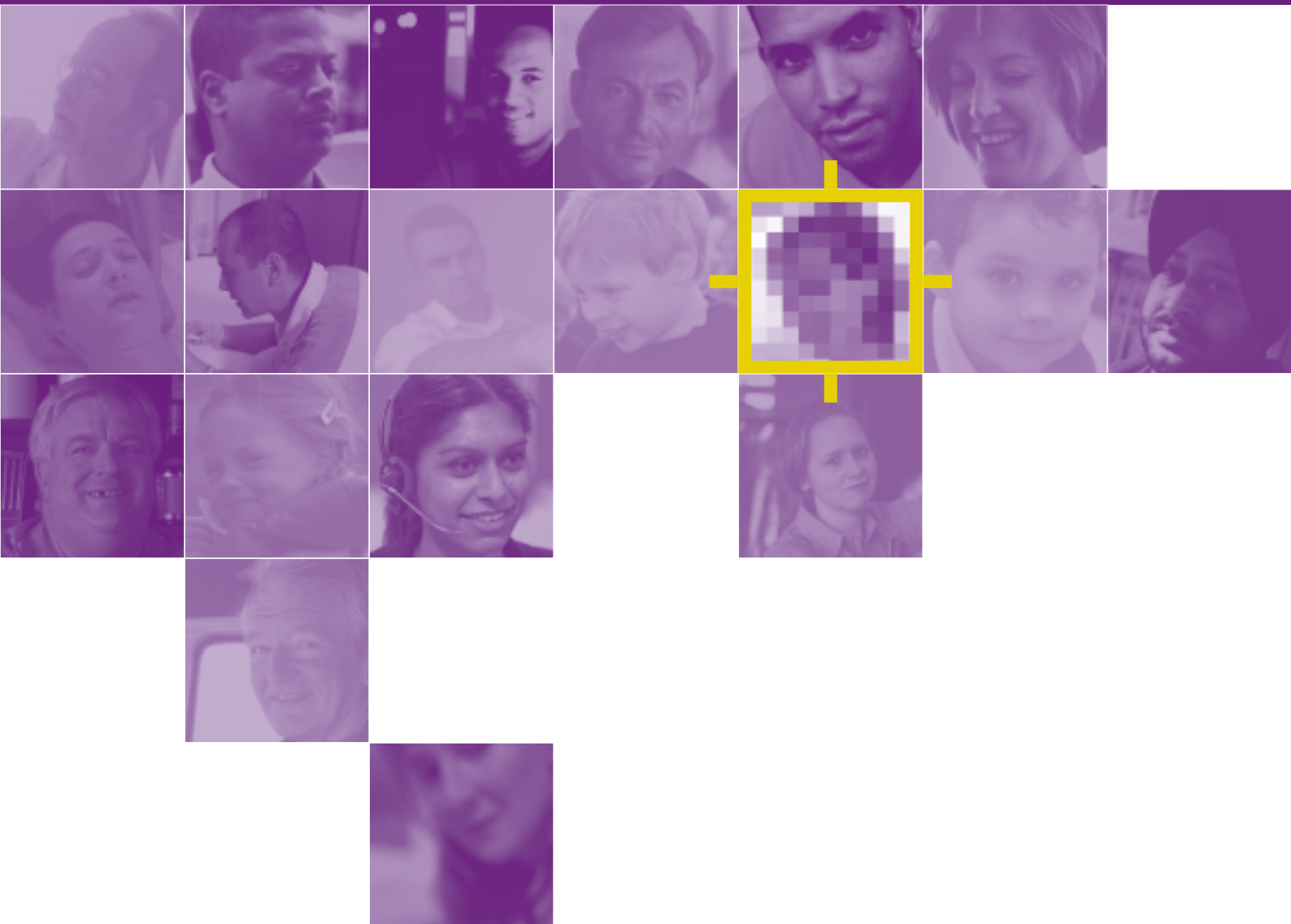


Code of Practice and Explanatory Guide

for Registered Persons and other recipients
of Disclosure Information



Contents

Code of Practice | Explanatory Guide



This publication contains the CRB Code of Practice and the Explanatory Guide. It is to be used by all Registered Persons and other recipients of Disclosure Information.

The Code of Practice is intended to ensure that information released in Standard and Enhanced Disclosures is used fairly - and to provide assurance to applicants that this is the case.

The Code also seeks to ensure that sensitive personal information is handled and stored appropriately and kept for only as long as is necessary. Guidance to employers on other matters will be issued separately.

