

## **Disclosure & Protecting Vulnerable Groups (PVG) Policy**

The Organisation are committed to implementing safe recruitment practices and have registered with Disclosure Scotland to provide the appropriate level of criminal record checks for successful applicants, students, volunteers and Board members. The Organisation is also committed to managing the secure handling, use, storage and retention of disclosure information in line with Disclosure Scotland's Code of Practice and in line with the General Data Protection Regulations.

This policy details The Organisation's procedures relating to the Disclosure and PVG process. All applicants, employees, students and volunteers are expected to understand and adhere to this policy.

### **Scope**

This policy applies to all applicants, employees, students and volunteers, including Board members.

This policy complies with the Disclosure Scotland Code of Practice, regarding the correct handling, holding and destroying of Disclosure information provided by Disclosure Scotland under Part V of the Police Act 1997, for purposes of assessing applicants' suitability for positions of trust.

This policy supports the provisions outlined in the Protection of Vulnerable Groups (PVG) (Scotland) Act 2007.

This policy complies with the Data Protection Act 1998 and other relevant legislation pertaining to the safe handling, use, storage retention and disposal of Disclosure information.

The Rehabilitation of Offenders Act 1974 requires candidates to disclose convictions which are defined as "unspent" in terms of the Act. However, many posts within the Organisation are excluded from the Act as employees support protected adults. All criminal convictions past and pending must be declared on the application form. Guidelines on the Recruitment of Ex-Offenders and full information can be found in The Organisation's Recruitment of Ex-Offenders Policy.

### **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.

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'.

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

It is important that the individual retains the PVG Scheme Membership Statement and can produce it when requested to do so by a prospective employer. Where an individual applies for a post and is already in receipt of a PVG Scheme Membership Statement, The Organisation will apply for a PVG Scheme Record Update 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 protected vulnerable adults and it is illegal for The Organisation to employ these individuals to work with protected vulnerable adults. For this reason, it is essential that individuals register with the scheme prior to commencing employment with The Organisation.

### **Basic and Standard Disclosures**

Applicants who are not in regular contact with vulnerable groups 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 two Disclosure Scotland checks which may be carried out; basic or standard. The level of check required will be dependent on the role and level of job that the applicant will be undertaking.

### **Principles of PVG Checks and Disclosures**

To comply with Disclosure Scotland guidelines, all the Organisation employees, students and volunteers including Board of Management members will have been processed through an appropriate level of Disclosure Scotland check or, where applicable, will have registered to become a member of the PVG Scheme. This will be undertaken and paid for by The Organisation.

All applicants including students and volunteers will be made aware that any offer of employment, student placement or voluntary work will be conditional upon receipt of an appropriate satisfactory Disclosure Scotland certificate and, where applicable, evidence of PVG Scheme Membership. This is in addition to and is not a substitute for the full range of existing pre-employment checks.

The selection of candidates for interview will be based on skills, abilities, and meeting the criteria set for the post. The Organisation will ensure that no applicant, employee, student or volunteer is subject to less favourable treatment on unlawful or unjustifiable grounds or is disadvantaged by any condition which cannot be shown to be relevant to performance.

## **Usage**

The Organisation uses Disclosure Scotland information solely for the purpose for which it has been provided. The Organisation processes personal data only with the express consent of the individual. The Organisation will notify the individual of any non-obvious use of the data including further disclosure to a third party identifying the Data Controller, the purpose for the processing and any further relevant details.

## **Handling**

The Organisation 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 Organisation, therefore, only pass Disclosure Scotland information to those who are authorised to see it during their duties. The Organisation will not disclose information provided under section 113B (5) of the Act, namely information, which is not included in the disclosure statement, to the applicant.

## **Access and Storage**

The Organisation does not keep Disclosure Scotland information on an individual's file. It is kept securely, in lockable, non-portable storage containers. Access to storage units is strictly controlled to authorised and named individuals who are entitled to see such information during their duties.

