

Families First Recruitment with Convictions Policy and Self-Disclosure form

1. Introduction

- 1.1 This policy outlines Families First’s policy in relation to recruiting people with convictions.
- 1.2 We will comply with the Disclosure Scotland Code of Practice which can be found [here](#).

2. Protecting Vulnerable Groups Scheme

- 2.1 The [Protecting Vulnerable Groups \(PVG\) scheme](#) ensures that people whose behaviour makes them unsuitable to work with children and/or vulnerable adults are unable to do so.
- 2.2 We access the scheme through [Volunteer Scotland](#). The Office Manager is the lead signatory, and the Volunteer Coordinator and Deputy Manager are also signatories. As Families First ‘signatories’ they have to comply with Disclosure Scotland’s Code of Practice.
- 2.3 Under the scheme it is an offence for:
 - 2.3.1 An individual who is barred, to undertake the type of regulated work from which they are barred or to make an application to be considered for such work.
 - 2.3.2 Families First to offer regulated work to someone who is barred or to fail to remove a person from regulated work if they have been notified that they are barred.
- 2.4 All information disclosed at the application and recruitment stage is treated in strict confidence unless the ‘signatories’ feel the information poses a risk to others.

3. Criminal record checks

- 3.1 PVG checks do not apply to all roles within Families First; they only apply to ‘regulated work’. Disclosure Scotland has a definition of work that is regarded as “regulated” and that can be found [here](#). We ensure that all staff and volunteers have criminal record check suitable to their role.
- 3.2 The roles within Families First requiring different levels of criminal record checks are as follows:

Job title	Level of criminal record check
All staff working with vulnerable children/ adults	PVG
All trustees	
All volunteers working with vulnerable children/ adults	
Business Support team	Basic disclosure check

4. Processing criminal record checks

- 4.1 As part of the recruitment process, we request the appropriate level of criminal record check at the final stage of recruitment, when a position has been offered.
- 4.2 The Lead Signatory and counter signatories are responsible for carrying out the relevant checks before the employee, trustee or volunteer can have a role with Families First.
- 4.3 Failure to reveal information that is directly relevant to the position sought could lead to the offer of employment being withdrawn.
- 4.4 Following receipt of a clear criminal record check, a record will be kept that the check has been carried out and the date. All other records are destroyed securely in line with **Families First Data Protection policy**.
- 4.5 When we receive our copy of your certificate, we will compare it to the self-disclosure form which you have completed. If there are any differences between the details on the two documents, we will discuss this with you.
- 4.6 We need to risk assess any conviction or vetting information carefully to ensure there is no risk to our organisation or to those who use our services.
- 4.7 To ensure we carry out a fair and consistent practice when we assess any conviction or vetting information, we will consider the following criteria:
- Is the conviction relevant to the position being offered?
 - How serious was the offence?
 - How long is it since the offence took place?
 - Is there a pattern of offending behaviour?
 - Have the personal circumstances changed since the time of the offending behaviour?
 - How has the person become rehabilitated?
 - Is the person barred from the type of regulated work we need them to do?
- 4.8 If we determine that the information is relevant to the role, we may withdraw the offer of a role with Families First.
- 4.9 For those already in post, this may result in disciplinary action and could ultimately result in dismissal. The reason(s) for our decision will be fully explained.
- 4.9.1 Throughout disciplinary proceedings, the individual concerned will be:
- Treated fairly.
 - Informed of the case against them.
 - Given the opportunity to state their case before decisions are reached.
 - Given the opportunity to be accompanied at any formal meeting.
 - Provided with an explanation of any disciplinary action to be taken and the corrective action required, together with a timetable for necessary improvement. and the likely consequences of not making acceptable improvement.
 - Offered an appeal against any formal action.
- 4.9.2 An employee will not be dismissed for a first breach of discipline, except for cases of gross misconduct.

- 4.10** Where information has been detailed on the self-disclosure form but is not shared on the disclosure certificate, we must always disregard this information as this means that you have provided information that you were not required to share.

