

**ITEM No ...8.....**

**REPORT TO: POLICY AND RESOURCES COMMITTEE – 4 JUNE 2018**

**REPORT ON: PROTECTION OF VULNERABLE GROUPS AND THE DISCLOSURE OF  
CRIMINAL INFORMATION – PROPOSED RESPONSE TO CONSULTATION**

**REPORT BY: CHIEF EXECUTIVE**

**REPORT NO.: 189-2018**

**1.0 PURPOSE OF REPORT**

1.1 The purpose of this report is to seek approval of the proposed response to the Scottish Government Consultation on Protection of Vulnerable Groups and Disclosure of Criminal Information.

**2.0 RECOMMENDATIONS**

2.1 It is recommended that members approve the proposed response to the above named Scottish Government Consultation all as detailed in the attached appendix.

**3.0 FINANCIAL IMPLICATIONS**

3.1 There are no financial implications.

**4.0 MAIN TEXT**

4.1 This Consultation seeks views on proposals for the reform to the disclosure regime in Scotland. The aim is for respondents to focus on what changes are required to make disclosure of criminal convictions fit for the 21st century.

4.2 The Scottish Government's pre-consultation engagement highlighted the complex nature of the present disclosure system together with the high degree of value and trust that people invest in Disclosure Scotland and all of its products, but particularly the Protection of Vulnerable Groups (PVG) Scheme. The disclosure system is complex and one of the Scottish Government's aims it that this is simplified as much as possible to make it truly customer-focused so that it can deliver a better system suitable for the next 10 years and beyond.

4.3 The Scottish Government is taking legislation through the Scottish Parliament to raise the age for criminal responsibility from 8 to 12 and another bill will bring forward new legislation that will reform the rehabilitation of offenders legislation, making sure that, where appropriate, people with convictions can move on more quickly from mistakes made earlier in life to secure employment and make a good contribution to society.

4.4 This review of the disclosure regime consultation is therefore part of a bigger coherent theme; the PVG Scheme and disclosure system generally must continue to offer world-class protection and safeguarding but also play its part in helping people get into work. A disclosure regime fit for 21st century Scotland must strike the right balance between protecting the public from those whose past offending may indicate unsuitability for a specific post or role while also enabling those people with previous criminal activity to enter the workforce and make a positive economic and personal contribution to society.

4.5 The proposals within the Consultation relate to the following:

- Disclosure Scotland products
- Application for the removal of conviction information
- The length of time spent convictions will be disclosed
- Barring and listing functions
- Fee structure
- The duration of PVG scheme membership
- Mandatory nature of the PVG Scheme
- The disclosure of convictions of under 18s
- Changes to Other Relevant Information
- The scope of regulated work

4.6 It is proposed that the response to question 31a should be that members of a council committee or council sub-committee concerned with the provision of education, accommodation, social services or health care services to children and/or protected adults are no longer members of the PVG Scheme as it is felt on balance that it is not appropriate for them to be considered as doing regulated work which will translate to a "protected role".

4.7 The consultation paper sets out a series of questions and the proposed response to these is attached.

## **5.0 POLICY IMPLICATIONS**

5.1 The report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management. No major issues were identified.

## **6.0 CONSULTATION**

6.1 The Council Management Team were consulted on the contents of this report and no concerns were expressed.

## **7.0 BACKGROUND PAPERS**

7.1 Scottish Government Consultation Paper on Protection of Vulnerable Groups and Disclosure of Criminal Information. <https://consult.gov.scot/disclosure-scotland/protection-of-vulnerable/>

**Appendix  
Proposed Consultation Response**

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

Yes  No

**Question 1a: If you have answered no, what do you think will simplify the system?**

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

Basic  Level 1  Other (please state)

We suggest that we call this Basic on the basis that the proposed "Level 2" check is called Enhanced as these are established descriptors.

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

Yes  No

**Question 4: Which fee option do you prefer for the level 1/Basic disclosure?  
And why?**

Option 2

Having a digital application form and the ability to save personal details to an account will save the applicant and Disclosure Scotland time and therefore we agree that this should result in a reduction in price for subsequent "Level 1" applications. We consider that this will save the Council money where we are employing individuals who have already had a "Level 1" check. Disclosure Scotland may wish to consider whether it requires to periodically seek informed consent from the applicant in terms of General Data Protection Regulation (GDPR) to having their online account which would allow the applicant cheaper subsequent checks.

