

Recruiting with Convictions Policy and Self-Disclosure Form

Recruiting People with Convictions Policy

The purpose of this policy is to provide assurance to applicants, staff and volunteers and guidance to those making recruitment decisions of our organisations process in assessing whether any conviction information provided to us, either through self-disclosure or in a disclosure certificate impacts on a person's ability to carry out the role that they have applied for or which they hold within our organisation. It is important to recognise that having a criminal record does not necessarily mean that someone cannot work or volunteer for our organisation.

Our organisation treats all applicants fairly and consistently in accordance with the requirements of Rehabilitation of Offenders Act 1974 (as amended). We do not differentiate between paid and unpaid roles when applying the criteria detailed in this policy, the assessment is based entirely on the requirements of the role and any information shared with us either through self-disclosure or contained in a disclosure certificate. The level of disclosure which we will access will be the appropriate level for the role (basic, standard, enhanced or PVG).

Self-Disclosure

We operate a fair recruitment process and will ensure anyone applying for, or holding a role in our organisation is given the opportunity to discuss any unspent convictions which they are required to tell us about.

As part of our recruitment process, the self-disclosure form should be completed and returned with application form. The form should be returned in a separate sealed envelope and will only be opened if the candidate is provisionally offered the role subject to the outcome of the disclosure. Any self-disclosure forms for unsuccessful candidates will be securely destroyed without being opened.

The rules around what you need to disclose are complex and it may be difficult to know what should and should not be disclosed. We should, therefore, only be told about unspent convictions, using the form in Appendix 1. You should not tell us about any convictions which were gained before the age of 12, those which are spent and any which are not considered appropriate to disclose subject to exceptions. There is a guidance document in Appendix 2 which will give you detailed information on how long a conviction is considered unspent and a table of disclosure periods in Appendix 5. If you are in doubt you can seek legal advice (at your own expense) or you can withhold the conviction information until the appropriate level of disclosure is received.

Appendices 3 and 4 list offences that are made available for a longer period of time for roles which require a standard, enhanced or PVG disclosure. The offences in Appendix 3 are made available on the disclosure certificate for an extended timeframe (a minimum of 15 years for those aged 18 or over at the date of conviction and 7½ years for those under 18 at the date of conviction) with the opportunity to appeal for removal after the extended timeframe has passed.

The offences in Appendix 4 are made available on the disclosure certificate for at least the time that they are unspent and then an extended timeframe (up to a maximum of 15 years for those aged 18 or over at the date of conviction and 7½ years for those under 18 at the date of conviction) with the opportunity to appeal for removal once in the extended timeframe from becoming spent under normal circumstances until the extended timeframe has passed. After this time the offence will no longer be disclosed.

Once in post, any member of staff or volunteer who gains any new convictions, must complete the self-disclosure form in Appendix 1 and return it to HSTAR Scotland SCIO. It is important to note that failing to follow this ongoing self-disclosure process may result in disciplinary action and could ultimately result in dismissal.

Disclosure Certificate

In order to ensure there is no bias in our recruitment decisions, accessing the disclosure certificate will be the final part of our recruitment process and will only be requested when we have provisionally offered the role, subject to a satisfactory disclosure.

When we receive our copy of your disclosure certificate, we will compare it to the self-disclosure form which you have completed. If there are any differences between the details on the two documents, we will arrange to discuss this with you. We will not make any judgement on the reasons that information differs prior to our discussion as we understand that the rules around what information you should share with us is complex.

How We Will Use Disclosed Information

Any information disclosed will be treated in the strictest confidence and only people required to see the information to help assess it will have access to it. There may be instances where we need to seek support or guidance externally (for example, from a solicitor). When this is necessary, we will not share any information which will identify you, only the information which we require support or guidance on.

Where information has been detailed on the self-disclosure form but is not shared on the disclosure certificate, we must always disregard this information as this means that you have provided information that you were not required to share.

