

Status: This version of this provision is prospective.

Changes to legislation: Disclosure (Scotland) Act 2020, Section 33 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes



Disclosure (Scotland) Act 2020

2020 asp 13

PART 1

DISCLOSURE OF CRIMINAL HISTORY AND OTHER INFORMATION

Level 2 disclosures: considering relevance and whether to include information

PROSPECTIVE

33 Level 2 disclosure: considering relevance and whether to include certain information

- (1) This section applies where a person is considering for the purposes of section 13(1) (c), 14(1), 15(3), 22(3), 23(4), 24(4), 25(3) or 26(4)—
- (a) whether a conviction, children's hearing outcome or other information is relevant for the purpose of a Level 2 disclosure to be provided to an individual, and
 - (b) whether information about, or details of, the conviction or outcome or the other information (as the case may be) ought to be included in the disclosure.
- (2) In considering whether the conviction, children's hearing outcome or other information is relevant for the purpose of the disclosure, the person may take account of any of the following matters (amongst other matters)—
- (a) the nature and seriousness of the conviction, outcome or other information,
 - (b) the circumstances giving rise to the conviction, outcome or other information,
 - (c) in the case of a conviction, the level of any sentence imposed in respect of the conviction,
 - (d) the time that has elapsed since the behaviour giving rise to the conviction, outcome or other information occurred,
 - (e) the age of the individual at the time when the behaviour giving rise to the conviction, outcome or other information occurred,
 - (f) any previous or subsequent offences committed by the individual,
 - (g) in the case of other information, the reliability of the information.

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- (3) In considering whether information about, or details of, the conviction, children's hearing outcome or the other information (as the case may be) ought to be included in the disclosure, the person may take account of any of the following matters (amongst other matters)—
- (a) the nature and seriousness of the conviction, outcome or other information,
 - (b) the circumstances giving rise to the conviction, outcome or other information,
 - (c) in the case of a conviction, the level of any sentence imposed in respect of the conviction,
 - (d) the time that has elapsed since the behaviour giving rise to the conviction, outcome or other information occurred,
 - (e) the age of the individual at the time when the behaviour giving rise to the conviction, outcome or other information occurred,
 - (f) any particular events or circumstances in the individual's life at the time when the behaviour giving rise to the conviction, outcome or other information occurred which the person considers to be relevant to the behaviour,
 - (g) any previous or subsequent offences committed by the individual,
 - (h) in the case of other information, the reliability of the information,
 - (i) in the case of other information, whether the individual has had an opportunity to challenge the information or make representations about the circumstances which gave rise to it,
 - (j) the impact on the individual of including information about, or details of, the conviction or outcome or the other information in the disclosure.
- (4) In this section, “other information” means information—
- (a) provided or to be provided in accordance with section 14,
 - (b) provided in accordance with section 15.
- (5) The Scottish Ministers may by regulations modify subsection (2) or (3).

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- sch. 3 para. 31(1) words repealed by [2024 asp 5 Sch. para. 25\(2\)\(a\)\(i\)](#)
- sch. 3 para. 20 words repealed by [2024 asp 5 Sch. para. 25\(2\)\(a\)\(ii\)](#)
- sch. 3 para. 21 words repealed by [2024 asp 5 Sch. para. 25\(2\)\(a\)\(iii\)](#)
- sch. 3 para. 31 words substituted by [2024 asp 5 Sch. para. 25\(2\)\(b\)](#)