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

Yes  No

We suggest that this is called something different to prevent confusion with Registered Body and Registered Person for the purpose of the 1997 Act and 2007 Act. Would organisations who are a Registered Body and have a Registered Person for the purposes of current higher level disclosures require to apply separately for the purposes of B2B applications considering they have been through the necessary vetting for the purpose of the higher level disclosures?

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

We agree as a Council that there should be a move to a digital system provided that suitable arrangements are in place to ensure that those who require to have access have so. The Consultation states "be able to apply" rather than "required". Would a

move to a digital system mean that would be the only means for an individual to apply?

**Questions 7: Do you agree with our proposed fee for the apostille service?**

Yes  No

**Question 7a: If not, what do you think the fee should be?**

**Question 8: Are there any professions/roles for the Level 2 disclosure that are not included that should be on the list?**

Yes  No

**Question 8a: If you have said yes, please note what these are.**

There would appear to be scenarios relating to the 2013 Order which have not been included e.g. An individual over the age of 16 residing in the same household as an individual being assessed to their suitability to be adopter, foster carer, child minder, host parent.

We have suggested roles at question 22 which should be considered to be Protected Roles. However if this is not agreed we would wish to suggest the same roles should be included on this list for the purpose of a Level 2 check.

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

Yes  No

**Question 9a: If you have said yes, please note what these are.**

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

Yes  No

Given the proximately and clear opportunities available we do not think it would be appropriate to remove kinship carers and foster carers from the membership scheme. Kinship carers of looked after children and foster carers currently undertake regulated work and care for the most vulnerable of children. The Council has experience of being advised by Disclosure Scotland that kinship carers and foster carers are under consideration for listing and we consider that it is essential that the Council is made aware of this to enable an assessment of the carer's suitability to continue doing regulated work. We are aware that Disclosure Scotland do not advise the Council when any new vetting information is added to a member's Scheme Record but rather would only advise the Council when new Vetting Information means that it may be appropriate to bar the person from doing regulated work. We suggest that the revised scheme should result in all new Vetting Information being disclosed to the Council. We are aware that some convictions (e.g. a drink driving conviction) do not result in Disclosure Scotland assessing that an individual is unsuitable to do regulated work however we think it is important that the Council is made aware of these to be able to make an assessment as to suitability.

We do not agree that it is disproportionate that individuals wishing to foster or to be a kinship carer should be subject to PVG scheme membership and ongoing monitoring. Prospective adopters are approved under both the Adoption regulations and the Fostering regulations to allow a child to be placed with them prior to adoption. Therefore, prior to an adoption being granted, they are acting as foster carers and Scheme Records are sought on this basis. Once an adoption is granted, the Council advises Disclosure Scotland that we no longer have an interest the individuals as an “employer”.

The removal of these individuals from the scheme would result in a requirement for periodic checking. This would mean that a check would only be as good as the day it was done which we do not consider affords the level of protection required for children in these circumstances and as recommend by the Bichard Report.

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

Yes  No

We would suggest that the Council is able to request a “Level 2” check for a kinship carer for a child who is not looked after especially in circumstances where the Council is providing an allowance to the kinship carer.

**Question 12: Do you agree with this proposal that any member of the fostering/kinship household aged over 16 will require a level 2 check?**

Yes  No

The Consultation states “require to”. Is this proposed to be mandatory or like the current arrangement is this a check which the employer is entitled to seek? Also this is not included on the list at Annex A which we suggest it should be.

**Question 13: Do you agree with the proposal that a level 2 check should be undertaken by anyone in the foster/kinship carers network who supervises the children?**

Yes  No

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

We assume that this question differs from Question 13 in that the people in the network would not be supervising or caring for the children. We think that local authorities having the ability to check other individuals is helpful when used in a sparing and strategic way.

**Question 14: It is currently not possible for individuals over the age of 16 residing in a residential school setting (for example, spouses of house parents), but who do not have specific responsibilities, to obtain an enhanced disclosure. We believe that they should be subject to a Level 2 disclosure, do you believe that this is the correct approach going forward?**

Yes  No

Given the proximately and clear opportunities available perhaps this is a role where the individual should be a member of the PVG Scheme.

If it were to be a Level 2 the consultation states that this will require a change to the 2013 Order. What about other roles which are on the proposed Annex A but not on 2013 Order? It is presumed that the 2013 Order will require to be amended for that also.

**Question 15: Which option should be the content of the Level 2 disclosure product be based upon? Please provide the reason for your choice.**

**Option 1**  **Option 2a**  **Option 2b**

We do not want to diminish what we are currently entitled to under an enhanced check (with suitability information check).

