

LAIRG & DISTRICT COMMUNITY INITIATIVES (LDCI)

DISCLOSURE STATEMENT

Date approved by Board	November 2022
Last review date	November 2022
Review date	November 2024
Responsibility for monitoring and review of policy	Project Officer / Directors

1. Purpose

For the purpose of this policy, PVG Scheme Records, PVG Scheme Record Updates, Standard and Enhanced disclosures will be referred to as Disclosure Records.

This policy applies to regulated work with children/protected adults as defined in the Protection of Vulnerable Groups (Scotland) Act 2007.

This statement sets out the commitment of LDCI to ensure that any disclosure checks and the information provided by such checks for current or future staff are administered and processed appropriately and confidentially as required by the Disclosure Scotland Code of Practice. The code sets standards which govern the use of information provided to LDCI by Disclosure Scotland.

2. Statement

This outlines the policy of LDCI on the employment of ex-offenders and the use of criminal records checks. It is made available to all job applicants at interview stage and to any existing member of staff (including unpaid/honorary staff or volunteers) for whom a criminal records check is appropriate.

LDCI actively promotes equality of opportunity for all with the right levels of talent, skills and potential, and welcomes applications from a wide range of candidates, including those with criminal convictions. Having a criminal record will not necessarily debar an individual from working with LDCI. The nature of the position and the relevance to the job, together with the circumstances and background of the offences, will be considered very carefully by LDCI.

3. Background

Disclosure Scotland is a service designed to enhance public safety by providing potential employers and the voluntary sector with criminal history information on individuals applying for posts. Disclosure Scotland issues certificates known as 'Disclosures' which detail an individual's criminal convictions if applicable.

There are three types of Disclosure checks, Basic, Standard and Enhanced. The Serious Organised Crime and Police Act 2005 requires that an Enhanced Disclosure check should be obtained whenever an individual is working with children or vulnerable adults.

LDCI will make use of the Disclosure Scotland checks as part of the recruitment process to assess a candidate's suitability for posts involving regular contact with under 18s (children) and vulnerable adults. It may also be used for existing staff if LDCI deem it necessary and appropriate.

An Enhanced Disclosure contains details of both spent and unspent convictions and any cautions. In addition, it may show information from police records considered by the Chief Constable to be relevant to the position being sought

and which can be disclosed without harming the interests of the prevention or detection of crime. Additional information may be sent separately to LDCI and must be withheld from the job applicant in the interests of the prevention and detection of crime.

The Rehabilitation of Offenders Act 1974 allows an employer to ask any job applicant whether or not they have any unspent convictions. The employer can only ask about spent as well as unspent convictions if the job applied for is excluded from the 1974 Act by way of the Exclusions and Exemptions (Scotland) Order 2003. Posts identified as childcare and vulnerable adults jobs are excluded under this Order, and, therefore, subject to a Disclosure Scotland check.

4. Policy statement

Disclosure policy and procedure for the recruitment and selection of LDCI staff

- 4.1 All positions recruited in LDCI will be subject to a Basic Disclosure Scotland check.
- 4.2 Any position which LDCI deems to be likely to include contact with childcare or vulnerable adults will be subject to a Basic Disclosure Scotland check and will have this information clearly stated in the further particulars for the job at the advertising stage.
- 4.3 No appointment will be fully confirmed until LDCI receives a Basic Disclosure Certificate that it deems to be satisfactory to the position offered.
- 4.4 Failure to reveal information relating to unspent convictions (and spent convictions in the case of excluded occupations) could lead to withdrawal of an offer of employment or termination of employment.
- 4.5 Generally no individual will commence work with LDCI until a satisfactory disclosure has been received. However, in some instances employment may be commenced prior to the receipt of a formal Basic Disclosure Certificate. In such instances this will be offered subject to, and conditional upon, the receipt of a Basic Disclosure Certificate confirming the suitability of the candidate to the position. Contracts of employment can be terminated upon the receipt of unsatisfactory Basic Disclosure Certificate in instances when employment has been commenced.
- 4.6 LDCI will take into account the following when considering an applicant with a criminal conviction:
 - *Whether the conviction or other matter revealed is relevant to the position in question*
 - *The seriousness of any offence revealed*
 - *The length of time since the offence or other matter occurred*
 - *Whether the applicant has a pattern of offending behaviour or other relevant matter*
 - *Whether the applicant's circumstances have changed since the offending behaviour or the other relevant matters*
- 4.7 Successful candidates who have not spent the previous 12 months in the United Kingdom will have to provide appropriate documentation from the countries they have resided in.

