



# 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*

#### **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.
- (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

---

*Status: This is the original version (as it was originally enacted).*

---

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).