

Disclosure (Scotland) Act 2020 - Accredited body fees and proposals for discounting in relation to the PVG Scheme

Consultation

March 2024

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Introduction

The Disclosure (Scotland) Act 2020 (the Disclosure Act) introduces new types of disclosure, Level 1 and Level 2. Protecting Vulnerable Groups (PVG) scheme membership disclosures will be available as a confirmation of scheme membership or as part of a Level 2 disclosure. This means the Scottish Government needs to lay new regulations on fees payable for each type of disclosure and registering as an accredited body.

In this consultation, we are seeking views to enable us to consider accredited body registration fees and fee discounts for certain groups.

Disclosure Scotland's fees and fee structure have not changed since 2011. This is the longest period fees for disclosure products in Scotland have been frozen. The [Public Sector Finance Manual](#) sets out that fees should be set at full cost recovery. This means there is limited scope to adjust the fee levels when proposed. Work is ongoing to ensure fees are set at a level which balances affordability for customers against the cost of delivering disclosures.

While this consultation does set out some proposed fee levels for disclosure products under the Disclosure Act, taking account of actual cost of delivery and inflation, its focus is on gathering more evidence on Disclosure Scotland's approach to fees in certain circumstances to help us develop our policy approach to fees. The proposed fee levels are included to help contextualise the proposed approach.

We also invite comments on the draft impact assessments on fee waivers and discounting.

Partial impact assessments are published at gov.scot.

Background: Ongoing development of fee level and structure for Level 1 and Level 2 disclosures

Level 1 disclosure

Level 1 disclosures will replace the current basic disclosure. As well as unspent convictions, these will also include information about notification requirements under Part 2 of the Sexual Offences Act 2003, where that is relevant. Basic disclosures are the most requested and currently cost £25. They are able to be requested for any purpose, which will remain the same when replaced by Level 1 disclosures.

We propose that the fee for a Level 1 disclosure will remain at £25.

Increases in line with inflation, from February 2011 to April 2024 indicate the fee should now be £41¹ for a basic disclosure. However, efficiencies made by Disclosure Scotland under the online system which allow for more effective processing of most basic disclosures balances the inflationary increases.

Level 2 disclosures and Level 2 disclosures with suitability

Level 2 disclosures will replace the current standard disclosure and enhanced disclosure. The current fee for a standard or enhanced disclosure is £25.

Level 2 disclosures with suitability will replace enhanced disclosures with suitability (which include barred list information – whether the person is barred from regulated roles with children or protected adults). The current fee for an enhanced disclosure with suitability is £25.

Increases, in line with inflation, from February 2011 indicate the fee should now be £41 for standard/enhanced disclosures. We propose that the fee for a Level 2 disclosure and a Level 2 with suitability will be £35.

¹ Retail Price Index (RPI)

For several years, the fee for standard/enhanced disclosures has been set below the cost for Disclosure Scotland to process them. The proposed fee will enable us to balance the cost of production of the disclosure more accurately against Level 1 disclosures, which are less expensive to produce.

Level 2 disclosures with PVG scheme membership and confirmation of scheme memberships

The PVG Scheme is unique in the UK context. The Scheme ensures people working with children and protected adults are continuously monitored. This means Disclosure Scotland review new convictions and any other relevant information supplied by the police on an ongoing basis. We then assess whether the information may mean a scheme member is unsuitable for roles working with children or protected adults. If a scheme member is found to be unsuitable, we contact organisations with an active interest in their regulated work to advise of any change to their status in the PVG Scheme.

Level 2 disclosures with PVG scheme membership information will replace the current PVG scheme records and scheme record updates.

There will also be a product equivalent to the current statement of scheme membership, known as a confirmation of scheme membership. This product will not include conviction information.

As shown in the table in **Figure 1**, the current fee for a PVG scheme record is £59, and a short scheme record is £18.

The current fee for a statement of scheme membership is £59 when joining the scheme and £18 for any subsequent statement.

