



## HR16-P02 RECRUITING WITH CONVICTIONS POLICY

### VERSION CONTROL

Version No.	Date Amended	Amended By	Reason
1.0	10/10/2023	Risk & Compliance Sub Committee	Approved for implementation



## **Recruiting 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 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 treat 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 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**

The rules around what you would need to disclose are complex making it difficult to know what should and should not be disclosed. For this reason, we do not ask applicants going through our recruitment process to self-disclose. Instead, we will make our final recruitment decision based on the information contained in a disclosure. A disclosure will not tell us about any convictions which were gained before the age of 12 (unless you have applied for an enhanced disclosure or a PVG scheme record and the independent reviewer established by the Age of Criminal Responsibility (Scotland) Act 2019 has decided that the information should be included) or those which are spent and which are not considered appropriate to disclose unless they are subject to exceptions or subject to rules. There is a guidance document in Appendix 1 which will give you detailed information on how long a conviction is considered unspent.

Once in post, all staff and volunteers are required to tell us about any new convictions which they gain. Details of any new convictions should be provided to your line manager in writing at your earliest convenience providing details of the conviction and any other necessary information. We will then assess this information as detailed in 'How We Will Use Disclosed Information' below.

## **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.

## **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.

We 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**

For those already in post, if you feel that that the decision to provide disciplinary action or dismissal following formal hearing is unfair, you have the right to appeal. Appeals should be made in writing within 5 working days of receipt of the outcome to the appointed person noted in the letter stating your reasons for appeal.



## Appendix 1

# Summary guidance for the self-disclosure of previous convictions & alternatives to prosecution in Scotland under the Rehabilitation of Offenders Act 1974

August 2020

### Contents of this Document

(CLICK ON HEADINGS TO JUMP TO THAT SECTION)

- [DISCLOSURE PERIODS: CUSTODIAL SENTENCES](#)
- [RULES CONSECUTIVE AND CONCURRENT SENTENCES](#)
- [SUSPENDED SENTENCES](#)
- [SENTENCES IMPOSED OUTWITH SCOTLAND](#)
- [CUSTODIAL SENTENCE OVER 48 MONTHS](#)
- [CHILDREN'S HEARINGS](#)
- [ALTERNATIVES TO PROSECUTION \(ATP\)](#)
- [DISCLOSURE PERIODS: SERVICE DISCIPLINARY OFFENCES](#)
- [THE DISCLOSURE PERIOD APPLICABLE TO A CONVICTION](#)
- [SOLEMN PROCEEDINGS](#)
- [ANCILLARY ORDERS](#)
- [SUMMARY PROCEEDINGS, SERVICE PROCEEDINGS AND CONVICTIONS OUTSIDE A SCOTTISH COURT](#)
- [WHAT HAPPENS IF I GET ANOTHER CONVICTION FOR WHICH AN "EXCLUDED SENTENCE" IS IMPOSED BEFORE MY FIRST CONVICTION BECOMES SPENT?](#)
- [WHAT HAPPENS IF I WAS GIVEN AN EXCLUDED SENTENCE AND WAS CONVICTED AGAIN?](#)
- [WHAT HAPPENS IF I GET AN ATP BEFORE MY FIRST CONVICTION BECOMES SPENT?](#)
- [WHAT HAPPENS IF I WAS GIVEN A LIFE SENTENCE OR AN EQUIVALENT TO A LIFE SENTENCE?](#)
- [WHAT HAPPENS IF I BREACH A COMMUNITY PAYBACK ORDER \(CPO\), DRUG TESTING AND TREATMENT ORDER \(DTTO\) OR A RESTRICTION OF LIBERTY ORDER \(RLO\)?](#)

# Summary guidance for the self-disclosure of previous convictions & alternatives to prosecution in Scotland under the Rehabilitation of Offenders Act 1974 (“the 1974 Act”)

(CLICK ON ARROW TO THE LEFT OF THE HEADINGS TO EXPAND THAT SECTION)

- 1) [Disclosure Periods: Custodial sentences](#)
- 2) [Section 5 Rules Consecutive and concurrent sentences](#)
- 3) [Suspended sentences](#)
- 4) [Sentences imposed out with Scotland](#)
- 5) [What happens if a person gets a custodial sentence over 48 months?](#)
- 6) [Disclosure Periods: Non-custodial sentences](#)
- 7) [What happens if I have been convicted on an offence and also put on the Sex Offenders Register?](#)
- 8) [Children’s hearings](#)
- 9) [Alternatives to Prosecution \(AtP\)](#)
- 10) [Disclosure periods: Service Disciplinary Offences](#)
- 11) [Section 6 \(the disclosure period applicable to a conviction\)](#)
- 12) [Section 6\(4\) of the 1974 Act rule: Solemn proceedings](#)
- 13) [Section 6\(5\) to 6\(5B\) rule: Ancillary orders](#)
- 14) [Section 6\(6\) rule: Summary proceedings, service proceedings and convictions outside a Scottish court](#)
- 15) [What happens if I get another conviction for which an “excluded sentence” is imposed before my first conviction becomes spent?](#)
- 16) [What happens if I was given an excluded sentence and was convicted again?](#)
- 17) [What happens if I get an AtP before my first conviction becomes spent?](#)
- 18) [What happens if I was given a life sentence or an equivalent to a life sentence?](#)
- 19) [What happens if I breach a Community Payback Order \(CPO\), Drug Testing and Treatment Order \(DTTO\) or a Restriction of Liberty Order \(RLO\)?](#)