

Summary of changes sheet

1. Recruitment and Selection guidance
2. Protection of Vulnerable Groups guidance.

The changes made the above two sets of guidance relate in the main to the following:-

Review of the use of Criminal Convictions Declaration (CCD) Forms

Background

There has been a review in the use of Criminal Convictions Declaration (CCD) Forms in the Council's recruitment and selection process in light of a change in legislation which identified a need for the change as detailed below.

The change in legislation was the introduction of the Rehabilitation of Offenders Act (1974) (Exclusions and Exceptions) (Scotland) Amendment Orders of 2015 and 2016 which relate to the disclosure of criminal convictions.

This removed the legal requirement for all spent convictions to be self-disclosed, and established the 'protected conviction' which does not require to be self-disclosed once spent, and introduces two Schedules:-

1. Offences which must always be self-disclosed.
2. Offences which may become protected if conditions are satisfied, i.e. offences which are 'subject to rules'.

This means that an individual only has to declare unspent convictions, unspent cautions or 'offences which must always be disclosed' (spent or unspent). They do not need to disclose other spent convictions for 'offences which are subject to rules'.

Also, Disclosure Scotland has ceased to disclose all convictions on higher level disclosures, namely PVG Records and Standard and Enhanced Disclosure Certificates.

The change

The change will be the withdrawal of the use of CCD forms for posts requiring Protection of Vulnerable Groups (PVG) membership but retaining the use of the forms for all other posts.

Reason for the change

As PVG posts are covered by PVG Scheme Certificates, it is considered unnecessary to gather information on a Criminal Convictions Declaration form for candidates for these types of posts, with this being regarded as duplication of effort and not administratively efficient. This would be in relation to posts involving regulated work with children and/or vulnerable adults e.g. teachers and care related posts. The information contained in the PVG record provides the Council with all the

details it requires to make a decision on the suitability of a candidate for a post covered by the PVG Scheme.

Retaining the use of CCD forms for all other posts will mean that the honesty of candidates can still be tested for non-PVG posts, with the opportunity to compare the content of the Criminal Convictions Declaration form against a Disclosure Certificate, (for posts requiring a Disclosure), remaining. It would also continue to allow for the gathering of appropriate criminal convictions information from candidates for posts not requiring a Disclosure Certificate with the relevance of the convictions assessed before a decision is made on whether to proceed or otherwise with a job offer. All other relevant pre-employment checks would continue to be undertaken. This should act as a safeguard for the Council to help ensure that candidates with a criminal record (that suggests they are unsuitable) are not appointed, but also recognising the spirit of the legislation covering declaration of criminal convictions and the rehabilitation aspect.

The specific changes made to the two sets of guidance

1. Recruitment and selection guidance

The sections in the guidance on 'Declaration of Criminal Convictions', page 20-21, 'Disclosure checking process', page 21-22, 'Rehabilitation of Offenders Act 1974', page 23, 'Police Act 1997', page 24, and 'Protection of Vulnerable Groups (Scotland) Act 2007', page 24, have all been updated to take account of the new legislation and/or the Council's revised process around the use of Criminal Convictions Declaration forms. The appendices to the Recruitment guidance including the 'Policy Statement on the Recruitment of Ex-Offenders', appendix 3 pages 31-32, the two CCD forms, appendices 4 and 5 pages 33-46 and the 'Guidance on the Recruitment of Ex-Offenders', appendix 7 pages 48-53, have also been updated to take account of the abovementioned changes. In addition, a new paragraph has been included on PVG checks in relation to volunteers, page 22, which was linked to an audit action. The paragraph on seeking authority for the filling of vacancies has also been updated and expanded on to reflect the role of the newly created Establishment Control Board, pages 6-7.

2. PVG Guidance

This has been updated to reflect the changes to the Recruitment guidance, including the legislative change detailed above, as well as some specific amendments introduced by Disclosure Scotland, on the subject of 'errors on a Disclosure certificate', section 14 on page 8, and 'applying to have a spent conviction removed from a Disclosure certificate', section 15 on pages 8-9.

An update has also been made to the section on the 'Secure Handling, Use, Storage and Retention of Disclosure Scotland information', section 18 on page 10, to reflect current arrangements in the Council. In addition, the three appendices to the guidance have been updated in line with the above changes, namely the 'Policy

Statement on the Recruitment of Ex-Offenders', appendix 1 pages 11-12 'The Rehabilitation of Offenders Act 1974 – Outline of Provisions', appendix 2 pages 13-16 and the 'Policy Statement on the Secure Handling, Use, Storage and Retention of Disclosure Scotland information' appendix 3 pages 17-18.