

Clare Adamson MSP
Convener
Education and Skills Committee

Chief Executive
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By e-mail only

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Dear Ms Adamson,

Thank you for your letter highlighting the concerns of the Education and Skills Committee and the Public Audit and Post-Legislative Scrutiny Committee on the practical implementation of the Disclosure (Scotland) Bill.

Before turning to your questions, I want to update you on our response to the COVID-19 crisis. This work will support the Disclosure (Scotland) Bill (“the Bill”) and highlights Disclosure Scotland’s improved ability to deliver flexible change, and therefore is relevant to cover in this response. To summarise, the requirements of home working, physical distancing and the national imperative to get health and care workers checked and onto the COVID-19 front line without delay required Disclosure Scotland to make radical changes to the way we deliver our services, endorsed by Scottish Ministers. The changes mean that we have ceased paper applications, as well as emailing PVG employers about the outcome of checks in ninety percent of cases. We are completing these checks in less than one day, albeit total numbers of disclosure applications are presently at around half expected volumes. We now control our own IT systems rather than being dependent on an external supplier. This has enabled us to quickly implement solutions in response to COVID-19. This would have been significantly more challenging under our previous system. The ability to quickly change our systems has demonstrated our ability to make positive and sustainable improvements and will enhance our ability to deliver the Bill and protect vulnerable groups.

The ongoing need for physical distancing in the workplace makes any plan to resume large scale paper processing unwise. I have therefore directed the transformation and business change teams in Disclosure Scotland to build on what we have already delivered online in the COVID-19 crisis to ensure that the return of paid-for services will be overwhelmingly via paperless applications. We will continue to receive some paper applications to assist those who cannot use digital, and support those of our customers who may take time to switch over, but these will be a minority of cases. Stakeholder feedback has been very positive about the changes we have made.

Committing to eliminating bulk paper handling means that we are now working at pace to develop and deploy a strategic solution to replace the current emergency COVID-19 approach (organisations and individuals downloading forms from our website and sending them to us by email), creating a proper digital channel for PVG that will allow customers to submit true digital applications and for these to be electronically validated and injected straight into the PASS system. These changes, as I set out in this letter, are of significant benefit in the journey to implement the Bill.

I have advised Ministers that Disclosure Scotland intend that this improved service will be available by the autumn of this year. It will be developed using agile methods and would have been simply impossible to deliver had Disclosure Scotland remained on the legacy BT system. I hope this demonstrates to the Committee that the evidence we gave to PAPLS Committee about the opportunities for future development afforded by PASS was accurate and that its benefits are now bearing fruit, perhaps earlier than anticipated.

As stated by my colleague Kevin Lee in his letter of 14 January 2020, Disclosure Scotland carefully reflected on the Audit Scotland report and learned from it. In January 2020, the Disclosure Scotland Board agreed a new approach to governance in response to the Audit Scotland report. My predecessor, Lorna Gibbs, established the **Change Delivery Advisory Board** (CDAP) to put in place a rigorous new governance model tailored for agile working. The CDAP has a remit to oversee and advise on all aspects of digital development; technical, finance and adherence of the programme to the strategy articulated by the organisation and agreed by Ministers. The CDAP has full access to all the programme and is empowered to scrutinise the delivery process and personnel involved, including the Director of Digital.

Lorna recruited Christopher Wroath as Chair. He is widely acknowledged as a leading national figure in public sector software development and as an agile expert. He is also a Director of NHS Education Scotland. The CDAP reports directly to me as Accountable Officer. Christopher Wroath also independently and personally briefs the Disclosure Scotland Board on the work of the CDAP. Every member of the CDAP is an esteemed and highly credible expert from the area of digital transformation and strategic public sector finance. I have found the CDAP to be a very useful source of assurance in my brief tenure and I am confident that these new governance arrangements will be effective in helping guide the organisation to deliver the Bill as an operational service.

In addition to the CDAP expertise, I would like the Committee to note that we will deliver training in agile methods to all our Board members that require it when the current extraordinary circumstances have sufficiently abated. I am having weekly governance calls with the Board through the present crisis and I intend to maintain an increased level of Board scrutiny even after this period; this has allowed me to consult and take advice from the Board on a much more frequent basis, which is useful within an agile approach. The capability of the Disclosure Scotland Board has been significantly enhanced by recent appointments, including adding new human rights, IT and private sector commercial expertise.

Turning to the Committee's specific requests:

A summary of the work that has been undertaken so far to ensure the organisation can be agile to implement the provisions of the Bill assuming it is passed;

In a remark at the PAPLS Committee, I said that the very difficult work of building a complex information storage system and securely connecting it to police systems, all within a cloud-computing environment, had been the most significant challenge of the whole programme. Achieving this has been a major milestone in preparation for delivering the Bill. This infrastructure is invisible to customers but will underpin everything that will be delivered to customers in months and years ahead. I further remarked that the development of digital services, such as those needed for the Bill, was actually a more amenable challenge than building the infrastructure had been. This was and is consistent with the professional advice that I have received from my technical teams and from members of CDAP.

Disclosure Scotland is committed to delivering the provisions of the Bill efficiently, effectively and in ways that customers want to use and find accessible. It may reassure the Committee to note that the current emergency measures we have successfully innovated were built with close stakeholder collaboration. This meant that we were able to accelerate aspects of our development work and disband other strands very quickly, in partnership with our stakeholders. This approach allowed us to deploy a tactical solution to clear health and social care professionals at an unprecedented pace to allow them to get to work. Our service has been widely praised by stakeholders.