Section 1 - Code of Practice

The Code of Practice is an important document that sets out the obligations that must be met by Registered Persons and other recipients of Standard and Enhanced Disclosure information.

CONTENTS

Introduction

Obligations of the Code:

1 Fair use of Disclosure information

2 Handling of Disclosure information

3 Assurance

4 Umbrella Bodies

5 Failure to comply with the Code of

Practice

Section 2 - Explanatory Guide

The Explanatory Guide supplements the information contained in the Code of Practice.

CONTENTS

1 Introduction

2 General principles and registration

3 Countersigning applications for Disclosures

4 Consideration of checks

5 Assurance

6 Terminating registration

APPENDIX Offences relating to Disclosure

Section 1

Code of Practice

Introduction | Obligations of the Code

Introduction

This Code of Practice is published under section 122 of the Police Act 1997 (“the Act”) in connection with the use of information provided to registered persons (“Disclosure information”) under Part V of that Act.

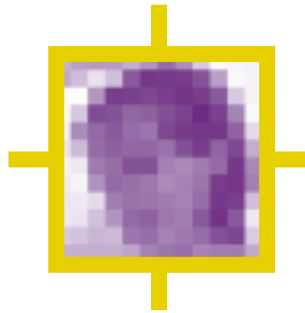
Disclosure information is information:

- contained in criminal record certificates under section 113 of the Act (which are referred to in this Code as “Standard Disclosures”); or
- contained in enhanced criminal record certificates under section 115 of the Act (referred to in this Code as “Enhanced Disclosures”); or
- provided by the police under section 115(8) of the Act.

Except where indicated otherwise, the Code of Practice applies to all recipients of Disclosure information – that is to say:

- registered persons;
- those countersigning Disclosure applications on behalf of registered persons; and
- others receiving such information.

Where reference is made to “employers”,



this should be read as including any person at whose request a registered person has countersigned an application, including:

- voluntary organisations and others engaging, or using the services of, volunteers; and
- regulatory and licensing bodies.

Further information in relation to the Code, and other matters relating to registered persons and others having an involvement with Disclosure information, is contained in an Explanatory Guide.



Obligations of the Code

These are as follows:

1. Fair use of Disclosure information

Recipients of Disclosure information shall:

- observe guidance issued or supported by the Criminal Records Bureau (“the Bureau”) on the use of Disclosure information – and, in particular, recipients of Disclosure information shall not unfairly discriminate against the subject of Disclosure information on the basis of conviction or other details revealed.

In the interest of the proper use of Disclosure information and for the reassurance of persons who are the subject of Disclosure information, registered persons shall:

- have a written policy on the recruitment of ex-offenders, so that a copy can be given to all applicants for positions where a Disclosure will be requested;
- ensure that a body or individual at whose request applications for Disclosures are countersigned has such a written policy and, if necessary, provide a model for that body or individual to use.

In order that persons who are, or who may be, the subject of Disclosure information are made aware of the use of such information, and be reassured Employers shall:

- ensure that application forms for positions where Disclosures will be requested contain a statement that a Disclosure will be requested in the event of a successful application, so that applicants are aware of the situation;
- include in application forms or accompanying material a statement to the effect that a criminal record will not necessarily be a bar to obtaining a

position, in order to reassure applicants that Disclosure information will not be used unfairly;

- discuss any matters revealed in Disclosure information with the person seeking the position before withdrawing an offer of employment;
- make every subject of a Disclosure aware of the existence of this Code of Practice, and make a copy available on request; and
- in order to assist staff to make appropriate use of Disclosure information in reaching decisions, make available guidance in relation to the employment and fair treatment of ex-offenders and to the Rehabilitation of Offenders Act 1974.

2. Handling of Disclosure information

Recipients of Disclosure information:

- must ensure that Disclosure information is not passed to persons not authorised to receive it under section 124 of the Act. Under section 124, unauthorised disclosure is an offence;
- must ensure that Disclosures and the information they contain are available only to those who need to have access in the course of their duties;
- must securely store Disclosures and the information that they contain;
- should retain neither Disclosures nor a record of Disclosure information contained within them for longer than is required for the particular purpose. In general, this should be no later than six months after the date on which recruitment or other relevant decisions have been taken, or after the date on which any dispute about the accuracy of the Disclosure information has been resolved. This period should be exceeded only in very exceptional circumstances which justify retention for a longer period.

