

Disclosure and Protecting Vulnerable Groups Guidance

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DISCLOSURE AND PROTECTING VULNERABLE GROUPS (PVG) SCHEME

INTRODUCTION

Disclosure Scotland delivers Scottish Ministers' functions under Part V of the Police Act 1997 and under the Protection of Vulnerable Groups (Scotland) Act 2007.

There are three disclosures available under the Police Act 1997; basic, standard and enhanced. The level of check required will be dependent on the role and level of job that the applicant will be undertaking.

The Disclosures that are available under the 1997 Act cannot be used for work that is regulated work under the Protection of Vulnerable Groups (Scotland) Act 2007.

The Protecting Vulnerable Groups Scheme (PVG Scheme) is established by the Protection of Vulnerable Groups (Scotland) Act 2007. The PVG Scheme allows The Highland Council as a registered body to request and obtain information on whether an individual has any criminal convictions and whether or not they are barred from doing regulated work with children and/or protected adults.

This document sets out the Councils policy in relation to the Disclosure and PVG Scheme application process.

AIMS

The aim of this Policy is to assist the Council to make safer recruitment and placement decisions and assess the suitability of applicants and employees for positions of trust.

SCOPE

Each role should be reviewed individually to identify which Act it falls under (The Highland Council has roles which fall under both Acts) and therefore whether applicants will require a Disclosure Scotland check or PVG scheme membership.

A requirement to undertake such checks is not limited to paid work, and will instead be dependent upon the nature of the proposed role.

PRINCIPLES - PROTECTING VULNERABLE GROUPS SCHEME

The Scottish Government introduced a membership scheme to replace and improve upon the existing enhanced disclosure arrangements for people who work with vulnerable groups.

The purpose of the Protecting Vulnerable Groups Scheme (PVG Scheme) is to ensure that all individuals who have regular contact with children and protected adults through paid and unpaid work do not have a known history of harmful behaviour. 'Regulated work' is the term used by the 2007 Act to define the types of work which barred individuals must not do, and for which PVG Scheme membership is available.

There are two types of regulated work:

- Work with children (a child is a person under 18 years of age); and
- Work with protected adults (that is a person aged 16 or over in receipt of certain care, welfare or community care services).

As of 28th February 2011 individuals who have regular contact with children or protected adults are required by the Scottish Government to become a PVG Scheme member. This scheme replaces the original 'Enhanced Disclosure' check and the new scheme has been phased in for existing staff.

Once the initial application has been processed the individual will be issued with a PVG Scheme Membership Statement.

Where an individual applies for a post and is already in receipt of a PVG Scheme Membership Statement, The Highland Council will apply for a PVG Short Scheme Record and where there is any vetting information on the update that is not on their Statement, a full PVG Scheme record will be obtained.

The PVG Scheme is a Scottish Government initiative and is managed and delivered by Disclosure Scotland. Under the new scheme it is illegal for an individual who is barred from the PVG Scheme to work with children and/or protected vulnerable adults and it is illegal for the Council to employ these individuals to work with children and/or protected vulnerable adults. For this reason it is essential that individuals register with the scheme prior to commencing employment with the Council.

Individuals can only be a member of the PVG Scheme if they are not listed as barred from doing regulated work with children or working with protected adults. Being a member of the PVG Scheme is sufficient for the Council to determine that an individual is not barred from doing this type of work.

Failure to be, or become, a member of the PVG Scheme will result in the Council being unable to confirm an offer of appointment with the Council.

PRINCIPLES - BASIC, STANDARD AND ENHANCED DISCLOSURES

Applicants who are not in regulated work with vulnerable groups (e.g. protected adults and/or children) will not be required or permitted to join the PVG Scheme. They will however be expected to undergo a Disclosure Scotland check as required for the post, prior to commencing employment.

There are three Disclosure Scotland checks which may be carried out; basic, standard or enhanced.

Basic Disclosures

A Basic Disclosure is available to anyone for any purpose. It contains details of convictions that are unspent under the 1974 Act or states that there are no such

convictions. This type of Disclosure is only issued to the applicant. It is not job-specific or job-related.

