

# **Protection of Vulnerable Groups and the Disclosure of Criminal Information**

## **Early Engagement Report**

**April 2018**

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## **Introduction**

The PVG Review was announced at the Disclosure Scotland stakeholder conference in November 2016 by Deputy First Minister John Swinney. Since this announcement we have been engaging with a wide range of stakeholders to gain insight into how they feel about the current PVG Scheme and disclosure products and what they would like to see in Scotland's future disclosure and barring arrangements.

The strategy of the review was designed so that it was as collaborative as possible, involving both internal and external stakeholders, and that it would be done in distinct phases with analysis completed at the end of each round with feedback to stakeholders.

## **Methodology**

To date, three rounds of engagement have been conducted for the review. In order to ensure a high level of stakeholder engagement, a number of methods have been used throughout the process. These have included:

- Individual interviews
- Group participation sessions
- Telephone interviews
- Online survey
- Stakeholder conference

Feedback was collated, recorded and analysed after each round of engagement.

## **Participants**

A wide range of participants have taken part in the review. To date, we have engaged in person with over 350 organisational representatives and individuals throughout Scotland and have feedback from many more through our online survey. Examples of organisations that have taken part in the PVG review so far include:

- Local Authorities
- NHS Boards
- Sport Governing Bodies
- Educational Institutes
- Church Groups
- Third sector organisations

A full list of organisations involved in the review can be found at Annex A.

## **FINDINGS**

### **1<sup>st</sup> Round of Engagement**

The first round of engagement took place between January and February 2017 and involved 54 individuals from 36 organisations, including internal stakeholders from Disclosure Scotland and Scottish Government. The main aim of this round was to set out the Terms of Reference for the review, which were then published on 28 February on the Scottish Government's website. Participants were asked to consider which elements of the current scheme they would like to see remain in place and which they would prefer to have changed. An overview of this feedback is set out below.

#### **Elements of the current scheme that should remain**

Above all, stakeholders were happy with the values and reasons behind the current PVG scheme and wanted the main remit to remain the protection of vulnerable people. There was strong support for maintaining the lists of individuals who are barred from regulated work with children and/or protected adults as well as continuing with on-going monitoring.

#### **Elements of the current scheme that should change**

It was felt that the current system of paper application forms and of issuing paper certificates should be replaced by an electronic system. Some individuals also felt that, whilst the lists of barred individuals should be maintained, there was no need for separate lists for adults and children. It was also suggested that membership of the PVG scheme should not be for life and that greater clarity was needed surrounding this issue and the issue of who can become members of the scheme. In addition to this it was felt that DS offered too many products, and that these should be streamlined. The view was that this would make the application process clearer and more user-friendly.

#### **Summary**

A wide range of views were captured during the first round of engagement and many proved to be contradictory. However, analysis of the feedback received showed the following key points:

- The scheme should continue to keep the protection of vulnerable people as its core purpose
- Continuation of the barred lists of unsuitable individuals
- On-going monitoring of PVG scheme members should continue
- Support for an online application process and online access to conviction information
- The scheme should be mandatory
- The definition of regulated work is complex
- Number of disclosure products available is too high
- Membership of the PVG scheme should not be for life

## **2<sup>nd</sup> Round of Engagement**

The second round of engagement ran from March to April 2017 and included 11 events across 3 sites, plus a number of additional meetings with smaller groups and individuals. A total of 69 individuals from 59 organisations took part. The aim of this round was to look deeper into what stakeholders need and what they would like to have in a future scheme. Discussions followed a similar theme to the first round of engagement with participants being asked to consider the following issues:

- Products and Information
- Whether the scheme should be mandatory
- The referral process
- Having two separate workforces and lists

Alongside this face to face engagement DS ran an online survey. This was widely advertised using a variety of methods resulting in 848 responses.

### **Future Products and Information**

Throughout the second round stakeholders were overwhelmingly clear that they would like a simple, user friendly online system with easier to understand information. It was suggested that the online system should be similar to other existing systems such as that of the DVLA. In addition to this, it was felt that individuals should be able to have their own account with DS to which they could link relevant organisations and that a membership card or other such similar means could be introduced to give individuals ownership of their own account.