5. The Rehabilitation of Offenders Act 1974

Spent and Unspent Convictions

The Rehabilitation of Offenders Act was introduced to prevent people being discriminated against in their employment because of an offence committed in their past. For employers, this means that people whose convictions are 'spent' should be treated as rehabilitated and as if their conviction had never taken place.

Rehabilitation periods are indicated in the table below:

Sentence	Rehabilitation period for people aged under 18 when convicted	Rehabilitation period for people aged 18 or over when convicted
Prison sentences of 6 months or less including suspended/deferred sentences, youth custody or detention in a young offender institution	3.5 years	7 years
Prison sentences of more than 6 months to 2.5 years	5 years	10 years
Borstal (abolished in 1988)	7 years	7 years

Detention centres (abolished in 1988)	3 years	3 years
Fines, compensation, probation, community service/community punishment orders, combination/community punishment and rehabilitation orders, action plan, curfew, drug treatment and testing, and reparation orders	2.5 years	5 years
Absolute Discharge/Admonished	6 months	6 months

There are certain sentences excluded from rehabilitation under the Act which are never considered spent. These are:

- A sentence of life imprisonment.
- A sentence of preventive detention.
- A sentence of imprisonment, youth custody or corrective training for a term exceeding 30 months.

LDCI reserves the right to undertake a disclosure check on existing staff if the nature of the activity dictates that it is appropriate and relevant e.g. activities involving school children; activities which come under the banner of social exclusion; research that potentially involves children or vulnerable adults etc. External organisations involved with these groups may, as a matter of course, expect any of our participating staff to be disclosed.

If an existing member of staff's disclosure check raises any cause for concern, the matter will be dealt with by the Trust as appropriate.

6. Training

The successful applicant will receive induction training, which will give an overview of the organisation to ensure they know its' purpose, values, services and structure. Relevant training and support will be provided on an ongoing basis and will cover information about their role, and opportunities for practicing skills needed for work. Training on specific areas such as health and safety procedures.

All staff and volunteers will have a designated supervisor who will provide regular feedback and support.

LDCI understands that in addition to making a referral (a written report) to Disclosure Scotland, child protection issues concerning workers (paid/unpaid), children and young people must always be referred to the child protection agencies (ie social work and/or police) for appropriate investigation. Any issues of a criminal nature will be reported to the police.

7. Validity / expiry of Disclosure information

The Disclosure Certificate is valid for the date of issue only, as it represents information to Disclosure Scotland on that date only.

For this reason, LDCI will always ask a job applicant (or current employee, where checks are being done on members of staff already in post) to make a new Basic Disclosure application.

6. Handling, holding and destroying Disclosure information

All information disclosed by Disclosure Scotland is sensitive and highly confidential and therefore, LDCI will handle this information in a responsible way in line with the Disclosure Scotland Code of Practice and the Data Protection Act.

Storage and access - Disclosure information will not be kept on an individual's personal file and will always be kept separately in a lockable, non portable storage device with access strictly controlled and limited to those who are entitled to see it as part of their duties.

Handling - in accordance with section 124 of the Police Act 1997, Disclosure information is only passed to those who are entitled to see it in the course of their duties. LDCI will maintain a record of all those to whom Disclosure information has been revealed. It is important to note that it is a criminal offence to pass this information to anyone who is not entitled to receive it.

Usage - Disclosure information is only used for the specific purpose for which it was requested and for which the applicant's consent has been given.

Retention - Disclosure information will not be kept longer than 90 days to allow for the consideration and resolution of any disputes or complaints. If, in very exceptional circumstances, it is considered necessary to keep the information longer than 90 days, Disclosure Scotland will be consulted about the validity of this.

Disposal - At the end of the retention period, Disclosure information will be destroyed by shredding. Disclosure information will be taken from secure storage and shredded immediately; it will not be placed in transitory storage e.g. confidential waste bag. No photocopies, digital images or computer-based copies of the Disclosure Certificate will be kept. However, details of the date the Disclosure Certificate was received, the unique reference number and the level of Disclosure requested will be kept on the individual's personal record.

Legal issues

- It is an offence for an individual who is barred to undertake the type of regulated work from which they are barred.
- It is an offence for an organisation to offer regulated work to someone who is barred or fail to remove a person from regulated work if they have been notified that they are barred.
- It is an offence for an organisation not to refer an individual to Disclosure Scotland where the grounds have been met.