



MS Society Disclosure policy and procedure – Scotland

Policy Name	Disclosure Policy – Scotland
Purpose	<p>The objectives of this policy are to ensure that:</p> <ul style="list-style-type: none"> • anyone involved in regulated activity has an appropriate disclosure check, • we make safe recruitment decisions about staff and volunteers, • we have effective procedures for processing disclosure checks and dealing with issues relating to them, • we treat all employees and volunteers fairly, transparently and consistently, • all employees, volunteers and individual service providers are clear about their responsibilities around disclosure checks, and • we comply with all legislation in Scotland that relates to disclosure checks.
Region	Scotland
Scope	MS Society staff and volunteers
Lead Officer	Scotland Director
Responsible Directors	Scotland Director
Key Consultation	<p>Executive Director of Services and Support Head of Volunteering Head of Local Networks Quality and Safe Guarding Manager Executive Director of People</p>
Approver	Executive Group
Last Review	September 2018
Review Cycle	Every three years (but legislation changes expected 2020)
Key Words	<p>Disclosure Safe PVG Safeguarding Disclosure Scotland</p>

1 Purpose and scope

- 1.1 This policy and procedure should be read in conjunction with the MS Society's Recruitment of Ex-Offenders policy and procedure and Safeguarding Adults (Scotland) policy and procedure.
- 1.2 This policy applies to MS Society volunteers, employees and individual service providers in Scotland. We have separate disclosure policies and procedures for England and Wales and Northern Ireland. If you are uncertain which policy and procedure applies, contact the Human Resources Team (HR) or Volunteering Team for advice.

2 Definitions

2.1 Disclosure services – The PVG Scheme

In Scotland the Protecting Vulnerable Groups (PVG) membership scheme is managed and delivered by Disclosure Scotland. It helps make sure people whose behaviour makes them unsuitable to work with protected adults, can't do 'regulated work' with these vulnerable groups. This Government Disclosure Service helps organisations identify people who are not suitable for certain roles that involve contact with vulnerable groups.

When someone applies to join the PVG Scheme, Disclosure Scotland carries out criminal record checks and shares the results with individuals and organisations.

2.2 What is a protected adult?

An individual aged 16 or over who is provided with particular services further defined at section 94 of the Protection of Vulnerable Groups (Scotland) Act 2007. An important principle underpinning PVG is that a person is a protected adult by virtue of a service they receive, not because of a particular condition or disability, and that they are a protected adult only while receiving that service. In that sense, all of us may at one time or another be a protected adult: for example, when receiving medical treatment.

2.3 Regulated activity/work involving adults - Scotland

The Protection of Vulnerable Groups (Scotland) Act 2007 (PVG Act) creates the legislative framework for a strengthened, robust and streamlined vetting and barring scheme for those working with protected adults in Scotland. Any individual involved in "regulated activity" will require to be a member of the PVG scheme.

The Protection of Vulnerable Groups (Scotland) Act 2007 defines regulated work as defined by the following basic principles:

- It has to be work (i.e. not personal relationships)
- It has to be with either children or protected adults
- It has to be part of the employees or volunteer's normal duties

- The activities or service is offered specifically to protected adults (i.e. not to the general public who might include a protected person)
- The employee or volunteer has the possibility for unsupervised contact with a protected adult
- The employee or volunteer is responsible for the welfare and wellbeing of protected adults, or where there is a level of trust between the employee or volunteer and the protected adult.

It is intended to exclude positions where there is no possibility for contact or trust, or where contact is only fleeting.

Regulated work may involve any of the following activities:

- Caring for protected adults/children or young people
- Teaching, instructing, training or supervising protected adults/ children or young people
- Being in sole charge of protected adults/children or young people
- Providing assistance, advice or guidance to a protected adult/ child or young person or particular protected adults/child or young person which relates to physical or emotional well-being, education or training
- Inspecting adult or child care services (including inspecting any premises used for the purposes of providing such services)
- Day-to-day supervision or management of employees or volunteers doing regulated work.

2.4 Barred Lists

Disclosure Scotland maintains two lists of people who are barred from working with children and a list of people who are barred from working with protected adults.

It is a legal offence for the MS Society to knowingly allow a barred person to engage in regulated activity. Any individual seeking to engage in regulated activity with a group from which they are barred will be breaking the law.

