

Scottish Community & Activist Legal Project

# Guide to Disclosure Checks & the Protecting Vulnerable Groups Scheme

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If you have specific questions, or if you experience anything that is completely different to what is written in this Guide, please help us to keep it accurate by getting in touch:

**[activists\\_legal@protonmail.com](mailto:activists_legal@protonmail.com)**

If asking a question keep it hypothetical and you can anonymise your experience if you are telling us about specific interactions with the police or courts.

Instead of writing 'I did / I'm planning this - what will the police do?', try writing, 'If somebody were to do this, what might the consequences be?'.

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## Introduction

This guide has been produced for activists in Scotland who are required to complete a disclosure check (criminal record check) for work or volunteering (or think that they might need to do so in the future). The guide covers the different disclosure levels, common activist offences that can show up on a disclosure check, the impact of the *Rehabilitation of Offenders Act* on spent convictions, the *Criminal History System*, Police Scotland's database for convictions, and the *Protecting Vulnerable Groups (PVG)* scheme. It is important to note that having disclosed offences does not automatically bar you from undertaking regulated work.

Anyone working or volunteering in a *regulated role* is required to undergo a disclosure check. Many regulated roles fall under health and social care, education, and sport. The Scottish Government has guidance on [which roles are 'regulated'](#). Regulated roles that involve contact with children and vulnerable adults may also require that you become a member of the *Protecting Vulnerable Groups (PVG)* scheme for ongoing monitoring of your criminal record. Your employer is responsible for carrying out an eligibility assessment to work out the appropriate level of disclosure.

*Disclosure Scotland (DS)* is the Scottish governmental organisation responsible for carrying out disclosure checks, running the *Protecting Vulnerable Groups (PVG)* scheme, and maintaining a list of people barred from working with children and vulnerable adults. The [Disclosure \(Scotland\) Act 2020](#) came into force in April 2025, bringing changes to the way the *DS* carries out checks, as well as introducing changes to the [Protection of Vulnerable Groups \(Scotland\) Act 2007](#) ('PVG Act').

The different disclosure levels are outlined below:

Disclosure Level	What is included?	Monitoring
Level 1	Unspent convictions only.	No ongoing monitoring.
Level 2	Unspent* convictions, unspent cautions (from England and Wales), certain spent convictions, certain spent childhood convictions and children's hearing outcomes, sexual offence notification requirements, ' <a href="#">other relevant information</a> ' from Police Scotland.	No ongoing monitoring.
Level 2 with barred checklist	As 'level 2' + information on whether you are under consideration for listing or are listed on the barred list(s), and if you have had any prescribed civil court orders.	No ongoing monitoring.
Level 2 with PVG	As 'level 2' + information on whether you are under consideration for listing, your membership of the PVG scheme, and if you have had any prescribed civil court orders.	Ongoing monitoring.

## Rehabilitation of Offenders Act 1974

The [Rehabilitation of Offenders Act 1974](#) is a legal framework that allows some criminal convictions to be exempt from disclosure following a period of 'rehabilitation'. A conviction becomes '*spent*' after a specified period of time has passed since the date of the conviction. Once a conviction becomes spent, it no longer appears on a Level 1 disclosure. Disclosure periods (the length of time before a conviction becomes spent) vary by sentencing. The Scottish Government has produced [guidance on disclosure periods](#) for different sentencing outcomes.

It is important to note that **some convictions for serious offences are exempt** from the Rehabilitation of Offenders Act 1974, so will never become spent and will always appear on a disclosure check.

## Common Offences for Activists that Appear on a Level 2 Disclosure

Certain spent convictions can continue to appear on the Level 2 disclosure. The rules governing which offences must be included in a Level 2 Disclosure are set out by two lists ([List A and List B](#)) under schedules 1 and 2 of the [Disclosure \(Scotland\) Act 2020](#).

List A covers serious offences including homicide, serious assault, rape, and robbery. Spent convictions for offences on List A must be disclosed for 11 years from the date of conviction, and will continue to be disclosed unless they are reviewed and removed. List B covers less serious offences than List A. Spent convictions for offences on List B will be disclosed for 11 years from the date of conviction unless they are reviewed and removed within those 11 years. However, if you are admonished or given an absolute discharge for a List B conviction, the conviction stops being disclosed as soon as it becomes spent (before the 11 year disclosure period ends). After 11 years, all List B convictions are no longer disclosed on a Level 2 Disclosure check.

