



# Disclosure (Scotland) Act 2020

Your host for the day, **Duncan Steele**

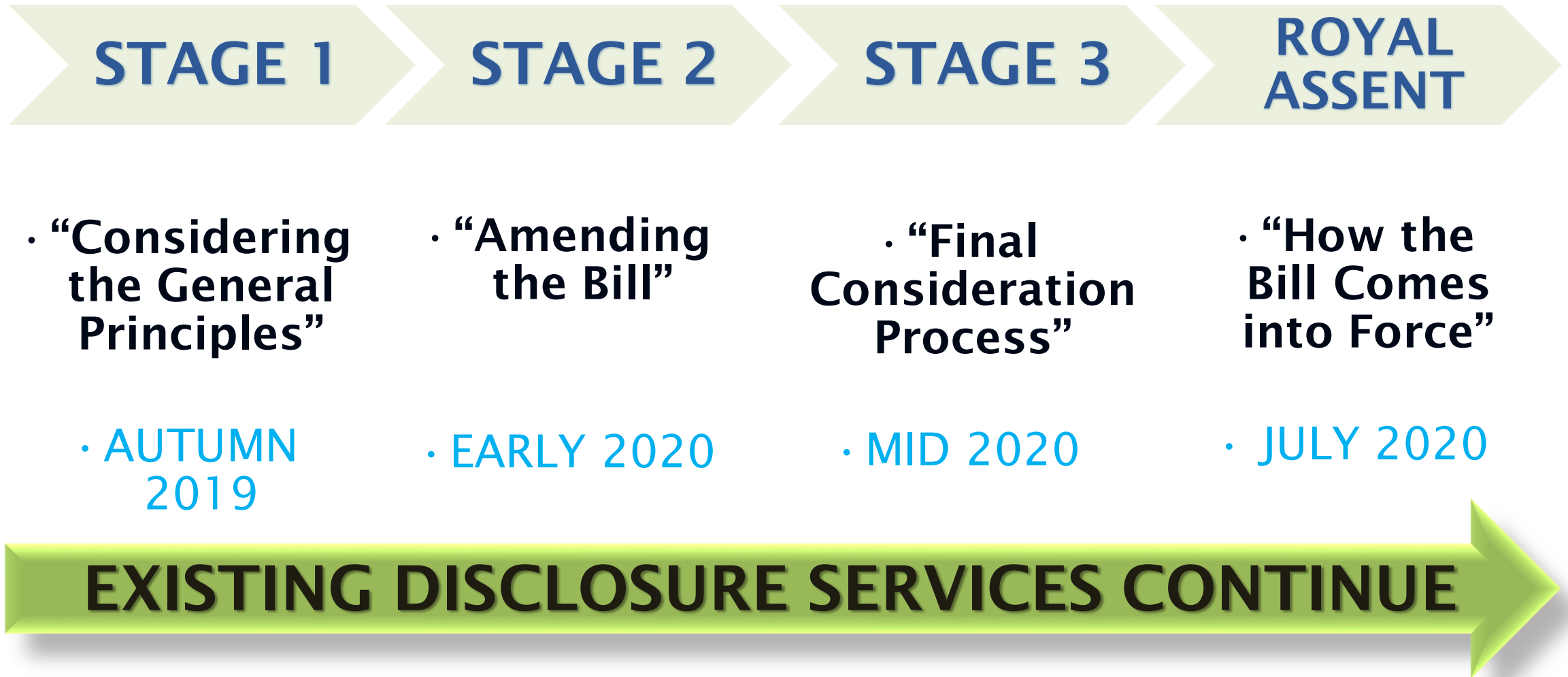
# Today's Aims

- To ensure organisations, groups, delegates and signatories across the country are informed about the general principles of the Disclosure (Scotland) Act.
- Highlight how you can support the Acts implementation.
- To provide VSDS/DS with information on any issues you can see arising from the legislative changes

# Agenda

- Key Changes in the Bill
- Group Feedback / Questions

# Bill Process



# Implementation Date

## To be Announced.....

- Likely to be phased implementation
- Will be lead time for appropriate training/guidance
- Circumstances may lead to legislative amendments

# Disclosure (Scotland) Act Changes

Changes break down into 3 general principles:

**Safeguarding**

**Simplifying**

**Privacy**

# Safeguarding - Key Change

## Mandatory PVG Scheme

- Anyone appropriately working/volunteering with vulnerable groups will be required to be a member of the PVG Scheme.
- It will be an offence to work in such a role without first joining the PVG Scheme or to employ someone in a role who you have not confirmed is an appropriate PVG scheme member

# Privacy – Key Change

## Membership Length

- End lifetime PVG Scheme membership, replace with (renewable) time-limited membership of **5 years**.
- Members can make multiple applications during 5 year period, making the scheme more portable.
- Helps to ensure employers are not notified of sensitive information on an individual after they have left regulated roles/work, reducing the risk this presents to an employer within **GDPR / Data Protection Act 2018**.



