

HR Policy & Procedure: Recruitment of Ex-Offenders

Version: 4.6



Contents

Section 1: [Introduction](#)

Section 2: [Policy Statement](#)

Section 3: [Procedure](#)

Related HR Documents

- [Protection of Vulnerable Groups Policy and Procedure](#)
- [HR Guide: Level of Disclosure and PVG Checks Available](#)
- [Recruitment and Selection Policy and Procedure](#)

Version Control

Version Number	Effective Date	Details of Last Revision
4.6	10.12.20	Update onto new accessibility policy template
4.5	05.09.18	Update to the process for Criminal Convictions Form
4.4	09.03.18	Clauses 3.3 and 3.8 updated, new clause 2.6 re PVG Remedial Order 2018 added
4.3	08.03.17	Update to include legislative changes
4.2	21.08.15 – 08.03.17	Updated to replace reference to Navigate with 'Connects'
4.1	11.07.14 – 21.08.15	Updated onto new policy template

Equality Impact Assessment: June 2013

Prepared by: HR Team

1. Introduction

- 1.1 Part V of the Police Act 1997, and the protection of Vulnerable Groups (Scotland) Act 2007, are aimed at helping employers and other organisations assess the suitability of applicants for particular posts and to make safer recruitment decisions in relation to positions of trust by widening access to criminal record information.
- 1.2 To this end, the Act provides for the issue of various criminal conviction certificates. In Scotland, these certificates are issued by Disclosure Scotland and are known as Basic, Standard or Enhanced Disclosures. In addition, people undertaking regulated works receive a PVG Scheme Record or PVG Scheme Record Update.
- 1.3 [The Rehabilitation of Offenders Act 1974](#) (Exclusions and Exceptions) (Scotland) Order 2013 was amended in 2016 to ensure that in checking the background of people who want to work with vulnerable groups or in other sensitive roles, the information provided continues to protect the public but balances that public interest with the rights of individuals to have their private life respected.

2. Policy Statement

- 2.1 North Ayrshire Council complies fully with the Disclosure Scotland 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, or the Protection of Vulnerable Groups (Scotland) Act 2007 for the purposes of assessing applicants' suitability for positions of trust.
- 2.2 North Ayrshire Council is committed to equality of opportunity, to following practices, and to providing a service that is free from unfair and unlawful discrimination. We will ensure that no employee or potential employee is subject to less favourable treatment and will not discriminate unfairly against any subject of a Disclosure/PVG Scheme Record check on the basis of conviction or other information revealed.
- 2.3 Having a criminal record will not necessarily debar applicants from working for North Ayrshire Council. This will depend on the nature of the post and the circumstances and background of offences.
- 2.4 Offences which are 'protected convictions' under the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2016, mean that the exclusions in the 2013 Order do NOT apply and the protections provided by the 1974 Act will be enforced. Protected convictions include convictions which are spent and which are not listed in either of Schedules A1 and B1. They also include convictions in Schedule B1 that are more than 15 years old (or 7 and a half years if the person was convicted before they turned 18).

- 2.5 Schedules A1 is a list of offences which must always be disclosed. Schedule B1 is a list of offences which are to be disclosed subject to rules. These are extensive lists and further details regarding what is and what is not required to be disclosed can be found under the relevant legislation or <https://www.mygov.scot/ex-offenders-and-employment/websites>.
- 2.6 From February 2018, recipients of higher level disclosures (standard or enhanced disclosures and PVG scheme records) are allowed to make an application to a sheriff for removal of a conviction for an offence, and the sheriff can order removal of the conviction information from the disclosure if they consider it is not relevant. Such applications can only be made where relevant time periods since conviction have elapsed (7 years 6 months from date of conviction if the person was under 18 at the time of conviction, or 15 years from date of conviction if the person was aged 18 or over at the time of conviction. This may delay issue of the disclosure to the counter signatory, by up to 10 days for the person to decide whether to apply for removal, and by 3 months or more for the application to be made and the sheriff to decide on removal.
- 2.7 A copy of this policy will be made available to all Disclosure/PVG Scheme applicants at the outset of the recruitment process. 2.8 Each Disclosure/PVG Scheme Record contains the date the record was produced. The Disclosure/PVG Scheme Record is accurate as of this date. There is no provision in the Police Act 1997 or the Protection of Vulnerable Groups (Scotland) Act 2007 in relation to timescales for reapplying for a Standard or Enhanced Disclosure or conducting a PVG Scheme Record Update. The responsibility to apply a timescale for re-application to Disclosure Scotland, depending on nature of work, recommendations from care commission etc., is allocated to each Director/Head of Service.

