



Disclosure (Scotland) Act 2020

Island Communities Impact Assessment (ICIA) – package 3

Step one – Develop a clear understanding of your objectives

What are the objectives of the policy, strategy, or service?

The Disclosure (Scotland) Bill was introduced into Parliament in June 2019. The Bill became an Act on 14 July 2020. This Act is the legislative framework to modernise and improve the proportionality of the disclosure system in Scotland.

To implement the Disclosure (Scotland) Act 2020 (“the Disclosure Act”), several Scottish Statutory Instruments (SSIs) must be laid. This impact assessment relates to the Disclosure (Scotland) Act 2020 (Commencement No. 5, Saving and Transitional Provision) Regulations 2025) and Level 1 and Level 2 Disclosure Review Applications (Scotland) Regulations 2025

The primary objective of each SSI is below:

- Disclosure (Scotland) Act 2020 (Commencement No. 5, Saving and Transitional Provision) Regulations 2025) - brings into force the provisions of the Disclosure Act required for Go Live on 1 April 2025. It makes transitional and savings provisions that are necessary as a consequence of the Disclosure Act. The regulations ensure the continuation of the disclosure system, and operation of the Protection of Vulnerable Groups Scheme, by putting provisions in place to deal with the changes and ensure a transition to the new legislation.
- Level 1 and Level 2 Disclosure Review Applications (Scotland) Regulations 2025 - Under part 1 of the Disclosure Act where a Level 1 or Level 2 disclosure is provided to an applicant, the applicant may request that the disclosure is made available to the body who countersigned the application, or request a review of the accuracy of any information included or request a review of the inclusion of any reviewable information.

These Regulations set out the timescale in which the applicant may either: request that their disclosure is made available to the body who countersigned the application; submit their intent to apply for a review; make the review application; and make a subsequent Level 2 review application where the subsequent disclosure is provided for the same purpose.

Do you need to consult?

No.

How are the islands identified for the purpose of the policy, strategy, or service?

The definition of island is set out in the Islands (Scotland) Act 2018. "Island" means a naturally formed area of land which is (a) surrounded on all sides by the sea (ignoring artificial structures such as bridges), and (b) above water at high tide. "Inhabited island" means an island permanently inhabited by at least one individual. This impact assessment does not impact uninhabited islands, so "island" will be used to refer to inhabited islands.

Scotland has three island authorities - Orkney, Shetland, and Comhairle nan Eilean Siar. In addition, the Highland, Argyll and Bute and North Ayrshire local authorities cover island regions as well as mainland regions.

What are the intended impacts/outcomes and how do these potentially differ in the islands?

The intended outcome is to ensure Disclosure Scotland continue to provide our service under the new legislation and allowing individuals to have as much control as possible over the process of applying for a review and sharing disclosures. The policy is intended to have the same impact/outcome across Scotland.

The policy contributes to the following National Outcomes:

- Children and Young People: We grow up loved, safe and respected so that they realise their full potential.
- Care: we are cared for as we need throughout our lives and value all those providing care.
- Communities: We live in communities that are connected, inclusive, empowered, resilient and safe.

The intended impacts/outcomes do not differ to those in the islands to those on mainland in relation to these regulations.

Is the policy, strategy, or service new?

The Disclosure (Scotland) Act 2020 (Commencement No. 5, Saving and Transitional Provision) Regulations 2025) allow Disclosure Scotland to determine internal operational policy and processes to make sure there is a seamless transition to the new legislation and a continuation of service. The Disclosure Act introduces regulated roles and the requirement of mandatory membership (legal requirement) of the scheme for those in regulated roles.

To make sure organisations are not inadvertently criminalised for employing people into regulated roles, the transitional provisions allow a grace period of three months for those in regulated roles who are not members of the PVG scheme to join and request a Level 2 disclosure. Where an accredited body (organisation) has seen a Scheme Record Disclosure in relation to a scheme member, they can treat it as if it were a Level 2 disclosure for transition purposes.

Provisions in the 2020 Act will introduce a 'review application' process which seeks to allow individuals to have as much control as possible over the process of applying for a review and sharing disclosures. Applicants have the choice to seek a review before their disclosure is viewed by an accredited body. This means the disclosure is first made available to the applicant, and the applicant can either request for it to be made available to the accredited body that countersigned the application or follow the review application process.

The Level 1 and Level 2 Disclosure Review Applications (Scotland) Regulations 2025 set out the timescales for applicants to indicate their intent to apply for such a review, submitting their application for review, and how long they must wait before they can apply for a subsequent review of information that has already been reviewed. The Regulations also set out the process for individuals who are subject to overseas 'other relevant information' to ensure that those individuals can benefit from the same provisions as if ORI was provided by a U.K. police force.

Step two – Gather your data and identify your stakeholders

What data is available about the current situation on the islands?

The Scottish Government recognise that remote, rural and island communities face distinct challenges in delivering primary care services, particularly in recruiting and retaining clinicians, and in ensuring sustainable service delivery¹. People living in islands and remote areas are marginally more likely (32.9%) than those living in Scotland as a whole (30.9%) to be working in public administration, education, and health².