Stakeholders also felt that membership of the PVG Scheme should not be for life. It was suggested that individuals should have to renew their membership at certain intervals, thereby allowing information to be kept up to date and also allowing members to be removed from the scheme if they are no longer in regulated work. A need for better and more consistent communication and guidance from DS was also identified particularly in the areas of how regulated work is defined and who can and should become a scheme member.

### **Mandatory Scheme Membership**

There was a wide range of discussion during the second round of engagement as to whether or not the PVG Scheme should be mandatory with views on the subject being generally in favour of the scheme being mandatory. Many believed that the scheme was already mandatory and were confused that it wasn't. Many believed that a mandatory scheme would simplify the system. Some stakeholders however felt that it would be too complicated and create too many loopholes to be truly effective. It was also suggested that a mandatory scheme would deter volunteers from certain types of work. There was discussion about what types of roles should potentially be mandatory in any future scheme along with further discussions surrounding the types of roles which have mandatory scheme membership as part of their regulatory body requirements.

## **Referral Process**

Stakeholders who participated in the second round of engagement agreed that, overall, the current process of referrals is effective. However, it was overwhelmingly agreed that the process was too complicated and better guidance was required on what constitutes 'harm' within the legislation, how and when an individual should be referred and how to handle individuals who are under formal consideration for listing.

### **Two separate workforces**

There were a number of discussions surrounding the proportionality of having two separate workforces and lists. Some stakeholders thought that having a single workforce and barred list did make sense, with others commenting that most organisations would not employ someone to work with protected adults if they were already barred from working with children.

### **Summary**

Analysis of the feedback from the second round of engagement indicated that the following were key points that stakeholders wanted to have in any future scheme:

- Online application and access to real time conviction information
- Simple systems and products
- Individual membership scheme with card
- Barring from regulated work
- Better communications and guidance

Analysis also indicated the following key points that stakeholders did not want to have in any future scheme:

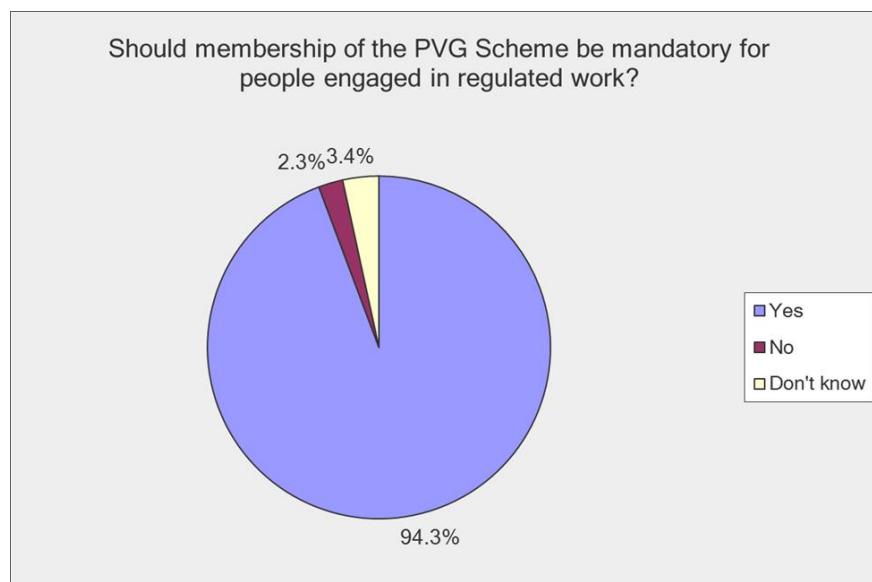
- Too many products
- Complex application forms
- Lack of engagement/communication with individual members and organisations
- Lifelong membership