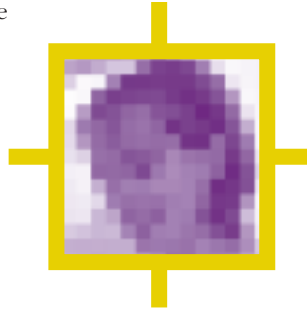
Registered persons shall:

- have a written security policy covering the correct handling and safekeeping of Disclosure information; and
- ensure that a body or individual at whose request applications for Disclosures are countersigned has such a written policy, and, if necessary, provide a model for that body or individual to adopt.

3. Assurance

Registered persons shall:

- co-operate with requests from the Bureau to undertake assurance checks as to the proper use and safekeeping of Disclosure information;
- report to the Bureau any suspected malpractice in relation to this Code of Practice or any suspected offences in relation to the misuse of Disclosures.



4. Umbrella Bodies

- (a) An Umbrella Body is one which has registered with the Bureau on the basis that it will countersign applications on behalf of others who are not registered.
- (b) Umbrella Bodies must satisfy themselves that those on whose behalf they intend to countersign applications are likely to ask exempted questions under the Exceptions Order to the Rehabilitation of Offenders Act 1974.
- (c) Umbrella Bodies must take reasonable steps to ensure that those to whom they pass Disclosure information observe the Code of Practice.

5. Failure to comply with the Code of Practice

The Bureau is empowered to refuse to issue a Disclosure if it believes that a registered person, or someone on whose behalf a registered person has acted, has failed to comply with the Code of Practice.

Disclosures may also be issued for people entering certain professions that involve positions of trust, such as members of the legal and accountancy professions

Section 2

Explanatory Guide

Introduction | General Principles and Registration



The Explanatory Guide should be read in conjunction with the Code of Practice.

1 Introduction

1.1 Purpose of this Guide

1.1.1 This guidance supplements the information in the Code of Practice published by the Secretary of State under section 122 of the Police Act 1997 (“the Act”).

1.2 Background and types of certificates (Disclosures)

1.2.1 The Criminal Records Bureau (“the Bureau”) is an executive agency of the Home Office which exercises the powers and fulfils the responsibilities of the Secretary of State under Part V of the Act.

1.2.2 The Bureau will issue three types of document:

- **criminal conviction certificates under section 112 of the Act** (referred to in this Guide as **Basic Disclosures (BDs)**).

These will be issued to individuals on request, subject to confirmation of identity.

A BD will contain details of convictions held in central police records which are not spent under the terms of the Rehabilitation of Offenders Act 1974 or will state if there are no such convictions. Any employer will be able to request a potential employee to apply for a BD.

- **criminal record certificates under**

section 113 of the Act (referred to in this Guide as **Standard Disclosures (SDs)**).

These will be available in respect of positions and professions within the terms of the Exceptions Order under the Rehabilitation of Offenders Act.

A Standard Disclosure will contain details of any spent and unspent convictions, as well as cautions, reprimands and warnings, recorded by the police centrally.

It will also indicate if there are no such matters on record.

If an individual is applying for a position working with children, the Standard Disclosure will also reveal whether the individual is barred from working with children by virtue of his/her inclusion on lists of those considered unsuitable to work with children maintained by the Department for Education and Skills and the Department of Health.

A Standard Disclosure will also reveal whether a person is barred from working with vulnerable adults by virtue of his/her inclusion on a list of those considered unsuitable to work with such people to be held by the Department of Health.

- **enhanced criminal record certificates under section 115 of the Act** (referred to in this Guide as **Enhanced Disclosures (EDs)**).

Enhanced Disclosures will apply to a subset of those within the terms of the Exceptions

Order. They will be available in respect of:

- principally those involved in regularly caring for, training, supervising or being in sole charge of those aged under 18, or of vulnerable adults; and
- certain other matters, including certain purposes in relation to gaming and lotteries; and adoption and fostering.

An Enhanced Disclosure will contain the same details as a Standard Disclosure. It may also contain non-conviction information from local police records which a chief police officer thinks may be relevant in connection with the matter in question.

1.2.3 Applications for Disclosures are made by the subjects of those checks, often at the request of employers. However, the Act places no general obligation on any person to apply for a criminal record check.

