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# POLICY STATEMENT ON RECRUITMENT AND EMPLOYMENT OF EX-OFFENDERS

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## 1. INTRODUCTION

The Company complies fully with the Code of Practice, issued by Scottish Ministers, regarding the correct handling, holding and destroying of Disclosure information provided by Disclosure Scotland under Part V of the Police Act 1997 (“the 1997 Act”), for the purposes of assessing applicants' suitability for employment purposes, voluntary positions, licensing and other relevant purposes. The Company also complies fully with the Data Protection Act 1998 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure information and there is a written policy statement on these matters. *For further information, please refer to the Company's Disclosure Policy – Policy Statement.*

The Company has an obligation to take all necessary steps to ensure that employees recruited and employed by the Company do not possess a criminal conviction which renders them unsuitable for employment.

The aim of this policy statement is to ensure that those with a criminal record are not unfairly discriminated against, in breach of the appropriate legislation.

## 2. POLICY STATEMENT

This policy statement will detail the Company's responsibilities towards employing people who have criminal convictions.

The Company will not unfairly discriminate against applicants who have a criminal record. The Company will only take into consideration relevant convictions when assessing an applicant's suitability for a post.

In order to protect certain vulnerable groups the Company uses the Disclosure Scotland service to assess an applicant's suitability for positions that are exempted from the Rehabilitation of Offenders Act 1974. These include, but are not limited to, posts involving access to children, young people and vulnerable groups.

The Company is committed to promoting equality of opportunity for job applicants. Therefore, the possession of a criminal record will not necessarily prevent an applicant from employment with the Company. Consideration should be given to the nature of the conviction, the circumstances of the offence and the time that has elapsed since the offence. The relevance of the offence to the post and also whether or not the job is exempt from the provisions of the Rehabilitation of Offenders Act 1974 should also be taken into consideration.

For those positions where membership of the Protecting Vulnerable Groups (PVG) Scheme is required, all information relating to the post will contain a statement confirming this.

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### **3. JOBS COVERED BY THE REHABILITATION OF OFFENDERS ACT 1974**

The Company will not automatically refuse an individual employment because they have a previous criminal conviction.

If successful in attaining an interview, applicants will be asked to complete a Criminal Convictions Declaration form, disclosing unspent convictions, which they should bring with them to interview. The Company will not ask job applicants questions about spent convictions, nor expect them to disclose any spent convictions.

If an applicant discloses a conviction that is not spent, and the nature of the offence is relevant to the job for which they have applied for, the recruitment and selection panel will review the circumstances of the case. Depending on the circumstances of the convictions, the panel may, at its discretion, decline to select the applicant for employment.

If an employee is charged with, or found guilty of a criminal offence during the course of their employment with the Company, they will be required to immediately inform their Manager/Supervisor. If the nature of the offence is relevant to their job, the Company will review the circumstances of the case and the employee's contract of employment with the Company may be terminated in line with the appropriate procedures.

In addition, if the Company have investigated and concluded that an employee may have behaved in a harmful way towards vulnerable groups, the Company will be obliged to report this to Disclosure Scotland.

### **4. JOBS THAT ARE EXEMPT FROM THE REHABILITATION OF OFFENDERS ACT 1974**

If a vacancy is one of the excluded jobs listed in the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2015, the Company will require applicants to disclose all unspent convictions and certain spent convictions. In these circumstances, the Company will not refuse a particular individual employment unless the nature of the conviction is relevant to the job for which they have applied.

A full list of convictions that must **always** be disclosed and convictions that should be disclosed subject to rules is available on the Disclosure Scotland website: [www.disclosurescotland.co.uk](http://www.disclosurescotland.co.uk).

If appropriate to the post, the preferred candidate will be required to be a member of the Protecting Vulnerable Groups (PVG) Scheme.

If the successful candidate is already a member of the PVG Scheme, the Company will request a 'Scheme Record Update' to check their membership and vetting issues after a conditional offer of employment has been made. If the successful candidate is not a member of the PVG Scheme, a conditional offer of employment will be made dependent on them becoming a member of the scheme and having a satisfactory scheme record.

A person who is considered unsuitable to work with children or protected adults will be listed on one or both of the barred lists. It is an offence for a barred person, and for an organisation to permit that person, to undertake such work. Therefore, in these circumstances, the Company will withdraw any conditional offer of employment which has been made.

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If there is no evidence of convictions or any other related information, the applicant will be sent a letter confirming their appointment.

If there is evidence of convictions or any other related information, a representative from the Human Resources Section will make an initial assessment of whether the information provided has any potential relevance to the post. If the information contained does have potential relevance to the post, the Company will engage in discussions with the candidate before giving consideration to withdrawing a conditional offer of employment.

The suitability for employment of a person with a criminal record will vary depending on the nature of the job and the details and circumstances of any convictions. The discussion will cover these matters in order for the candidate's criminal record and circumstances to be addressed, in relation to the tasks they will be required to perform and the circumstances in which the work is to be carried out.

Having thoroughly considered these matters, the Recruiting Manager will make a balanced and objective judgement as to whether the applicant is suitable for the position. Legal advice may be sought before reaching a decision. If it is determined that the candidate is suitable for employment, they will be sent a letter confirming their appointment. If however, it is determined that the candidate is unsuitable for employment, a letter will be issued confirming the withdrawal of the conditional offer of appointment and detailing the reasons for this decision.

**5. USAGE**

The information obtained through this process will only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

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## **6. EQUALITY IMPACT**

The General Equality Duty was introduced by the Equality Act 2010 ('the Act'), requiring the Company, in the exercise of its functions, to have due regard to three needs. These are the need to:-

- Eliminate discrimination, harassment, victimisation and other conduct prohibited by or under the Act.
- Advance equality of opportunity between people who share a relevant protected characteristic and people who do not, by,
  - Removing or minimising disadvantage;
  - Meeting the needs of particular groups that are different from the needs of others; and
  - Encouraging participation in public life.
- Foster good relations between people who share a protected characteristic and those who do not.

The General Equality Duty covers the following protected characteristics; age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. It also covers the protected characteristic of marriage and civil partnership with regard to eliminating unlawful discrimination in employment.

This policy statement has been subject to Equality Impact Screening. A copy of the information is available from the Human Resources Section.

## **7. TRADE UNIONS**

The Trade Unions have been consulted regarding this policy statement in line with the recognised arrangements for such matters.

## **8. REVIEW**

This policy statement will be reviewed in line with the recognised arrangements, at the date outlined on the front cover of this document, or earlier if there is a business or legislative requirement to do so.

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