

Central Scotland Valuation Joint Board

Disclosure Scotland Policy

August 2007

1.0 Disclosure Scotland Policy Statement

1.1 Central Scotland Valuation Joint Board's Disclosure Scotland Policy and Procedure is designed to promote good practice in the process of attracting and selecting employees and creates equal access to employment for all, including ex-offenders. It also allows the Valuation Joint Board's services to be delivered to customers in their own home.

2.0 Disclosure Scotland Procedures

2.1 There are three levels of Disclosure Checks (basic, standard and enhanced). This policy will introduce, under the auspices of the Joint Board, a vetting programme for all technical staff whose duties involve inspections of properties where children or vulnerable adults are likely to be present. A person aged 18 or over may be considered to be vulnerable if they:

- are in receipt of personal care, or nursing, or support to live independently in his/her own home or in a care home;
- receive any health or social care services;
- have a substantial learning or physical disability;
- have a physical or mental illness, chronic or otherwise, including an addiction to alcohol or drugs; and
- have a substantial reduction in physical or mental capacity due to advanced age or to illness.

3.0 Prospective Joint Board Employees/Recruitment and Selection

3.1 All applicants for posts must complete PT25 Rehabilitation of Offenders Act Form.

3.2 Should the position applied for be deemed exempt under the Rehabilitation of Offenders Act, they must declare all convictions, including **any** previous convictions for criminal offences. In other words, they are **not** entitled to withhold information about **any** previous convictions (including 'spent' convictions). They are also required to declare:

- any criminal proceedings still pending;
 - whether they have committed any offences against children or been subject to any civil proceedings where they were alleged to have committed offences against children under the age of 16.

- 3.3 The fact that a person has a criminal record does not automatically make him/her unsuitable for work with children or vulnerable adults. The following factors would be taken into account in deciding the relevance of convictions:
- the nature of the conviction;
 - the nature of the appointment;
 - when the offence(s) occurred; and
 - the frequency of offence.
- 3.4 It is essential that if the Assessor/ERO wishes to appoint an applicant with a criminal conviction that the appointment is referred to the Head of Human Resources (or his nominated Deputy) of Clackmannshire Council **before** an offer of appointment be made. This should be recorded in the applicant's personal file.
- 3.5 Normally, if an applicant does not declare any serious convictions and they are subsequently traced, the Joint Board will **not** appoint unless there is a sound reason for this. For lesser/minor offences consideration should be taken into account regarding timescales and the age of the individual at the time. In all cases discussion should take place with the individual to ascertain whether or not it was a genuine misunderstanding or a deliberate attempt to mislead. If there has been a deliberate attempt to mislead then the Assessor/ERO will write to the individual informing them that the Joint Board will not be taking their application any further.
- 3.6 Existing employees are required to undergo Disclosure Scotland checks on a regular basis and the Adults Disqualified from Working with Children and Adults at Risk lists can be checked. The Clackmannanshire HR recommendation is that it would be good practice to have Disclosure checks carried out for all every three to five years.
- 3.7 Existing Joint Board employees who apply for a post are required to complete a Job Application Form, declare any previous convictions and an appointment will not be made until a Disclosure Scotland clearance is received.
- 3.8 Existing Joint Board employees who have already been checked and apply for another post, which requires a Disclosure Check, will not be re-checked at this stage, unless 3 years have elapsed since their last check.
- 3.9 If it is not possible to receive a Disclosure Scotland clearance for periods of time when candidates have worked or resided outwith 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 clearance is given by the Head of Human Resources (or his nominated Deputy), in consultation with the Assessor/ERO (or nominated Depute). 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) **must** notify the Joint Board if they are either convicted of a criminal offence, which may affect their suitability for their current post. ***Failure to disclose a relevant conviction or referral on to such a list will be classed as gross misconduct under the Joint Board's Disciplinary Procedures.***

4.0 Interviewing Prospective Employees

- 4.1 Managers or chairs of recruitment panels must ensure that the following checks are carried out, before candidates are interviewed:
- a) explanations must be sought for any significant time gaps in employment history;
 - b) all candidates must be asked if they have any criminal convictions or any criminal proceedings pending (even if they have made a negative declaration in their application form) or been subject to any civil proceedings where they are alleged to have committed offences against children;
 - c) all candidates must be advised that failure to disclose a relevant conviction will be classed as gross misconduct and will lead to dismissal;
 - d) all candidates must be asked if they are or have been known by any other name(s);
 - e) all candidates must be asked if they are on a Disqualified from Working with Children and Vulnerable Adults list; and
 - f) 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.
- 4.2 Prospective employees for positions which require a Disclosure Check must not commence duties with the Joint Board until confirmation has been received from Disclosure Scotland regarding whether or not criminal convictions, pending convictions and any other relevant Police information has been traced.
- 4.3 It is a criminal offence to employ an individual who is on the Disqualified from Working with Children and Adults at Risk lists unless the organisation did not know or could not reasonably be expected to know that the person concerned is listed.

