

# Protecting Vulnerable Groups Scotland

## SCVO response to Scottish Government

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### Our position

Volunteer checks should always be free for volunteers

Clarity about the role of trustees is needed

The shift to a digital system is welcome but should be equality and privacy aware

Consider improving the definition of regulated work rather than shifting to protected roles

Many third sector jobs may be missing from the Level 2 product eligibility list

Time-limited scheme membership is welcome but should be flexible

The proposed 'public interest' test for volunteers is problematic and needs further evidence and review.

Volunteers shifting to paid work should still only pay on their scheme renewal date

Age-limiting the scheme needs further evidence and review

Reform to PVG needs to take place within a broader and more systematic review of disclosure and safeguarding.

### Our response

#### Introduction

This is SCVO's response to the Disclosure Scotland [proposals](#) for reforming Protection of Vulnerable Groups and the Disclosure of Criminal Information.

Our response has been developed openly with discussions and contributions from SCVO members to our consultation [wiki page](#). A meeting between interested SCVO members also took place on Monday 9<sup>th</sup> July to refine and share ideas.

#### Reviewing the legislation

SCVO endorses the response from the Coalition of Care and Support Providers Scotland, and shares with them a concern that the consultation does not allow for the discussion and

exploration of the wider, more systemic and fundamental changes required to ensure a fair and effective system of disclosure.

In particular, SCVO has been working with OSCR this year [to explore improvements](#) to the overall culture of safeguarding within charities and with people that charities work with. Any review of disclosure needs to take place within this broader picture which brings additional sensitivities for third sector organisations following the safeguarding scandals that international NGOs faced earlier this year.

We would therefore like to make the following suggestions on the process for reviewing the legislation:

- Engage with third sector at every stage - it is a key stakeholder in protecting vulnerable groups, but needs sufficient time and clear proposals to respond effectively
- Carry out a gender analysis of the proposed changes for differential impact on men and women
- Explore links between these proposals and the strategies to tackle safeguarding, loneliness, homelessness, mental health and employability

### Our key principles

Our approach to the review of the disclosure schemes is guided by the following principles:

- Volunteer checks should always be free for volunteers
- Scheme rules should be simple, clear and unbureaucratic
- Members should be allowed to leave and rejoin the scheme at will
- The scheme should foster a risk-aware rather than risk-averse approach

### Options for change

Options		
Disclosure Scotland proposal	Change in position	Considerations
Make PVG mandatory for all occupations where employees are	Currently PVG is not mandatory but hiring someone	PVG costs the employee and/or organisation. This is reasonable in cases of paid employment. But for volunteers, can be prohibitive and counterproductive for both volunteers and volunteering organisations.

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<p>working with vulnerable people</p>	<p>from the barred list is an offence.</p> <p>Registering through the PVG system allows an employer to demonstrate that they are not hiring someone barred.</p> <p>Making PVG mandatory is therefore a fundamental change to the scheme.</p>	<p>Therefore, volunteer registration and checks should remain free.</p> <p>In addition, further clarity about the role of charity or voluntary organisation trustees needed as they are also volunteers. Is PVG membership necessary for trustees who may not be working with vulnerable groups or would a disclosure check be more appropriate?</p>
<p>Digitalisation of system</p>	<p>Moving from paper forms to an online and e-notifications based system for applications and notifications.</p>	<p>Paperwork for smaller groups is already a nightmare and major hurdle so digitalisation of the system would be welcome.</p> <p>However, there is an equality consideration here which applies both paper based as well as digital approaches. Accessibility for lower literacy and language and very formal/officious language can be difficult for many people. Digital must not exacerbate this. For example, be careful about offering financial incentives for digital applications for first time applicants, as they may choose to engage digitally even if it is not the most appropriate route for them.</p> <p>The move to digitalisation should also give due consideration to securing GDPR and privacy concerns.</p>
<p>Annex B - PVG membership</p>	<p>The proposal is to move from 'regulatory work' to 'protected roles'. This is a substantial shift, as it requires advance anticipation of all roles that may involve interaction with vulnerable people.</p>	<p>This proposal needs to be seriously rethought.</p> <p>There are already duplications of roles in the proposed Annex B membership list and some clear gaps. There is a danger that the list could grow and be never-ending.</p> <p>It may be better to consider improving the definition of regulated work rather than moving to the 'protected roles' approach.</p> <p>We have crowdsourced a list of roles we believe are missing from the list which is available on <a href="#">our wiki</a>.</p>
<p>Annex A - Conviction checks</p>	<p>A new Level 2 disclosure product which limited to those employed by organisations listed in the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions)</p>	<p>The Level 2 police checks eligible roles listed in Annex A does not cover all roles. We have been made aware that a number of third sector organisations may work as associates with the organisations listed in Annex A, and therefore may be employing people who need to be covered by Level 2 checks. Please</p>