The Committee may wish to note that our intention to deploy, by the autumn of this year, a secure and workable online application service will allow Disclosure Scotland to receive applications directly into PASS. This will represent a further major milestone in the platform needed to implement the Bill. When that service is deployed, the challenge thereafter will be to continuously improve on the service and to work with customers on future versions of the platform that will offer an ever improving service, including that needed for the Bill. As Lorna Gibbs set out to PAPLS, that will be done iteratively and with user research and testing as central planks, within a tightly-controlled budget framework.

This illustrates the important point made to the PAPLS Committee by Lorna Gibbs when she described how agile principles would work in the delivery of the Bill; she described the agile process as an iterative one, where the final shape of the electronic solution would be guided by user research and collaboration with customers. However, this iterative approach will have proper planning and be subject to high levels of governance and control.

The Financial Memorandum for the Bill has set out its anticipated delivery costs. These remain valid. Disclosure Scotland sets its annual budget and financial forward projections in close collaboration with Scottish Government finance. I have appointed, in consultation with Christopher Wroath, a senior strategic finance official from the Scottish Government to the CDAP membership. His role will be to ensure that there is a strong financial governance voice in the CDAP and advise me on whether the programme's use of resources is best value and is being discharged in accordance with principles for good financial governance in IT programmes. This will be augmented by the use of internal audit expertise focused especially on governance and delivery within the programme and on business readiness to implement the Bill. There will be robust engagement with Disclosure Scotland's Audit and Risk Committee to scrutinise delivery against the organisation's plans and the efficacy with which it identifies and manages all risks that emerge.

A detailed timeline of how long each of the phases of the implementation of the provisions of the Bill will take and what each phase will involve, including the estimated overall deadline for the full delivery of the provisions of the Bill;

As I set out above, by the autumn of this year, Disclosure Scotland will deliver a system to receive online applications directly into our PASS system. This will fulfil the biggest demand that our stakeholders have made over recent years: an online PVG service. It will accomplish the important PVG channel shift from paper to digital, and install the platform from which all the digital aspects necessary to implement the Bill will grow. This further functionality will be developed using agile methods over the months and years ahead. This includes the future ability for disclosure subjects to take control of sharing their disclosures with employers, exercise the relevant appeal rights conferred by the Bill and build the large scale digital processes needed to allow for the five year memberships to be commenced and administered.

A refreshed **programme delivery roadmap and timeline** will be available after the present crisis, charting the planned outcomes in close detail for the four immediate quarters ahead and for the two years beyond, all with reference to the planned budget for the programme. Our new CDAP faculty will challenge and scrutinise this, along with the Disclosure Scotland Board, our auditors and our Audit and Risk Committee. The roadmap we developed before COVID-19 requires fundamental revision; we have made rapid and significant progress which has already materially changed and improved our position to deliver the Bill. This will permit us to make savings in the immediate to short term by removing workarounds and manual processes. This will allow organisational structures and business processes to adapt more readily as the constraints of having a large paper-based process will be relieved, allowing flexibility to reshape the organisation.

The Committee will be aware that digital delivery is just one aspect of implementing the provisions of the Bill. There are many other projects which will be central to implementation. For instance, with over 1.3 million people in the PVG Scheme we will need to transition scheme members from regulated work to regulated roles, and to the mandatory and time-limited scheme. True to our approach from the outset of reviewing Scotland's disclosure regime, we will work closely with stakeholders to map out the steps from the current situation to the post-Bill services.

The transition from regulated work to regulated roles must be handled very carefully and at a pace which our stakeholders are comfortable with to safeguard public protection benefits given by the PVG Scheme. Stakeholders have been very clear with us about wanting to do this in a collaborative and iterative way; these changes won't happen overnight. It is not only Disclosure Scotland that needs to be ready – stakeholders must be ready too.

Further consultation will be required on issues such as fees, guidance for the Chief Constable, guidance for the independent reviewer, the code of practice for accredited bodies, the decision-making framework for reviewable information and imposing conditions on scheme members who are under consideration for listing. Officials will also need to work with counterparts in the UK Government in terms of the Scotland Act Order required for the provision of police information from the rest of the UK. The Bill provisions cannot come into force until the position with UK Government is settled.

The Scottish Government is also committed to training and guidance, which will be co-designed with stakeholders to ensure it is more targeted and suits the needs of our users, including children and young people and those who support people with convictions.

The latest detailed breakdown of the estimated costs of the implementation of the Bill, including staffing costs and capital investment costs including IT systems, and details of any additional cost resulting from the need to improve the functionality of the PASS system beyond its current Minimal Viable Status.

As I have explained, the estimated costs in the Financial Memorandum are still valid, representing an investment profile for the Bill. Whilst the PASS system is clearly relevant to the proposed operation of the new arrangements provided for in the Bill (and to that extent are appropriately covered in the Financial Memorandum), the Committee may wish to note that Disclosure Scotland's digital transformation is independent of the Bill. While separate, the transformation team has always ensured that anything built was flexible enough to incorporate the future changes proposed. Even if the Bill was not being implemented there would be investment required from the Scottish Government to iterate and improve the PASS system as user research will continue and existing functionality is steadily improved. Aspects of that routine investment will be on infrastructure within PASS, for example improving the technical platform. These developments will also be very important foundations for implementing the Bill.

I am copying this letter to the Minister for Children and Young People and the Convener of the PAPLS Committee.

Yours sincerely

Gerard Hart
Interim Chief Executive