## **Retention**

The Organisation 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 six months. This is to allow for the resolution 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 Organisation will ensure that information produced by Disclosure Scotland is immediately destroyed in a secure manner i.e. by shredding it. The Organisation will not keep such information, which is awaiting destruction

in any insecure receptacle (e.g. A waste bin or confidential waste bin). The Organisation will not retain any image or photocopy or any other form of the information. The Organisation 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, the unique reference number and details of the recruitment decision taken.

## **PROCEDURE FOR PROCESSING DISCLOSURE APPLICATIONS**

### **Roles and Responsibilities**

A designated Lead Signatory will be appointed and an appropriate number of counter signatories in The Organisation will be registered to service the Disclosure Scotland process.

Staff responsible for recruitment will also be responsible for administering The Organisation's Disclosure Scotland application process. This includes issuing disclosure/PVG scheme application Forms to all successful applicants, students, volunteers and Board of Management members; checking all completed application forms with the appropriate identification, countersigning completed application forms and sending them to Disclosure Scotland.

In addition, the staff will liaise with Disclosure Scotland where appropriate and will inform the Management of the contents of the PVG Scheme Record or Standard or Basic disclosure. Staff are also responsible for the secure handling, storage, retention and disposal of all Disclosure Scotland information, in accordance with the above.

Management is responsible for discussing any disclosure of criminal convictions on The Organisation's application form with the applicant, student or volunteer to seek further information 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, employee, student or volunteer.

### **Application Stage**

All applicants, students and volunteers will be asked to provide details of their criminal record history at an early stage in the recruitment process by completing the relevant section on The Organisation's application form. This section of the application will be kept in a separate sealed envelope and will only be opened where there has been a delay in obtaining a PVG Scheme Record or Standard or Basic disclosure, where vetting information has been discovered or once in receipt of the PVG Scheme Record or Standard or Basic disclosure.

If the management needs to discuss with the candidate any disclosure of criminal convictions on their application form, then an appropriate risk assessment will be carried out.

All applicants, students and volunteers will be asked to complete a disclosure or PVG scheme application form at the appropriate stage in the recruitment process and submit to management.

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.

If, for any reason, during the recruitment and selection process there is a delay of 6 months or more from the receipt of the disclosure or PVG Scheme update and the candidate's start date, the candidate will be required to apply for updated information from Disclosure Scotland and management will notify them as appropriate.

### **Approval of Disclosure Certificates**

Where an individual will be working regularly with vulnerable adults and it transpires that they have been barred from the PVG Scheme, The Organisation will be unable to offer / continue to offer employment.

If a decision on the content of the information issued by Disclosure Scotland is required, the management will consider potential risk to the Organisation.

It should be noted that where an individual has other vetting information on the PVG Scheme record but has not been barred from the PVG scheme The Organisation may still refuse employment depending on the information presented and the potential risk to the Association.

If the outcome of the decision is to not employ the candidate, the candidate will be informed in writing. Management will record the outcome of all decisions on the Record of Disclosures.

### **Commencement of Employment**

Employment/ student placement/ volunteer work cannot commence until an appropriate satisfactory disclosure or PVG Scheme record has been received.

In absolute exceptional circumstances the Chief Executive may authorise the commencement of employment prior to a disclosure or PVG Scheme record being received by the Organisation. For an exceptional circumstance to be considered the following must be provided:

- A Risk Assessment must be completed
- A clear appropriate level of disclosure statement must have been received by the candidate within the last six months and they are able to provide a copy of the document. Where the individual will be working with vulnerable adults the individual should possess a Scheme Membership Statement which has been issued within the past 6 months.

The candidate is already working within similar services. In addition, management must ensure the following has been actioned:

- A completed disclosure or PVG Scheme application must have been received

- All other pre-employment checks must have been carried out including return of all other relevant recruitment documentation

If the Chief Executive authorises the appointment without a Disclosure being returned, then the following must also apply:

- The candidate must not work in a lone working situation and an appropriate level of supervision must be provided until a satisfactory disclosure or PVG Scheme record has been received.
- Employment cannot be confirmed (i.e. Principal statement of employment) until the disclosure or PVG Scheme record has been received.