## Online Survey

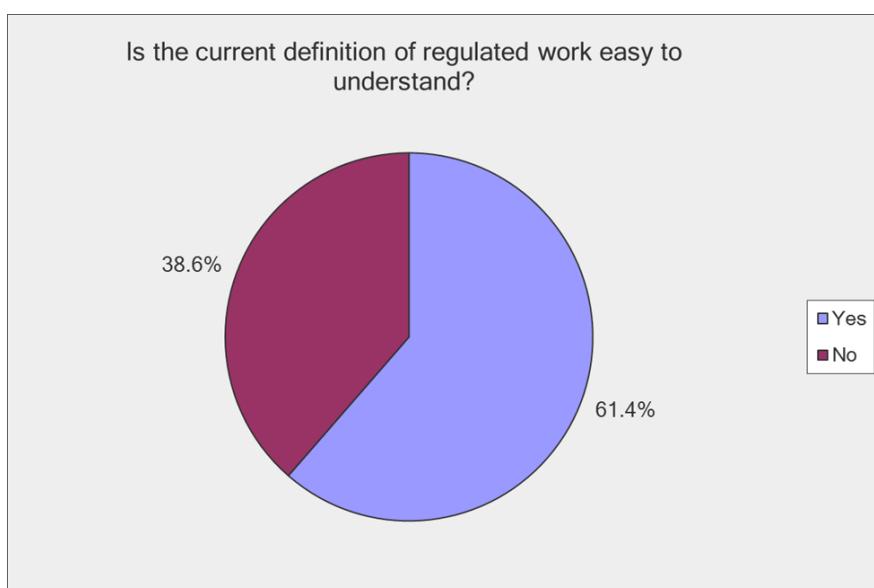
The second stage of stakeholder engagement included an online survey which generated 848 responses from a wide range of participants. The survey was comprised of 20 questions which covered the same themes as those in the face to face engagement events.

Analysis of the survey indicated the following key points:

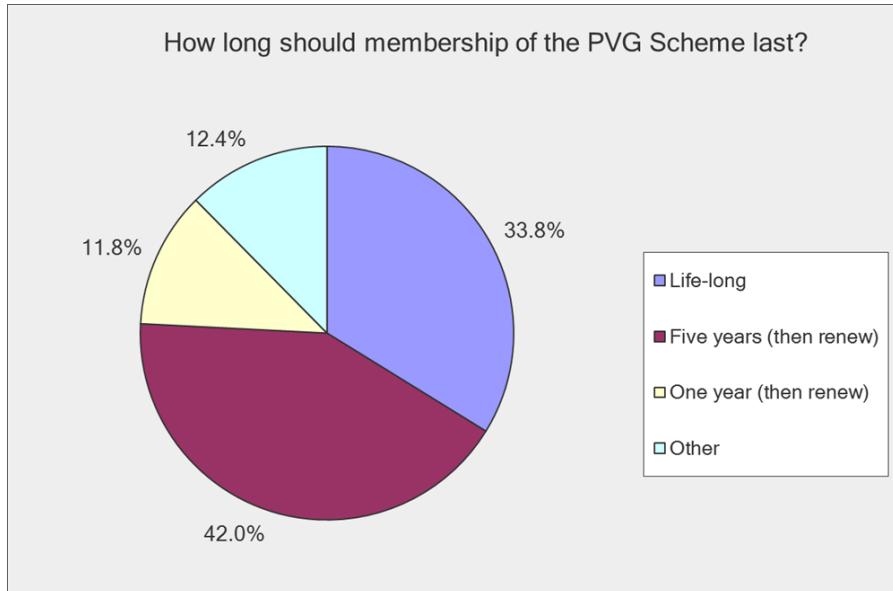
- 94% of respondents thought that the PVG Scheme should be mandatory.