Increases, in line with inflation, from February 2011 to April 2024 indicate the fee should now be £97 for a PVG scheme record or statement of scheme membership

(when joining the scheme). We propose that the fee in Year 1 (1 April 2025 to 30 March 2026) for a Level 2 disclosure with PVG scheme membership information will be £70.

As with the current fee structure, this fee will be paid when an application is made for a Level 2 disclosure with PVG scheme membership information to be provided to an organisation.

The proposed fee for a confirmation of scheme membership will increase to £70 when the applicant is also joining the PVG scheme. The proposed fee for subsequent confirmations of membership for existing scheme members will remain at £18.

Figure 1

	PVG scheme record / Level 2 with PVG	Statement / confirmation of scheme membership
Current fee	£59	£59 / £18
Indicative fee, in line with inflation increase	£97	£97 / £30
Proposed fee	£70	£70 / £18

Maintaining the existing fee structure will help ease the transition to the new provisions in the Disclosure Act, including the time-limited membership of the PVG scheme. Disclosure Scotland propose that, from April 2026 onwards, the fee structure for PVG scheme membership will move to a 'membership model'. This will mean that a recurring renewal fee will be due at the end of a scheme member's five-year PVG scheme membership period.

Disclosure Scotland will engage with stakeholders further on what is required for the transition of existing scheme members to time-limited membership, and fee setting under a membership model. This model will assist Disclosure Scotland in stabilising income and ensuring that we are able to continue delivering our crucial safeguarding services sustainably in the long-term. However, it will be important to ensure that scheme members are fairly and smoothly transitioned to the time-limited

membership, so we are not proposing moving to this model in the 2025 to 2026 financial year.

Fee waivers and discounting

People in receipt of certain benefits

Disclosure Scotland has not previously taken an income-based approach to setting fees. However, with proposed increases to fees, we are exploring the feasibility of offering discounts for people who are most likely to be affected by any increase.

With administrative responsibility for applications for removable convictions moving from the Scottish Courts to Disclosure Scotland, the fee exemptions provided by the Scottish Courts and Tribunals Service were considered as a starting point for this policy. We are not proposing charging a fee for review applications, however, exploring that issue formed the basis for looking at whether we can provide more support on disclosure fees to people at greatest socio-economic disadvantage.

Proposal

Disclosure Scotland is considering a fee discount structure based on the person being in receipt of certain benefits. The benefits will include:

- income-based jobseeker's allowance
- universal credit
- personal independence payment under Part 4 of the Welfare Reform Act 2012
- adult disability payment within the meaning given in regulation 2 of the Disability Assistance for Working Age People (Scotland) Regulations 2022

A review of national population statistics indicates that 18% of PVG scheme applicants could be in receipt of these benefits. An applicant seeking to benefit from the fee discount would be expected to provide evidence of their current receipt of benefits, such as a copy of the letter from the Department for Work and Pensions (DWP), Social Security Scotland or HM Revenue and Customs.

The proposed discount is a 50% reduction of the full fee for people in receipt of the qualifying benefits. For example, the £70 PVG scheme join fee would be £35. A discount would be provided on any subsequent disclosures if the person remains eligible.

As this is a new policy, it is difficult to assess the uptake in advance. If progressed, Disclosure Scotland would continuously review this policy to ensure that it is meeting its intended aims.

Question 1 – Do you agree with the proposal to create a fee discount structure for people in receipt of certain benefits?

[Yes / no / don't know]

Question 2 – What information do you think we need to consider when looking at a fee discount for people in receipt of certain benefits?

[Free text]

Care experienced young people

Scottish Government research has found that care experienced young people are consistently less likely than other school leavers generally to be in positive destinations one year after leaving school.

Additional costs to access employment or training opportunities can be a significant barrier to already disadvantaged groups in seeking and obtaining work. Past engagement with care experienced young people also found that some young people self-excluded from roles which require a PVG scheme record disclosure due to uncertainty over whether interaction with the youth justice system might be included on their disclosure record.

