



Disclosure Scotland

Procedure



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1. INTRODUCTION

Disclosure Scotland is a service provided by the Scottish Government to manage and operate the Disclosure Service in Scotland as provided for in Part V of the Police Act 1997. It is designed to help employers make safer recruitment and appointment decisions in relation to paid and unpaid work.

Part V of the Police Act 1997 provides for the issue of criminal conviction and criminal record certificates, of which there are different types; Basic, Standard and Enhanced.

The Protection of Vulnerable Groups (Scotland) Act 2007 introduced requirements which affect all employees, volunteers and workers who work or volunteer in a position or a setting dealing with children and/or protected adults. The membership categories are PVG Children, PVG Protected Adult and PVG Children & Protected Adult.

Aberdeenshire Council has been confirmed by Disclosure Scotland as a Registered Body, thereby enabling the authority to countersign applications for Basic, Standard and Enhanced Disclosures and Protection of Vulnerable Groups Scheme Records and Updates for their employees and volunteers. The Head of Service, Legal & People is the Lead Signatory for the Authority.

HR hold and maintain a list of all registered persons who are authorised to sign applications for the Council.

This procedure applies to our employees including relief, our volunteers, agency workers, and workers on contract for services, self-employed and sole traders.

The [Recruitment of Ex-Offenders Policy](#) should be read prior to following this procedure.

The [Overseas Criminal Record Checks Procedure](#) should be followed when the post/volunteer role requires a Standard, Enhanced or PVG check and the individual has spent a continuous period of three calendar months or more in an overseas country within the last five years. This procedure applies to a contract for services/sole traders

2. TYPES OF DISCLOSURE

The Council has a duty and a legal responsibility to ensure the suitability of those who are recruited to work or volunteer with children and/or protected adults through safer recruitment practices.

This procedure details the role of Disclosure Scotland in providing this information and the processes for types of Disclosure Scotland checks relevant to the post or volunteer role:

Basic disclosure

- Anyone can apply for a basic disclosure certificate subject to confirmation of identity of the individual. It includes information on any "unspent convictions".

Standard disclosure

- Standard disclosures are used to make sure employees or volunteer are suitable for certain types of work. For example Solicitor; Accountants or actuaries; and a for those involved in the provision of a care service. Contains details of unspent convictions, relevant spent convictions, unspent cautions and information from the Sex Offenders register.

Enhanced disclosure

- Enhanced disclosures are used to help make sure employees or volunteers are suitable for certain types of work. You may need an enhanced disclosure if you apply to adopt a child. Contains details of unspent convictions, relevant spent convictions, unspent cautions, inclusion on children's or adult's lists (if relevant to the job), other relevant information held by the police and information from the Sex Offenders register.

PVG Children, PVG Adult, PVG Children & Protected Adult

- The PVG membership scheme is managed and delivered by Disclosure Scotland. It helps ensure people - employees or volunteers whose behaviour makes them unsuitable to work with children and protected adults cannot do "regulated work".

3. POSTS/VOLUNTEER ROLES

Section 65 of the Protection of Vulnerable Groups (Scotland) Act 2007 states “It is an offence to ask someone to apply to join the PVG Scheme or make a disclosure application in relation to work which is not regulated work under the PVG Act” Individuals undertaking work for Aberdeenshire Council – paid or unpaid – can only be asked to complete an application and for the authority to submit that application, if the work of that post/role is legally within the scope of the PVG Act.

Standard and Enhanced Disclosure Scotland checks can only be used by employers for specific roles or activities – paid/unpaid – provided under the Police Act 1997 and Criminal Records (Scotland) Regulations 2010

The Disclosure Scotland check requirements of a post are identified within the employee system. Where the [duties of a post change](#) – Stage 3 of the Structure Review procedure or a [new post is created](#), these are reviewed by the Service & HR and where a check is identified this is added to the employee system. The type of check or no check is determined by referring both to the PVG Act and Police Act 1997.

Volunteer roles that do legally permit a type of Disclosure Scotland check are identified within each [volunteer role](#). Volunteer roles can be found in the resource pack of the Volunteer Procedure within Employee Policies & Procedures. The recruiting manager should check the [volunteer procedure](#) for guidance on all required checks for the role.

4. DISCLOSURE SCOTLAND CHECKS

Basic, Standard, Enhanced, PVG Scheme Record and PVG Scheme Update

As part of the [Recruitment and Selection Procedure](#) or [Volunteer recruitment procedure](#) it is good practice to notify individuals at the application stage whether the post or volunteer role will be subject to a Disclosure Scotland check as per the list above.