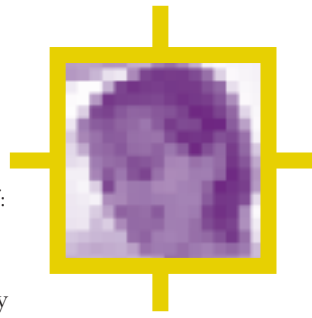
1.2.4 In this Guide, Disclosure information has the same meaning as in the Code of Practice – that is, it is information

- contained in Standard Disclosures; or
- contained in Enhanced Disclosures; or
- provided by the police under section 115(8) of the Act.

1.3 Good recruitment practice

1.3.1 The Bureau is committed to encouraging the spread of best practice in recruitment to ensure the best possible use of the information provided by the Bureau and to encourage safer recruitment. The establishment of the Bureau widens the availability of criminal record information. It is crucially important that people who have been convicted are treated fairly and are given every opportunity to establish their suitability for positions.

1.3.2 The existence of a comprehensive Disclosure service should not be regarded



as a substitute for any of the full range of existing pre-appointment checks, including taking up references and enquiring into the person's previous employment history. Disclosures should be seen as complementary to existing recruitment practice and should only be sought after a candidate has been provided with a provisional offer of employment or a voluntary position.

2 General Principles and Registration

2.1 Eligibility

2.1.1 Disclosures are designed to help employers make safer recruitment decisions. They are also available to persons exercising regulatory and licensing functions.

2.1.2 All recipients of Disclosure information ie,

- registered persons,
- those countersigning Disclosure applications on behalf of registered persons, and
- others receiving such information

must adhere to the Code of Practice.

2.1.3 If the Bureau believes that a registered person has:

- failed to comply with the Code of Practice, or
- countersigned an application at the request of a body or individual that has failed to comply with the Code of Practice,

the Bureau may refuse to issue a Disclosure.

2.2 Sensitivity of Disclosure information

2.2.1 All information disclosed by the Bureau is sensitive personal information. The Bureau publishes guidance covering the full range



of its services. This includes guidance to employers on how to make best use of the information contained within Disclosures to make sensible and fair decisions about the suitability of individuals for positions.

2.2.2 All recipients of Disclosure information must treat such information with care and responsibility. Such information may be particularly sensitive, and the arrangements made must fully recognise this.

2.3 The Register

2.3.1 Applications for Standard and Enhanced Disclosures must be countersigned by a person registered with the Bureau for this purpose. A person, in this context, includes a body. Persons applying to be registered will undergo a check to assess their suitability to receive information from the Bureau.

2.3.2 For some persons (or bodies) with a legitimate requirement to have access to Standard and Enhanced Disclosures, separate registration may not be appropriate for reasons of practicality or cost. They may, however, be able to gain access to the information they require by asking another, registered, organisation to countersign applications for Disclosures on their behalf. Such registered organisations are known as Umbrella Bodies.

2.4 Registration

2.4.1 Basic criteria

2.4.1.1 A person will be registered if he/she applies in writing, provides such information as may be requested by the Bureau, pays the applicable fee and meets the requirements summarised in sections 2.4.2 and 2.4.3 below.

2.4.2 Registered persons

2.4.2.1 A person applying for registration must be:

- a) a body, or
- b) a person appointed to an office by virtue of any enactment, or

- c) an individual who employs others in the course of a business.

2.4.2.2 Applicants must satisfy the Bureau that they are likely to ask exempted questions, under the terms of the Rehabilitation of Offenders Act, or that they are a body that is likely to countersign applications for Disclosures at the request of bodies or individuals asking exempted questions (see section 2.4.3).

2.4.3 Umbrella Bodies

2.4.3.1 Even if a body is not likely to ask exempted questions, it may apply for registration if it satisfies the Bureau that it is likely to countersign Disclosure applications at the request of bodies or individuals asking exempted questions. Such an organisation is known as an Umbrella Body.

2.4.3.2 In turn, the Umbrella Body must satisfy itself that those on whose behalf it wishes to countersign applications are likely to ask exempted questions.

2.4.3.3 Umbrella Bodies should also satisfy themselves that the relevant terms of the Code of Practice are observed by those on whose behalf they countersign applications. However, ultimate responsibility for compliance with those parts of the Code which relate to all recipients of Disclosure information rests with each recipient.

2.4.4 When and how to apply for registration

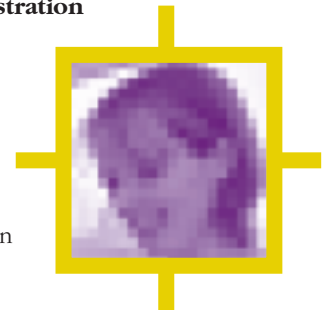
2.4.4.1 Applications for registration should be made in writing, in the form determined by the Bureau.