Although reforms under the Disclosure Act will provide young people with more certainty about what a Level 2 disclosure will include before it is disclosed to an employer (because the young person will be able to exercise their right to review information before it is disclosed), we recognise that a reluctance to apply for a role could still remain if the young person felt they needed to withdraw after paying the initial fee. Disclosure Scotland consider a fee discount in relation to joining the scheme and for subsequent disclosure applications will minimise the additional cost barriers on care experienced young people.

Other initiatives in place designed to address economic concerns faced by care experienced young people include:

- council tax exemptions
- a non-repayable Care Experienced Student Bursary of £9,000 from the Student Awards Agency Scotland (SAAS)

Proposals

Option 1: Disclosure Scotland is considering providing a fee discount of 50% to care experienced young people. For example, the £70 PVG scheme join fee would be

£35. In this proposal, Disclosure Scotland propose defining a care experienced young person as a person who:

- is over 16 years of age and under 26 years of age
- has been looked after by a local authority at any time from their sixteenth birthday onwards
- is no longer looked after by a local authority

Disclosure Scotland will require the applicant to provide confirmation from a local authority, who can confirm the applicant's circumstances, to establish eligibility for the care experienced fee discount. This option has narrower eligibility than Option 2 on the basis that a care experienced young person in this position is even more vulnerable to financial hardship due to lack of familial support and upheaval in later childhood than a broader cohort and therefore at a minimum targeted support should be made available to this group.

Option 2: Disclosure Scotland is considering providing a fee discount of 50% for care experienced young people. For example, the £70 PVG scheme join fee would be £35. For this option, eligibility would mirror the criteria for the Care Experience Student Bursary meaning the young person must be aged between 16 to 25 years and have been looked after under one of the following arrangements:

- foster care
- kinship care (arranged by a local authority)
- kinship care (although not arranged by local authority, the young person must have had engagement/contact with local authority or social work contact during the arrangement)
- looked after at home or looked after away from home under a Compulsory Supervision Order
- residential care

Disclosure Scotland will require an applicant seeking to benefit from the fee discount to provide confirmation from an appropriate professional person that can confirm

their circumstances to establish eligibility for the discount. In relation to Option 2, a SAAS award letter could also be used as evidence. This option has a broader eligibility than Option 1 (and includes those in Option 1), recognising that care experience is a lifelong issue, affecting those who were in care at any age, and that a wider support package would bring more benefits to care experienced young people. It would also streamline the process for young people also applying for the SAAS award, permitting them to use the same evidence or their award letter for both systems.

Question 3 – Do you agree with the Option 1 proposal to provide a fee discount for care experienced young people?

[Yes / no / don't know]

Question 4 – Do you agree with the Option 2 proposal to provide a fee discount for care experienced young people?

[Yes / no / don't know]

Question 5 – What information do you think we need to consider when proposing a fee discount for care experienced young people?

[Free text]

Volunteers (Qualifying Voluntary Organisations waiver)

Currently, Disclosure Scotland waives fees for any applications to join the PVG scheme and all subsequent disclosure records when people are doing regulated work in a voluntary and unpaid capacity for a Qualifying Voluntary Organisation (QVO). The cost of applications to join and any subsequent scheme records is met by Disclosure Scotland and the wider Scottish Government. This has been the position since 2011.

‘Qualifying Voluntary Organisation’ means an organisation which is not:

- a further education institution, a school, a public or local authority, or under the management of a public or local authority
- conducted primarily for profit, and any profit generated is used to further the objectives of the organisation and not distributed to its members

As part of this consultation Disclosure Scotland is considering the operation of the QVO fee waiver to ensure public money is being used effectively. The value of non-chargeable disclosures provided to volunteers during 2022/23 amounted to £2.318 million.

