk Management Authority.

Delegates heard about the wide range of research and analysis already undertaken by Disclosure Scotland to develop the determinations process and considered early drafts of the assessment aides case workers will use.

Delegates agreed with the approach Disclosure Scotland intends to apply in making decisions to bar people. They provided lots of constructive feedback on how to improve the assessment aides and helpful suggestions on staff training for decision makers.

Gerry Hart, Head of the Protection Unit, Disclosure Scotland said:

“Disclosure Scotland will apply a robust and structured approach to every case to ensure that decisions to bar people who are unsuitable are fair and appropriate. This seminar demonstrates our ongoing commitment to work with a wide range of experts who have knowledge and experience of risk assessment and the protection of vulnerable groups to help us achieve this”.

Work will continue to develop the assessment aides, guidance and training with support from an advisory group of experts who will consider each of these areas of work over the next few months.

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GUIDANCE AND TRAINING UPDATE

Following the consultation on the draft secondary legislation and draft guidance that closed on 2 February 2010, 73 respondents (out of 108) commented on the draft guidance. Most respondents were supportive of the style and format and the comments received have been extremely helpful in strengthening the guidance to ensure it is as clear and concise as possible.

Those who responded focused on three aspects.

1. How the guidance looks - for example, the length of the draft, the need for shorter targeted text for specific audiences, case studies that focus on difficult cases and more flow charts.
2. How the PVG Scheme will work – for example, the need for greater clarity around how the referrals process will work and more information about what is harm, what is risk assessment and cross border working arrangements.
3. The language and terms used – for example, the names used for some PVG Scheme outputs differ from what is in the Protection of Vulnerable Groups (Scotland) Act 2007. Key terms such as ‘normal duties’ and ‘incidental’ need more explanation and terms such as ‘frequent’ that appear in the guidance do not appear in the PVG Act which is unhelpful.

The Scottish Government in partnership with the Guidance Advisory Group is now taking account of the comments received and working towards a final draft which will be published alongside a package of training materials in the summer.

[More information on the Guidance Advisory Group](#)

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UPDATE FROM THE CENTRAL REGISTERED BODY IN SCOTLAND (CRBS)



The Scottish Government is committed to ensuring that the voluntary sector is equipped and ready to interact with the PVG Scheme when it commences.

To build capacity it has been working with the CRBS to help ensure it is able to provide the support that the sector needs.

Last month, the CRBS launched its new [website](#) to enhance the information it provides for the voluntary sector on the current disclosure process and on the PVG Scheme.

Included on the refreshed website is information about its new, quick enrolment process, updates on CRBS requirements for ID checking for disclosure applications and on the additional support services that CRBS can offer to its enrolled organisations.

It also includes details of its programme of information and training events that will run during 2010 in preparation for the PVG Scheme commencing and to help build capacity in the voluntary sector. For more information go to <http://www.crbs.org.uk/> or call 01786 849777.

If you are currently enrolled with CRBS you should ensure that the information it currently holds about your organisation is up to date, as under the PVG scheme CRBS will require the following information to be detailed correctly.

- Name of Organisation.
- Lead person contact name.
- Names of any additional signatories.
- A supporting statement detailing the purpose of your organisation.
- Details of positions that current require an enhanced disclosure check.

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Not for profit voluntary sector organisations and groups that currently provide services to vulnerable groups who are not currently accessing disclosure certificates may wish to enrol with CRBS before the PVG Scheme goes live. Enrolment with CRBS is quick and easy.

To enrol with the CRBS or to update your details, please call 01786 849777 or send an email to info@crbs.org.uk.

The CRBS is a service operated by [Volunteer Development Scotland](#). It was established by the Scottish Government to provide free disclosure checks for volunteers working in the voluntary sector with vulnerable groups.

SOURCES OF INFORMATION ON THE PVG SCHEME.

A short information booklet that outlines how the PVG Scheme will work is available to download from the [Scottish Government website](#). Hard copies are also available as are large print, British Sign Language and minority ethnic languages versions. Call the PVG Scheme Implementation Team at the Scottish Government on 0131 244 0272 for copies.

In recognition that there are various websites that provide information on the PVG Scheme and the vetting and barring scheme that will be implemented in the rest of the UK, a new web landing page has been created.

The purpose of this page is to help direct people to the most appropriate and relevant website depending on their needs and, to enable them to register on to the PVG Scheme mailing list if they are not already receiving this regular Progress Update newsletter and other email updates. The web landing page is hosted on infoscotland.com.

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Towards the end of 2010, the Scottish Government is introducing a new membership scheme that will replace and improve upon the current disclosure arrangements for people who work with vulnerable groups. The PVG Scheme will deliver a fair and consistent system that will:

- help to ensure that those who have regular contact with children and protected adults through paid and unpaid work do not have a known history of harmful behaviour,
- be quick and easy to use, reducing the need for PVG Scheme members to complete a detailed application form every time a disclosure check is required,
- strike a balance between proportionate protection and robust regulation and make it easier for employers to determine who they should check to protect their client group.

**Protecting Vulnerable Groups Scheme
Implementation Team
Scottish Government
Tel: 0131 244 0272**

Email: pvg.enquiries@scotland.gsi.gov.uk

www.infoscotland.com/pvgscheme

or

www.scotland.gov.uk/pvglegislation