However for the purposes of PSN requirements the Highland Council has agreed with Disclosure Scotland that Basic Disclosures will be returned to the Highland Council.

Standard Disclosures

The Standard Disclosure is available for roles that are excluded or exempted by the 2013 Order. It contains details of relevant spent and unspent convictions under the 1974 Act and whether the individual is included in the sex offenders register or states that there is no information to disclose.

Enhanced Disclosures

The Enhanced Disclosure contains the information included in Standard Disclosures, and other relevant information which a Chief Officer or Chief Constable believes to be relevant to the position in question.

The level of check required will be dependent on the role and level of job that the applicant will be undertaking.

PUBLIC SERVICES NETWORK (PSN)

To access our secure email services, the Council is required to be accredited to the PSN Code of Connection. As part of this certificate we are required to ensure that all users involved in the using PSN Services (e.g. Secure email GCSX) receives the appropriate security vetting. The vetting standards are based on the *Baseline Personnel Security Standard (BPSS)*.

Currently all email users are configured with a GCSX account and therefore would need to be disclosure checked at a Basic level. This applies to all new employees and existing employees who have less than 5 years' service with the Council and temporary employees who have access to a Council email account.

Employees that have already been checked at a higher level either due to the nature of their job eg in regulated work requiring PVG scheme membership will not require a further basic check for PSN compliance.

DATA USAGE

The Council uses Disclosure Scotland information solely for the purpose for which it has been provided. The Council processes personal data only with the express consent of the individual.

HANDLING

The Council recognises that, under section 124 of the Police Act 1997, it is a criminal offence to disclose Disclosure Scotland information to any unauthorised person. The Council, therefore, only pass Disclosure Scotland information to those who are authorised to see it in the course of their duties.

ACCESS AND STORAGE

The Council does not keep Disclosure Scotland information on an individual's file. The Disclosure certificate number and PVG membership number is held centrally on Resourcelink (HR/payroll system).

RETENTION

The Council does not keep Disclosure Scotland information for any longer than is required after recruitment (or any other relevant) decision has been made. In general, this is no longer than 90 days. This is to allow for the solution of any disputes or complaints. Information will only be retained for longer than this period in exceptional circumstances and in consultation with Disclosure Scotland. The same conditions relating to secure storage and access will apply during any such period.

Individuals who are required to become a PVG scheme member should ensure that they retain their original Scheme Membership Statement and can produce it upon request.

DISPOSAL

Once the retention period has elapsed, The Council will ensure that information produced by Disclosure Scotland is immediately destroyed in a secure manner i.e. by shredding it. The Council will not retain any image or photocopy or any other form of the information. The Council will, however, keep a record of the date of issue of the disclosure/PVG statement, the name of the subject, the type of disclosure information requested, the position for which it was requested and the unique reference number.

EMPLOYMENT OF CANDIDATES WHO HAVE LIVED OUTSIDE THE UK

If it is not possible to receive a Disclosure Scotland clearance for periods of time when candidates have worked or resided out with the United Kingdom they must be asked specific questions about this period and in particular whether they had any criminal convictions during this time abroad. In addition if they have not listed a referee from abroad they must supply a character or employer reference to cover this period. No decision should be taken to appoint until approval is given by the Service Director in consultation with the Head of People & Performance or delegated Officer.

PROCEDURE FOR PROCESSING DISCLOSURE APPLICATIONS

Roles and Responsibilities

The Head of People & Performance is designated Lead Signatory and an appropriate number of counter signatories in Council will be registered to administer the Disclosure Scotland process.

The Service should ensure the individual completes the form correctly (i.e. black/blue ink, block capitals, all relevant details provided and writing is contained within the boxes). The Service is also responsible for verifying proof of identity i.e. at least 3 forms of identification should be provided e.g. birth certificate, Passport, Driving Licence or utility bill and at least one should be photographic and one show current address. The form along with copies of proof of identity (signed by member of staff who saw the original I.D.), two references and medical questionnaire should then be forwarded by the Service to Business Support or Designated Officer for counter-signing and processing.