5.0 Casual Employees

- 5.1 Casual employees (e.g. electoral canvassers), will be required to complete a declaration form before accepting any further offer(s) of work. The declaration form is to ensure;
- a) there are no criminal conviction proceedings outstanding;
 - b) that the individual has not been referred onto a Disqualified from Working with Children List.
- 5.2 It is the Assessor/ERO'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 13 weeks (under the current arrangement, Payroll will automatically remove the individual from the payroll, as this is an Inland Revenue requirement).

6.0 Disclosure Scotland Checks

- 6.1 Corporate Development (Human Resources) at Clackmannanshire Council will process checks for all prospective employees and re-checks for existing employees. This will involve Operational Services issuing the Disclosure Scotland form to the individual who has been given a provisional offer i.e. subject to a satisfactory Disclosure Check, references and occupational health medical check. Care should be taken to check and ensure that the individual completes the form correctly (i.e. black ink, block capitals, all relevant details provided and writing is contained within the boxes). The individual is also responsible for verifying proof of identity i.e. at least 3 forms of identification should be provided and this must include one item of photographic identity e.g., Passport or Driving Licence. When authorised staff are taking photocopies, the copies should be annotated 'Certified True Photocopies' dated and signed by the authorised person taking the copies, otherwise the photocopies will not be acceptable.
- 6.2 For more information on how to fill in a Disclosure form applicants should refer to the 'Guidance Notes for Completion of Disclosure Applications Letter'. As forms are scanned it is essential that they are filled in correctly, otherwise the form will be returned by the counter signatory or Disclosure Scotland, which will delay the process, which will include date of appointment.
- 6.3 The form along with the original documentation or 'certified' copies of proof of identity (signed by an authorised member of staff who saw the original I.D) should then be forwarded by the individual or Service to Human Resources for counter-signing and processing of the Disclosure Form.
- 6.4 The Joint Board will pay for all Disclosure checks; the cost presently sits at £20.00 for all types of Disclosure checks.

7.0 Level of Checks

- 7.1 **Basic Disclosure** – this is related to an individual on their request, subject to confirmation of identity. This contains details of “unspent” convictions as defined in the Rehabilitation of Offenders Act 1974, (Exclusions and Exceptions) (Scotland) Order 2003 or will state that there are no such convictions.
- 7.2 **Standard Disclosure** – contains details of any spent or unspent convictions, warnings or written reprimands for positions exempt under the Rehabilitation of Offenders Act. It will also reveal if no such matters are on record.
- 7.3 **Enhanced Disclosure** – this is the highest level of Disclosure available and is reserved for positions involving regular caring for, training, supervising or being in sole charge of those under the age of 16 or “vulnerable adults”. The enhanced Disclosure contains the same details as the standard, however; in addition, it may also contain non-conviction information from local Police records (i.e. Police Intelligence) that a Chief Constable considers relevant in connection with the position being sought. This would include pending cases involving children, or individuals subject to a sex offender or antisocial behaviour disorder. Relevant information held by Government Departments may also be stated in this Disclosure Check e.g. the database will contain information about individuals who are considered unsuitable to work with children or vulnerable adults.
- 7.4 The Disclosure Checks are used to complement the Joint Board's existing recruitment procedures and will only be processed following a provisional offer of employment or provisional offer for a voluntary position within the Joint Board.

7.5 Further guidance on Disclosure Checks for employees should be referred to the appropriate HR Adviser at Clackmannanshire Council.

8.0 Handling Procedures and Code of Practice

- Disclosure information must only be used to confirm suitability for employment;
- Disclosure information must only be passed to those who are authorised to see it in the course of their duties;
- Disclosure information must be kept securely by Human Resources at Clackmannanshire Council, in lockable, non-portable storage containers. Access to storage units must be strictly controlled to authorised and named individuals;
- Disclosure information must be kept no longer than six months. This is to allow for the resolution of any disputes or complaints. Disclosure information must only be retained for longer than this period in exceptional circumstances, and in consultation with Disclosure Scotland;
- Disclosure information must be destroyed in a secure manner i.e. by shredding, pulping or burning. No image or photocopy or any other form of the Disclosure information should be kept; and
- A record of the date of issue of the Disclosure, the name of the subject, the Disclosure type, the position for which the Disclosure was requested, the unique reference number of the Disclosure and details of the recruitment decision taken should be recorded by the authorized Joint Board staff.