5. Self-disclosure guidelines

- 5.1** The rules around what you need to disclose are complex and it may be difficult to know what should and should not be disclosed. The criminal convictions guidance lists are provided by Disclosure Scotland and will be updated as Disclosure Scotland dictates. Our guidance is in the appendices as follows:

5.1.1 Appendix A - Self-declaration form - you should only tell us about unspent convictions, using the form in Appendix A. You should not tell us about any convictions which were gained before the age of 12, those which are spent and any which are not considered appropriate to disclose subject to exceptions.

5.1.2 Appendix B - Summary guidance for the self-disclosure of previous convictions & alternatives to prosecution in Scotland under the Rehabilitation of Offenders Act 1974 (“the 1974 Act”). If you are in doubt, you can seek legal advice (at your own expense) or you can withhold the conviction information until the appropriate level of disclosure is received.

5.1.3 Appendix C - Offences which must be disclosed on higher level disclosures. A list of offences that are made available for a longer period of time for roles which require a standard, enhanced or PVG disclosure (a minimum of 15 years for those aged 18 or over at the date of conviction and 7½ years for those under 18 at the date of conviction) with the opportunity to appeal for removal after the extended timeframe has passed.

5.1.4 Appendix D - Offences which are to be disclosed according to rules, lists offences that are made available on the disclosure certificate for at least the time that they are unspent and then an extended timeframe (up to a maximum of 15 years for those aged 18 or over at the date of conviction and 7½ years for those under 18 at the date of conviction) with the opportunity to appeal for removal once in the extended timeframe from becoming spent under normal circumstances until the extended timeframe has passed. After this time the offence will no longer be disclosed.

5.1.5 Appendix E – Disclosure periods: ordinary cases details the length of time you have to disclose a crime, whether you were over or under 18 years old at the time of conviction.

6. Data Protection

- 6.1** Any information disclosed will be treated in the strictest confidence and only people required to see the information, to help assess it, will have access to it.
- 6.2** There may be instances where we need to seek support or guidance externally (for example, from an HR consultant or solicitor). When this is necessary, we will not share any information which will identify you, only the information which we require support or guidance on.

7. Making a referral to Disclosure Scotland

- 7.1 In certain circumstances, we have to make a referral to Disclosure Scotland of any harmful behaviour that might affect whether the individual is allowed to work with children or protected adults. Guidance can be found [here](#).
- 7.2 The ground for harmful behaviour will be determined through using **Families First Disciplinary and Performance policy**.
- 7.3 The referral has to be made within 3 months of a decision being made and will be carried out by one of the 'Signatories' in discussion with Families First Manager.

8. Overseas police checks

- 8.1 Disclosure Scotland do not check the police records of overseas volunteers. Families First will follow this up with you and your country of origin.

9. Employee responsibilities to declare convictions

- 9.1 Once in post, any member of staff or volunteer who gains a new conviction, must inform their line manager immediately. If necessary, a referral will be made to Disclosure Scotland – see section 7 above.

10. Appeals

- 10.1 If you feel that the risk assessment has not been carried out appropriately or that our decision is unfair, you have the right to appeal.
- 10.2 Appeals should be made in writing to the Manager who will arrange for your appeal to be heard as soon as possible.

Appendix A

Self-Disclosure Form for Declaring Convictions – Scotland

The Rehabilitation of Offenders Act (Exclusions and Exceptions) (Scotland) (as amended)

The post that you have applied for requires a basic, standard or enhanced disclosure or is one where your normal duties include regulated work and requires a PVG disclosure in accordance with at least one of the following pieces of legislation:

- Rehabilitation of Offenders Act 1974 (as amended).
- Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 (as amended).
- Protection of Vulnerable Groups (Scotland) Act 2007 (as amended).
- Police Act 1997 (as amended).

You are therefore required to disclose certain convictions below but you should not tell us about any convictions which were gained before the age of 12. Having a criminal record will not necessarily be a bar to working or volunteering with us. We will consider any information disclosed fairly and in accordance with the requirements of Rehabilitation of Offenders Act 1974.