The Business Support team are responsible for the administration of the Councils Disclosure Scotland application process. This includes issuing disclosure / PVG scheme application Forms to all successful applicants; checking all completed application forms with the appropriate identification, countersigning completed application forms and sending them to Disclosure Scotland.

In addition, the Business Support team will liaise with HR and Disclosure Scotland where appropriate and will inform the Recruiting Manager of the contents of the PVG Scheme Record or disclosure.

Business Support are also responsible for the secure handling, storage, retention and disposal of all Disclosure Scotland information, as outlined above.

The Recruiting Manager is responsible for discussing any disclosure of criminal convictions on the Councils application form with the applicant and to determine the next course of action. Managers are also responsible for making any decisions, pertinent to their teams, based on the information produced by Disclosure Scotland for any applicant.

The Services Director and HR are a source of guidance and support for Recruiting Managers in making such decisions.

If there is a delay in receiving the PVG information, e.g. the applicant has challenged the information stated on their certificate with Disclosure Scotland, the manager should consult with HR to establish the impact on the recruitment process.

Application Stage

All applicants will be asked to provide details of their unspent criminal convictions at an early stage in the recruitment process by completing the relevant section on the Councils application form.

When interviewing prospective employees, managers must ensure that the following checks are carried out:

- Explanations must be sought for any significant time gaps in employment history
- All candidates must be asked if they are or have been known by any other name(s)

- All candidates must be asked if they are barred or under consideration for listing from regulated work in the workforce/s that the post will be working with e.g. protected adults and/or children list.
- Nominated referees must be in accordance with the guidance notes provided to applicants i.e. one referee must be the present or immediate past employer at a senior level.
- Explanations must be sought for any time gaps in previous addresses

All applicants will be asked to complete a disclosure or PVG scheme application form at the appropriate stage in the recruitment process.

A disclosure or PVG Scheme application form cannot be sent to Disclosure Scotland until all information has been verified and satisfactory identification has been provided.

Approval of Disclosure Certificates

The counter signatory will receive disclosure or PVG Scheme records for all successful candidates.

Business Support will inform the Recruiting Manager of the outcome of all Disclosure Scotland information received for their team.

Where an applicant challenges information disclosed on their PVG certificate i.e. within 10 working days of receiving it from Disclosure Scotland, a copy of the certificate will **not** be sent to the Council. The manager should contact the applicant to confirm that a certificate has not been received and request further clarification.

It is illegal for a person to undertake or to apply to do regulated work of that type from which they are barred, and it is illegal for an organisation to employ them in such a capacity. Under the 2007 Act, the decision about whether a person is unsuitable to be a member of the PVG Scheme will be made by Disclosure Scotland (who check all applications for regulated work with children and/or protected adults against the lists held by Scottish Ministers and the equivalent lists held in England & Wales and Northern Ireland).

Whilst an individual may be lawfully engaged in regulated work on the basis of PVG Scheme membership, the Recruiting Manager will also need to consider any additional vetting information contained within their PVG disclosure record, which may otherwise be relevant to the specific role itself (for example, conviction for theft where the individual will be unsupervised and working in a vulnerable person's home), when reaching a recruitment decision.

COMMENCEMENT OF EMPLOYMENT

Employment cannot commence until an appropriate satisfactory disclosure or PVG Scheme record has been received. It is illegal for a person to undertake or to apply to do

regulated work of the type from which they are barred, and it is illegal for an organisation to employ them in such a capacity.

EXISTING EMPLOYEES

For all internal changes/ transfers confirmation of the appointment will be made once the Council has ensured that a current, satisfactory Disclosure or PVG record is on file. A PVG short scheme record may not be required for all role changes for example if a teacher moves schools or is promoted to a principal teacher within the Highland Council area.

A new application must be made for any employee who has returned to the Councils employment after leaving, no matter how brief the break in service.