These roles are more likely to be regulated which means compulsory membership under the Disclosure Act. We recognise the general challenges around this, not just for the island communities, therefore the transitional provisions allow for a grace period of three months (1 July 2025) to join and request a Level 2 disclosure, if they are not already a member of the PVG Scheme, as not to inadvertently criminalise them. These challenges apply to all organisations and individuals who are involved in regulated roles.

Many organisations - particularly those in the public sector and care sector - treat the Scheme as mandatory already and it is the same for those accessing those services in islands as in mainland Scotland.

The instruments included in this assessment are not likely to have a significant impact or effect on an island community different from that of any other communities.

Do you need to consult?

No.

How does any existing data differ between islands?

No relevant data.

Are there any existing design features or mitigations in place?

None required.

¹ The National Islands Plan: Plana Nàiseanta nan Eilean - <https://www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2019/12/national-plan-scotlands-islands/documents/national-islands-plan-plana-naiseanta-nan-eilean/national-islands-plan-plana-naiseanta-nan-eilean/govscot%3Adocument/national-islands-plan-plana-naiseanta-nan-eilean.pdf>

² Understanding the Scottish Rural Economy - <https://www.gov.scot/binaries/content/documents/govscot/publications/research-and-analysis/2018/02/understanding-scottish-rural-economy/documents/00531667-pdf/00531667-pdf/govscot%3Adocument/00531667.pdf>

Step three – Consultation

Who do you need to consult with?

Not relevant.

How will you carry out your consultation and in what timescales?

Not relevant.

What questions will you ask when considering how to address the island realities?

Not relevant.

What information has already been gathered through consultations and what concerns have been raised previously by island communities?

Disclosure Scotland carried out a consultation on 'Disclosure of criminal information and protecting vulnerable groups' in 2018. Responses were received from the following organisations operating in island communities:

- Crossroads (Harris) Care Attendant Scheme
- North Argyll Volunteer Car Scheme
- Shetland Canoe Club
- Cobhair Bharraigh
- Shetland Islands Council
- North Ayrshire Council
- Shetland Adult and Child Protection Committee
- Diocese of Argyll & the Isles - Catholic Church
- Argyll and Bute Council
- NHS Orkney
- NHS Western Isles
- Shetland Link Up

The public consultation did not ask whether the PVG Scheme should be mandatory as early engagement found there was overwhelming support for this. No issues unique to island communities were raised in relation to the transition to a mandatory scheme, review applications or any other regulation included in this assessment.

Since 2019, Disclosure Scotland have engaged with 121 delegates from 33 different organisations from the Island Communities around Scotland. The engagement has included information relating to the SSIs included in this assessment. No concerns have been raised specific to the island communities. Any concerns raised are general ones shared by other stakeholders and not based on their location.

Is your consultation robust and meaningful and sufficient to comply with the Section 7 duty?

Not relevant.

Step four – Assessment

Does your assessment identify any unique impacts on island communities?

No unique impact on island communities has been identified at this point in policy development. We continue to gather evidence to look at whether any unique impacts arise.

Does your assessment identify any potential barriers or wider impacts?

The policies should not result in barriers to the island communities. It is anticipated that island communities and the mainland will have the same opportunities to benefit from, contribute to and gain access to disclosure services under these regulations. Stakeholders in island communities have a good understanding of the PVG Scheme and Disclosure Scotland is doing outreach across the country to ensure organisations and individuals understand the incoming changes.

How will you address these?

As detailed in step 3, our Customer Engagement Team engage with organisations in island communities and our communications team use Sendgrid and an e-bulletin as additional communications channels.

Step five – Preparing your ICIA

Not required as the policy is unlikely to have an impact on island communities which is significantly different from its effect on other communities (including other island communities).

Step six – Making adjustments to your work

Should delivery mechanisms/mitigations vary in different communities?

None identified for island communities.

Do you need to consult with island communities in respect of mechanisms or mitigations?

Not relevant.

Have island circumstances been factored into the evaluation process?

Yes.

Have any island-specific indicators/targets been identified that require monitoring?

No.

How will outcomes be measured on the islands?

Feedback from our island stakeholders will continue to be monitored as part of implementation and transition.

How has the policy, strategy or service affected island communities?

Disclosure Scotland has received no specific feedback on its operations or services in island communities in relation to the SSIs noted in step one.

How will lessons learned in this ICIA inform future policy making and service delivery?

A lessons learnt exercise will be taken on conclusion of this programme of work, including in response to the work on impact assessments, gathering of evidence and stakeholder engagement.

Step seven – Publishing your ICIA

Have you presented your ICIA in an Easy Read format?

No

Does it need to be presented in Gaelic or any other language?

An Easy Read or translated ICIA has not been produced as the need for a full ICIA has not been identified.

Where will you publish your ICIA and will relevant stakeholders be able to easily access it?

Who will sign-off your final ICIA and why?

The ICIA will be published on Disclosure Scotland's website to assist transparency and access – as the need for a full ICIA has not been identified, this will not be automatically published to the Scottish Government's publication pages.

Disclosure Scotland's Chief Executive and Accountable Officer will sign off.

ICIA approved by: Gerard Hart

Position: Chief executive, Disclosure Scotland

Signature: Gerard Hart

Date completed: 30 January 2025

Contact information

If there are any issues with the information contained in this document, or if you have any questions, please contact us by email.