**APPENDIX 5**

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| **IN CONFIDENCE** |

**CRIMINAL CONVICTIONS DECLARATION FORM (EXCEPTED POST)**

|  |  |  |  |
| --- | --- | --- | --- |
| **Candidate ID:** |  | **Advert Reference:** |  |

**PLEASE COMPLETE THIS FORM AND BRING IT WITH**

**YOU WHEN YOU ATTEND FOR INTERVIEW. THIS**

**SHOULD BE GIVEN TO THE CHAIR OF THE INTERVIEW PANEL.**

**THIS FORM MUST BE COMPLETED/SIGNED EVEN IF**

**YOU HAVE NO CONVICTIONS TO DECLARE.**

**IF YOU HAVE ANY QUESTIONS ON THE COMPLETION OF THE FORM OR REQUIRE IT IN LARGE PRINT PLEASE CONTACT THE HR SERVICE CENTRE ON (01224) 523939 or e-mail AskHR@aberdeencity.gov.uk**

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| **REHABILITATION OF OFFENDERS ACT 1974** |

The post for which you have applied is defined as exempted employment under the terms of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2013, and by virtue of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2015 you are required to disclose unspent convictions, unspent cautions or ‘spent convictions which must always be disclosed’). You are not required to disclose spent convictions which ‘are subject to rules’. Please read the attached Advisory Note, produced by Disclosure Scotland (or go to their website for more details).

As a shortlisted candidate you **must** complete the appropriate sections of this form including signing and dating it, then place it in a sealed envelope, and bring it along with you to your interview to hand to the interview panel. It is emphasised that ex-offenders will only be assessed on their ability to do the job applied for and convictions will only be taken into account if relevant to the job.

1. If you have unspent convictions, unspent cautions or ‘spent convictions which must always be disclosed’ or if you have a court appearance pending please supply details below. An additional sheet can be submitted if required. This must be folded and sealed within this form.
2. If you have no previous convictions, or if you do not have a court appearance pending go straight to the DECLARATION section and sign and date accordingly.

If you are in any doubt as to the correct answers to be given, it is recommended that that you take advice from a suitable person e.g. Solicitor, Trade Union Representative, Citizen’s Advice Bureau or go to the Disclosure Scotland website; <https://www.mygov.scot/organisations/disclosure-scotland/>

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| --- | --- | --- | --- |
| **Date** | **Court** | **Details of Offence** | **Sentence** |
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| **FORMER NAMES & ADDRESSES** |

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| --- | --- | --- |
| **Name** | **Address** | **Date from - to** |
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| **DECLARATION** |

* I have read the advisory note attached.
* I have not withheld any information, which may affect my application for appointment.
* I understand that false information or omissions may lead to my dismissal.

(The Council may verify the information supplied above).

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| --- | --- | --- | --- |
| Signature : |  | Date: |  |

ADVISORY NOTE

The length of a Rehabilitation Period depends on the sentence given. For a custodial sentence, the length of time actually served is irrelevant, the rehabilitation period is decided by the original sentence and commences on the date of conviction. SENTENCES OF MORE THAN THIRTY MONTHS CAN NEVER BECOME SPENT. Other sentences become spent after fixed periods from the date of conviction. Here are some examples:

**TABLE A - REHABILITATION PERIODS FOR MAIN SENTENCES**

|  |  |  |
| --- | --- | --- |
| **Sentence** | **Rehabilitation period** | **Rehabilitation period (under 18)** |
| **A sentence of imprisonment or youth custody or corrective training for a term exceeding six months but not exceeding thirty months.** | 10 yrs | 5 yrs |
| **A sentence of cashiering, discharge with ignominy or dismissal with disgrace from Her Majesty's service.** | 10 yrs | 5 yrs |
| **A sentence of imprisonment or youth custody for a term not exceeding six months** | 7 yrs | 3½ yrs |
| **A sentence of dismissal from Her Majesty's service.** | 7 yrs | 3½ yrs |
| **Any sentence of service detention within the meaning of the Armed Forces Act 2006, or any sentence of detention corresponding to such a sentence in respect of a conviction in service disciplinary proceedings.** | 5 yrs | 2½ yrs |
| **A fine or any other sentence subject to rehabilitation under the 1974 Act, not being a sentence to which table B below or section 5(3) to (8) applies.** | 5 yrs | 2½ yrs |

**Offending committed by those under the age of 18**

Where a person under the age of 18 is convicted in a criminal court, the protections given to spent convictions under the 1974 Act apply. For certain sentences, (as in [Table A above](http://www.gov.scot/Publications/2013/08/6133/5#tableA)), the rehabilitation period is reduced by half where the offender is under 18 at the time of conviction. In addition, table B below provides details of certain sentences which are only available to young offenders which have their own specified rehabilitation periods.