Most offences that activists are commonly convicted of - including: Aggravated Trespass, Assault without serious injury, Breach of the Peace, Obstruction, and Reckless Endangerment - fall under 'List B'. Malicious Mischief and Vandalism are not disclosed on a Level 2 Disclosure once the convictions become spent. Following the proscription of the direct action group *Palestine Action* there has been an increase in activists being charged under the Terrorism Act 2000. The sections most commonly used are sections 12 (expressing support for a proscribed organisation) and 13 (public display or articles or clothing that suggest support or membership of a proscribed organisation). Section 12 is a 'List A' offence, whilst section 13 is a "List B Offence". It is important to note that a conviction for section 12 is exempt from the Rehabilitation of Offenders Act 1974 if the sentence received exceeds 4 years (this is an 'excluded sentence'). In this instance, the offence will never become spent and will always appear on a disclosure check.

Recorded Police Warnings (RPWs) do not automatically appear on a Level 2 disclosure check but the information can be included as part of 'other relevant information' from Police Scotland.

If a conviction becomes eligible for review, you'll be notified by Disclosure Scotland and provided with information on how to make an application. Disclosure Scotland has produced [guidance on review applications](#) and information on the [decision-making framework for review applications](#). It is important to note that **having disclosed offences does not automatically bar you from undertaking regulated work**. Information in the disclosure is provided to employers for them to assess your suitability for a specific regulated role.

## The Protecting Vulnerable Groups (PVG) Scheme

The [Protection of Vulnerable Groups \(Scotland\) Act 2007](#) ('PVG Act') established the **Protecting Vulnerable Groups Scheme** ('PVG Scheme'). The PVG Scheme is used to prevent anyone with a history of 'harmful behaviour' from having regular contact with children and protected adults through paid or unpaid work.

Roles involving direct contact with children or protected adults are deemed to be 'regulated roles' under the PVG Scheme. **Anyone who works or volunteers directly with children or vulnerable adults will be carrying out regulated work under this legislation.**

After scheme membership commences, Disclosure Scotland (DS) actively monitors your criminal record for new information which might adversely affect their assessment of whether it is appropriate for you to work with protected adults or children.

DS also receives referrals from employers, regulatory bodies, the Scottish courts and other organisations specified in the PVG Act. Based on that information, it will make decisions on whether to bar you from working with children and/or protected adults. If you are barred from the PVG scheme, it is an offence for you to do or seek regulated work. It is important to note that if you are listed under the Scottish PVG Scheme, you will also be barred in England, Wales and Northern Ireland, and *vice versa*.

If you are a member of the PVG scheme and DS receives information about you, the Barring Service will consider the information to determine whether you should be placed under consideration for listing (barred from regulated work). This initial assessment is based on the nature of the information received. **You do not need to have been convicted of an offence to be considered for listing.**

If you are put under consideration, you will be informed by DS and told what information they have about you. **This doesn't mean you can't carry out regulated work, but your employer does have the option to suspend you whilst your case is under review.**

Under **Section 17** of the PVG Act **you have the right to provide evidence** as to why you think you should not be listed (Scottish term for barred). This could include character references or testimonies from previous employers or colleagues, or any other information you consider relevant to explaining how you acted. DS also has power to gather further information about you from your employer, social workers, the courts and the police. You'll be given the opportunity to comment on any additional information gathered about you. You have **28 days** to send this information. **DS will typically reach a decision within 6 months.**

Decisions to list you are made on a case-by-case basis, taking into account all the evidence gathered and your representations. You will only be listed if the DS is satisfied that you are unsuitable to carry out regulated work with children or protected adults.

If you disagree with the decision to list you, you can appeal to a sheriff court. This must be done within 3 months of DS's decision to list you.

## **Criminal History System**

The Criminal History System (CHS) is the police database for criminal convictions in Scotland. Information held on the CHS can be shared with Disclosure Scotland. In general, information will be removed from the CHS as follows:

- For minor offences, you must be 40 years or over and the information held about you must be at least 20 years old
- For more serious offences (or offences resulting in a custodial sentence), you must be 70 years or over and the information held about you must have been on your record for at least 30 years

This means that even offences which have become spent may still be included in a disclosure check as 'other relevant information' by Police Scotland.