

Response ID ANON-8Z9G-EGMG-J

Submitted to **Protection of Vulnerable Groups and the Disclosure of Criminal Information**
Submitted on **2018-07-16 09:26:43**

Section 2 - Disclosure Products

1 Do you agree that reducing the disclosure products will simplify the system?

Yes

If you have answered no, what do you think will simplify the system?:

2 As we are trying to simplify the system, do you have any views on what this product should be called?

Not Answered

If other, please state::

3 As an applicant, do you have any concerns with this approach?

Not Answered

4 Which option do you prefer?

Option 2

Please explain why.:

Job applicants will save money which is important in areas of low paid work which is typical of the social care sector.

5 Do you agree that it is appropriate to regulate registered bodies in relation to B2B applications?

Yes

6 What impacts, if any, do you foresee from moving from a paper based system to a digital system?

What impacts, if any, do you foresee from moving from a paper based system to a digital system?:

If it works similarly to the DBS system in England, it should be more efficient.

7 Do you agree with our proposed fee for this service?

Yes

If not, what do you think the fee should be?:

8 Are there any professions/roles that are not included that should be on the list?

No

If you have said yes, please note what these are.:

9 Are there any professions/roles you think should be removed from the list?

No

If you have said yes, please note what these are.:

10 Do you agree with the proposal to remove certain kinship carers and all foster carers from a membership scheme?

Not Answered

11 Do you think that the two types of kinship arrangements should continue to be treated differently under the future arrangements?

Not Answered

12 Do you agree with this proposal?

Not Answered

13 Do you agree with this proposal?

Not Answered

13a. Do you think that anyone else in the foster/kinship carer's network needs to be checked? If so, who and why?:

14 Do you believe that this is the correct approach going forward?

Not Answered

15 Which option should be the content of the Level 2 disclosure product be based upon?

Option 2b

Please provide the reason for your choice.:

Providers of care at home services need to have the level of information in option 2b in order to establish the suitability of an applicant.

16 Which price option do you prefer for the Level 2 product?

Option 2

17 Is it proportionate that the free checks should continue for volunteers who obtain Level 2 disclosures?

Yes

18 What issues, if any, do you foresee with a move to a digital service?

What issues, if any, do you foresee with a move to a digital service?:

Other regulators of services such as the Care Inspectorate need to be aware of the change of approach.

Section 3 - Reforming the policy underpinning the PVG Scheme

19 How should a mandatory PVG Scheme be introduced and how should it work?

How should a mandatory PVG Scheme be introduced and how should it work?:

The mandatory scheme should be introduced by regulation in the various sectors involved.

20 Do you agree with the proposal to replace the "regulated work" definition with a list of roles/jobs?

No

21 Do you foresee any challenges for organisations from this proposed approach?

Yes

22 Are there any roles/jobs not within the list in Annex B that you think should be subject to mandatory PVG scheme membership?

Yes

If so, please provide more detail on why.:

Supervisors and managers of those in a protected role should also join the PVG Scheme.

23 To avoid inappropriate membership, what criteria to you think should be used to decide if an individual is in a protected role?

To avoid inappropriate membership, what criteria to you think should be used to decide if an individual is in a protected role?:

What is the nature of the risk?

Is the risk associated with the nature of the contact with the child/protected adult?

Is the risk associated with the place of contact?

Is the risk associated with the nature of the relationship between the child/protected adult and the person?

24 Do you think that the decision about whether someone who is in a protected role meets an exception which makes them ineligible for the PVG Scheme should be taken by Scottish Ministers?

No

25 Are there roles that would not be protected roles and therefore ineligible for membership to the new scheme, that should, however, be eligible for a level 2 disclosure?

Are there roles that would not be protected roles and therefore ineligible for membership to the new scheme, that should, however, be eligible for a level 2 disclosure?:

Office workers in a homecare service who have no physical contact with children/protected adults.

26 Are there any services that should be added, or are there any services that should be removed?

Yes

If yes, please state what these are.:

Its not clear whether the definition above includes self-employed practicing social workers and health professionals (including allied health professionals) who work independently as sole traders.

