

Disclosure:

What Educational Practitioners should know



Disclosure
SCOTLAND

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Key information

- 'Disclosure' basically means employers have the right to a limited amount of information about a potential employee's record of convictions.
- The information disclosed to an employer will depend on the type of work involved and whether a conviction is spent or unspent.
- **Most** offences become spent after a specific amount of time ([disclosure period](#)). At the end of a disclosure period, a person no longer needs to disclose those offences for **most** employment, volunteering or education opportunities.
- **An employer cannot refuse to employ or dismiss a person, because of a spent conviction.** There are however, exceptions to these broad rules depending on the role a person has applied for or the type of offence. [Link here for more information](#).
- Additionally the police may hold intelligence or '[other relevant information](#)' that is not included in a conviction but which they deem relevant for disclosure.
- For young people, under 18 on the date they were convicted, the disclosure periods in most circumstances are half of the period applicable to individuals aged 18 years or above, except in relation to the most serious crimes.
- The [PVG Scheme](#) gives Scottish Ministers the power to check the criminal records of people carrying out [regulated work](#) with children and protected adults. If they are deemed to be unsuitable, they can be barred from this work.
- Disclosure Scotland keeps a list of people unsuitable to do regulated work with children and a list of people unsuitable to work with protected adults. This is known as being '[listed](#)'.
- **You should always remember that having convictions does not stop an individual from being employed in posts. Even being barred does not mean an individual is unemployable, although they are unsuitable for some roles.**
- Many organisations will be able to take a balanced and responsible approach to considering criminal history information and will be able to help people with a criminal record move on.
- Employers are encouraged not to ask about convictions until after they have conducted an interview. After a successful interview, they then could ask an applicant about any previous convictions. If they have concerns, they could still conduct a central conversation to ask questions and give an applicant a chance to provide some context.
- Disclosure should allow positive and informed decision making that both protects the public, and helps people with a criminal record to move on from their past (if it is safe and appropriate for them to do so).

What a young person with convictions needs to know? [You can help!]

- A criminal record does not automatically mean they are unfit for employment, education or volunteering.
- An organisation offering them employment, education or volunteering can ask about their previous convictions.
- They will usually only have to disclose [unspent convictions](#). However, in certain types of work, such as education or volunteering, they will have to declare relevant [spent convictions](#).
- A potential employer may ask for a [disclosure certificate](#).
- If a young person is unsure of their conviction history, they can make a [Subject Access Request](#) to the Police. If they want to know which convictions are unspent, they can apply for a Basic disclosure certificate.
- A young person can explain the context of past convictions to [Disclosure Scotland](#) if they are being considered for [listing](#).
- A young person may be able to make a case for [removal of spent convictions](#) from certificates.
- Some convictions mean that a person is automatically unsuitable for certain types of job.
- There are many [organisations](#) who offer practical support to people who struggle to find opportunities because they have a criminal history.

Supporting agencies and resources

[Disclosure Scotland](#)

Helps employers make safer decisions when they're recruiting people but also supports people with convictions to move on from past convictions and contribute to society.

[Scotland Works for You](#)

This is a guide for people with convictions to help them make positive applications for employment.

[Access to Industry](#)

They work across Scotland with unemployed people who face barriers to employment.

[Wise Group](#)

A leading social enterprise working to lift people out of poverty. As an enterprise, they build bridges to opportunity for the most vulnerable in our society including people coming out of prison. Their team does this through mentoring support, employment, skills, and energy advice.

[Police Scotland](#)

You can obtain a copy of the information the Police hold about you using a [Subject Access request](#).

Glossary of terms

Disclosure Scotland (DS) - An executive agency of the Scottish Government, providing criminal records disclosure services for employers and voluntary sector organisations to help them make safer decisions when recruiting people. It also makes sure unsuitable people don't work with vulnerable groups, including children. DS also support people with convictions to move on from past convictions and contribute to society.

Disclosure - Means sharing sensitive personal information. DS checks and shares information about people's criminal records. This helps organisations to employ the right people for certain types of work.

Types of Disclosure - There are four [types of disclosure](#): Basic, Standard, Enhanced and PVG scheme disclosures.