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	(Scotland) Order 2013 (“the 2013 Order”)	therefore carefully check the consultation responses from third sector organisations on the professions/roles that are not included that should be (Consultation Question 8).
Revised fees regime for the scheme and discounts	<p>Time-limiting the scheme to 1 or 5 years rather than the current lifetime membership.</p> <p>Application of a 'public interest' test for volunteers.</p> <p>If a volunteer enters paid work then they would need to start paying immediately.</p>	<p>We support time-limiting membership of the scheme as it will allow people to leave and unburden the scheme. However, people should be able to rejoin later at the renewal rate, not at the new member joining rate. With this in mind we support the flexibility offered by 1, 2 or 5 years renewals with associated discounts.</p> <p>A 'public interest' test for volunteers risks creating a value judgement on deserving and undeserving causes. If there is a concern that some people volunteer for commercial organisations, then the data for this needs to be assessed and made available.</p> <p>For volunteers entering paid work, it would be less bureaucratic for all concerned if payments only happen at point of scheme renewal, not changing to paid work. If the membership of the scheme is time-limited, then this should not be a problem for the financial sustainability of the PVG system.</p>
<p>No disclosure for under-16s</p> <p>No counter-signatories can be under-18s</p>	<p>There is currently no age limit, so this is a fundamental change to the scheme.</p>	<p>In the third sector many 16 yr olds do have responsibility and may merit scheme membership. As this is difficult and sensitive issue more evidence and data is required before advancing this proposal.</p> <p>Note that in the third sector, we have many young trustees under 18 who could also be affected by the proposed age restriction for counter signatories.</p>

## Conclusions

Our overriding concerns with the proposals in this consultation is the lack of clarity on the link between job roles and the legislative requirements to cover regulated work.

It is more important what these roles actually do rather than the name of the role. The consultation proposals sometimes mix these up and is not precise enough in the definitions it does use.

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This has led us to question the effectiveness of this consultation given how fundamental some of the changes proposed are. It may therefore be better to review the proposals as part of a more systemic consideration of the future of disclosure and the PVG scheme in Scotland, including the broader context of safeguarding which is currently an important concern for the third sector in Scotland.

## About us

The Scottish Council for Voluntary Organisations (SCVO) is the national body representing the third sector. There are over 45,000 voluntary organisations in Scotland involving around 138,000 paid staff and approximately 1.3 million volunteers. The sector manages an income of £5.3 billion.

SCVO works in partnership with the third sector in Scotland to advance our shared values and interests. We have over 1,900 members who range from individuals and grassroots groups, to Scotland-wide organisations and intermediary bodies.

As the only inclusive representative umbrella organisation for the sector SCVO:

- has the largest Scotland-wide membership from the sector – our 1,900 members include charities, community groups, social enterprises and voluntary organisations of all shapes and sizes
- our governance and membership structures are democratic and accountable - with an elected board and policy committee from the sector, we are managed by the sector, for the sector
- brings together organisations and networks connecting across the whole of Scotland
- SCVO works to support people to take voluntary action to help themselves and others, and to bring about social change.
- Further details about SCVO can be found at [www.scvo.org.uk](http://www.scvo.org.uk).

## Contact

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The Scottish Council for Voluntary Organisations (SCVO) is a Scottish Charitable Incorporated Organisation. Registration number SC003558.

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