3. Procedure

- 3.1 We will only request a Basic/Standard/Enhanced Disclosure or PVG Scheme Record where it is necessary and relevant to the position sought. Further guidance is available in the [HR Guide – Levels of Disclosure and PVG Checks Available](#).
- 3.2 Where a post requires a Disclosure/PVG Scheme Record, the job advert will contain a statement advising the post is subject to a Disclosure/PVG Scheme Record check. The Council will ensure that an individual's consent is given before seeking a Disclosure/PVG Scheme Record.
- 3.3 As part of the normal recruitment process all preferred candidates (after interview) are required to provide details of their criminal record. This information is requested by the HR Resourcing team. The candidate will complete the [Criminal Convictions Declaration Form](#) online and it is a condition of working for North Ayrshire Council that you answer all the questions on this form and that you do not withhold any information, except as provided under the Rehabilitation

Recruitment of Ex-Offenders Policy & Procedure

of Offenders Act 1974 and subject to Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2016.

- 3.4 Failure to reveal information at that point which, in the Council's view, is directly relevant to the position sought could lead to withdrawal of an offer of appointment, or if you have already been appointed, to your dismissal.
- 3.5 Human Resources will seek the relevant Disclosure or PVG Scheme Record (within 48 hours of receipt of accurate paperwork) when a provisional offer of employment is made. This offer will be subject to satisfactory clearance by the Council of the information provided by Disclosure Scotland.
- 3.6 Under no circumstances should an employee be placed in a position of trust until satisfactory clearance by the Council of the information provided by Disclosure Scotland.
- 3.7 In considering practical issues, where an employee is required to start work prior to their Disclosure check being returned, this time should be used for induction and training purposes and the employee must be supervised at all times if pending a PVG check.
- 3.8 The relevant Head of Service will be advised of the result of the Disclosure/PVG Scheme Record. Where the Disclosure/PVG Scheme Record is returned advising "No Trace" i.e. nothing found, Human Resources will notify the designated officer within the Service to advise when all preemployment checks are complete and satisfactory. Where there is anything listed in the Disclosure/PVG Scheme Record then the Criminal Conviction Declaration form and a copy of the Disclosure will be sent to the Head of Service by e-mail, for consideration. Advice and guidance on individual circumstances is available from Human Resources. The Head of Service will then respond to HR Resourcing with their decision.
- 3.9 We undertake to discuss any matter revealed in a Disclosure/PVG Scheme Record with the subject of that Disclosure /PVG Scheme Record before withdrawing a conditional offer of employment. Where the subject of the disclosure has commenced employment with the Council, where relevant, the normal Disciplinary Procedures will be followed.
- 3.10 In accordance with Disclosure Scotland Guidelines, Disclosure information will be retained for a maximum 90-day period to allow for any dispute about the accuracy of a Disclosure or a recruitment decision to be made and considered. We will however keep a record of the issue date of the Disclosure information, the name of the subject, the date of birth of the subject, the type of Disclosure, the position in question, the unique number issued by the Disclosure Bureau and the recruitment decision taken. Full details of the security of Disclosure information can be found in the Council's [HR Guide to the Secure Handling, Use, Storage and Retention of Disclosure Information](#).