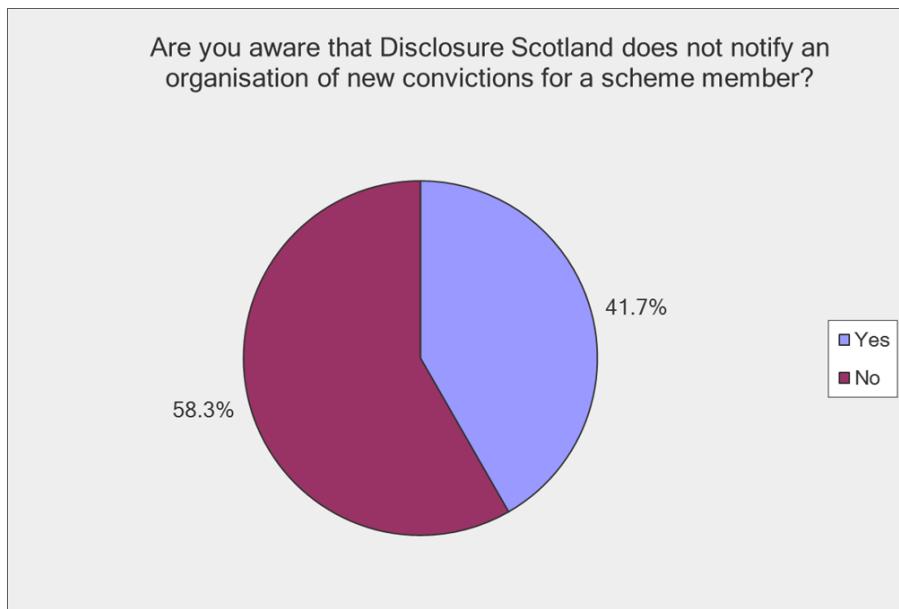
- Almost two thirds of respondents thought that the definition of regulated work was easy to understand. However discussions in person indicated this not to be the case and many stakeholders feel this needs to be simplified or changed going forward.



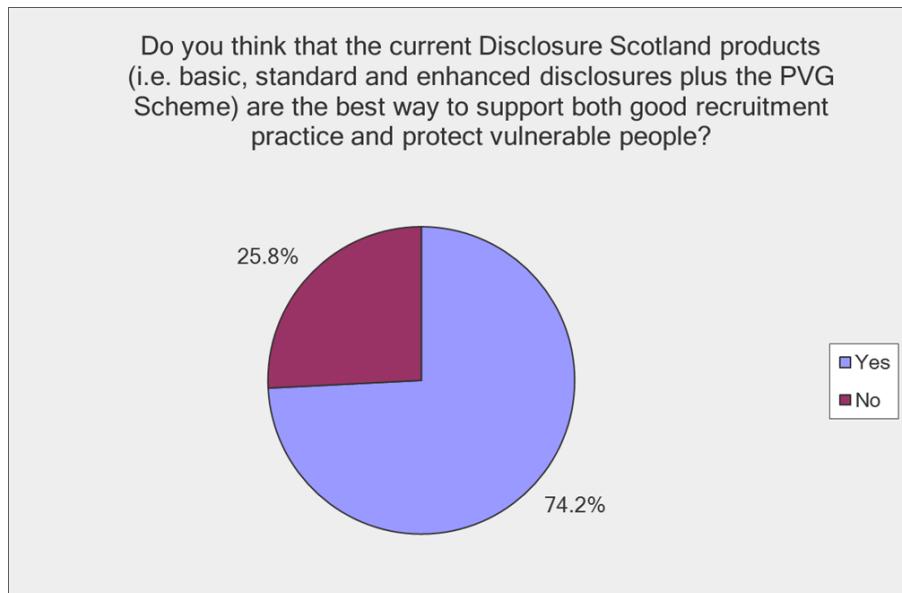
- Two thirds of respondents thought that membership of the PVG scheme should not be lifelong.



- More than half of respondents did not realise that DS does not notify them of new convictions for a scheme member.



- Almost three quarters of respondents indicated that the current DS products are the best way to support recruitment and protect vulnerable groups. However, there was wide acknowledgement that the current products are too complicated.