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

**Option 1**  **Option 2**

Whilst we have chosen Option 2 i.e. reduced fee for subsequent applications there should be within the consultation the ability for a response to be made for either a one off fee or reduced fee for subsequent applications for each option describing what is included on the Level 2 (i.e. Option 1, Option 2a and Option 2b on page 24)

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

**Yes**  **No**

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

Consideration to be given that some individuals may not have the ability or wherewithal to a) access a computer, this is one of the biggest issues with online delivery, b) be able to have the skills to apply online c) have all the necessary ID and other information necessary for their application and d) be able to "securely route or share it with any employer..." These tasks can be daunting and demanding individuals and it is suggested that the government would have to provide appropriate support to such people to ensure they are not excluded from this process because of the issues mentioned above. Equality of opportunity may be affected otherwise.

From an employer's point of view we think that applicants taking responsibility for their own application and the information produced is generally good as this creates a complete shift in responsibility and will lead to applicants taking responsibility and understanding the process better. There may be an issue where a check is required in circumstances other than employment for example individual over the age of 16 in the same household as a foster carer. Where is the motivation to take ownership of the process to apply to allow the local authority to check information?

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

- Very well thought through and informed advanced guidance
- Publicity
- Re-emphasis on implications for failure
- People who are currently members of the scheme but now their roles are not on protected list? Transition provisions for this. Everyone apply again for example however there would be a very large expense involved with this.

- There would require to be transitional provisions for those who are not currently doing “Regulated Work” but fall under a protected role and do not meet an exception.

**Question 20: Do you agree with the proposal to replace the “regulated work” definition with a list of roles/jobs?**

Yes  No

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

Yes  No

**Question 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  No

**Question 22a: If so, please provide more detail on why.**

Community Service Supervisors – provide a service to individuals with criminal convictions and we appreciate that under the current scheme this alone does not make the individuals protected adults. However our experience is that a very large number (estimated at 80-90%) are also receiving a service which would currently class them as a protected adult e.g. drug misuse, domestic abuse, health, disabilities etc.

Domestic Assistants in Residential Units - This role on a daily basis will come into contact with adults in residential units unsupervised and will have the ability to build up trusting relationships. The domestic assistant will be in the person's room unsupervised while cleaning their bathroom and bedroom. A residential unit is classed as the person's home and is registered with the Care Inspectorate.

Accommodation Officers (Homeless Service) - This role on a daily basis will come into contact with adults of which a large proportion are vulnerable through drug use etc. The contact would be unsupervised and they can provide advice on client support needs in accordance with statutory obligations.

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

We suggest that the criteria for a protected role is the legitimate means to exercise nefarious intent. It is suggested that we need to be very careful around uncertainty as to criminal matters as this was the reason for not having a mandatory scheme in the 2007 Act. We must be cognisant that the way to resolve uncertainty overtime is to add to the protected roles list. We cannot have uncertainty as to whether or not an individual is committing a criminal offence and therefore a list which is added to overtime is the fair way to proceed.

**Question 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?**

We can see an issue whereby all “teachers” for example would seek to join the scheme to prevent them being accused of committing a criminal offence. This would cause Disclosure a lot of work refusing those who they consider meet an exception. Therefore we think there has to be clear guidance on the exceptions to allow individuals themselves to be satisfied that they meet an exception and therefore are not required to seek to become be a member of the scheme. Although in the early stages it would be advisable for a comprehensive helpdesk to be available to assist.

**Question 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?**

The roles mentioned at question at 22a should they not fall within the scheme.

**Question 26: Are there any welfare services that provide support to individuals with particular needs that should be added, or are there any services that should be removed?**

Yes  No

**Question 26a: If yes, please state what these are**

**Question 27: There is the question of the extent to which someone has to be involved in the delivery of a service to bring them within the scope of doing regulated work. At present, the front-line member of staff or volunteer whose normal duties require them to carry out certain activities with an adult, such as ‘caring for’, means that staff member is doing regulated work.**

**Is this appropriate?**

Yes  No

**Question 28: Should the immediate line manager of that member of staff is also able to become a scheme member?**

Yes  No

**Question 29: Outwith the activities, a person can be doing regulated work with adults if they work in certain establishments, namely, a care home; or in residential establishment or accommodation for people aged 16 or over. Do you think these are the correct facilities, or should any be added or removed?**

Yes  No

**Question 29a: If yes, please state what these are**

**Question 30: There are also certain exclusions that apply to work in such establishments. A person whose normal duties involve working in such a**



place will only be doing regulated work if doing something permitted by their position gives them unsupervised access to adults, and where that contact with the adults is not incidental. Do you think this approach is clear and helpful?