We have a legal duty to refer any person who is removed from regulated activity, or leaves in anticipation of being removed, because they harmed, or pose a future risk of harm to protected groups to Disclosure Scotland for barring.

3 Policy principles

The following principles underpin this policy and accompanying procedure:

- As part of our wider commitment to safeguarding, people in particular jobs and roles at the MS Society will be required to have a disclosure check as part of their recruitment process.
- Volunteers must not start in a role requiring a disclosure check until the process has been completed.

- We are committed to complying with the Rehabilitation Offenders Act and will not automatically prevent anyone with a criminal record from taking on a job or role.
- All information relating to disclosure checks, disclosure certificates and convictions will be kept confidential and stored and destroyed in line with the Data Protection Act 2018 and General Data Protection Regulations (GDPR).
- Our disclosure policies and procedures are to be considered within the context of our wider recruitment and safeguarding processes and potential risks.
- When we create a new job or role, we will consider whether a disclosure check is required and at what level.
- We are committed to keep up to date with changes in the law and best practice regarding accepting previous disclosures and will ensure our processes meet current requirements.
- This policy relates to safeguarding adults, not working or volunteering with children.
- All employees, volunteers and service providers will have access to this policy and procedure.

4. Advice and support

- 4.1 Induction for employees and volunteers will include guidance on implementing our policies and procedures that help to keep people safe.
- 4.2 Employees and volunteers who have responsibilities under our Disclosure policies and procedures will have access to appropriate guidance and support.
- 4.3 Our HR Team is available to employees for support and procedural guidance throughout the disclosure process by phone 020 8438 0988 or by email at hr@mssociety.org.uk
- 4.4 Our Disclosure Team is available to volunteers and individual service providers for support and procedural guidance throughout the disclosure process by phone on 0203 828 6861 or by email at disclosure@mssociety.org.uk
- 4.5 For issues specific to Scotland, support and guidance is available from the Head of Services and Support Scotland and the Executive Assistant (to Scotland Director)

5. Cost

- 5.1 There is no cost to our employees or volunteers to have a disclosure check.
- 5.2 Individuals who receive payment for providing a service for an MS Society volunteer-led group which requires a disclosure check (or scheme update) (“individual service providers and sole traders”) are responsible for the cost of that check. The fee is charged directly to the individual by Disclosure for processing the form. However a local group may choose to cover this fee if they wish to do so.

Disclosure procedure

6 Recruitment

6.1 We have identified the jobs and roles that require a disclosure check and at what level (see appendix 1 for a current list). This list will be reviewed regularly and amended as necessary by the Executive Director of People, but it is not exhaustive and there may be jobs and roles not included that require a disclosure check, depending on the circumstances in which they operate.

- 3.1 Decisions relating to which staff jobs and volunteer roles require a check are the responsibility of the relevant Director.
- 3.2 All new starters and individuals moving into a job or role requiring a disclosure check must be checked.
- 3.3 Where a disclosure check is needed, this will be clearly stated in recruitment literature, including job or role descriptions
- 3.4 Employees and volunteers will not be asked to apply for a disclosure check during the initial recruitment process. If an offer is made, the Executive Assistant will send a disclosure application form and guidance to the individual. The job or role offer is subject to the results of this disclosure check.
- 3.5 All employees, volunteers and individual service providers whose job, role or service has been identified as needing a disclosure check, must go through this process.
- 3.6 Any employee, volunteer or individual service provider who has lived for significant periods of time outside the UK must follow the process detailed in the guidance that accompanies the disclosure application form.
- 3.7 We are responsible for making sure that any disclosure check that is carried out relates to the right person. As part of this process, anyone applying for a check must prove their identity by showing a number of documents to an appropriate MS Society representative. Details of acceptable documents are included in the guidance that accompanies the application form.
- 3.8 In Scotland, the collator receives a copy of the PVG Certificate as well as the individual.
- 3.9 A new volunteer must not start in their role until the disclosure process is complete. If a certificate is returned with a disclosure on it, the process is not complete until the volunteer has sent in, and we have received, their disclosure certificate and completed any necessary risk assessment
- 3.11 In certain circumstances, there may be external requirements or legislation that means an employee is not permitted to start doing a job before their disclosure check has been received. We will comply fully with these requirements.
- 3.12 We reserve the right to refuse permission for an employee to take up employment until their disclosure check is complete.

3.13 Where an employee starts without a completed disclosure check, their duties will be limited, and a risk assessment must be carried out by their line manager. The employee must be supervised at all times by someone who has an up to date disclosure check.

