

<b>Date Issued</b>	<b>March 2007</b>
<b>Date Reviewed</b>	<b>February 2022</b>
<b>Department</b>	Management
<b>Title</b>	<b>Disclosure Scotland – Use of Information Policy</b>
<b>Responsible</b>	Chief Executive
<b>Next Review Date</b>	February 2027

## **Policy Statement**

### **1.0 General Principles**

The aim of this policy is to ensure that we comply fully with the Code of Practice (“the Code”), issued by Scottish Ministers, regarding the correct handling, holding, storage and destroying of Disclosure information provided by Disclosure Scotland under Part V of the Police Act 1997 (“the 1997 Act”), or under the Protection of Vulnerable Groups (Scotland) Act 2007 (“the 2007 Act) for the purposes of assessing applicants' suitability for positions of trust.

The policy also aims to ensure that we comply fully with the Data Protection Act 2018 (“the 2018 Act”) and other relevant legislation relating to the safe handling, use, storage, retention and disposal of Disclosure information, and ensures that we have a written policy on these matters. This policy is available publicly on [elha.com](http://elha.com).

We are not registered directly with Disclosure Scotland but with the “umbrella body” Employers in Voluntary Housing (EVH) who provide us with counter-signatory services.

### **2.0 Usage**

We use Disclosure information only for the purpose for which it has been requested and provided. The information provided by an individual for a position with us is not used or disclosed in a manner incompatible with the purpose. We process personal data only with the express consent of the individual. We 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 information.

### **3.0 Handling**

We recognise that, under section 124<sup>1</sup> of the Police Act 1997 and section 66 and 67 of the 2007 Act, it is a criminal offence to disclose Disclosure information to any unauthorised person.

We, therefore, only pass Disclosure information to those who are authorised to see it in the course of their duties. We will not disclose information provided under section 115(8) of the 1997 Act, namely information which is not included in the Disclosure, to the subject.

### **4.0 Access and Storage**

We do not keep Disclosure information on an individual's personnel 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 in the course of their duties.

### **5.0 Retention**

We do not keep Disclosures or Disclosure information for any longer than is required after a recruitment (or any other relevant) decision has been taken. In general, this is no longer than six months. This is to allow for the resolution of any disputes or complaints. Disclosure 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.

### **6.0 Disposal**

Once the retention period has elapsed, we will ensure that Disclosure information is immediately destroyed in a secure manner i.e. by shredding, pulping or burning. We will not keep Disclosure information which is awaiting destruction in any insecure receptacle (e.g. a waste bin, unlocked desk/cabinet or confidential waste sack). We will not retain any image or photocopy or any other form of the Disclosure information. We will, however, keep 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.

### **7.0 Ex-offenders**

The following points apply in respect of ex-offenders and ensure we have a written policy on the recruitment of ex-offenders:

- (a) We actively promote equality of opportunity for all with the right mix of talent, skills and potential, and welcome 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.
- (b) We may request a Basic, 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.
- (c) , We will encourage all applicants 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 the organisation, and we guarantee that this information will only be seen by those who need to see it as part of the recruitment process.
- (d) In line with the Rehabilitation of Offenders Act 1974, we 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.
- (e) 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.
- (f) We undertake to discuss any matter revealed in a Disclosure with the subject of that Disclosure before withdrawing a conditional offer of employment.
- (g) We ensure that all those 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).
- (h) 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.
- (i) Having a criminal record will not necessarily debar anyone from working with us. This will depend on the nature of the position, together with the circumstances and background of the offences.

## **8.0 Protection of Vulnerable Groups (PVG) Scheme**

Some posts within the Association (mainly Care & Repair posts) offer support and advice to vulnerable adult groups and may fall under “Regulated Work”. They may therefore be subject to membership of the PVG Scheme.

A PVG certificate contains all unspent and certain spent conviction information. It also contains any other non-conviction information that the police or other government bodies think is relevant.

It is an offence for us 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.

## **9.0 Monitoring and Review**

This policy will be reviewed at least every five years. The absence of such a review will not cause it to lapse.