Yes  No

**Question 31: the appointment of a person into certain positions in relation to services for adults means that membership of the PVG Scheme is possible. The positions are:**

- member of a council committee or council sub-committee concerned with the provision of education, accommodation, social services or health care services to protected adults
- the chief social work officer of a council, and
- charity trustee of a charity whose—

(a) main purpose is to provide benefits for protected adults, and

(b) principal means of delivery of those benefits is by its workers doing regulated work with protected adults.

**Do you think that list of positions is correct?**

Yes  No

**Question 31a: Should it be amended either by adding to it, or by taking away from it?**

Remove the first bullet point- member of council committee or council sub-committee concerned with the provision of education, accommodation, social services or health care services to protected adults.

**Question 32: How long should scheme membership last in a mandatory scheme?**

a) 5 years

b) 3 years

c) 1 year

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

Yes  No

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

Yes  No

**Question 35: Do you agree with the proposals to review the conditions for registered bodies as set out in the Code of Practice and Police Act 1997 and to develop a scheme that can be delivered digitally, that includes registered body duties where possible?**

Yes  No

**Question 36: What is your preferred option for membership and costs for PVG level disclosure?**

Option 1  Option 2  Option 3

**Question 37: Are you in favour of being able to interact with Disclosure Scotland online to manage PVG scheme membership?**

Yes  No

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

Yes  No

**Question 39: Do you have an electronic payment method that you prefer?**

Yes  No

**Question 39a: If you have answered 'yes' please say what it is:**

**Question 40: Do you have any proposals on how the transitional arrangements for moving away from a life-time scheme membership should work?**

The proposed change is not employer focused and therefore would be very different to the previous retrospective checking exercise carried out under the 2007 Act which involved a certain number of applications per organisation per month.

Would the two schemes have to run in parallel for a transitional period? How would the system cope if everyone on the revised scheme at the start required their membership to be renewed at the same time?

**Question 41: Should volunteers continue to receive free membership?**

Yes  No

**Question 41a: If no, should they be subject to a reduced fee?**

Yes  No

**Question 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  No

**Question 42a: If so, how should that test be defined?**

**Question 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  No

**Question 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  No

**Question 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  No

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

Yes  No

**Question 47: Are there offences missing from the Automatic Listing Order that you think should be included? You can access the order [here](#)**

Yes  No

**Question 47a: if you answered yes to question 47, please list the offences you believe are missing**

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

Yes  No

**Question 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  No

**Question 50: Do you think this proposal, to extent the powers of referral currently available to regulatory bodies to local authorities/health and social care partnerships, closes the safeguarding gap in terms of self-directed support?**

Yes  No

**Question 51: Do you think that this list of regulatory organisations with powers to make referrals should be amended?**

- Healthcare Improvement Scotland
- The Registrar of Chiropractors
- The registrar of dentists and dental care professionals
- The registrar of the General Medical Council
- The registrar of the General Optical Council
- The Registrar of health professionals
- The Registrar of nurses and midwives
- The Registrar of Osteopaths
- The registrar of pharmacists
- Social Care and Social Work Improvement Scotland (the Care Inspectorate)
- The General Teaching Council for Scotland
- The NHS Tribunal
- The Scottish Social Services Council

Yes  No

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

**Question 53: Do you agree with the proposal to provide Disclosure Scotland with powers to impose standard conditions on individuals under consideration for listing?**

Yes  No

We do not think that these powers for Disclosure Scotland are required. When Disclosure Scotland has placed an individual under consideration for listing they are required to advise anyone who has an interest in that individual (after having applied

for a PVG product in respect of that person) this status and that results in the employer undertaking a risk assessment.

If clarity is required for an employer where Disclosure Scotland confirm that an individual is a member of the scheme at the same time that they say that the person is under consideration for listing (and could ultimately be barred) then why is the employer being put in this situation? We suggest that this situation is the one to be tackled.

It may be that the scheme is reviewed in respect of anyone applying to be a member is given the status of being a member unless they are barred. This includes those which Disclosure Scotland decide to place under consideration for listing. Perhaps an individual who had applied for the first time and who Disclosure Scotland are considering should not be a member until such time that Disclosure Scotland have concluded their consideration.

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

a) 3 months

b) 6 months

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

We do not think it should be done this way.