3.14 Employees, service providers and volunteers in Scotland engaged in “regulated activity” (as defined by the Protection of Vulnerable Groups (Scotland) Act 2007) are required to be members of the PVG Scheme. In Scotland, Disclosure Scotland requires that all job/role descriptions clearly show why a PVG check is needed.

4 Retrospective checks

- 4.1 In order to meet its legal obligations, the MS Society may need to carry out retrospective disclosure checks.
- 4.2 Before these checks are carried out, the reasons for requiring a disclosure will be clearly explained with reference made to the Society’s disclosure policy and procedures.
- 4.3 If an employee or volunteer is found to be under investigation by Disclosure Scotland the issue will be discussed with the person and a risk assessment will be carried out by the counter signatory to determine the most appropriate course of action. It may be that the person is moved to other duties or suspended pending the outcome of the investigation.

5 Renewing checks

- 5.1 In Scotland, an individual’s scheme membership is automatically up-dated if their circumstances change (e.g. they are convicted of a crime). If a person’s status in the PVG scheme changes, the MS Society will be informed by Disclosure Scotland.
- 5.2 If an organisation or employer has employees or volunteers doing 'regulated work', they have a duty to report any harmful behaviour that might affect whether the person is allowed to work with children or protected adults. This applies whether the person is a member of the PVG Scheme or not.
- 5.2 Where the MS Society is up-dated about a person’s criminal record a risk assessment will be carried out to determine the most appropriate course of action. It may be that the person is moved to other duties or suspended pending the outcome of the investigation.
- 5.3 If the MS Society dismisses someone from “regulated activity or work” (or would have done so had the person not already left) or transfers that person permanently away from work with protected adults a referral must be made to Disclosure Scotland explaining what’s happened. This referral must be made within **3 months** of the decision being made.
- 5.4 When an employee or volunteer leaves the MS Society, PVG Scheme

Scotland must be notified.

6 Storage and handling of disclosure information

6.1 All information (both paper and electronic) relating to disclosure checks will be kept confidential and stored or destroyed in line with the Data Protection Act and relevant Codes of Practice for that nation.

6.2 In line with the Police Act 1997, information is only received by those who are authorised to receive it. The authorised post holders are

Lead Signatory

Executive Assistant to the Scotland Director

Counter signatories

**Head of Services and Support Scotland
Scotland Director**

6.3 In Scotland, the PVG scheme number and certificate number are retained on Raisers Edge.

6.4 The MS Society will ensure that no reproductions of disclosure information are made including photocopies or scanned images, unless the prior agreement of the relevant disclosure service is obtained.

6.5 All disclosure information will be kept securely and access will be strictly controlled and restricted to those who are responsible for implementing disclosure checks as part of their duties.

6.6 Information revealed through a disclosure check will only be shared with people directly responsible for the recruitment of the individual and on a need- to-know basis. For example:

- for group based volunteer roles no disclosure information will be sent or communicated to anyone within the branch or group without it first being discussed with the person involved
- an employee's line manager will only be informed of the offence if it is directly connected with the role

6.7 The MS Society recognises that it is a criminal offence to:

- pass on disclosure information to anyone who is not authorised to receive it, without the consent of the individual
- knowingly make a false statement for the purpose of obtaining or enabling another person to obtain a disclosure.

6.8 Individuals should not discuss details of their previous criminal history with employees and volunteers outside of the Scotland Office team - for full details see the contact information section at the end of this policy.

- 6.9 Employees responsible for the administration of disclosure checks will keep a tracking log for each check so that the progress of the application can be identified at any stage of the process. All logs will be kept with Raisers Edge.
- 6.10 The Society will ensure that all disclosure information is destroyed in a secure manner (i.e. shredding, pulping or burning) and is not kept in any insecure place while awaiting destruction. Before destroying the disclosure the Society will record on Raisers Edge the applicants:
- name and address
 - date of birth
 - role
 - PVG scheme number
 - certificate number and date of issue
 - level of check
 - details of any risk assessment and decision taken