Preferred candidates/potential volunteers will be subject to the relevant Disclosure Scotland check being obtained prior to commencing employment/volunteering. The individual must be advised that the offer of employment/volunteering is subject to (or conditional to amongst other checks) receipt of the check and deemed satisfactory. The individual must not commence employment/volunteering until this check has been obtained and deemed satisfactory.

Existing employees/volunteers will also be subject to the relevant Disclosure Scotland check being obtained prior to commencing employment/volunteering. In some cases, e.g.,

PVG, it may be that a competent check has already obtained by Aberdeenshire Council. This will be confirmed by HR for employee and volunteer recruitment.

For volunteering, and only if the role requires a PVG and if the individual is an existing employee or volunteer, to confirm whether a competent PVG check is already in place, then please email disclosurescotland@aberdeenshire.gov.uk providing the [volunteer role and number](#) the individual is being enrolled into, along with the individual's full name and date of birth.

Following completion of the selection process, the individual must be offered the post "subject to the outcome of the Disclosure Scotland check being obtained and deemed satisfactory;" amongst other checks required.

The Council will pay the Disclosure Scotland check fee on behalf of preferred candidates whom it is intended to make a conditional offer of employment or on behalf of any potential volunteers under the direct legal responsibility of the Council.

- If there are no convictions, then the check can be deemed satisfactory.
- If there are convictions listed then the procedure for reviewing and assessing Disclosure Scotland check information, outlined later in the procedure, should be followed.

Check to be obtained prior to commencing employment or volunteering

- **External** preferred candidate & **External and Internal** potential volunteer being recruited or enrolled into a post or volunteer role that requires a Basic, Standard, Enhanced or PVG Scheme membership or update, in the correct workforce, must not commence until the check has been obtained by Aberdeenshire Council and deemed satisfactory. Temporary dispensation to commence employment or volunteering prior to a satisfactory check being received is not allowed in this situation.
- **Internal employee** recruited into a new post who does not have a PVG Scheme Record membership or has PVG Scheme membership through Aberdeenshire Council - but not in the correct workforce - must not be given a start date until the PVG Scheme Record has been received and confirmed satisfactory. Temporary dispensation to commence employment prior to satisfactory check being received is not allowed in this situation.
- **Internal employee** recruited into a new post who already has a PVG Scheme Record through Aberdeenshire Council - for that type of regulated work - requires a scheme record update if their last check was more than three years ago.

- **Internal employee** recruited into a new post requires to obtain a new Basic, Standard or Enhanced, at the point of recruitment.

5. TEMPORARY DISPENSATION REQUEST – INTERNAL EMPLOYEES

In exceptional operational circumstances, the line manager can consider whether they wish to request temporary dispensation to confirm employment prior to the check being obtained and deemed satisfactory. This request is considered by the Temporary Dispensation Panel which comprises of the Director of Education & Children's services, the Chief Social Work Officer, and the HR Manager. A request can be submitted in the following cases:

- **Internal employee** recruited into a new post who already has a PVG Scheme Record through Aberdeenshire Council - for that type of regulated work - requires a scheme record update if their last check was more than three years ago. Temporary dispensation to commence employment before the satisfactory check has been received may be requested based on the criteria set below.
- **Internal employee** recruited into a new post requires to obtain a new Basic, Standard or Enhanced at the point of recruitment. Temporary dispensation to commence employment before the satisfactory check has been received may be requested based on the criteria set below.

The request should not be made to speed up the recruitment process and the line manager will be required to submit a robust case on the Request for Temporary Dispensation form to evidence the circumstances as to why the Temporary Dispensation panel should consider their request. The line manager must include proposed mitigation factors that will be put in place.

The Line manager should consider carefully the operational situation prior to making a request for Temporary Dispensation to the panel due to the associated risks. Those being that the PVG update could reveal subsequent convictions/cautions obtained since the last record obtained by the organisation that may be relevant to the new post.

To make a request, the line manager should contact the HR Assistant for the vacancy.

The request to the panel can only be submitted if the individual's Disclosure Scotland form has been submitted to Disclosure Scotland, Glasgow.

Temporary Dispensation requests **cannot** be submitted retrospectively once an employee has commenced employment. Breaches of the recruitment and selection process are continually reviewed and reported.

Protection of Vulnerable Groups Act 2007 - Scheme Record and Scheme Record Update

Disclosure Scotland will keep the individual's PVG Scheme membership and vetting information up to date. Any new vetting information that becomes known about a PVG Scheme member will be assessed by Disclosure Scotland. If the information means the individual is no longer suitable to work with children and/or protected adults, then the Council will be notified.