2.4.5 Identity

2.4.5.1 Each person applying for registration must provide such evidence of identity as may be requested by the Bureau.

2.5 Lead Countersignatory

2.5.1 Applicants for registration are required to nominate a Lead Countersignatory. The Lead Countersignatory will be required to countersign the initial application for registration.



2.5.2 The Lead Countersignatory should be a senior person within the organisation who has a measure of management responsibility for those making recruitment decisions. For example, a human resources director would be a suitable nominee although, clearly, many organisations may not have an obvious equivalent. The Lead Countersignatory will not necessarily be expected to countersign Disclosure applications with the frequency of other countersignatories.

2.5.3 The Lead Countersignatory will be the Bureau's principal point of contact on all matters connected with the registration and use of the Disclosure service. The exception is that results of individual Disclosure applications will be sent to the individual who countersigned the application.

2.5.4 A Lead Countersignatory must be assigned at all times. If a Lead Countersignatory leaves that position, a new Lead Countersignatory should be nominated as soon as possible.

2.5.5 A person who is the only countersignatory in an organisation (including a person who employs others in the course of a business and who is seeking registration) may countersign his/her own application for registration. He/She should indicate that this is the case in the application.

2.6 Confidentiality

2.6.1 The details of registrations are confidential and are not made public. However, those registered may wish to make some contact details available for members of the public or prospective recruits. This is particularly true for Umbrella Bodies.

2.7 Changes

2.7.1 Registered persons shall inform the Bureau promptly of any material changes to the details of their registration. The Bureau will make any necessary amendments according to published service standards.

2.7.2 Registered persons who consider that they are no longer likely to wish to countersign applications should notify the Bureau, so that they can be removed from the register.

2.8 Scotland

2.8.1 The Code of Practice and this Guide apply to those registering with the Bureau in England and Wales. Disclosure information supplied by the Bureau will include information about convictions and other matters in other jurisdictions within the UK. Employers offering positions only in England or Wales will therefore only need to register with the Bureau.

2.8.2 The Scottish Criminal Record Office (SCRO) will provide a broadly similar service in Scotland.

2.8.3 It is envisaged that those offering positions in England or Wales and in Scotland will wish to make applications for registration to the Bureau and to the SCRO, submitting applications according to the location of the position in question. This will require registration with both the Bureau and SCRO.

3 Countersigning Applications for Disclosures

3.1 Identity of the applicant

3.1.1 It is standard good recruitment practice for employers to satisfy themselves of the identity of those applying for positions. This is especially sensible in relation to sensitive posts, such as those working with children or vulnerable adults, to which Standard Disclosures and Enhanced Disclosures apply. And such checks will also be very helpful in ensuring that identity is correctly established for the purposes of Disclosure. Although the Bureau will conduct its own identity checks, these are no substitute for thorough identity checks by employers. Application forms for Disclosures should

indicate the checks undertaken.

3.1.2 There are no definitive rules about the type of evidence that is acceptable. But at least one item of photographic evidence (e.g. a current passport, or a new-style UK driving licence) would be desirable plus at least one item of address related evidence (e.g. a utility bill, or a bank, credit card or mortgage statement containing the name and address of the applicant).

In the absence of photographic evidence, a full birth certificate issued at the time of birth will carry more weight than one issued more recently.

3.1.3 Consistency of information with the information provided by the applicant in his/her application for the position tends to lead to a greater level of confidence in his/her identity.

3.1.4 Where an applicant claims to have changed his/her name by deed poll or any other mechanism (e.g. marriage, adoption, statutory declaration), the employer should see evidence of such a change.

3.1.5 Registered persons should encourage employers to seek documentary evidence, and to indicate on the application form the checks that have been made.

3.1.6 Disclosures should not be accepted by prospective employers as proof of identity.

3.2 Overseas applicants

3.2.1 Employers seeking to make use of Disclosure information should consider carefully before deciding whether to request a Disclosure in respect of an applicant with a substantial record of overseas residence. Applicants falling into this category include United Kingdom residents, whether British nationals or otherwise, with recent periods of overseas residence. Also in this category are those with little or no previous United Kingdom residence.

