

# Protecting Vulnerable Groups Scheme

## CHECK TO PROTECT

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### **PROGRESS UPDATE - NO 4 JANUARY 2010**

This is the fourth 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 CONSULTATION**

The consultation (published on 10 November 2009) on the package of secondary legislation required to implement the PVG Scheme, the regulatory impact assessment and the draft guidance will close on 2 February 2010. All responses to the consultation should be sent to [pvg.enquiries@scotland.gsi.gov.uk](mailto:pvg.enquiries@scotland.gsi.gov.uk).

The Scottish Statutory Instruments, draft guidance and associated documents are on the [PVG Scheme consultation 2009 page of the Scottish Government website](#)

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## FEES AND COST BENEFITS

Scottish Ministers have made a strong commitment to ensuring that the PVG Scheme streamlines and simplifies the disclosure process. Why, given that the initial PVG Scheme membership fee proposed in the draft Scottish Statutory Instrument will be higher, does the Scottish Government think that the whole process will be cheaper for organisations to use in the longer term than the current system?

There are two elements to this.

### 1. Fees

Applications to join the PVG Scheme for the first time or for a PVG Scheme Record (the full record) will cost £59. This will have an impact on organisations' budgets while the workforce is being phased into the scheme.

Once all of the existing workforce has joined, a PVG Scheme Record will only be required for people new to the workforce or when an employer chooses to follow up any new vetting information relating to an employee. The costs in relation to this will be more than offset by savings from the use of PVG Scheme Record Updates for the following reasons.

Once a person becomes a PVG Scheme member in respect of working with children, protected adults or both, the proposed fee will be £18 for any future PVG Scheme Record Updates (this is £5 less than the cost of an enhanced disclosure under the current system). In the vast majority of cases, this will be all that an employer will need to confirm that there is no new vetting information about an existing PVG Scheme member. This is because over 90 per cent of current enhanced disclosures contain no new criminal history information. It follows therefore, that over 90 per cent of PVG Scheme members will have no criminal history information on their scheme record when they join and only very small numbers are likely to acquire new convictions thereafter.

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It will only be when a PVG Scheme Record Update shows that new vetting information has been recorded, that an employer may wish to request a PVG Scheme Record Disclosure to see the detail. The proposed fee for this will be the difference between the cost of full disclosure and the update - £41.

## **2. Administrative costs**

At present the Disclosure Scotland system has no memory. This means that even if a person has made multiple disclosure applications in the past, they and their employer have to process every application from scratch because a full identify verification and a fresh check for criminal history information is required by Disclosure Scotland every time. This is time-consuming and therefore, costly.

The PVG Scheme will change this because it will have a memory. After a person becomes a member, only one page of personal information will be required on the application form to enable Disclosure Scotland to process any future checks. All the other information supplied during the original application for PVG Scheme membership will already be held and Disclosure Scotland will simply download the membership record and then issue a PVG Scheme Record Update.

In addition, about one year after commencement, the online account facility will be available. This will speed up the process even more. Organisations will be able to process all applications via a secure online portal and PVG Scheme Record Updates will be issued within minutes of the application being made. It will also be possible to view financial statements online and receive and process invoices electronically.

For voluntary organisations choosing not to register direct with Disclosure Scotland, the [Central Registered Body in Scotland \(CRBS\)](#) process will be streamlined to end the need for duplicate processing of information. This will decrease turnaround time by at least two days. PVG Scheme membership for volunteers working in with vulnerable groups in the qualifying voluntary sector will continue to be free whether applied for via the CRBS or direct from Disclosure Scotland.

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All of these factors contribute to a system that will not only offer far greater protection to vulnerable groups, but will be quicker and cheaper for individuals and organisations to use.

## **SYSTEMS DEVELOPMENT UPDATE**

Work is progressing well on the development of the IT system required to make the PVG Scheme work. There will be two major releases of the IT system.

The first will be towards the end of 2010 to enable the scheme to start operating. The second, expected to be one year after go live, will deliver additional functionality, including online accounts and extending the use of the system to CRBS to speed up the processing of applications from volunteers (the benefits of this are highlighted in the article on fees and cost benefits on page three).

Hardware is now installed in Glasgow with a backup site in Newcastle. Disclosure Scotland staff have received their first demonstration of how the applications part of the system will operate and the first round of testing will commence in March 2010.