9.0 Lead Counter Signatory

9.1 Central Scotland Valuation Joint Board with a substantial requirement for Disclosures has nominated a lead counter signatory (Head of Human Resources at Clackmannanshire Council) with whom Disclosure Scotland can communicate. The lead counter signatory is responsible for confirming the identity and status of persons who will act as counter signatories. The lead counter signatory is accountable and responsible for ensuring the proper application of these procedures and compliances with the Code of Practice published by Scottish Ministers.

10.0 Code of Practice

10.1 A *Code of Practice* on the use of Disclosure Certificates has been published by Scottish Ministers. Joint Board employees using Disclosure Certificates should follow the principals in the code. See link below.

<http://www.Disclosurescotland.co.uk/PDF/EXPLANATORY%20GUIDE.pdf>

10.2 The Police Act 1997 (Part V) makes improper use of Disclosure information an offence. In general terms Disclosure information may only be distributed to other employees directly involved in making decisions about the recruitment of the individual. **Any other Disclosure of information may be an offence.** The Act does not describe the ways in which improper Disclosure could occur; therefore improper Disclosure would include providing copies of certificates, written notes, verbal descriptions or any other form of communication of information obtained from a Disclosure Certificate. The Act states that conviction for improper Disclosure may lead to a fine or imprisonment for up to 6 months.

Further information about Disclosure Scotland can be obtained from Human Resources at Clackmannanshire Council or directly from:

The Disclosure Bureau,
Scottish Criminal Records Office
1 Pacific Quay
Glasgow
G51 1EA

Helpline: 0870 609 6006

Web site: www.Disclosurescotland.co.uk, Police Act 1997 (Part V) from HMSO

Web site: www.hmsso.gov.uk

11.0 Future Developments

11.1 Following the Bichard Inquiry (post Soham) there have been further developments and proposed changes, this has resulted in extensive consultation and briefing by the Scottish Executive, and the final submission including proposed changes went to the Scottish Parliament at the end of March 2008.

11.2 The overarching principle of the anticipated changes are:

- ensure children and vulnerable adults are afforded the same level of protection across the UK;
- avoid development of cross-border loopholes, which dangerous adults might exploit; and
- ensure compatibility and seamless interaction whatever systems are developed – whether in each jurisdiction or on a UK basis.

11.3 The major aims of the new anticipated changes will be:

- those who are known to be unsuitable do not gain access to children or adults at risk; and
- those who become unsuitable are detected at the earliest possible stage and prevented from continuing to work.

11.4 Key new elements of the anticipated and future changes will be:

- central decision-making body;
- ongoing update and review of status;
- access to systems by employers (on-line Checks);
- mediated access to systems for personal employers

12.0 Health Warning and Review

12.1 It is recognized that through all the latest developments and ongoing developments that this procedure may need to change from time to time, and as per all existing procedures will be subject to regular review. We would also welcome comment and will formulate a FAQ appendix.

Listed Appendices:

Appendix 1: Protection of Children (Scotland) Act 2003 (POCSA) definition of a child core position covered by this Act.

Appendix 2: List of posts which require Disclosure Scotland Checks

Appendix 3: Employing Ex-offenders

Appendix 1 – Protection of Children (Scotland) Act 2003(POCSA) and Adults at Risk Positions

Child

A “child” is defined as an individual who is under the age of 18 years. The Police Act 1997 also defines a child in this way. This is not the same as the definition of a child under the Children (Scotland) Act 1995 which defines a child as an individual under the age of 16 years (with some exceptions). This does not apply to 16 and 17-year-old young people who are in paid employment (as stated in paragraph 4 of Schedule 2 of the Act).

Adult at Risk

As you may be aware the Scottish Executive is currently working towards introducing new legislation which establishes a Scottish List of adults disqualified from working with Adults. This legislation will be similar to that of the Protection of Children (Scotland) Act 2003. There is no implementation date for this legislation at present.

An equivalent list is already established in England and Wales.

Disclosure Scotland can confirm that we are now able to access the English and Welsh List when carrying out Enhanced Checks for positions working with Adults at Risk. If the individual is named on the list this will be Disclosed under the heading ‘Other Government Information’ on a Disclosure Certificate.

All registered bodies are advised that the following information outlines the current situation relating to Disclosures for positions involving working with Adults at Risk. Counter signatories should ensure the initials AAR are entered at the beginning of field C2 - "Position Applied For" where the Disclosure is required in relation to such a position. For example a Nurse entry would be:-

An **"Adult at Risk"** is defined within the Police Act 1997 (Criminal Records)(Scotland) Regulations 2006. Simply click on **"Adults at Risk"** and refer to Regulations 10(2) to 10(7).