7 Dealing with individuals with a criminal history

- 7.1 The MS Society is committed to complying with the Rehabilitation of Offenders Act and will not automatically prevent anyone with a criminal history from taking on a role.
- 7.2 Employees and volunteers are required to self-declare any convictions or cautions which would not be filtered in line with current guidance. For full details, see the MS Society's policy on the Recruitment of Ex-Offenders.
- 7.3 Where a disclosure is returned with a record, a risk assessment will be carried out by the counter signatory to decide whether it is appropriate for the individual to take on (or continue) in that role. The risk assessment will take in to account a number of factors, including:
- the seriousness of the offence
 - the relevance of the offence to the role
 - the length of time since the offence occurred
 - the frequency of the offences.
- 7.4 Where information on the disclosure is accurate and the outcome of the risk assessment is negative there may be an opportunity for the person to carry out a different role for the Society. However, there may be times when an individual will not be able to work or volunteer for the MS Society in any role. This decision is final and cannot be appealed. For more information see the Recruitment of Ex-Offenders policy and procedure.
- 7.5 Any volunteers or employees found to be barred by Disclosure Scotland will not be able to engage in (or will be removed from) 'regulated activity/work'. An organisation which knowingly allows a barred person to work or volunteer in regulated activity/work' will be breaking the law.

7.6 If an employee or volunteer is found to be under investigation by Disclosure Scotland Disclosure Services, the issue will be discussed with the person and a risk assessment will be carried out by the counter signatory to determine the most appropriate course of action. It may be that the person is moved to other duties or suspended pending the outcome of the investigation.

7.7 If the MS Society dismisses or removes someone from 'regulated activity/work' (or would have done so had the person not already left) because:

- they harmed, or
- pose a future risk of harm to protected groups,

the Society is legally required to forward information about that person to the relevant disclosure service (i.e. Volunteer Scotland Disclosure Services). It is a criminal offence not to do this.

7.8 The Scotland Director will sign off all reports made to disclosure services.

7.9 It might be that an employee or volunteer's criminal history is revealed outside of the disclosure check process. For example, a volunteer might disclose details of their criminal history to an employee/another volunteer or a third party might reveal this information. In all cases (even if the role does not need a disclosure check) the Scotland Office team should be informed as soon as possible, so that a full risk assessment can be carried out - for full details see the contact information section at the end of this policy.

7.10 For full details, see the MS Society's policy on the Recruitment of Ex-Offenders.

8 Individuals who provide a service for a group

8.1 All individuals who provide a service, who will be working closely and regularly protected adults will need to have the appropriate disclosure check i.e. PVG check.

8.2 If the individual being checked receives any payment from the Society or person using the service, the PVG Scheme will charge a fee for processing the form. This is the case even if the individual charges a very small amount or they lower their prices. The applicant is responsible for the cost, but the branch or group can cover this fee if they wish.

9 Support for employees and volunteers

9.1 Induction for all employees and volunteers will include an awareness of the Society's policies to protect protected adults.

9.2 Employees and volunteers who have responsibilities under the disclosure policy and procedure (i.e. identity checkers and counter signatories) will have

appropriate briefings, guidance and support.

Other relevant policies

- Safeguarding adults policy and procedure (Scotland)
- Safeguarding children and young people policy and procedure (Scotland)
- Resolving Volunteer Issues and Concerns
- Recruitment of Ex-Offenders policy and procedure

Relevant legislation

- Rehabilitation of Offenders Act 1974
- Police Act 1997
- Safeguarding Vulnerable Groups Act 2006 as amended by the Protection of Freedoms Act 2012
- Protection of Vulnerable Groups (Scotland) Act 2007
- Data Protection Act 1998

Contact information

- Scotland** – Executive Assistant 0131-335-4062

Appendices

Appendix 1 – Roles that require a disclosure check

Appendix 2 – Volunteer roles Flowchart

Appendix 3 – Individual who provide a service
Flowchart

Policy agreed by EG	
Policy to be reviewed	May 2021 (or sooner if legislation changes in 2020)

Appendix 1 - Roles that require a disclosure check in Scotland

Volunteer roles

Group Coordinator (*This role must be assessed depending on whether this person supervises on of the roles listed below*) See Flowchart in Appendix 2

Passenger Assistant

Lead/Support Volunteer (at present 2 role descriptions but both one role in Scotland at present)

Volunteer Driver

Individuals who provide a service for a group

Can include (not exhaustive list):