## **GUIDANCE AND TRAINING UPDATE**

In preparation for the introduction of the PVG Scheme, an advisory group of people who work with vulnerable groups and Scottish Government officials meet regularly to oversee the development of guidance and training materials. The guidance is aiming to explain, in a user-friendly way, how the PVG Scheme will operate and the interactions expected of individuals and organisations.

The draft guidance is included in the package that is currently out for consultation (ending on 2 February 2010) and the intention is to make it primarily a web-based publication to allow for easy updating and smart navigation by users. A small number of hard copies will also be available.

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During 2010, the Guidance Advisory Group will work on the development of training material to support the roll out of the guidance. It is expected that the training material will be generic so that organisations can adapt it to their own needs. The finalised guidance and training materials will be available six months before the PVG Scheme commences.

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

[Draft guidance consultation](#)

## INFORMATION MATERIALS IN MINORITY ETHNIC LANGUAGES

In the last issue we highlighted the availability of the PVG Scheme Information booklet in British Sign Language and audio. The booklet text is now available in [Arabic, Hindi, Punjabi and Urdu](#).

For hard copies of the translations or of the information booklet call 0131 244 0272 or email [pvg.enquiries@scotland.gsi.gov.uk](mailto:pvg.enquiries@scotland.gsi.gov.uk).

## INFORMATION EVENTS UPDATE

### **NHS EVENT – STRATEGIC PLANNING**

An information/strategic planning event took place on 23 November 2009 for NHS Human Resources/Recruitment Executives. The purpose of the day was to consider how the NHS will take a strategic approach towards implementing the PVG Scheme. This was the first in a series of events which are being planned to help particular sectors plan for commencement of the PVG Scheme.

Event participants considered a wide range of issues and actions relating to scheme membership which included:

- developing a matrix at national level to ensure consistent handling of the referrals and considerations process,
- reviewing some key recruitment and staff supervision policies to ensure the PVG Scheme is reflected and;

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- exploring the viability of a service level agreement to support delivery of the three year retrospective checking process.

The actions agreed on the day are being taken forward by a national partnership group that brings together the Scottish Government, NHSScotland employers, trade unions and professional organisations to agree outcomes on NHS workforce issues, policy and processes.

### **PUBLIC/PRIVATE SECTOR EVENT – PHASING IN THE WORKFORCE**

On 10 November 2009, an event took place for public and private sector employers that are large users of Disclosure Scotland to engage and consult on how best to phase the workforce onto the PVG Scheme. Disclosure Scotland will shortly be discussing this issue with representatives from the voluntary sector.

The PVG Scheme will be phased in over four years with the retrospective checking period beginning one year after the scheme commences. Disclosure Scotland will need to manage the phasing in process to ensure that the flow of retrospective applications remains steady so that it can maintain good service levels to all customers.

During this event, employers considered how they would manage this process within the set time period and how they might prioritise applications. There was general agreement that organisations would need to work closely with Disclosure Scotland during this phase of implementation. Those employers who attended the event are now considering the following:

- the monthly volumes of applications they will need to process,
- how to risk assess current posts to decide on how best to prioritise applications,
- management of the response to any large recruitment campaigns they may undertake during the retrospective checking period.

Work with all sectors of the vulnerable groups' workforce will continue through 2010 and a set of basic principles for retrospective checking will be developed.

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## POLICE INFORMATION AND THE PVG SCHEME

One of the key differences between the PVG Scheme and current practice is that employers, police and regulatory bodies will be able to share, with Disclosure Scotland, information about individuals who may be unsuitable to work with vulnerable groups. This sharing of information will enable Disclosure Scotland to make a fair and robust assessment about whether a person should be placed on the list of those who are barred from working with children, the list of those who are barred from working with protected adults or both.

Once a person becomes a PVG Scheme member, any new vetting information – which is conviction and non-conviction information that is considered to be relevant held by the police – will be added to their membership record. In the vast majority of cases there will be no new vetting information. But when new vetting information that is cause for concern does come to light, it is vital that it is reliable and robust.

Iain Gray, Head of the Information Disclosure Unit in Grampian Police explains:

*“The requirement under the PVG Act for police to share information exists so that we can share information when it is relevant to the protection of vulnerable groups. It is not a licence to tell Disclosure Scotland about neighbourhood gossip or hear say.*

*“The police have strict guidelines for deciding whether to disclose information and this will continue under the PVG Scheme. Guidelines include the need to evaluate whether the information is accurate and comes from a reliable source. We also evaluate whether the information is relevant to someone’s suitability to work with children or protected adults. For example a road traffic infringement is unlikely to be relevant to work with vulnerable groups, so the police would not share that information.*

*“In addition, the police will always consider the consequences of and context around sharing information. This can be a tricky balance between the rights of the individual and the protection of another individual or group, but it is a balance that we always strive to get right.”*

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The Scottish police forces, The Association of Chief Police Officers in Scotland and the PVG Scheme implementation team in the Scottish Government are currently establishing the circumstances within which police will share information with Disclosure Scotland under the PVG Act.