It must be stressed the onus is on the Counter signatory to highlight the position as having contact with an Adult at Risk. Disclosure Scotland will not Check the lists unless that prompt is present.

Disclosure Scotland's experience is that the entries made in field C2 are often ambiguous. Please be aware that the descriptions you enter may be used by Police Forces to determine the relevancy of any non-conviction information they may hold. It is important that the titles entered are clear and actually portray the work to be done by the applicant. This will assist in the decision-making process.

There will be a new Disclosure Scotland Application Form introduced later this year and this will contain a question in the Counter signatory Section relating to whether the Position Applied For is a position in terms of contact with Adults at Risk and if the Counter signatory is requesting a check of the lists.

Appendix 2 – List of posts which require Disclosure Scotland Checks – as at August 2007

Central Scotland Valuation Joint Board

- Assistant Assessor
- Divisional Valuer
- Principal Valuer
- Valuer/Senior Valuer
- Higher Technician
- Technician

NB - The above list is not necessarily exhaustive and additions maybe added to the above lists, seek guidance from the Assessor/ERO and Human Resources at Clackmannanshire Council. The Disclosure checks for these will be the Standard check but this may be reviewed in the future.

Appendix 3 – Employment of Ex-Offenders

1. Central Scotland Valuation Joint Board complies fully with the Code of Practice, issued by Scottish Ministers, in connection with the use of information provided to registered persons and other recipients of information by Disclosure Scotland under Part V of the Police Act 1997, for the purposes of assessing applicants' suitability for positions of trust. We undertake to treat all applicants for positions fairly and not to discriminate unfairly against the subject of a Disclosure on the basis of conviction or other information revealed.
2. We have a written policy on the recruitment of ex-offenders, which is made available to all Disclosure applicants at the outset of the recruitment process.
3. We are committed to equality of opportunity, to following practices, and to providing a service which is free from unfair and unlawful discrimination. We ensure that no applicant or member of staff is subject to less favourable treatment on the grounds of gender, marital status, race colour, nationality, ethnic or national origins, age, sexual orientation, responsibilities for dependants, physical or mental disability, or offending background, or is disadvantaged by any condition which cannot be shown to be relevant to performance.
4. Central Scotland Valuation Joint Board actively promotes equality of opportunity for all with the right mix of talent, skills and potential, and welcomes applications from a wide range of candidates, including those with criminal records. The selection of candidates for interview will be based on skills, qualifications and experience.
5. We will request a Standard or Enhanced Disclosure only where this is considered proportionate and relevant to the particular position. This will be based on a thorough risk assessment of that position. Where a Disclosure is deemed necessary for a post or position, all applications forms, job adverts, careers literature, website and any other appropriate literature will contain a statement that a Disclosure will be requested in the event of the individual being offered the position.
6. Where a Disclosure is to form part of the recruitment process, Central Scotland Valuation Joint Board will encourage all applicants selected for interview to provide details of their criminal record at an early stage in the application process. We ask that this information be sent under separate, confidential cover, to a designated person within Central Scotland Valuation Joint Board and we guarantee that this information will only be seen by those who need to see it as part of the recruitment process.
7. In line with the Rehabilitation of Offenders Act 1974, Central Scotland Valuation Joint Board will only ask about convictions which are defined as "unspent" in terms of that Act, unless the nature of the position is such that we are entitled to ask questions about an individual's entire criminal record.
8. At interview, or under separate discussion, we undertake to ensure an open and measured discussion on the subject of any offences or other matters that might be considered relevant for the position concerned. Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment.

9. We undertake to discuss any matter revealed in a Disclosure with the subject of that Disclosure before withdrawing a conditional offer of employment.

10. We ensure that all those in Central Scotland Valuation Joint Board who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences. We also ensure that they have received appropriate guidance and training in the relevant legislation relating to employment of ex-offenders (e.g. the Rehabilitation of Offenders Act 1974).

11. We undertake to make every subject of a Disclosure aware of the existence of the Code of Practice, and to make a copy available on request.

HAVING A CRIMINAL RECORD WILL NOT NECESSARILY DEBAR THE APPLICANT FROM WORKING WITH CENTRAL SCOTLAND VALUATION JOINT BOARD. THIS WILL DEPEND ON THE NATURE OF THE POSITION, TOGETHER WITH THE CIRCUMSTANCES AND BACKGROUND OF ANY OFFENCES.

[APPENDIX 1 – PT25 \(The Rehabilitation of Offenders Act\)](#)

[APPENDIX 2 - PT25A \(The Rehabilitation of Offenders Act\) Guidance Notes](#)