Disclosure Scotland will only inform the Council if new vetting information is relevant to the regulated work undertaken and therefore impacts on their potential registration with the scheme.

If the individual is not suitable to work with children and/or protected adults, they will not be given PVG Scheme membership. If this is the case, the Council and the individual will be informed by letter.

Anyone who is deemed unsuitable to work with children and/or protected adults will be added to a list barring them from doing that type of regulated work. Disclosure Scotland maintains the two lists detailing those barred from working with children or protected adults.

The Scheme Record Update is designed for use by the organisation when recruiting an individual who is already a PVG Scheme member (and who already has a Scheme Record) to a post which is undertaking the same type of regulated work.

Once vetting information is identified on a certificate it must be processed following the reviewing and assessing the Disclosure Scotland information outlined in this procedure

Dispute of information

If the individual disputes the information on the Disclosure Scotland Certificate matter for them to challenge and resolve this directly with Disclosure Scotland.

6. INTERPRETING & ASSESSING INFORMATION ON A DISCLOSURE SCOTLAND CERTIFICATE

Upon receipt of the Disclosure Scotland Certificate, the certificate should be read and reviewed.

- If there are no convictions or other relevant non conviction or other government information on the certificate, then the check can be deemed satisfactory
- If convictions, relevant non convictions or other government information are detailed, the certificate requires to be sent for risk assessment to a Senior Manager of the

service. Guidance from HR and/or Legal, where applicable, will be provided to review and make this decision

- If during the process an external applicant's Scheme membership shows that they are being considered for listing, they must not be offered the post/volunteer role. The offer of employment or volunteering should be withdrawn.

When considering the Disclosure Certificate information, the following should be assessed:

- The relevance to the position in question.
- The nature and seriousness of any offence revealed.
- The length of time since the offence was committed.
- Whether the individual has a pattern of offending behaviour.
- Whether the individual's circumstances have changed since the offending behaviour.
- The circumstances surrounding the offending behaviour and any explanation offered by the convicted criminal

The individual should always be given the opportunity to provide additional information and clarification. Steps should be taken to verify any additional information shared and explanations provided.

HR (Legal & People) and/or Legal may advise the Service to hold a candidate conversation prior to taking their decision. A record of the conversation should be completed. The Senior Manager of the service should take a decision once all information is gathered.

The information detailed may be discussed with other relevant managers in the service involved in addition to HR (Legal & People).

DECISION

One of the following decisions should be reached by the Senior Manager:

- Convictions are not relevant – check can be deemed satisfactory
- Convictions are relevant, but on assessment do not render the candidate unsuitable – check can be deemed satisfactory
- Convictions are relevant, and on assessment there are serious concerns about the candidate's suitability – the Service manager can decide that the offer should be withdrawn. In exceptional, sensitive circumstances, the case can be taken to Council's Determination Panel for consideration. The individual should be informed of this.

The decision to confirm a check is satisfactory or otherwise, with vetting information on their record will be taken by Senior Manager, and only in exceptional circumstances will be referred to the Determination Panel.

The PVG scheme record, or scheme record update may show that the individual is under consideration for listing. If the individual is external the offer of employment will be withdrawn. If internal, the individual will be progressed through the HR risk assessment process which dependant on the decision of Scottish Ministers as to whether the individual is listed or not, may result in termination of employment.

7. ABERDEENSHIRE DETERMINATION PANEL

It is particularly important that decisions taken on the suitability of individuals to join the workforce, are consistent and risks are managed.

Senior Managers with advice and support from HR (Legal & People) are in most cases equipped to effectively assess and determine the suitability of individuals.

However, there are infrequent exceptional cases which require specialist consideration, given their sensitive nature and the potential implications. The Council has therefore, introduced a Determination Panel to assist, where necessary, in the vetting process of applicants and existing employees. [Proforma report to Determination Panel](#). To be completed by the Senior Manager in conjunction with HR.

The Determination Panel consists of the Heads of Service Children's Services, Education & HR (Legal & People).

The Determination Panel should be involved in the following circumstances:

Where convictions are considered relevant to the post/role and on assessment there are serious concerns about the candidate's suitability. It is expected that most cases referred will be in connection with sexual offences, recent serious violent crimes and/or supply of drugs.

In determining suitability, the Determination Panel will consider:

- The Disclosure Scotland Certificate
- Record of the Candidate conversation
- HR (Legal & People) advice and recommendations.
- Related Aberdeenshire Council Policies and Procedures.
- Relevant Legislation.