Yoga

Exercise

Counselling

Physio

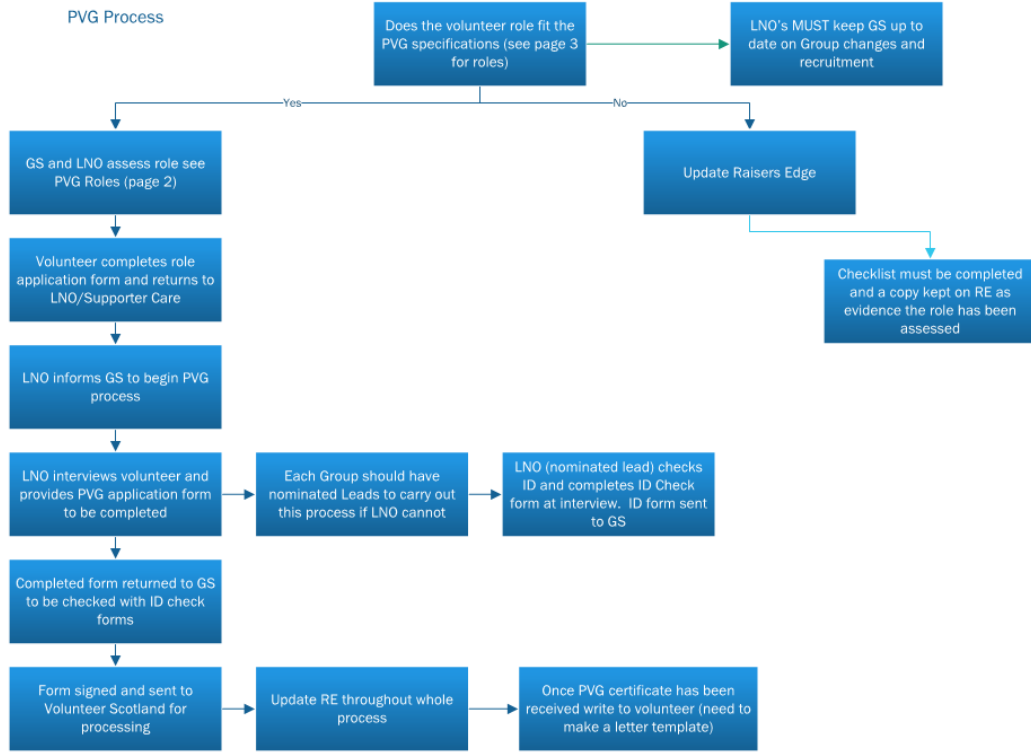
See Flowchart in Appendix 3

Employee roles

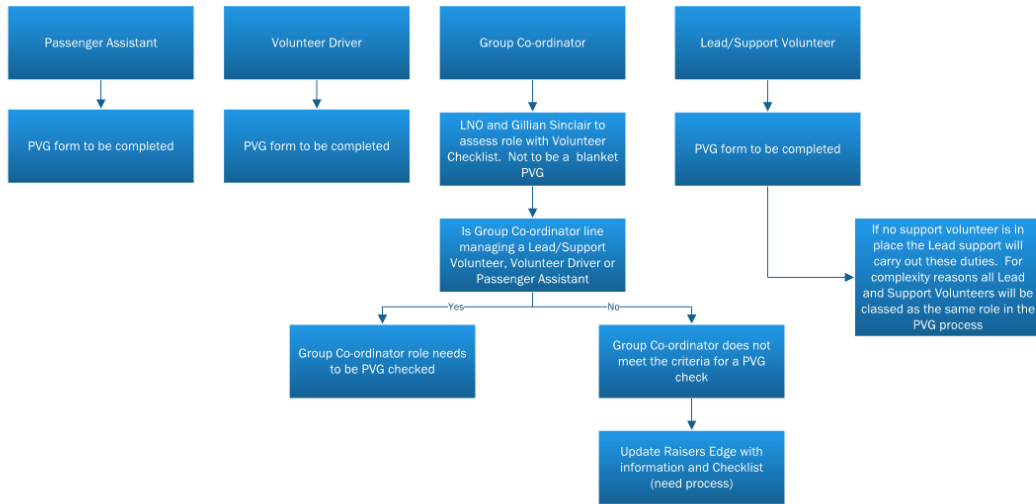
None of the current roles

This list is reviewed regularly and updated where needed. For the most up-to-date information please contact the Executive Assistant in the Scotland Office for employee roles, volunteer roles and individuals who provide a service.

Appendix 2 – Volunteer roles flowchart



PVG Roles to be Assessed.



Appendix 3 – Individuals providing services for group’s flowchart