3.2.2 It may be difficult to obtain satisfactory evidence of identity in respect of such applicants. It may also be of limited value to ask for a Disclosure in respect of a person with very substantial gaps in their UK residence, or of individuals with little or no previous residence in the UK. The Police National Computer (PNC) contains a limited number of overseas convictions but this data is by no means comprehensive.

3.2.3 The Bureau will offer guidance to employers about the availability of criminal record checks in a variety of foreign countries. Employers are free to ask those with overseas residence to apply for the equivalent of a Disclosure, if available.

3.2.4 However, a substantial period of overseas residence should not preclude employers from considering applicants with such backgrounds. The Disclosure service should only be part of the overall recruitment process. In these situations, as for all other appointments, employers should engage in a full range of pre-appointment checks, beyond simple reference to Disclosures.

3.3 Policy in relation to persons with a criminal record

3.3.1 It is essential that those who have been convicted are treated fairly. All employers should have available a written policy on the recruitment of people who have been convicted in the past. Individuals and organisations making use of an Umbrella Body should be able to obtain a model from the Umbrella Body. A sample policy will be provided by the Bureau on request.

3.4 Information for applicants

3.4.1 Each applicant for a position should be given a copy of this policy at the commencement of the recruitment process.

3.4.2 Wherever appropriate, a statement expressing a willingness to consider persons with a criminal record on their merits should be included on application forms.



Application forms, or other recruitment documentation, should also carry a statement that the provisionally selected applicant for a position will be asked to apply for a Disclosure.

3.4.3 Applicants should be made aware of the Code of Practice and the employer's commitment to it. Umbrella Bodies should satisfy themselves that all employers on whose behalf they act are aware of the Code, and should take reasonable steps to ensure that they comply with it.

3.5 Guidance to staff

3.5.1 Staff involved in employment and other decisions using Disclosure information should receive guidance in the areas of the employment of persons who have been convicted in the past, the Rehabilitation of Offenders Act and the Exceptions Order thereunder, the Police Act 1997 and the Code of Practice.

4 Consideration of Checks

4.1 Factors to take into account

4.1.1 Employers should take into account a number of factors before reaching a recruitment decision. Other guidance issued by the Bureau will help employers to consider how best to use the information contained in Disclosures. Umbrella Bodies should make such guidance available to those at whose request they countersign applications.

4.1.2 Employers shall consider the following:

- whether the conviction or other matter revealed is relevant to the position in question,
- the seriousness of any offence or other matter revealed,
- the length of time since the offence or other matter occurred,
- whether the applicant has a pattern of offending behaviour or other relevant matters,
- whether the applicant's circumstances have changed since the offending behaviour or the other relevant matters, and
- the circumstances surrounding the offence and the explanation(s) offered by the convicted person.

4.1.3 Ultimately, it is the responsibility of the employer to decide whether to offer the applicant a position. However, recruiters should be fully aware of their duties under the provisions of the Criminal Justice and Court Services Act 2000 (see 5.4.3) and any other requirements stipulated in law or by regulatory bodies.

4.2 Validity

4.2.1 Disclosures carry no absolute guarantee of accuracy. Neither do they carry a pre-determined period of validity because a conviction or other matter could be recorded against the subject of the Disclosure at any time after it is issued. Employers are advised to make recruitment decisions as soon as possible after receiving their copies of Disclosures.

4.2.2 Where a prospective employee or volunteer disputes the information provided in a Disclosure, that dispute will need to be resolved before the employer can reach a recruitment decision. In the final analysis, if it should prove impossible to resolve matters by other means, a fingerprint check may be sought, via the Bureau, in order to determine whether the record in question relates to the applicant.

4.2.3 Where information has been released by the police to an employer in a separate letter, that information must not be discussed with the applicant.

4.3 Handling information

4.3.1 Security

4.3.1.1 Disclosure information must be kept securely, and only those entitled to see it in the course of their duties should have access.

4.3.1.2 Employers should have available a written security policy for the handling of Disclosure information. Individuals and organisations making use of an Umbrella Body should be able to obtain a model from the Umbrella Body. The Bureau will make available a specimen policy on request. In particular, employers should keep a written record of the names of those – whether in their organisation or outside – to whom Disclosure information has been revealed.

4.3.2 Storage

4.3.2.1 All recipients of Disclosure information must store Disclosures and other confidential documents issued by the Bureau in secure conditions. Documents should be kept in locked, non-portable storage containers. Keys or combinations for such storage units should not be freely available within an organisation and access must be restricted to named individuals. Wherever possible, access to rooms containing storage containers should be restricted to staff engaged in recruitment work.