The Determination Panel will advise the senior manager of the decision reached and the individual will be notified accordingly of the outcome.

A record of the key information must be kept by HR.

8. HANDLING, STORAGE AND DISPOSAL OF DISCLOSURE SCOTLAND CERTIFICATES

Disclosure Scotland certificates must only be used for the specific purpose for which it was requested. All process will be followed in line with the [Disclosure Scotland Code of Practice](#)

The information retained is

- Date of issue of the Disclosure Scotland certificate
- Disclosure type
- Unique reference number of the Disclosure Scotland certificate
- PVG number unique to the individual
- Outcome of the check

Where the check has been risk assessed, the certificate will be retained in line with the Council's Data Retention Period.

For full and complete details please refer to the Council's Policy on the [Handling, Storage and Disposal of Disclosure/PVG Scheme Information](#).

9. NEW INFORMATION ON AN EMPLOYEE OR VOLUNTEER

All employees and volunteers are responsible for bringing to the attention of their line manager any information which might indicate that someone working in a childcare position or with protected adults (whether voluntary or paid) has abused a child/protected adult or placed a child/protected adult at risk from abuse.

In such circumstances this information must be passed to Social Work, the Police (Tel 0845 600 5 700) or the Children's Reporter's Service in accordance with [National Guidance for Child Protection in Scotland 2014](#).

It is important that all the Agencies mentioned above, who have legal responsibility for investigating such matters, do so without their actions being compromised by unauthorised investigations being undertaken internally.

Only once the matter has been fully investigated by the Service, with support from HR, it may be determined there is a need to pursue procedures in relation to making a referral to the PVG Lists. The two PVG lists are lists of individuals barred from doing regulated work with either children or protected adults. For information on the referral process please refer to the [Protection of Vulnerable Groups Referral Procedure](#).

10. EXISTING EMPLOYEES WITH PVG SCHEME MEMBERSHIP – CONSIDERATION FOR LISTING

If Disclosure Scotland are considering listing an existing employee with PVG Scheme membership, then in the first instance they will contact the Lead Counter signatory to check that the individual is working at Aberdeenshire Council. Should the Lead Counter signatory confirm this is the case, Disclosure Scotland will then write to indicate that the employee is being put “under consideration for listing,” along with the date. The Lead Counter signatory will inform the relevant manager of the service

Consideration must be given as to whether to allow the individual to continue undertaking regulated work whilst the Disclosure Scotland assessment by Scottish Ministers is being undertaken. It is not a criminal offence to allow the individual to continue in the regulated work. The matter must be discussed with the employee and a risk assessment undertaken. This should consider the circumstances of the case and the individual’s work. It may be appropriate to adjust the employee’s duties until the Disclosure Scotland assessment is complete.

When an individual is being considered for listing, this fact is added to their Scheme Record.

It should be noted that it can take several months for Scottish Ministers to decide in relation to being listed or not. If the outcome of the consideration process is that the individual is placed on one or both lists, then they must be removed from the regulated work. This barring may result in their employment being terminated.

If the outcome of the consideration for listing process is that the individual is not barred, Aberdeenshire Council will review the case and action may be taken under the Council’s disciplinary Procedure.

If the outcome of the consideration process is that the individual is not barred, then they should not be treated any differently than they were before. Any temporary change to duties due to the consideration process should cease unless there were other reasons for the change in duties.

Should there be any exceptional cases which require specialist consideration; these will be escalated to the Determination Panel to assist with deciding.

Correspondence from Disclosure Scotland in relation to a “under consideration for listing” will be held electronically and securely by HR, whilst the consideration case is ongoing.

If the outcome of the consideration process is that the individual is placed on one or both lists, then they must be removed from doing that kind of regulated work. Failure to remove the individual from the appropriate post is a criminal offence.

Following an outcome of the individual being listed, this will be placed in their personnel file.

11. FOREIGN NATIONALS AND INDIVIDUALS WHO HAVE WORKED OVERSEAS

Applications from suitability qualified individuals who have lived outside of the UK are encouraged; however, obtaining criminal conviction information can prove more difficult.

Disclosure Scotland works under UK legislation and has no authority to obtain criminal history information from other countries. Therefore, where an individual has spent a period of three months or more overseas within the last five years the Council’s [Overseas Criminal Record Checks Procedure](#) must also be followed, in addition to this procedure.

12. WORKERS ON CONTRACT FOR SERVICES/AGENCY WORKERS/SELF-EMPLOYED/SOLE TRADERS

The Council currently uses several workers on types of contracts to undertake work with children and/or protected adults. Please refer to the HR/Payroll system which identifies whether the post requires a type of Disclosure Scotland check.