This guidance relates to recruitment in Scotland. If you are being recruited in England, Wales or Northern Ireland, you should refer to that country's guidance on what to disclose.

Data Protection Act 2018 and GDPR

The information given in this form will be treated in strict confidence. When completed, the document contains sensitive personal data as defined by the Data Protection Act and GDPR which will be used only for the purpose it was requested and handled in accordance with the Act.

Unspent Convictions

You must complete this section.

Do you have any unspent convictions? YES NO
If you have crossed yes, please provide details below.

All unspent convictions must be disclosed. Please provide details of any unspent convictions here:

Date	Court	Offence	Disposal

Spent Convictions

This section should only be completed following the guidance below, if you will be applying for a standard, enhanced or PVG disclosure you should not tell us about any convictions which were gained before the age of 12. Do not complete this section if you are applying for a basic disclosure.

The 2020 amendment order gives 2 lists of offences that may be disclosed for an extended period.

Convictions detailed in Appendix C should only be detailed if 15 years (if 18 or over at the time of conviction) or 7½ years (if under 18 at the time of conviction) from the date of conviction have not passed, unless you received a custodial sentence exceeding 48 months in which case you must always disclose this information. Those in appendix 4 should only be disclosed above if they are unspent.

If you have any convictions for offences detailed in these lists which are now considered to be spent in normal circumstances, you should not disclose these on this form, however, please be aware that if you are applying for a Standard, Enhanced or PVG disclosure, this information can be released on your certificate for longer than the normal rehabilitation period (see Conviction Disclosure Guidelines in Appendix B). Disclosure Scotland will notify you if you have any convictions which fall under this extended disclosure period as you can (if you wish) apply to have this information removed from your disclosure. Where such information is released, we will discuss this with you when we receive our copy of your disclosure. Please note that applying to have this information removed does not guarantee its removal, the final decision on this will be made by a Sheriff or using the review mechanism when it becomes available.

If you have any convictions detailed in Appendix C and the extended disclosure period has not passed, please provide the information here:

Date	Court	Offence	Disposal

Conviction Disclosure Guidelines

Minor conviction	Conviction detailed in Appendix C	Conviction detailed in Appendix D	A custodial sentence of more than 48 months
Will be detailed for the rehabilitation period as detailed in Appendix 2 and Appendix 5. The conviction will not be detailed after it becomes spent.	Will be detailed for a minimum of 15 years (7½ years if under 18 at the time of conviction) and then, if spent, the individual can apply to have the information removed.	Will be detailed for a minimum of the rehabilitation period and then potentially for up to 15 (or 7½ years if under 18 at the time of conviction) from the date of conviction. After the initial rehabilitation period and if spent, the individual can apply to have the information removed. The conviction will not be detailed after this period.	Never spent

Barred Lists

This section should only be completed if you will be applying for PVG disclosure or enhanced disclosure with list checks. Do not complete this section if you are applying for a basic, standard or enhanced disclosure without list checks.

I understand that my role involves regulated work and confirm that I am not barred from the relevant regulated work group(s).	
Signed	Date

Declaration

I certify that the information contained in this form is true and complete to the best of my knowledge and belief. I understand that any false information or omission in the information I have given may lead to the immediate suspension or termination of my volunteering or employment with the organisation.	
I confirm that I have read and understood this declaration.	
Full name	
Address	
Signed	
Date	

Appendix B

Summary guidance for the self-disclosure of previous convictions & alternatives to prosecution in Scotland under the Rehabilitation of Offenders Act 1974 (“the 1974 Act”)

(CLICK ON ARROW TO THE LEFT OF THE HEADINGS TO EXPAND THAT SECTION)