27 Is this appropriate?

Yes

28 Do you agree with this approach?

Yes

29 Do you think these are the correct facilities, or should any be added or removed?

Yes

If yes, please state what these are.:

30 Do you think this approach is clear and helpful?

Yes

31 Do you think that list of positions is correct?

Yes

Should it be amended either by adding to it, or by taking away from it?:

32 How long should scheme membership last in a mandatory scheme?

5 years

33 Do you think a membership card would be beneficial to you as a member of the PVG scheme?

Not Answered

34 Do you think a membership card would be beneficial to you as an employer?

Not Answered

35 Do you agree with these proposals?

Yes

36 What is your preferred option?

Option 1

37 Are you in favour of being able to interact with Disclosure Scotland online?

Yes

38 Are you in favour of using electronic payment method for fees?

Yes

39 Do you have an electronic payment method that you prefer?

No

If you have answered 'yes' please say what it is.:

40 Do you have any proposals on how the transitional arrangements should work?

Do you have any proposals on how the transitional arrangements should work? :

41 Should volunteers continue to receive free membership?

Yes

If no, should they be subject to a reduced fee?:

42 Do you agree that voluntary organisations seeking to benefit from a reduced fee or the fee waiver should be subject to a public interest test?

Yes

If so, how should that test be defined?:

Voluntary organisations should be registered with Scottish Charity Regulator and be able to demonstrate the nature of the protected role/job being carried out by the volunteer.

43 Do you agree that employees and employers alike (including volunteers and volunteering bodies) who work or allow an individual to work in protected roles without joining the PVG Scheme or to stay in protected roles after membership has expired should be subject to criminal prosecution?

Yes

44 Do you agree that any scheme member who fails to pay the relevant fee to renew their PVG Scheme membership and where there are no employers (or volunteering bodies) registered as having an interest in them in a protected role should exit the PVG Scheme automatically at the expiry of their membership?

Yes

45 Should a person who joined the Scheme as a volunteer and benefitted from free entry later try and register a paying employer against their volunteer membership then the full fee would become payable and a new 5 years of membership would commence. Do you agree with this?

Yes

Section 4 - Removing unsuitable people from work with vulnerable groups

46 Do you agree with our proposals to dispense with the current court referral procedure under section 7 of the 2007 Act?

Yes

47 Are there offences missing from the Automatic Listing Order that you think should be included?

Not Answered

If you answered yes to question 47, please list the offences you believe are missing?:

48 Do you agree with proposals to create new referral powers for the Police?

Yes

49 Do you agree these powers should be limited to when police have charged a person with unlawfully doing a protected role whilst not a scheme member or where a referral has not been made by a relevant organisation?

Yes

50 Do you think this proposal closes the safeguarding gap in terms of self-directed support?

Yes

51 Do you think that this list of regulatory organisations should be amended?

No

52 If you think the list should be amended, please gives details of additions or removals.

If you think the list should be amended, please gives details of additions or removals.:

53 Do you agree with the proposal to provide Disclosure Scotland with powers to impose standard conditions?

Yes

54 If yes, how long should the conditions last before lapsing?

6 months

55 Under what circumstances do you think Disclosure Scotland should be able to impose standard conditions and why?

Under what circumstances do you think Disclosure Scotland should be able to impose standard conditions and why? :

Imposing conditions will have to be on a case by case basis, but of primary concern must be to weigh up the potential risk to children and/or protected adults, and the likelihood of those risks being carried out. You would also take into account whether there have been previous offences, the nature of those offences and when they were carried out.

Of concern to the public will be how serious the offence is. The public will expect conditions to be imposed if the offence is of a sexual or violent nature.

Your starting point will be the Schedule 8A and 8B offences. You might also consider offences of domestic violence and coercive control.

56 Do you agree that it should be a criminal offence if an individual and employer/voluntary body failed to comply with standard conditions?

Yes

57 Do you agree the age threshold for the shorter prescribed period for a removal application to be made should be raised?

No

58 Which option do you prefer?

Option A

59 Do you think it's appropriate that organisations, irrespective of where the regulated work is to be carried out, should be informed of a listed individual's barred status?

Yes

60 Do you agree with our approach for PVG Scheme Members in a protected role overseas or organisations employing PVG members to do a protected role, such as providing aid services?

Not Answered

61 We are proposing that there should be criminal offences in relation to organisations who employ barred persons overseas. Do you think that we should also consider introducing criminal offences in relation to barred individuals offering to undertake a protected role overseas?

Yes

Section 5 - Offence Lists and Removal of spent convictions from a disclosure

62 Are there any offences missing from either list that you think should be included?

Not Answered

If so what are they, on what list should they appear and why?:

63 Are there any offences on schedule 8A that you think should be on schedule 8B?

Not Answered

If so, please list them and explain why.:

64 Are there any offences on schedule 8B that you think should be on schedule 8A?

Not Answered

If so, please list them and explain why.:

65 Do you agree with the categorisation of the new offences?

Not Answered

If no, please state how they should be categorised. :

66 Do you believe the rules for disclosure in the current form of 15 years and 7.5 years provide appropriate safeguarding and privacy protections?