We do, however, need to risk assess any conviction or vetting information carefully to ensure there is no risk to our organisation or those who use our services. In order to ensure we carry out a fair and consistent practice when we assess any conviction or vetting information, we will take into account the following criteria:-

Is the conviction relevant to the position being offered?

How serious was the offence?

How long is it since the offence took place?

Is there a pattern of offending behaviour?

Have the personal circumstances changed since the time of the offending behaviour?

How has the person become rehabilitated?

Is the person barred from the type of regulated work we need them to do?

If we determine that the disclosed information is relevant to the role, we will withdraw the job or volunteering role offer. For those already in post, this may result in disciplinary action and could ultimately result in dismissal. The reason(s) for our decision will be fully explained.

Appeals

If you feel that the risk assessment has not been carried out appropriately or that our decision is unfair, you have the right to appeal. **Appeals should be made in writing.**

Appendix 1

Self-Disclosure Form for Declaring Convictions – Scotland

The Rehabilitation of Offenders Act (Exclusions and Exceptions) (Scotland) (as amended)

The post that you have applied for requires a basic, standard or enhanced disclosure or is one where your normal duties include regulated work and requires a PVG disclosure in accordance with at least one of the following pieces of legislation:-

- o Rehabilitation of Offenders Act 1974 (as amended)
- o Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 (as amended)
- o Protection of Vulnerable Groups (Scotland) Act 2007 (as amended)
- o Police Act 1997 (as amended)

You are therefore required to disclose certain convictions below but you should not tell us about any convictions which were gained before the age of 12. Having a criminal record will not necessarily be a bar to working or volunteering with us. We will consider any information disclosed fairly and in accordance with the requirements of Rehabilitation of Offenders Act 1974.

This guidance relates to recruitment in Scotland. If you are being recruited in England, Wales or Northern Ireland, you should refer to that country's guidance on what to disclose.

Data Protection Act 2018 and GDPR

The information given in this form will be treated in strict confidence. When completed, the document contains sensitive personal data as defined by the Data Protection Act and GDPR which will be used only for the purpose it was requested and handled in accordance with the Act.

Unspent Convictions

You must complete this section.

Do you have any unspent convictions? If you have crossed yes, please provide details below.

All unspent convictions must be disclosed. Please provide details of any unspent convictions here:-

Spent Convictions

This section should only be completed following the guidance below, if you will be applying for a standard, enhanced or PVG disclosure but you should not tell us about any convictions which were gained before the age of 12. Do not complete this section if you are applying for a basic disclosure.

The 2020 amendment order gives 2 lists of offences that may be disclosed for an extended period.

Convictions detailed in Appendix 3 should only be detailed if 15 years (if 18 or over at the time of conviction) or 7½ years (if under 18 at the time of conviction) from the date of conviction have not passed, unless you received a custodial sentence exceeding 48 months in which case you must always disclose this information. Those in appendix 4 should only be disclosed above if they are unspent.

If you have any convictions for offences detailed in these lists which are now considered to be spent in normal circumstances, you should not disclose these on this form, however, please be aware that if you are applying for a Standard, Enhanced or PVG disclosure, this information can be released on your certificate for longer than the normal rehabilitation period (see

Appendix 1

Conviction Disclosure Guidelines in Appendix 2). Disclosure Scotland will notify you if you have any convictions which fall under this extended disclosure period as you can (if you wish) apply to have this information removed from your disclosure. Where such information is released, we will discuss this with you when we receive our copy of your disclosure. Please note that applying to have this information removed does not guarantee its removal, the final decision on this will be made by a Sheriff or using the review mechanism when it becomes available.

If you have any convictions detailed in Appendix 3 and the extended disclosure period has not passed, please provide the information here

Conviction Disclosure Guidelines

Barred Lists

This section should only be completed if you will be applying for PVG disclosure or enhanced disclosure with list checks. Do not complete this section if you are applying for a basic, standard or enhanced disclosure without list checks.

Declaration

Appendix 1