Briefing Note

The Management of Offenders Act (Scotland) Part 2

There have been changes to rules about previous criminal convictions which people need to disclose to prospective employers. This has a bearing on the Council’s recruitment and selection process.

The reforms under the Management of Offenders Act (Scotland) Part 2 took effect from 30 November 2020 and reduce the length of time that many convictions need to be disclosed by most job applicants.

The reforms do not change disclosure periods for more serious convictions which result in prison sentences above four years and do not change the disclosure rules for sensitive occupations such as teaching.

Examples of the reductions in disclosure periods for custodial sentences from the date of conviction are as follows:

* 12 months will be reduced from 10 years to 3 years
* 24 months will be reduced from 10 years to 6 years
* 48 months will be reduced from always having to disclose to 10 years

For non-custodial sentences, the disclosure changes include:

* For community payback orders, a reduction from 5 years to 12 months or the length of the order, whichever is longer
* A reduction from 5 years to 12 months for fines
* An admonishment or absolute discharge will no longer need to be disclosed

For under-18s receiving a custodial sentence, disclosure periods for custodial sentences are based on the length of sentence plus an additional “buffer period’. The reforms will half the buffer periods from their current length.

The link below to the Scottish Government website provides details of what the disclosure periods now are for 1) custodial and 2) non-custodial sentences.

[Previous convictions and alternatives to prosecution: disclosure periods - gov.scot (www.gov.scot)](https://www.gov.scot/publications/disclosure-periods-previous-convictions-alternatives-prosecution-scotland-under-rehabilitation-offenders-act-1974/)

The Council has updated its Criminal Convictions Declarations forms used in its recruitment and selection procedure (for excepted and non-excepted posts) to take account of this change in legislation, with the details in table under the link above included as part of the form.