## **3<sup>rd</sup> Round of Engagement**

The third round of engagement has been on-going since August 2017 and has involved over 250 stakeholders. Discussions were based around how a future disclosure scheme could be delivered. Discussion points were as follows:

- **Retain the existing law.** Disclosure Scotland would continue to issue basic, standard and enhanced disclosures under the Police Act 1997. In addition, the PVG Scheme disclosures; the scheme record, the short scheme record, and the statement of scheme membership would also be retained. We would, however, make minor legislative changes to: fix loopholes in both the 1997 and 2007 Acts, help to facilitate online applications and disclosure, and modify the offence lists in schedules 8A and 8B of the 1997 Act.
- **Streamlined disclosure system.** Products would be reduced to 3 levels of disclosure equivalent to the current basic disclosure, enhanced disclosure and PVG scheme. This would maintain the barring function for people unsuitable for regulated work as well as the appeal mechanism for spent convictions.
- **Introduction of online system.** This would include online applications, ID verification, referrals and real time access to conviction information.
- **Introduction of an individual membership scheme.** Such that a person owns their account and has a membership ID card. Organisations and individuals would then be ‘linked’ (both parties agreeing) with consent provided by agreeing the link. A number of stakeholders suggested this should be available on smart phones, and not just as a physical card. The benefit of the membership card was questioned with some scheme members asking if it could be used to access other public services.
- **Retrospective checking.** Changes made to the scheme necessitating retrospective checking for existing scheme members.

Participants in these sessions were asked to consider and comment on these points and, alongside this, were asked to consider the same key issues that were covered in previous rounds of engagement

### **Retain the existing law**

The feedback on this issue was mixed. Many felt that the current system did work well, particularly for clearly defined and less flexible roles. People were also supportive of the current barring system as well as the notifications for consideration and barring. It was said that the current system presents a “common sense approach” to disclosing conviction information.

Alternatively, many felt that the current system had too many options leading to confusion about the type of application that should be made. It was thought that this left a lot of room for different interpretation between organisations. In addition to this, some participants stated that they found the current scheme to be unclear in its definition of what constitutes regulated work with some stakeholders stating that they

felt the guidance from Disclosure Scotland and VSDS to be conflicted in this area. Overall stakeholders felt that the current system would be improved by additional online functionality.

### **Streamlined disclosure system**

There was great support for the introduction of a more streamlined system than is currently offered by DS. It was generally felt that having only three levels of disclosure would present a quicker and more user friendly service that could also prove to be safer in terms of information security.

### **Online System**

Stakeholders particularly felt that online applications and online access to disclosure information, rather than continued use of paper certificates, would lead to less onerous paper work making the entire process more streamlined and easier for both employers and individuals. This would be true particularly if individuals were able to manage their own application online. It was also felt that this system could prove to be safer in terms of information security. Some did, however, express concerns about the online system, particularly around the usability for certain users and the practicality of access for online conviction information.

### **Individual Membership**

Overall, it was agreed that giving individuals ownership of their disclosure membership would be a positive step. It was felt that a membership card, giving basic details of the individual such as name and membership number, would be the most appropriate way of doing this. Stakeholders expressed support for a mechanism for suspending scheme membership if an individual was to move out of regulated work and then reactivation if they later resumed regulated work.

### **Retrospective Checking**

The feedback from stakeholders suggests that there is little appetite for retrospective checking of existing scheme members (in the way that happened when we moved from Police Act Disclosures to PVG scheme membership) if there was to be a change to the operation of the PVG scheme. Retrospective checking was a significant burden that stakeholders do not want to repeat.

### **Summary**

Analysis of the feedback from this round of engagement showed the following key points:

- Desire for online applications and access to real time conviction information
- Need for streamlined system
- Better definition of regulated work/alternative approach
- Continuation of barring and listing functions
- Continuation of on-going monitoring
- Membership card will give ownership to individuals

- Need for better guidance on scope of regulated work, and on the content of disclosure certificates

## **Other Research**

### **User researchers within DS**

In addition to the stakeholder engagement being undertaken by the policy team, the user research team within Disclosure Scotland have been working on a wide reaching programme of user research for the development of a new online system. The team have engaged with over 100 customers between May and October 2017 using a variety of methods including telephone and face to face interviews, lab testing and joint open user centred policy sessions with users.

