

DISCLOSURE (SCOTLAND) BILL

Brief for the Scottish Youth Parliament

Key provisions impacting children and young people

Childhood conviction provisions

Any conviction obtained aged under 18 will not be automatically disclosed on any level of disclosure. If a childhood conviction is found, Disclosure Scotland will make an initial assessment on whether to disclose the information. The applicant would be told and offered review by the independent reviewer (created under the Age of Criminal Responsibility (Scotland) Act 2019).

The applicant will be able to explain the context of the conviction to the independent reviewer.

Safeguarding: mandatory PVG and regulated roles

The PVG Scheme will be made mandatory for specified activities with children and / or protected adults. Currently, adults doing regulated work with children are not required by law to be members of the PVG Scheme, it is up to the organisation engaging them to decide whether they use this as part of safeguarding processes.

Safeguarding: standard conditions

Disclosure Scotland would have new powers to impose conditions on scheme members who are being considered for 'listing' (being barred from work with children or protected adults). For example, if a teacher was subject to restrictions during an investigation by the General Teaching Council for Scotland but they were also a voluntary youth leader in a non-regulated organisation, Disclosure Scotland would be able to extend conditions on their activities in this role.

Safeguarding: referral powers

Police Scotland will have to tell Disclosure Scotland if a person is unlawfully working with vulnerable groups. Local authorities would be able to make a referral of a scheme member (or someone who should be a scheme member) for consideration of listing if it was found during a formal child or adult protection investigation that there was evidence of harm to someone in their care.

Minimum age to access disclosure

Disclosure products will only generally be available to people aged 16 and over. There is provision for exceptions to allow, for instance, a 15 year old to make an application in anticipation of starting college at 16.

Engagement with children and young people

In developing and assessing proposals, Scottish Government officials met with MSYPs in January 2019. Engagement was also undertaken with children and young people in secure and residential care and with representatives of Who Cares? Scotland, Life Changes Trust and with the Centre for Youth and Criminal Justice.

United Nations Convention on the Rights of the Child links

Article 1 – children are those under 18

- Childhood conviction provisions (apply to under 18s)

Article 3 – best interests of the child

Article 6 – life, survival and development

- Minimum age to access disclosure (16, so as to not impact opportunities)
- Childhood conviction provisions (right to provide ‘representations’, or context)
- Safeguarding provisions

Article 12 – respect for the views of the child

- Childhood conviction provisions (right to provide ‘representations’, or context)

Article 16 – right to privacy

- Minimum age to access disclosure
- Childhood conviction provisions (right to review)

Article 19 – legislative measures to protect the child from abuse

- Safeguarding provisions

Further information

The Bill was introduced to the Scottish Parliament on 12 June 2019 and Maree Todd, Minister for Children and Young People, made a ministerial statement on 13 June 2019.

The Bill, accompanying documents and transcript of ministerial statement have been published to the [Scottish Parliament bills page](#).

The Scottish Government have published [the response to the PVG Review](#), which sets out the main policies of the Bill.

Impact assessments:

- [Children's Rights and Wellbeing Impact Assessment](#)
- [Equality Impact Assessment](#)
- [Fairer Scotland Duty assessment](#)
- [Data Protection Impact Assessment](#)
- [Partial Business and Regulatory Impact Assessment](#)