4.3.3 Retention of Disclosure information

4.3.3.1 Once a recruitment decision (or other relevant decision – eg, for regulatory or licensing purposes) has been made, a recipient of a Disclosure must not retain it, or any associated correspondence, for longer than is necessary for the particular purpose. In general, this should be for a maximum of 6 months. This period allows for any dispute about the accuracy of a Disclosure or a recruitment decision to be made and considered.

4.3.3.2 In the case of a dispute, Disclosure information may need to be retained for a longer period, but in general this should be for no longer than 6 months after resolution of the dispute.

4.3.3.3 If, very exceptionally, it is considered necessary to retain Disclosure information for a longer period, the Bureau should be consulted. In dealing with such a case, the Bureau will need to give full weight to the rights of the subject of such information under Human Rights as well as Data Protection legislation.

4.3.3.4 The usual conditions in respect of storage and access (as detailed in 4.3.2.1.) should continue in place during this period. If an Umbrella Body has forwarded a Disclosure to an employer on whose behalf it has countersigned an application, the employer should either store the Disclosure securely according to the Code, or should return it to the Umbrella Body for storage.

4.3.3.5 Disclosures should be destroyed by suitably secure means - i.e., shredding, pulping or burning. They should not be kept in any insecure receptacle (e.g. a waste bin or confidential waste sack) whilst awaiting destruction.

4.3.3.6 No photocopy or other image of the Disclosure may be retained, nor must any copy or representation of the contents be made or kept. But it is advisable for recipients of Disclosure information to keep a record of the date of a Disclosure, the name of the subject, the type of Disclosure, the position in question, the unique number issued by the Bureau and the recruitment decision taken.

4.3.3.7 References in this section to Disclosures include relevant non-conviction information supplied by the police but not included on Disclosures.



5 Assurance

5.1 Assurance checks

5.1.1 The Bureau has a responsibility to check that recipients of Disclosure information act responsibly and use the information provided in an appropriate manner. Accordingly, the Bureau will monitor compliance with the Code by recipients of Disclosure information. All such recipients should co-operate with the Bureau in respect of any compliance enquiries and related matters.

5.1.2 In conducting assurance checks, the Bureau will seek to confirm that recipients of Disclosure information are complying with the Code of Practice, identify any breaches and provide for remedial action.

- In particular, the Bureau will seek to
- identify those no longer likely to ask exempted questions,
 - ensure that requirements in respect of security and retention of Disclosures are being met,
 - confirm that those registered are seeking the appropriate level of Disclosure in respect of those to be recruited,
 - ensure that information provided by the Bureau is being used fairly, and not unjustly to the detriment of persons with a criminal record, and
 - advise those registered on good practice in the use of Disclosure information.

5.2 Complaints and audits

5.2.1 Assurance checks may be instigated for one of two reasons.

5.2.2 Complaints

- 5.2.2.1 Checks may be made following complaints from:
- members of the public
 - any authority or organisation
 - countersignatories, if one reports that the

organisation of which he/she is a part, or to which he/she may be passing information, may be in breach of the Code of Practice or may be using information provided by the Bureau inappropriately.

5.2.3 Audits

5.2.3.1 The Bureau will conduct audits of those registered in order to check compliance and to provide advice on good practice where that would be helpful. Audits may also be undertaken at the request of employers.

5.2.3.2 The Bureau will provide written reports of each audit to the audited organisation, with recommendations, where this would be helpful. The Bureau may undertake further audits to check that any recommendations made as a result of the first have been implemented.

5.2.3.3 All recipients of Disclosure information must co-operate with audits.

5.3 Lost Disclosures

5.3.1 If Disclosure information (or information contained within a Disclosure) is lost, the registered person should inform the Bureau immediately. The Bureau will consider whether to issue a replacement, if this is requested.

5.3.2 Where an individual or body using the services of an Umbrella Body loses Disclosure information (or information from a Disclosure), the individual or body must immediately inform the Umbrella Body so that the loss can be reported to the Bureau.

5.4 Offences

5.4.1 Where the Bureau has reason to believe that a criminal offence may have been committed in respect of some aspect of Disclosure, it will consider passing details to the police.