Disclosed Information	Basic	Standard	Enhanced	Enhanced with List Check	PVG Scheme Record
Unspent convictions	✓	✓	✓	✓	✓
Relevant spent convictions	X	✓	✓	✓	✓
Unspent cautions	X	✓	✓	✓	✓
Sex offenders notification requirements	X	✓	✓	✓	✓
Other relevant information (ORI)	X	X	✓	✓	✓
Membership status	X	X	X	X	✓

Disclosure period (known as the Rehabilitation Period pre-2020) - Criminal convictions have a disclosure period where the conviction is considered 'unspent'. The [disclosure period](#) for each conviction is determined by the sentence passed. Currently the [Management of Offenders Act 2019](#) outlines the disclosure periods for each sentence. Once the laws in the Disclosure (Scotland) Act come into force, this will result in the introduction of new disclosure periods.

Unspent conviction - These are convictions that have not surpassed the disclosure period. (See [SWFY](#) for more information)

Spent conviction - These are convictions that have surpassed the disclosure period and usually do not need to be disclosed on any certificate or application form unless they are considered relevant. Disclosure Scotland have lists of relevant offences that will either [always be disclosed](#) or only [disclosed subject to rules](#) on Standard or Enhanced level disclosure certificates or PVG scheme certificates unless a Sheriff orders otherwise.

Listed - Disclosure Scotland keeps a [list](#) of people unsuitable to do regulated work with children and a [list](#) of people unsuitable to work with protected adults. The lists are separate, although people can be on both lists. If someone is listed, they are not eligible for PVG scheme membership for that type of work. If someone is [under consideration for listing](#) they will be contacted by Disclosure Scotland.

PVG Scheme - This [scheme](#) provides employers assurance that members can work with children and/or protected adults.

Regulated work - There are two types of [regulated work](#): work with children and work with protected adults.

Mythbusters quiz

Circle the answer you think is correct.

- | | | | |
|-----|--|------|--------|
| 1. | Disclosure Scotland is part of Police Scotland. | True | False |
| 2. | There are more than four types of disclosure that you can apply for. | True | False |
| 3. | Everyone over 80 years of age is considered a protected adult. | True | False |
| 4. | Under the 2020 Act, joining the PVG scheme is mandatory when doing regulated work. | True | False |
| 5. | You won't be allowed to work with children or protected adults if you have a criminal conviction. | True | False |
| 6. | Disclosure Scotland can obtain relevant information on individuals from police, even if they have not been convicted of an offence. | True | False |
| 7. | Every conviction you have will appear on a disclosure certificate. | True | False |
| 8. | Most people who are put under "consideration for listing" are eventually barred. | True | False |
| 9. | When deciding whether to bar someone from working with children or protected adults, DS write out to the person to ask for their side of the story | True | False |
| 10. | Approximately how many people are barred from working with Vulnerable Groups? | 900 | 9,000 |
| | | | 90,000 |

Click here for a link to the [Answers](#).

Relevant legislation

[Disclosure \(Scotland\) Act 2020](#) - The new legislation focuses on safeguarding children and protected adults, while balancing the need for people with convictions to move on from past convictions and contribute to society. Disclosure Scotland will undertake a major communications exercise before any changes come into force.

[The Age of Criminal Responsibility \(Scotland\) Act 2020](#) says that a child under the age of 12 cannot be responsible for committing an offence. The new law means some people do not have to disclose information about how they behaved before they were 12.

[Management of Offenders \(Scotland\) Act 2019](#) amends the Rehabilitation of Offenders Act 1974.

[Protection of Vulnerable Groups \(Scotland\) Act 2007](#) - Part 1 of the 2007 Act provides for the barring of those persons that Scottish Ministers consider to be unsuitable for regulated work with children or protected adults (or both).

[Police Scotland Act 1997](#) - Part V of the Police Act 1997 provides for information regarding a person's criminal record history to be disclosed to persons registered under the Act, for certain purposes including engaging in regulated activity.

Mythbusters quiz answers

1. F 2. F 3. F 4. T 5. F 6. T 7. F 8. F 9. T 10. 9000

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