It is a condition of employment and is incorporated into contracts of employment that employees (who have been employed following a satisfactory Disclosure Scotland check or PVG Scheme Membership) **must** notify the Council if they are either convicted of a criminal offence which may affect their suitability for their current post or referred onto a list either Disqualified from Working with Children or Protected Adults. Failure to disclose a relevant conviction or referral on to such a list will be classed as gross misconduct under the Council's Disciplinary Procedures.

CASUAL EMPLOYEES

Casual employees who have already completed Disclosure Scotland checks but have not worked within a 6 month period, will be required to have a PVG short scheme record before accepting any further offer(s) of work. This is to ensure:

- there are no criminal conviction proceedings outstanding
- there are no new convictions
- that the individual has not been onto a Disqualified from Working with Children or Protected Adults List.

Since the last police check was carried out, as these could have occurred during a period when the individual had not been carrying out casual work for the Council.

It is the manager's responsibility for ensuring that the individual declares any relevant information that may affect their ability to continue to undertake casual work, where there has been a gap in this work of more than 6 months.

NON-EMPLOYEES

Authorised Services staff will undertake disclosure checks for nonemployees (e.g. volunteers, contractors, foster carers etc.). The Service is responsible for counter-signing disclosure forms for all non-employees. Prospective non-employees for positions which require a disclosure check or a membership of PVG Scheme must not commence duties with the Council until confirmation has been received from Disclosure Scotland regarding whether or not criminal convictions, pending convictions, or any other relevant Police

information has been traced and confirmation that there is no listing on a Disqualified from Working with Children and/or Protected Adults list.

VOLUNTEERS

Volunteers who are involved in providing a service or support to children or protected adults must be appropriately vetted. The Council will only be responsible for checking volunteers who carry out work directly for the Council. Any other volunteer groups should be advised to contact

Volunteer Development Scotland which is a separate body set up to undertake checks for volunteer groups and is fully funded by the Scottish Executive. Vetting may involve Services undertaking disclosure checks/PVG membership where work is deemed to be in regulated work, access is deemed to be substantial, or may involve ensuring that adequate supervision is provided. It is the responsibility of the Service Directors to ensure that volunteers are appropriately vetted.

CONTRACT STAFF

Service Directors and Contractors should identify all persons who are regarded as undertaking regulated work. Again, appropriate action must be taken to ensure that these groups are not put at risk. This will involve the Service carrying out a vetting procedure e.g. scheme membership (in the case of bus drivers or escorts) or may involve ensuring that adequate supervision is available from employees of a particular unit or establishment. Contractors, when they are working at units providing services to children e.g. in schools, should be made aware that their employees should not make contact with children, while Head Teachers and Managers of such facilities are responsible for ensuring that contractors employees are adequately supervised.

ORGANISATIONS

Service Directors will require to be satisfied that any organisation has appropriate vetting procedures in place if it:

- Is offered free use of Council premises or open spaces to undertake activities with children and/or protected adults
- Is let premises, hard standing or parkland including sports fields for activities with children and/or protected adults.

All such organisations will be expected to adopt the Highland Child Protection Committee guidelines and to implement an appropriate Child Protection Policy and procedures in accordance with this guidance. The Highland Council will require third parties and voluntary groups carrying out activities under the auspices of the Council or supported by the Council, by grant or use of Council premises, which involves significant or substantial contact with, or access to children and/or protected adults, to have in place procedures to record evidence that they have:

Provided a full description of the activities proposed,
A list of adults to be involved in co-ordinating and supervising activities,

A complete personal profile on each person including the names and addresses of 2 referees who know them well and who have testified to their suitability for working with children, and that the appropriate reference checks (including verbal discussion) have taken place,
Confirmed and checked the possession of appropriate qualifications.

The responsibility of monitoring conformance of the above requirements will lie with the relevant Service Director who will ensure that checks are carried out of the vetting records and procedures of a suitable sample of organisations on a regular basis.

Services should draw up a list of organisations and volunteers who are involved in organisations providing services for children and/or protected adults on behalf of the Council. It will be the responsibility of each Service to ensure its list of voluntary groups who have been vetted is kept up to date.