Having had sight of the preliminary results of this research, we believe that it reinforces many of the key points which we have taken from our own stakeholder engagement that has been outlined so far, in particular:

- Users support an online applications system (providing alternative methods are in place for those who cannot use digital systems)
- There is support for a move away from paper certificates and instead issuing this information by digital means
- Users are not always aware that PVG Scheme membership is for life and therefore a method of giving individuals ownership of their own membership would be beneficial.

### **Other policy areas**

Work going on elsewhere with in Scottish Government has also fed into this engagement work. Specifically work on the Rehabilitation of Offenders and the Minimum Age of Criminal Responsibility has provided us with further information and evidence. We are currently analysing this information and developing possible policy approaches to ensure alignment with these policy areas.

## **Moving Forward**

The engagement process remains on-going as we seek to gain as much insight as possible from stakeholders. However, having analysed all of the feedback that has been gathered throughout the process so far, it is clear that stakeholders would like to see the following elements incorporated into the new scheme:

- Three levels of Disclosure (currently we offer ten)
- Online applications and access to vetting information
- Individual Membership Card (debit card size)
- On-going monitoring (highest level of disclosure only)
- Barring from regulated work
- Mandatory scheme (either fully or partly for certain roles)
- Revised appeal mechanism for spent convictions

The three levels of disclosure mentioned above would be as follows:

### **Level 1**

- Application by individual
- Can be requested by anyone for any reason
- Will include unspent convictions only

### **Level 2**

- Application by individual
- Applicant and linked organisation must agree that this level of disclosure is appropriate for the role
- Will include
  - Unspent convictions and unspent cautions
  - Relevant spent convictions
  - Inclusion on barred lists for regulated work
  - Other relevant information (ORI)
- Will ask the question about the inclusion of
  - Inclusion on sex offenders register
  - Prescribed civil orders

### **Level 3**

- Application by individual but linked organisation must approve
- Must be for regulated work or its replacement
- Will include:
  - Unspent convictions and unspent cautions
  - Relevant spent convictions
  - Inclusion on barred lists for regulated work
  - ORI
  - Inclusion on sex offenders register
  - Prescribed civil orders
  - On-going monitoring

## **Summary**

The above findings take account of the identified need to streamline the existing disclosure products and give ownership to scheme members by providing a membership card as well as providing an online system. This takes account of the identified need to streamline the existing disclosure products and give ownership to scheme members by providing a membership card as well as providing an online system. It also retains elements of the existing scheme which stakeholders indicated that they felt should remain, such as the barring and listing functions and on-going monitoring.

There are some elements of the scheme that we continue to assess at this point in time, such as the fee structure of the new scheme and the referral process. We are also doing additional engagement with individuals going through the appeal process for the removal of convictions to understand fully the issues with the current mechanism.

We will bring forward detailed policy advice to ministers on the suggested scope and content of the forthcoming statutory consultation, distilling the ideas presented in this paper into a coherent and detailed prospectus for a reformed scheme.

## **Conclusion**

The PVG Scheme, whilst not perfect, is overwhelmingly considered to be of great benefit to society, by preventing unsuitable people from doing regulated work, and to employers, by providing information to assist with safe recruitment decisions.

Throughout the review process so far, stakeholders have been almost universal in their desire for a simpler system with fewer products and services to be provided online, with the accompanying alternatives for accessibility. We have also identified a need for Disclosure Scotland to improve communication with stakeholders and provide clear and useful guidance.

In addition to the external stakeholder engagement that has been outlined above, we have also been actively working with a variety of internal Disclosure Scotland colleagues including Transformation, Finance, Communications and Protection Services, and with wider Scottish Government colleagues including Criminal Justice, Self-directed support and the Third Sector Division.