Not Answered

67 Do you agree that a reduction in the disclosure periods from 15 & 7.5 years is appropriate considering the changing policy on rehabilitation of offenders?

Not Answered

68 What period between 11 and 15 years do you think is appropriate for disclosure?

Not Answered

69 Do you think the application process to seek removal of a spent conviction should be reviewed?

Yes

70 At present, an individual has three months from the date of notification of an intention to appeal to make an application to a Sheriff. Do you think this time period is:

Too short

If you indicated that the time period is too long or too short, what do you think the time period should be?:

Six months

71 Do you think any of the options set out above offer viable alternatives to an application to a Sheriff?

Yes

If yes, which one? :

UKHCA's view is that Disclosure Scotland should take the decision with a right of appeal to a Tribunal.

If not, do you have any other suggestions? :

Section 6 - Additional Policy Questions

72 Do you agree that Ministers should have a power to issue statutory guidance to Police Scotland on the processes governing the generation and disclosure of ORI, including seeking representations from the individual before issuing it for inclusion on an enhanced disclosure or PVG scheme record?

Yes

73 Do you agree with Ministers' proposals to allow for representations to the chief constable before disclosure of ORI to a third party and for providing the individual with the option to appeal to an independent reviewer before ORI is disclosed?

Yes

74 Do you agree that the independent reviewer being appointed under the ACR Bill should be used for reviewing ORI?

Not Answered

75 Should there be specific provisions reducing the possibility of the state disclosure of criminal convictions accrued by young people 12 years or older on all types of disclosure?

Not Answered

Not Answered

Please tell us why you have selected an age range or given your answer.:

76 Should there be a presumption against the disclosure of all convictions accrued between 12 and a specified upper age, with the only possibility being police disclosure as ORI after ratification by the Independent Reviewer on the Level 2 and PVG Level disclosures?

Not Answered

77 Should there be no state disclosure of any conviction between the age of 12 and the specified upper limit, except where the conviction is for an offence listed in schedule 8A or 8B?

Not Answered

78 If there is a disclosure of an 8A or 8B conviction(s) should all other unspent convictions be disclosed even if the other unspent convictions are for offences not listed in schedule 8A or 8B?

Not Answered

79 Should disclosure applicants with 8A and 8B convictions be able to apply immediately to a sheriff (or other authority) to have those treated as protected regardless of the passage of time?

Not Answered

80 When including ORI on any disclosure about conduct between the age of 12 and the upper age limit should the police only be able to refer to matters they reasonably considered to be serious?

Not Answered

81 Do you agree with the proposal to place a lower age limit on applicants for criminal record checks?

Not Answered

82 In what circumstances should a criminal record check for a child under 16 be permitted?

In what circumstances should a criminal record check for a child under 16 be permitted?:

83 Do you have any concerns with this proposal?

Do you have any concerns with this proposal?:

No.

84 Do you think a supported person arranging self-directed social care should have access to vetting information which could include details about previous convictions relating to a prospective carer?

Yes

If you responded 'No' to Q84 , do you have any suggestions about how Disclosure Scotland checks could be structured to assist a supported person making their own arrangements for self-directed social care? :

85 Do you think this approach is correct?

Yes

86 Do you think that it should be?

Yes

87 Should vetting information be available if the arrangements are being made by a private individual?

Yes

88 Do you agree that the law be changed to sort this anomaly?

Yes

89 Do you think that provision should be made to bring into force the amendment at section 78(1) of the 2007 Act?

Yes

90 Please tell us about any potential impacts, either positive or negative; you feel the proposals in this consultation document may have on any particular groups of people?

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91 Please tell us what potential there may be within these proposals to advance equality of opportunity between different groups and to foster good relations between different groups?

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92 Please tell us about any potential impacts you think there may be to particular businesses or organisations?

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Homecare businesses will welcome a simplified and more efficient service.

93 Please tell us about any potential impacts you think there may be to an individual's privacy?

Please tell us about any potential impacts you think there may be to an individual's privacy?:

94 Please tell us about any potential impacts, either positive or negative; you feel the proposals in this consultation document may have on children?

Please tell us about any potential impacts, either positive or negative; you feel the proposals in this consultation document may have on children?:

About you

What is your name?

Name:
Veronica Monks

What is your email address?

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Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:
United Kingdom Homecare Association (UKHCA)

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response with name

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

Evaluation

Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)

Matrix 1 - How satisfied were you with this consultation?:

Please enter comments here.:

Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:

Please enter comments here.: