

**Disclosure Scotland Policy**  
**Policy Number: HR09**

<b>Policy Owner</b>	Senior People Partner		
<b>Responsible Executive</b>	People Director		
<b>Effective Date</b>	June 2026		
<b>Review Date</b>	June 2029		
<b>Approved By</b>	Executive Team		
<b>Date Approved</b>	June 2026		
<b>EIA Status</b>	<b>Initial Screening Conducted</b>	<b>Yes</b>	<b>No</b>
	<b>Full EIA Conducted</b>	<b>Yes</b>	<b>No</b>
<b>Posted on Website</b>	Yes		

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## **1. Introduction**

- 1.1 The policy and procedure provides advice and guidance to managers and colleagues of CVG on recruitment, the secure handling, use, storage and retention of Level 1 and Level 2 Disclosure check outcomes, as well as how to refer to Disclosure Scotland.

The type of Disclosure information CVG will have access to will include: details of a person's criminal records. A Level 1 check shows unspent convictions only, a Level 2 check shows unspent and certain spent convictions such as certain spent childhood convictions and children's hearing outcomes; any notification requirements (instructions someone must follow if they're placed on the Sex Offenders Register; unspent cautions and other relevant information held by the Police.

- 1.2 This policy applies to:

- All CVG colleagues and job applicants
- All colleagues have a responsibility to CVG to adhere to this policy and procedure
- All managers have a responsibility to apply the policy fairly and uniformly throughout CVG
- The People team have a responsibility for keeping the policy up to date and to ensure that it is applied consistently throughout CVG

## **2. Policy Principles**

- 2.1. CVG complies fully with the Code of Practice; issued by Scottish Ministers in connection with the use of information provided to registered persons and other recipients of outcomes of disclosures received from Disclosure Scotland under Part V of the Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007; for the purposes of assessing applicants' suitability for positions of trust.
- 2.2. CVG is committed to equality of opportunity, to following practices and to providing a service which is free from unfair and unlawful discrimination. We ensure that no applicant or colleague is subject to less favourable treatment on the grounds of an offending background or on the basis of conviction or other information revealed. We actively promote the right mix of talent, skills and potential and welcome applications from a wide range of backgrounds, including those with criminal records. The selection of candidates for interview will be based on skills, qualifications and experience.
- 2.3. As part of our approach to mainstreaming equality, CVG is committed to tackling discrimination on the grounds of race, colour, ethnic origin, sex, marital status, disability, sexual orientation, religion, age, HIV status and other grounds.
- 2.4. A copy of this policy will be provided to anyone who asks to see it.

## **3. Types of Disclosure**

### **3.1. Level 1 Disclosures**

A Level 1 Disclosure contains details of all convictions considered to be unspent under the Rehabilitation of Offenders Act 1974. They are available to anyone for any purpose, on payment of an appropriate fee. This type of disclosure is only issued to and applied for by applicants and pre-employment stage and colleagues. It is not job-specific.

### **3.2. Level 2 Disclosures**

The intermediate level of Disclosure is the Level 2 Disclosure. They are available for

those applying for positions listed under the Rehabilitation of Offenders Act 1974 (ROA) (Exceptions) Order 1975. A Level 2 disclosure contains details of all convictions on record, whether spent or unspent under ROA. This means that even minor convictions, no matter when they occurred, will be included. This disclosure is available on payment of the appropriate fee, subject to the application first being countersigned by the registered person and authorised signatory at CVG.

A Level 2 Disclosure is sent to the applicant or colleague with a copy sent to CVG also.

#### **4. Disclosure and Recruitment**

- 4.1. CVG will request an appropriate level of Disclosure for appropriate posts of trust (identified in the guidance notes to the Recruitment and Selection policy). We will use a Disclosure Scotland check only where this is considered proportionate and relevant to the particular position or type of work. This will be based on a thorough risk assessment of the position or work and having considered the relevant legislation which determines whether or not a Level 1, Level 2 or Level 2 with barred list check under the 1997 Act or where a Disclosure is deemed necessary for a post all recruitment packs, job adverts, website and any other appropriate literature will contain a statement that a Disclosure check will be required for this job role and will be requested from the appointed candidate being offered the position.
- 4.2. Where a Disclosure is to form part of the recruitment process, CVG will encourage all applicants selected for interview to complete a criminal record self-declaration form at an early stage in the application process. In line with the Rehabilitation of Offenders Act 1974, questions will only be asked about convictions which are defined as "unspent" in terms of that Act, unless the nature of the position is such that we are entitled to ask questions about an individual's entire criminal record.
- 4.3. At interview, or under separate discussion, we undertake to ensure an open and measured discussion on the subject of any offences or other matters that might be considered relevant for the position concerned. Failure to reveal information that CVG considers relevant to the position sought could lead to withdrawal of an offer of employment.
- 4.4. CVG will discuss any matters revealed in a Disclosure check with the subject of the check before withdrawing a conditional offer of employment. No individual, who has applied for a position that requires a Disclosure, will be permitted to commence employment before a satisfactory outcome of a Disclosure check is received.
- 4.5. CVG will ensure that Disclosure Information is only used for the purpose intended, only seen by those authorised to see it. Data retained as part of check is name, date, level of DS check and recruitment decision.
- 4.6. A record will be kept of the Disclosure number and date of Disclosure check for the duration of their employment.
- 4.7. When receiving a Disclosure check outcome which shows a conviction or other relevant information, CVG will carry out a risk assessment and will consider:
  - Whether the conviction or other information is relevant to the position concerned,
  - The seriousness of the offence,
  - The length of time since the offence was committed,
  - Whether the applicant/colleague has a pattern of offending behaviour,

- Whether the applicants/colleagues circumstances have changed since the offence took place.
- 4.8. Where such consideration is necessary and for the purposes of consistency, the Department Director, following consultation with the People team will consider information received and decide whether to appoint or continue employment.
- 4.9. Having a criminal record will not necessarily debar candidates from working for CVG. This will depend on the nature of the position, together with the circumstances and background of the offence(s).

## **5. Data Usage, Handling, Storage, Access and Retention**

### **5.1. Usage**

Disclosure information should only be used for the purpose for which it was requested and provided. The information provided by an individual for a position within CVG must not be used or disclosed in a manner incompatible with that purpose. Personal data should only be processed with the express consent of the individual. Individuals must be notified of any non-obvious use of the data, including further disclosure to a third party, the data controller, the purpose for the processing and any further relevant information. We will not share disclosure information with a third party unless the subject has given their written consent and has been made aware of the purpose of the sharing.

### **5.2. Handling**

CVG recognises that, under section 124<sup>1</sup> of the 1997 Act and sections 66 and 67 of the 2007 Act, it is a criminal offence to disclose disclosure information to any unauthorised person. Disclosure information is only shared with those authorised to see it in the course of their duties. We will not disclose information provided under subsection 113B(5)<sup>2</sup> of the 1997 Act, namely information which is not included in the certificate, to the subject/applicant.

### **5.3. Retention**

Disclosure Information will only be retained for longer than this period in exceptional circumstances, and in consultation with the Corporate Services Team or the Lead Counter signatory for CVG. For the 2007 Act, this will be the date an individual ceases to work for the CVG.

### **5.4. Disposal**

CVG will ensure that any Disclosure check outcomes that are shared electronically are destroyed in a secure manner i.e. hard deleted from shared mailbox or other work mailboxes.

### **5.5. Validity of Disclosure Checks**

All current employee Disclosure checks will be renewed every 3 years in line with recommendations from the Care Inspectorate.

### **5.6. Disclosure Failure**

The People team will review returns, which identify disclosures. If a new applicants' Disclosure check outcome identifies a conviction or other relevant information, a

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<sup>1</sup> The Serious Organised Crime and Police Act 2005 ("the 2005 Act") schedule 14, paragraph 12 amended section 124

<sup>2</sup> Subsection 163(2) of the 2005 Act inserted subsection 113B into the 1997 Act. Subsection 113B(5) of the 2005 Act replaces subsection 115(8) of the 1997 Act.

Disclosure meeting will be arranged, to consider the information received and carry out an appropriate risk assessment. At this meeting the full details of the disclosure will be discussed and the Department Director, following consultation with the People team, will consider all information received and decide whether this prevents the person from taking up employment within CVG..

- 5.7. Disclosures renewals must take places as outlined above. If a disclosure renewal returns a new conviction or other relevant information, a disclosure meeting is to be arranged with the Department Director and the People team. Once all the details are discussed, and a risk assessment completed, the Department Director will decide whether this prevents the employee from continuing in their employment within this role. Depending on the seriousness of the conviction, or other relevant information, the Department Director may need to immediately issue a precautionary suspension from work until the disclosure meeting has been held.
- 5.8. All employees requiring disclosure checks must inform their line managers of any conviction or other relevant information that may result in a disclosure return at renewal. Failure to inform a manager of being charged with a criminal offence during the course of employment with CVG may be considered as Gross Misconduct and may lead to dismissal.
- 5.9. A record will be kept of all disclosure meetings and the decision of these meetings will be communicated in writing to the relevant person (employee, applicant or contractor).

## Appendix A

CVG will carry out Level 1 disclosure checks for any job roles which meet the following criteria:

- Roles which have close personal interaction with customers. For example, Housing Officers, Revenue Officers and Technical Inspectors.
- Any role with a level of legal, compliance or security responsibility. For example, Finance, People or Business Improvement Manager roles.

### Level 2 Disclosure Checks

- Chairman (CVG Board)
- Vice-chair (CVG Board)
- Secretary (CVG Board)
- Chairman (Audit & Risk Committee)
- Chief Executive Officer (if they hold the Company Secretary Role)
- Director of Finance & Corporate Services
- Director of Development & Property
- Finance Manager
- People Director

***NB This list will be reviewed following any organisational changes***

### Policy Version History

Version	Substantive Change	Author of Change	Approval	Date	Website
1.0	Updated to remove reference to PVG Scheme as CVG do not perform any regulated work under this scheme.	L Beresford	Board	19/06/23	Yes
1.1	Updated to reflect re-naming of Level 1 and Level 2 Disclosures	L Beresford	Board		Yes