1. Disclosure Periods: Custodial sentences
2. Section 5 Rules Consecutive and concurrent sentences
3. Suspended sentences
4. Sentences imposed out with Scotland
5. What happens if a person gets a custodial sentence over 48 months?
6. Disclosure Periods: Non-custodial sentences
7. What happens if I have been convicted on an offence and also put on the Sex Offenders Register?
8. Children’s hearings
9. Alternatives to Prosecution (AtP)
10. Disclosure periods: Service Disciplinary Offences
11. Section 6 (the disclosure period applicable to a conviction)
12. Section 6(4) of the 1974 Act rule: Solemn proceedings
13. Section 6(5) to 6(5B) rule: Ancillary orders
14. Section 6(6) rule: Summary proceedings, service proceedings and convictions outside a Scottish court
15. What happens if I get another conviction for which an “excluded sentence” is imposed before my first conviction becomes spent?
16. What happens if I was given an excluded sentence and was convicted again?
17. What happens if I get an AtP before my first conviction becomes spent?
18. What happens if I was given a life sentence or an equivalent to a life sentence?
19. What happens if I breach a Community Payback Order (CPO), Drug Testing and Treatment Order (DTTO) or a Restriction of Liberty Order (RLO)?

Appendix C**Offences which must be disclosed on higher level disclosures**

The following link takes you to the Scottish Government website and a list of offences which if convicted of will be disclosed for a minimum period of 15 years, 7 ½ years if under 18 at the time of conviction.

[Offences that must be disclosed - mygov.scot](https://www.mygov.scot)

Once the above noted time periods have passed the applicant will be able to request the removal of the information from their disclosure.

For example – a 23-year-old convicted of robbery and given a custodial sentence of 18 months will have that automatically placed on their standard/enhanced/PVG disclosure for fifteen years. Once we pass 15 years from the date of conviction, they'll be able to request that the information be removed from their disclosure.

It is not an automatic removal; the applicant will be required to show why the conviction is no longer relevant.

Appendix D**Offences which are to be disclosed according to rules**

The following link takes you to the Scottish Government website and a list of offences which if convicted of will be disclosed for a period of 15 years, 7 ½ years if under 18 at the time of conviction.

[Offences that must be disclosed according to rules - mygov.scot](#)

Applicants will be able to lodge an appeal to have the conviction removed from their disclosure if the rehabilitation period set out in the Rehabilitation of Offenders act has been completed.

Unless the applicant has been jailed for more than 48 months then these offences will automatically be removed from being disclosed when the 15 / 7 ½ year periods have passed.

For example – a 23-year-old convicted of a breach of the peace and fined £100 will have that automatically placed on their disclosure for a year. For the 14 years after that they'll be able to request the removal of that conviction when they go through the disclosure process. The conviction will then be removed 15 years after the date of conviction.

Appendix E
Disclosure periods: ordinary cases

Sentence	Disclosure period – aged 18 or over	Disclosure period – aged under 18
A custodial sentence not exceeding 12 months	The term of the sentence plus 2 years	The term of the sentence plus 1 year
A custodial sentence exceeding 12 months but not exceeding 30 months	The term of the sentence plus 4 years	The term of the sentence plus 2 years
A custodial sentence exceeding 30 months but not exceeding 48 months	The term of the sentence plus 6 years	The term of the sentence plus 3 years
A custodial sentence exceeding 48 months	NEVER SPENT A review mechanism will be available in due course for relevant sentences over 48 months.	NEVER SPENT A review mechanism will be available in due course for relevant sentences over 48 months.
A fine	12 months	6 months
A compensation order under section 249 of the Criminal Procedure (Scotland) Act 1995	12 months	6 months
An order for endorsement made by a court in relation to an offence mentioned in schedule 2 of the Road Traffic Offenders Act 1988	5 years	2½ years
Absolute Discharge	Nil - become spent immediately on imposition.	
Admonishment	Nil - become spent immediately on imposition.	
Children's hearing discharge	Nil - become spent immediately on imposition.	
Juvenile Offenders where (a) send the person to an approved school, or (b) commit the person to the care of a fit person	n/a	One year from the date of conviction.

Note: these are the main disclosure periods and further disclosure periods can be accessed from the relevant legislation.