## **WHY DO SOME OFFENCES NOT MEET THE AUTOMATIC LISTING CRITERIA?**

During PVG Scheme information events and meetings, people from the vulnerable groups' workforce have asked why some offences will not meet the automatic listing criteria.

The PVG Act provides Scottish Ministers with powers to specify criteria which will result in an individual being automatically listed. The purpose of automatic listing is to prevent clearly unsuitable people from doing regulated work without unnecessary procedure.

Although the power in the PVG Act is broad, it has always been proposed that automatic listing should be reserved for the most serious offences.

These offences must be of a nature which represent unequivocal unsuitability to work with children or protected adults, as the individual will have no opportunity to make representations and no right to appeal against a decision to list (although the individual can later apply for removal from the list on the grounds of a change of circumstances). The majority of stakeholders who responded to the 2007 consultation on policy proposals for secondary legislation supported this approach.

Determining which offences represent this level of seriousness is complex. Offences are committed by different types of individuals, in all kinds of circumstances. The wide range of conduct covered by certain types of offences, such as assault, can range from relatively low level harm to serious and significant harm. The PVG Act recognises that, in most cases, an individual should have the opportunity to make representations before any decision is made. This means that there must be some rationale for differentiating automatic listing offences from every other offence.

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Scottish Ministers propose that the offences which will lead to automatic listing, where the individual is convicted after the PVG Scheme goes live, are the murder of a child and any offences involving non-consensual sexual penetration of another person. These offences represent the most serious outcome of physical violence against a child and the most intimate invasion of another individual's sexual autonomy.

The characteristics of these offences set them apart from all other offences which means that there will be nothing an individual can say which would make Scottish Ministers question whether listing is appropriate.

The offences listed above are not the only serious offences that could lead to someone being barred from regulated work. However, in all other instances the individual under consideration would have the right to make their representations and have them considered alongside all other relevant information before a decision on whether to list is made.

The full list of offences is contained in The Protection of Vulnerable Groups (Scotland) Act 2007 (Automatic Listing) (Specified Criteria) Order 2010 (the draft order) which is on the [PVG Scheme consultation 2009 page of the Scottish Government website](#).

## **A REMINDER ABOUT WHAT ORGANISATIONS CAN DO NOW TO PREPARE FOR PVG SCHEME COMMENCEMENT?**

The PVG Scheme is expected to go live at the end of 2010. The exact date is still to be announced by Scottish Ministers and the aim is to give employers as much notice as possible of the go live date to enable them to prepare. Training and guidance materials will be available in the run up to, and after, go live. Draft guidance is currently available for consultation on the [PVG Scheme consultation 2009 page of the Scottish Government website](#)

In the meantime, what can organisations and groups do now to prepare for commencement?

They can ensure that appropriate safe recruitment, child and/or adult protection policies and procedures are in place. There are various publications on safe recruitment.

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- [Safer Recruitment through Better Recruitment Guidance – The Scottish Government](#)
- [Safer Pre and Post Employment Checks - NHS Scotland](#)
- [Safer Recruitment for Safer Services - Care Commission](#)

If your email address has changed or if you know of anyone who would like to receive email progress updates, please email details to [pvg.enquiries@scotland.gsi.gov.uk](mailto:pvg.enquiries@scotland.gsi.gov.uk).

Organisations and groups should also keep a list of the posts (paid and unpaid) which require to have an enhanced disclosure check and a note of when the people in the posts were last checked. This will be useful when determining who should be a PVG Scheme member when the three year process of phasing in the existing workforce begins, which will be one year after go live.

If you are currently registered with Disclosure Scotland, you will wish to ensure that your list of counter-signatories is kept up to date as, under the PVG Scheme, applications will still require to be counter-signed. If you would like to update or verify your current list of signatories, please send an email from the registered person (the lead signatory) to [dscompliance@disclosurescotland.gsi.gov.uk](mailto:dscompliance@disclosurescotland.gsi.gov.uk) stating your registered body code and listing your signatories.

**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.**

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