# Privacy - Key Change

## Age Restrictions

- There will be a minimum age of **16 years** on obtaining a criminal record check.
- Under 16s will be allowed to be in a regulated role but you will not be able to PVG check them.
- Convictions accrued between the ages of **12 and 17** will not automatically be released on a disclosure.

# Safeguarding - Key Changes

## Regulated Roles

- Replace the concept of ‘doing regulated work’ with ‘**Regulated Roles**’ that qualify for PVG scheme membership
- Disclosure Scotland will publish a list of typically encountered roles that qualify for PVG Scheme checks, but this will not be exhaustive.
- Roles will be determined by power or influence they have over children or adults (**who will now be 18+**) who are protected as a result of receiving a service
- The presence of specific activities within the role will determine the disclosure type.

# Safeguarding - Key Change

## Standard Conditions

- Disclosure Scotland will have new powers, when justified, to impose certain conditions on scheme members who are being considered for listing.
- Conditions only imposed in most serious of cases

# Safeguarding - Key Changes

## Referrals

- **Employer & Organisational Referrals will continue**
- **Court Referrals**
  - Removal of Court Referrals.
  - Mandatory PVG Scheme would ensure these can safely end.
  - Courts will still provide information on Automatic Barring offences
- **Police Referrals**
  - Police Scotland would be under a duty to make a referral to Disclosure Scotland when they have detected a person unlawfully working with vulnerable groups.

# Safeguarding - Key Changes

## Personal Employment / Self Directed Care

- Introduce provisions around permitting umbrella bodies acting on behalf of those receiving personal care through self directed support to receive vetting information and support safe & fair recruitment.
- Current route of accessing statement of scheme membership for those providing self directed care will also continue.
- Existing legislation does not provide for private citizens who employ personal assistants to refer their employees to Disclosure Scotland.

# Simplifying - Key Changes

## Simplification of Disclosures

- Disclosures will be across 2 distinct levels
  - **LEVEL 1** and **LEVEL 2**
- VSDS/DS are committed to increasing training and guidance to ensure that enrolled bodies/applicants get the best out of the new system.

# New Disclosure Levels

Basic Disclosure



Level 1

Standard Disclosure  
Enhanced Disclosure



Level 2

Enhanced Disclosure (with Children & Adults Suitability)  
Enhanced Disclosure (with Children Suitability)  
Enhanced Disclosure (with Adults Suitability)



Level 2 with  
Suitability

PVG Scheme Record  
PVG Scheme Record Update



Level 2 PVG

# Simplifying – Key Change

## Digital Delivery





# Privacy - Key Change

## Reduce Disclosure Period for Certain Convictions

- Reduces the periods certain convictions will be disclosed for from **15 years** to **11 years**.
- **11** years mirrors arrangements elsewhere in the UK but allows for significant extended disclosure of relevant spent convictions on Level 2 disclosures.
- Necessary that relevant and serious convictions continue to be disclosed.

# Privacy - Key Change

## Application Process for Removable Convictions

- Current system involves applicants making an application to a sheriff for removal is deemed to be complex and disproportionate.
- Introduce an internal application to Disclosure Scotland for removal of relevant spent conviction information from a disclosure.
- Followed by a right to apply for review by the independent reviewer.

# Privacy - Key Change

## Other Relevant Information (ORI)

- Police Scotland will have a duty to consider representations from applicants before they decide that ORI should be included on a disclosure.
- Applicants will be given the right to apply to the independent reviewer for review of the police decision to disclose ORI.

# Key Changes - Summary

- **Mandatory PVG Scheme**
- **Regulated Roles**
- **Standard Conditions**
- **Referrals**
- **Personal Employment**
- **Simplifying Disclosures**
- **Digital Delivery**
- **Membership Length**
- **Age Restrictions**
- **Childhood conviction**
- **Application Process for Removable Convictions**
- **Reduce Disclosure Period for Certain Convictions**
- **Other Relevant Information (ORI)**



Any



Questions

# What About Now?

- **Current PVG Scheme continues.**
- VSDS will continue to offer training and support to organisations
- VSDS can offer training/support visits to individual groups if requested
- News/events will be published on our website and in our regular e-mail newsletter.

# Thank You!

Contact Us:



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Future workshops & events available on:

<https://www.volunteerscotland.net/>