Services must ensure that:

- The supplier is aware of their responsibility to obtain the correct, competent and a recent – within the last 6 weeks - Disclosure Scotland check for workers.
- This responsibility is applied consistently for all workers.
- Work must not start on the contract until the appropriate Disclosure Scotland check has been obtained and an assessment is made by the employer to assess their suitability to work on that contract.
- The Supplier must satisfy the council that they are either a registered body with Disclosure Scotland, which should be verified with Disclosure Scotland by the service, procurement, or the commissioning team.

- Alternatively, the supplier would require to inform the name of the Umbrella body they are engaging to undertake Disclosure Scotland checks on their workers. Again, this should be verified with Disclosure Scotland, Glasgow by the service, procurement, or the commissioning team.
- Where the work is regulated work with Children/and or Protected Adults, the Supplier will be required to undertake a PVG check in respect of an Individual prior to being placed on the contract. The Supplier will require as a [Registered body with Disclosure Scotland](#) to undertake this check, or have the check undertaken on their behalf by a registered [Umbrella body with Disclosure Scotland](#). The provider must confirm prior to the individual/commencement of the contract in writing to Aberdeenshire Council, that they have undertaken the/these checks.
- Where the work is **not** regulated work with Children/ and or Protected Adults, the Supplier will be required to undertake a BASIC Disclosure Scotland check in respect of an Individual prior to being placed on the contract. The Supplier will undertake this check through being a [registered body with Disclosure Scotland](#) or obtain the check through an [Umbrella body registered with Disclosure Scotland](#). The provider must confirm prior to the individual/s commencement of the contract in writing to Aberdeenshire Council, that they have undertaken the/these check/s.
- All Council contracts must include a provision to the effect that the Council is entitled to require the withdrawal of any individual working in establishment where children and/or protected adults are normally found if suspected of being unsuitable to work with that specific group. Also, contract for services must stipulate the withdrawal should the worker became under consideration for listing.
- In the event of a contractor failing to comply with such a provision, then the contract must stipulate measures that will allow the Council to suspend a contract pending removal of the individual concerned.
- In addition, all contracts, which involve working in a childcare or protected adult position, must specify the obligation to comply with the Protection of Vulnerable Groups Scotland Act 2007.
- The Overseas Criminal Record Check procedures, applies to a Contract for Service.
- Advice should be sought from the HR (Legal & People) or Commercial Team, (Legal and People) prior to issuing contractual documentation.

13. UPDATING YOUR PVG DETAILS AND LEAVING THE PVG SCHEME

If you are a member of the PVG scheme, your membership lasts for life unless you choose to leave the scheme. If you change your name, or gender you must legally within 3 months inform Disclosure Scotland of this change.

You should keep your record up to date if for example, you change jobs or move house. This means that Disclosure Scotland can contact you quickly if needed and information is sent to the right place.

If you stop doing regulated work and no longer need a PVG, you are free to leave the scheme. It is the responsibility of the employee to inform Disclosure Scotland.

Please click on the link [Manage your PVG membership - mygov.scot](https://mygov.scot)

14. INFORMATION RELATING TO EX-EMPLOYEES

In the event of the Lead Signatory receiving a letter asking if an employee still works for Aberdeenshire Council the Lead Signatory will contact Disclosure Scotland to advise them that the employee or volunteer no longer works for the Authority. The Lead Signatory will then dispose of the letter following the standard [Handling, Storage and Disposal of Disclosure/PVG Scheme Information](#).

Disclosure Scotland

Index of Documents

Procedure

Revision Date	Previous Revision Date	Summary of Changes
01-12-2009	-	Creation of all Documents
14-09-2010	01-12-2009	Two Sample Wording and one Form added to Resource Pack
01-08-2011	26-11-2010	Service Contacts updated
17-08-2011	01-08-2011	PVG Notice added, to be updated further at a later date
01-05-2012	17-08-2011	PVG Legislation Update
19-04-2013	01-05-2012	Amendments as a result of Audit
10-08-2015	19-04-2013	Format Update
31-05-2017	10-08-2015	Minor amendments
14-09-2018	31-05-2017	Amendments Audit 1702.
29-08-2022	14-09-2018	Audit 2207 - Guidance on the importance of checks being eligible only when permitted within the legislation. Updated to reflect Legal & People, National Guidance for child protection in Scotland and Leaving the PVG Scheme.
01-05-2024*		

**Full review (immediate update for changes to legislation prior to this date)*