**Question 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  No

**Question 57: Do you agree the age threshold for the shorter prescribed period for a removal application from inclusion on the list(s) to be made should be raised?**

Yes  No

**Question 58: Which option do you prefer?**

a) no change to the age threshold

b) raise the age threshold to under 21 years

c) raise the age threshold to under 25 years

Option A  Option B  Option C

**Question 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  No

**Question 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?**

Yes  No

**Question 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  No

**Question 62: Are there any offences missing from either list, those being schedule 8A or schedule 8B, that you think should be included? If so what are they, on what list should they appear and why?**

**Question 63: Are there any offences on schedule 8A that you think should be on schedule 8B? If so, please list them and explain why.**

**Question 64: Are there any offences on schedule 8B that you think should be on schedule 8A? If so, please list them and explain why.**

**Question 65: Do you agree with the categorisation of the new offences included in Annex C?**

Yes  No

**Question 65a: If no, please state how they should be categorised.**

**Question 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?**

Yes  No

**Question 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?**

Yes  No

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

It may be that we have different periods for the different lists (schedule 8A and schedule 8B). We agree that whatever the logic was to get to the periods prior to any suggested change in respect of the Management of Offenders (Scotland) Bill should be applied again.

11  12  13  14  15

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

Yes  No

**Question 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 long  Too short  Correct

**Question 70a: If you indicated that the time period is too long or too short, what do you think the time period should be?**

2 weeks to make this option workable to allow the employer to hold the post open pending disclosure.

**Question 71: Do you think any of the options set out above, those being the *introduction of an administrative process stage prior to application to a sheriff, the introduction of an independent reviewer or making an application to a tribunal*, offer viable alternatives to an application to a Sheriff?**

Yes  No

**Question 71a: If yes, which one?**

Disclosure Scotland

**Question 71b: If not, do you have any other suggestions?**

**Question 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  No

**Question 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  No

We would suggest that Disclosure Scotland review this akin to question 71 given their skills.

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

Yes  No

**Question 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?**

Yes  No

It would not be appropriate to discount all convictions no matter what the category.

**Question 75a: If there should, what age range should the special provisions apply to?**

1. 12 – 14 years
2. 12 – 15 Years
3. 12 – 16 years
4. 12 – 17 years
5. 12 – 18 years
6. 12 – 21 years

**Question 75b: Please tell us why you have selected an age range or given your answer.** Consistency with the Management of Offenders (Scotland) Bill in that the criteria for when convictions become spent is 18 and over.

**Questions 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?**

Yes  No

or

**Question 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?**

Yes  No

**Question 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?**

Yes  No

On the basis that barring would not be available (as no crime committed) is there an unattended consequence that offences listed in the Protection of Vulnerable Groups (Scotland) Act 2007 (Automatic Listing) (Specified Criteria) Order 2010 will not be able to be disclosed?

**Question 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?**

Yes  No



**Question 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?**

Yes  No

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

Yes  No

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

**Question 83: Do you have any concerns with the proposal to introduce a minimum age of 18 years for people who want to become registered person or those who are nominated to be countersignatory in connection with Level 2 and PVG Level disclosures?**

We do not necessary see an issue with not having a lower age limit.

We do not think it is helpful using the term “countersignatory” when the proposal is that applications will no longer be countersigned but instead an applicant will be able to choose to share their own information to those who have been vetted by Disclosure Scotland. Perhaps change to “Registered Body Representative”?

**Question 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  No

**Question 84a: 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?**

**Question 85: Do you think this approach for private individuals working with children or protected adults is correct?**

Yes  No

We are answering this question on the basis that the approach is that of the personal employer not being able to see vetting information, we do not agree with this and do not see why they should not be able to.

**Question 86: Do you think that specialised interpreters whose assistance may be needed to allow a person to participate in day-to-day life it should be regulated work?**

Yes  No

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

Yes  No

**Question 88: Do you agree that the law be changed to sort this anomaly that a charity must have one main purpose only, that is work with children or work with protected adults, for a trustee to be able to join the PVG Scheme and if a charity has as its main purpose services directed at both vulnerable groups then trustees cannot apply to join the PVG Scheme?**

Yes  No

**Question 89: Do you think that provision should be made to bring into force the amendment at section 78(1) of the 2007 Act that would have allowed information about a notification requirement under the 2003 Act made following an application by a chief constable to be included on a basic disclosure?**

Yes  No

**Question 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?**

**Question 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?**

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

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

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

We have tried to expand as part of the answer to the relevant question any potential impact as opposed to generalising in questions 90 to 94.