The Scottish Government recognises the immense value volunteers bring to the Scottish economy and life and will continue to subsidise disclosures for volunteers with QVOs. However, in addition, with the ongoing pressure on household finances across UK, Disclosure Scotland is also considering if we can provide broader support to households on low incomes or who face additional barriers through a history of care experience. This broader support will only be achievable if costs can be balanced.

No decision has been made on this proposal and retaining the fee waiver continues to be an active option.

Proposal

Disclosure Scotland would move to a fee discount structure for volunteers doing regulated roles in QVOs.

The proposed discount is a 60% reduction of the full fee for a volunteer in a QVO. For example, a £70 PVG scheme join fee would be £28.

This reduction would mean an estimated £869,988 saving for Disclosure Scotland which would contribute towards the future sustainability of discounting and fee waivers under the PVG scheme.

Question 6 – Do you agree with the proposal to move to a fee discount structure for volunteers in QVOs?

[Yes / no / don't know]

Question 7 – What information do you think we need to consider when proposing moving to a fee discount for volunteers in QVOs?

[Free text]

Accredited bodies

Accredited bodies will replace registered persons. They will be organisations countersigning Level 1 and Level 2 disclosures. They also replace the administrative 'responsible body' arrangement for receiving basic disclosures on behalf of applicants, where consent has been given.

Registered persons are currently charged £75 annually for the registration of a lead signatory and up to four countersignatories. There is an additional £15 annual fee for the fifth and each subsequent countersignatory. There is also a one-off £15 fee to change the lead signatory to a person other than an existing countersignatory.

As accredited bodies will now register to countersign for Level 1 disclosures, Level 2 disclosures or both, we have to ensure accredited body registration fees are fair. This is because some organisations may initially register as accredited bodies to countersign only one type of disclosure and then later decide to register to countersign the other type. The fee structure for accredited bodies will therefore need to take account of whether double registration fees are appropriate.

Proposal

Disclosure Scotland propose that the fee structure for accredited bodies will remain the same as the current fee structure for registered persons. An increase in line with inflation was supported in a previous formal consultation in 2018 but was not implemented at that time.

We propose that the fee for registration as an accredited body (and up to four countersignatories) will be £120 annually. The increase in line with inflation would have been to £123. This will cover the increased costs associated with maintaining the registration and auditing of accredited bodies due to inflation.

The fee for additional countersignatories will remain £15 annually per addition.

In addition, Disclosure Scotland propose that accredited bodies who initially register for one disclosure type but later decide to register for the second will be charged a one-off £15 administration fee to have their account upgraded. This fee will not recur annually.

Question 8 - Do you agree with the proposal to increase the accredited body registration fee to £120, with additional countersignatories continuing to be £15 per addition?

[Yes / no / don't know]

Question 9 – Do you agree with the proposal to introduce an account upgrade fee?

[Yes / No / Don't know]

Question 10 – What information do you think we need to consider in relation to the accredited body registration fee?

[Free text]

Other

Partial impact assessments have been published alongside these proposals. We welcome feedback on the impact assessments and any further evidence relating to fees and discounting in this section.

Question 11 – What information do we need to consider for the Business and Regulatory Impact Assessment?

[Free text]

Question 12 – What information do we need to consider for the Equality Impact Assessment?

[Free text]

Question 13 – What information do we need to consider for the Fairer Scotland Duty assessment?

[Free text]

Question 14 – What information do we need to consider for the Children’s Rights and Wellbeing Impact Assessment?

[Free text]

Question 15 – What information do we need to consider for the Island Communities Impact Assessment?

[Free text]

Responding to this Consultation

We are inviting responses to this consultation by 28 May 2024

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at <https://consult.gov.scot/disclosure-scotland/fees-discounting-waivers-and-accredited-bodies>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 28 May 2024.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form to:

Policy Team
Disclosure Scotland
Scottish Government
1 Pacific Quay
Glasgow
G51 1DZ

Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy:

<https://www.gov.scot/privacy/>

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at

disclosureact@disclosurescotland.gov.scot.

Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.



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