

SERVITE HOUSING ASSOCIATION

**DISCLOSURE SCOTLAND
POLICY AND PROCEDURE**

Policy Guardian:	Corporate Services Manager
Author:	HR Officer
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Diversity compliant:	Yes
Data Protection compliant:	Yes
Health & Safety compliant:	Yes

1 Introduction

- 1.1 Disclosure Scotland was established by Part V of the Police Act of 1997 will provide the means of applying the government's legislative and integrated system of protecting children and vulnerable adults. "Disclosure" is a service that helps organisations based in Scotland to make more informed recruitment decisions. This service will allow for the safe recruitment of staff and protect children and vulnerable adults against those who may wish to harm them.
- 1.2.1 The previous system was limited and information was held in different places, i.e. Police National Computer, DofH, DfES and local police forces. Disclosure Scotland has improved access, widened the availability of information and acts as a single point of entry for all checks.

2 Levels of Disclosure

- 2.1 There are 2 levels of Disclosure each representing a different level of check – Standard Disclosure and Enhanced Disclosure. Disclosure Scotland makes a charge per disclosure which the Association will pay.
- 2.2 Standard Disclosures are for positions exempted from the provisions of the Rehabilitation of Offenders Act and are primarily for posts that involve regular contact with children under 18 or vulnerable adults. They may also be issued for people entering certain professions that involve positions of trust, such as members of the legal and accountancy professions. A standard disclosure contains details of all convictions held on the Police National Computer including current and "spent" convictions, as well as details of any cautions, reprimands or final warnings.
- 2.3 Enhanced Disclosures are for positions that involve a greater degree of contact with children or vulnerable adults. In general the type of work might involve regularly caring for, supervising, training or being in sole charge of such people. This is the highest level of disclosure and includes checking records held by local police.

3 Obtaining a Disclosure

- 3.1 Disclosure Scotland enables organisations such as the Association to request successful applicants and existing staff apply for a Disclosure. All staff categories at the Association will be assessed individually to ensure the correct category of disclosure is obtained for each role.
- 3.2 Individuals applying to become a member of the Committee of Management will also be required to undertake a standard check as the position held is one of trust and gives them regular access to the employees and service users of the Association.

3.3 Volunteers and contractors working within the Association **may** also be required to undergo a check. The level will be assessed depending on the post. However, in most circumstances our contractors/volunteers will be supervised by a member of Servite staff and therefore a disclosure check will not be required.

4 Renewal of Disclosures

4.1 The Association will require all staff to reapply for the appropriate level of disclosure every 3 years or earlier in the event of a change of job role or promotion. The renewal of disclosures will be instigated by the HR Department.

4.2 All staff are under an obligation to notify the HR Department of any relevant criminal convictions incurred between Disclosures. This information will be treated in strictest confidence. It is our policy not to automatically dismiss an employee if it has been discovered that he/she failed to disclose an “unspent” or “spent” conviction. The Association will fully appraise the situation, including the risks involved to students, clients, the public and staff. Please contact the HR department for a form to complete if you need to advise us of any criminal convictions incurred.

5 The Rehabilitation of Offenders Act

5.1 The Rehabilitation of Offenders Act requires the Association to assess the information obtained in a Disclosure against the requirements of the job. It is important that the Association does not exclude ex-offenders from jobs in the Association; neither must the Association persuade itself to employ ex-offenders for altruistic or social conscience reasons. The process must be fair and equitable and in the best interests of the Association.

5.2 In such cases where a criminal conviction has been brought to the Association’s attention either by the employee or via a Disclosure check the Association will consider the following before taking any action in relation to the employee’s position:

- The level of contact with children (under 18) or vulnerable adults.
- The level of close supervision the person receives.
- The responsibility for money or items of value.
- Whether there will be opportunities to re-offend at work.
- The seriousness of the offence.
- The length of time since the offence was committed.
- Whether the offence was a “one-off” and carried out when very young.
- Whether the person’s circumstances have changed.
- Whether the offence has been decriminalised by Parliament.
- The relevancy of the conviction.
- The employee’s track record.

6 Equal Opportunities

The Association operates in a competitive market and it is sensible not to exclude a large section of the labour market from possible employment within the Association. Disclosure Scotland must be seen as just part of the recruitment process and staff involved in recruitment must have an open mind and make objective assessments based on merit and ability to do the job.