**Organisations involved in the PVG Review to date**

Action for Children  
Action Group  
Angus Council  
Apex  
Arthritis Care  
Ayrshire Community Trust  
Ayrshire Independent Living Network  
Beatson Cancer Charity  
Capita Plc.-- Security Watchdog  
Care Inspectorate  
Carr Gomm  
Celtic Football Club  
Centre for Youth & Criminal Justice  
Chest, Heart & Stroke Scotland  
Children 1<sup>st</sup>  
Church of Scotland  
Coalition of Care & Support Providers in Scotland  
Comhairle nan Eilean Siar  
Community Contracts  
Community Pharmacy Scotland  
Cornerstone  
Crossroads Lewis  
Crossroads Orkney  
Fife Council  
Criminal Justice Voluntary Sector Forum  
Crossroads  
Diabetes Scotland  
DPHS Fife  
Dundee City Council  
East Ayrshire Council  
East Lothian Council  
Encompass Borders  
EVH  
Falkirk Council  
Fife Council  
Firsthand Lothian  
Free Church of Scotland  
General Pharmaceutical Council Scotland  
General Teaching Council for Scotland  
Glasgow City Council  
Golden Jubilee National Hospital  
Gorgie City Farm  
Hazelhead Homecare Ltd  
Home Start Orkney

Horshader Community Development  
Horse Scotland  
Hyde "N" Seek Nurseries  
Includem  
Inclusion Scotland  
KEY & Community Lifestyles  
Kirkwall East Church  
Leisure & Culture Dundee - Leisure and Sport  
Lewis & Harris Sports Council  
Lothian Centre for Inclusive Living  
MacMillan Cancer Support  
Mears Group  
Milestone Community Church  
Netball Scotland  
NHS Dumfries and Galloway  
NHS Greater Glasgow & Clyde  
NHS Healthcare Improvement Scotland  
NHS Lanarkshire  
NHS Lothian  
NHS Orkney  
NHS State Hospital Board for Scotland  
NHS Tayside  
NSPCC  
Orkney Children Drama  
Orkney District Scouts  
Orkney Swim Club  
Police Scotland  
Queensferry Rowing Club  
Recruitment with Conviction  
REED Health & Care  
Relationship Scotland Orkney  
Royal Voluntary Service  
Salvation Army  
Samaritans  
SDS Forum East Renfrewshire  
SDS Forth Valley  
Scottish Ambulance Service  
Scottish Athletics  
Scottish Canoe Association  
Scottish Care  
Scottish Churches Safeguarding Forum  
Scottish Commission for Learning Disability  
Scottish Council for Learning Disabilities  
Scottish Council of Independent Schools  
Scottish Council of Jewish Communities  
Scottish Episcopal Church

Scottish Government  
Scottish Gymnastics  
Scottish Parent Teacher Council  
Scottish Rugby  
Scottish Social Services Council  
Scottish Squash  
Scottish Youth Football Association  
Security Watchdog  
Sharedlives Plus  
Shelter Scotland  
South Ayrshire Council  
South Lanarkshire Leisure and Culture  
**sportscotland** (including input from 32 sports governing bodies)  
Strathclyde Partnership for Transport  
Strathclyde University  
Stromness Community Centre  
Stromness Drama Club  
Stornoway Free Church  
SWISS Fostercare Scotland Ltd  
Take Ctrl South Lanarkshire  
Teapot Trust  
The Ayrshire Community Trust  
The Church of Scotland  
The Criminal Justice Voluntary Sector Forum  
The Trust  
Third Sector Hebrides  
Turning Point Scotland  
University of the Highlands & Islands  
Venture Scotland  
Voluntary Action Orkney  
Voluntary Health Scotland  
Volunteer Centre Western Isles  
Volunteer Glasgow  
Volunteer Scotland Disclosure Services  
West Lothian Council  
Who Cares? Scotland  
W.I. Sensory Centre  
Woodcraft Folk  
Young Scot  
Youth For Christ (YFC)  
Youth Link Scotland  
Ypeople Orkney Young Accommodation



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