5.4.2 Offences relating to misuse of Disclosure information are summarised in the Appendix.

5.4.3 The Criminal Justice and Court Services Act 2000 introduces further offences. It is an offence to apply for, offer to do, accept or do any work with children (paid or unpaid) if disqualified from working with children. Disqualification can arise from inclusion in either the list of those considered unsuitable to work with children, held by the Department of Health, or the Department for Education and Skills list of people who are barred from employment in the education sector. In addition, the courts can disqualify those convicted of serious offences of a sexual or violent nature from working with children by imposition of a disqualification order. It is an offence knowingly to offer a disqualified person work with children or to allow them to continue in such work.

5.4.4 There may be circumstances where a recipient of Disclosure information is asked to reveal details of a Disclosure to a third party in connection with legal proceedings for example, in a case submitted to an Employment Tribunal. In such instances, the recipient of Disclosure information should inform the Bureau of any such request immediately and prior to the release of any information.

6 Terminating Registration

6.1 Withdrawal from the register

6.1.1 A person who considers that he/she is no longer likely to wish to countersign applications for Disclosures should ask to be removed from the register. Any such request should be made to the Bureau in writing. He/She shall be free, thereafter, to apply to rejoin the register again, on payment of the set fee.

6.2 Removal from the register

6.2.1 The following summarises the provisions set out in the Police Act 1997 (Criminal Records) (Registration) Regulations 2001.

6.2.2 Where the Bureau considers that a registered person is no longer likely to wish to countersign Disclosure applications, it may remove that person from the register.

6.2.3 In such cases, the Bureau will write giving notification of the intention to remove the person from the register and reasons for this decision. The person shall also be informed of his/her right to make representations as to why he/she should not be removed from the register.

6.2.4 The registered person may make representations, in writing, within 28 days.

6.2.5 Having considered such representations, the Bureau will inform the registered person either:

- (a) that the Bureau remains of the view that the person is unlikely to wish to countersign applications, giving reasons, and that the person will be removed from the register at the end of a further period of 28 days; or
- (b) that the Bureau proposes to take no further action.

6.2.6 If no further representations are received within the period of 28 days, the Bureau may remove the person from the register at the end of that period.

6.2.7 The procedure described above will not apply where

- (a) the Bureau is satisfied, in the case of a registered person (other than a body), that the person has died, or is incapable, due to physical or mental impairment, of countersigning applications; or
- (b) the registered person has requested that the Bureau remove that person from the register.



Appendix

Offences relating to Disclosure

This Appendix is not a definitive guide to the provisions of the Police Act. For an authoritative statement of the law, we recommend that professional legal advice is sought.

Registered bodies acting on their own behalf

A member, officer or employee of a body that is registered may only disclose Disclosure information

- in the course of his/her duties, and
- to another member, officer or employee of that body.

Registered bodies acting on behalf of others (Umbrella Bodies)

A member, officer or employee of a registered body that is acting at the request of an unregistered body, or at the request of an individual, may only disclose Disclosure information

- in the course of his/her duties; and either
- to another member, officer or employee within the Umbrella Body; or
- to a member, officer or employee of the body at whose request the Umbrella Body countersigned the application; or
- to the individual at whose request the Umbrella Body countersigned the application.

Unregistered bodies receiving Disclosure information from Umbrella Bodies

A member, officer or employee of an unregistered body at whose request an application is countersigned by another body which is registered (an Umbrella Body) may only disclose Disclosure information

- in the course of his/her duties, and
- to another member, officer or employee of the unregistered body.

An individual who is registered

An individual who is a registered person

may only disclose Disclosure information

- in the course of his/her duties; and
- to an employee of the individual, for the purpose of the employee's duties.

Likewise, an employee of a registered individual may only disclose Disclosure information

- in the course of his/her duties; and
- to another employee of the same individual.

Passing information in any other circumstances may be a criminal offence.

Subsequent use of information

If Disclosure information is disclosed to a person and constitutes an offence under the terms set out above, that person commits an offence if he/she then divulges the information to any other person.

Other circumstances in which disclosing Disclosure information would not be an offence

In addition to the circumstances set out above, information in a Disclosure may also be communicated in other specified, exceptional, circumstances, including in particular:

- with the written consent of the subject of the Disclosure;
- to a government department;
- to a person appointed to an office by virtue of any enactment;
- in accordance with an obligation to provide information under or by virtue of any enactment.

Similarly, Disclosure information conveyed by the police separately from a Disclosure (under section 115(8) of the Police Act 1997) may also be communicated with the written consent of the chief officer who provided the information.