7 Procedure

Recruitment of New Staff - Initial Application and short listing Stages

- 7.1 The Association recruitment adverts will carry a statement saying the candidates applying for posts will be subject to a disclosure check.
- 7.2 The Association application forms will carry a statement to the effect that a conviction will not necessarily be a bar to employment. Candidates will be told that the Association follows Disclosure Scotland Guidelines which are available on request.
- 7.3 Job descriptions will state whether the post requires a disclosure.
- 7.4 Candidates who apply for posts at the Association will be advised of the requirement for a Disclosure at the shortlisting stage in the letter inviting them to interview. As candidates are not always clear about whether they need to disclose convictions they will be advised that all convictions (whether spent or unspent), cautions, reprimands and final warnings need to be disclosed.
- 7.5 The successful candidate will be asked to apply for the Disclosure by completing a Disclosure Application Form.
- 7.6 The completed application form must be brought back to the member of the HR Department requesting the Disclosure together with appropriate original identity documents. This will normally be one of the following: Birth Certificate, Passport, Driving Licence (either with or without photograph), or a previous Disclosure. Once this evidence has been provided (and is deemed to be satisfactory) the authorised signatory will countersign the application and forward it to Disclosure Scotland. The Association will pay the fee.
- 7.7 Offers of posts will be subject to satisfactory receipt of a Disclosure. Staff will not be allowed to start in posts where they will have the sole responsibility for children under the age of 18 or a vulnerable adult until a satisfactory disclosure has been received.

8 Existing Staff

- 8.1 The HR Department will keep a record of the date that each disclosure has been received. The HR Department will notify staff in writing once the renewal date for their disclosure is due and will enclose the relevant Disclosure application form for completion.
- 8.2 The employee will be responsible for completing and returning the form to the HR Department together with one piece of photographic ID and 2 original pieces of evidence showing their current address within 1 month of the reminder letter being issued.
- 8.3 Upon receipt of the completed form and ID the HR Department will forward the Disclosure form to Disclosure Scotland. The Association will pay the fee.
- 8.4 In the event that the disclosure received shows a conviction that has not previously been disclosed to the Association by the employee then the Association will give due consideration to the appropriate action to be taken in accordance with Section 5 of this document.

9 Receipt/Storage of Disclosure Information

Once the Disclosure is received it will be kept securely in a locked cabinet/drawer for a period of 3 months. At the end of this period it will be shredded and a record will be kept detailing the employee's name, date of and unique reference number of disclosure, type of disclosure applied for and the position it related to. Disclosure information will never be kept on an individual's personnel file.

10 Usage of Information

Disclosure information will be used only for the specific purpose it has been requested. The only staff members entitled to see it will be the lead signatory and the named counter signatory involved in the recruitment process. The Finance Director is the lead signatory for the Association. The senior manager involved in the recruitment process will be informed if the Disclosure reveals a problem. It will not be shared with any other staff. The candidate/employee will be told who has been party to this information.

11 Other Sources of Relevant Information

Other relevant information and Guidelines are available from the following sources:

- Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005.
- Protection of Children (Scotland) Act 2003.
- The Children (Scotland) Act 1995.
- Sexual Offences (Amendment) Act 1998 (Section 3).
- Legislation outlined in Annex C of *Protecting Children and Young People Framework for Standards* (Scottish Executive, March 2004).

- *Protecting Children – A Shared Responsibility – Guidance on Inter-Agency Co-Operation* (Scottish Office 1998).
- *Protecting Children and Young People: The Charter* (Scottish Executive, March 2004).
- *Safe and Well: A Handbook for Staff, Schools and Education Authorities* (Scottish Executive 2005).
- *It's Everyone's Job to Make Sure I'm Alright* (Scottish Executive November 2002).

Other linked Association policies that are useful for reference include:

- Disclosure of Criminal Convictions Policy
- Data Protection Policy
- Disciplinary Policy and Procedure

12 **Revision of Guidelines/Procedure**

This policy and procedure will be reviewed as necessary by the HR Officer. The Association reserves the right to withdraw or amend this policy in conjunction with the recognised union and staff representatives. This policy is non contractual and is intended to provide a framework with which the Association can operate.