### **Existing Employees**

It is a condition of employment that The Organisation completes and receives a satisfactory appropriate level of Disclosure Scotland information for all employees. Disclosure or PVG Scheme applications will be made on a three-yearly basis for all staff and this will be tied in with Scottish Social Services Commission registration requirements.

For all internal changes/ transfers management will only confirm the appointment once they have ensured that a current, satisfactory disclosure or PVG Scheme record is on file.

If relief staff do not carry out any work for The Organisation for a period of 6 months, the management will be advised that the individual will be removed from the relief list. If they are to be used at a future date, then a PVG Scheme record update must be obtained before any work was carried out.

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

In the event that The Organisation becomes aware of information concerning the conduct or behaviour of any worker within The Organisation, which it genuinely believes could bring The Organisation into disrepute; or in the event that an incident demonstrates unsuitability for further employment which may trigger the disciplinary process, The Organisation reserves the right to instigate the Disclosure process in accordance with this policy.

Criminal proceedings including warnings, cautions, reprimands/ convictions gained whilst in employment with The Organisation must be disclosed. Failure to disclose criminal proceedings including warnings, cautions, reprimands/ convictions that arise during employment could result in disciplinary action.

### **DISCLOSURE TO EXTERNAL AGENCIES** **PVG Scheme**

It is an offence for The Organisation to offer regulated work to any individual who is barred from the PVG Scheme. It is also an offence for individuals to take on regulated work once they have been barred from the scheme.

In addition, groups and organisations will be able to make a referral to Disclosure Scotland if they become concerned that an individual has behaved in a harmful way towards vulnerable groups. The Organisation will follow the guidance laid out by Disclosure Scotland to ensure that all referrals are appropriate and fair.

In instances when vetting or referral information indicates that a person may pose a risk to vulnerable groups, Disclosure Scotland will consider all the information available before deciding whether a person should be placed under consideration for listing on a barred list. If a person is under consideration for listing, Disclosure Scotland will legally be able to obtain further information from The Organisation.

While under consideration for listing, individuals can continue to work with vulnerable groups, but The Organisation will be notified that their PVG Scheme membership status has changed and may take interim steps where there is a perceived risk to service users.

As part of the PVG Scheme the Organisation is obliged to pass on information which it reasonably believes may have a bearing on an individual's PVG membership status. This may include where an individual has undergone disciplinary action which may impact on a service user. Reference should be made to The Organisation's Disciplinary Policy although it must be noted that this list is not exhaustive. It will then be for Disclosure Scotland to decide how to process this information.

If an individual is considered a risk and therefore, unsuitable to work with protected adults Disclosure Scotland will list the individual on the appropriate barred lists. This means that the person will not be able to become a PVG Scheme member in relation to their area of work. It is an offence for a barred person, and for an organisation to permit that person, to undertake such work.

## **EMPLOYMENT OF CANDIDATES WHO HAVE LIVED OUTSIDE THE UK**

A Disclosure Scotland check includes checks on applicants, students or volunteers with addresses from Great Britain and Northern Ireland only.

Where an applicant has lived out with the UK for 3 months or more in the past 5 years they must provide the most comprehensive disclosure (or equivalent) from the country/countries in which they have lived. The Organisation will reimburse reasonable costs. If the applicant is unable to provide this information they must contact the HR Department.

If an applicant, student or volunteer has lived out with Great Britain and Northern Ireland, The Organisation may contact Disclosure Scotland for assistance in following the Disclosure procedure for the other countries in which the applicant, student or volunteer has lived.

Applicants who have lived out with Great Britain and who wish to work with vulnerable groups will still be required to register for the PVG Scheme prior to commencing employment.

### **Costs**

The Organisation will meet the costs associated with applications to Disclosure Scotland as part of The Organisation's recruitment process and as part of The Organisation's commitment to 3 yearly review checks.

### **Monitoring**

The Disclosure Scotland process will be monitored, and the Disclosure Policy will be reviewed and updated accordingly. The Organisation is subject to an audit at any given time, without notice, by the Scottish Criminal Record Office (Disclosure Scotland). It is imperative that all employees, students and volunteers follow this and any other policies and procedures relating to disclosures or the PVG Scheme. Failure to do so may lead to disciplinary action up to and including dismissal.