**TABLE B - REHABILITATION PERIODS FOR CERTAIN SENTENCES CONFINED TO YOUNG OFFENDERS**

|  |  |
| --- | --- |
| **Sentence** | **Rehabilitation period** |
| **A sentence of borstal training** | 7 yrs |
| **A variety of armed forces offences committed by young individuals, including offences committed by civilians** | 3 to 7 yrs |

There are also rehabilitation periods associated with a number of other sentences used in Scottish courts.

**TABLE C - REHABILITATION PERIODS FOR A NUMBER OF MISCELLANEOUS SENTENCES AVAILABLE TO SCOTTISH COURTS**

|  |  |  |
| --- | --- | --- |
| **Sentence** | **Rehabilitation period** | **Rehabilitation period (under 18)** |
| Absolute Discharge | 6 months | 6 months |
| Conditional discharge | 1 yr. or date of order (the longer of) | 1 yr. or date of order (the longer of) |
| Community Order/Service Community Order | 5 yrs | 2½ yrs |
| Referral Order |  | Length of order |
| An Order extending period for which a youth offender contract has effect |  | Length of order |
| An Order under section 1(2A) of the Street Offences Act 1959 | 6 months | 6 months |
| A variety of Order imposed on those mainly under 18 |  | 1 yr. from date of conviction or length of Order (the longer of) |
| An Order for custody in a remand home, approved school Order, Attendance centre Order, A secure Training Order |  | Length of Order plus 1 yr. |
| Detention & Training Orders |  | Length of Order plus 1 yr. or 5 yrs from date of conviction, depending on age of offender |
| Hospital Order | 5 yrs or length of Order plus 2 yrs (the longer of) | 5 yrs or length of Order plus 2 yrs (the longer of) |

All UNSPENT convictions will be disclosed on a higher level certificate.

For any Unspent Convictions

• An employer can legally ask you to disclose unspent convictions,

• If asked by an employer, or asked when applying for certain college or university courses, or if asked when taking up certain voluntary roles you have to disclose them,

• They will be disclosed on all higher level disclosures,

• There could be consequences if you fail to disclose unspent convictions when asked. For example, an employer could withdraw an employment offer if they discover you have an unspent conviction you did not disclose when asked.

The Rehabilitation of Offenders Act 1974 allows most convictions to be considered as SPENT after a specific period of time (see Tables above). Most jobs are covered by the Rehabilitation of Offenders Act 1974 but some are exempt.

Some SPENT convictions will be always disclosed. These are convictions for offences which appear in Schedule 8A of the remedial order, which are offences which must always be disclosed even when spent (“always list”).

Some SPENT convictions will be disclosed if they are for offences which appear in Schedule 8B of the remedial order, which are offences that will be disclosed even when spent (“rules list”) for 15 years from the date of conviction for convictions received when the person was 18 years old or over or 7.5 years for convictions received when the person was less than 18 years old.

For any spent conviction on the “always list”

• An employer can legally ask you to disclose any spent conviction for an offence on the “always” list.

• If asked by an employer, or asked when applying for certain college or university courses, or if asked when taking up certain voluntary roles you have to disclose them.

• They will be disclosed on all higher level disclosures

• There could be consequences if you fail to disclose these spent convictions when asked, for example an offer of employment may be revoked if spent convictions on the “always list” are not disclosed.

For any spent conviction on the “rules list”

• You do not have to disclose any such conviction and cannot be prejudiced or subjected to any liability by not disclosing that conviction until if and only if the higher level disclosure is sent and contains the spent conviction.

• It is at the point when a higher level disclosure, which contains information regarding a spent conviction for an offence on the Rules List, is sent to a registered person (i.e. the person who countersigned the disclosure application), that the individual will be liable to self-disclose.

• They will be disclosed on all higher level disclosures if less than 15 years or 7.5 years old.

• When the employer receives the higher level disclosure containing spent conviction information, they will be able to take this into account when deciding on whether to interview the individual and/or deciding whether to employ them. However, they will not be able to prejudice the person for not disclosing their spent conviction when applying for the position.

For any spent conviction for an offence not on the “always list” or “rules list”

• An employer should not be asking you to disclose any spent convictions for offences not on the “always list” or “rules list”.

• If asked by an employer, or asked when applying for certain college or university courses, or if asked when taking up certain voluntary roles you do not have to disclose them.

• They will not be disclosed on a higher level disclosure.