

**Self-Disclosure Form - Guidance**

The Ayrshire Community Trust treats all applicants fairly and consistently in accordance with the requirements of Rehabilitation of Offenders Act 1974 (as amended). We do not differentiate between paid and unpaid roles when applying. The assessment is based entirely on the requirements of the role and any information shared with us either through self-disclosure or contained in a disclosure certificate. The level of disclosure which we will access will be the appropriate level for the role (basic, standard, enhanced or PVG).

It is important to recognise that having a criminal record does not necessarily mean that someone cannot work or volunteer for our organisation.

We operate a fair recruitment process and will ensure anyone applying for, or holding a role in our organisation is given the opportunity to discuss any unspent convictions which they are required to tell us about.

As part of our recruitment process, the self-disclosure form should be completed and returned with application form. For paper applications the form should be returned in a separate sealed envelope and will only be opened if the candidate is provisionally offered the role subject to the outcome of the disclosure. For electronic applications the self-disclosure form will not be forwarded to the interview panel unless they are provisionally offered the role. Any self-disclosure forms for unsuccessful candidates will be securely destroyed without being opened.

The rules around what you need to disclose are complex and it may be difficult to know what should and should not be disclosed. We should, therefore, only be told about unspent convictions and relevant spent convictions, using this form. 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. There is a guidance document in Appendix 1 which will give you detailed information on how long a conviction is considered unspent and a table of disclosure periods in Appendix 4.

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.

Appendices 2 and 3 link to offences that are made available for a longer period of time for roles which require a standard, enhanced or PVG disclosure.

The offences in Appendix 2 are made available on the disclosure certificate for an extended timeframe (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.

The offences in Appendix 3 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.

In order to ensure there is no bias in our recruitment decisions, accessing the disclosure certificate will be the final part of our recruitment process and will only be requested when we have provisionally offered the role, subject to a satisfactory disclosure.

When we receive our copy of your disclosure 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 arrange to discuss this with you. We will not make any judgement on the reasons that information differs prior to our discussion as we understand that the rules around what information you should share with us is complex.

# How We Will Use Disclosed Information

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. There may be instances where we need to seek support or guidance externally (for example, from a 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.

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.

We do, however, need to risk assess any conviction or vetting information carefully to ensure there is no risk to our organisation or those who use our services. In order to ensure we carry out a fair and consistent practice when we assess any conviction or vetting information, we will take into account 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?

If we determine that the disclosed information is relevant to the role, we will withdraw the job or volunteering role offer. 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.

# Appeals

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. Appeals should be made in writing to Appeals should be made in writing to the Executive Director Kaileigh Brown, c/o The Ayrshire Community Trust, 27 Vernon Street, Saltcoats, KA21 5HE or emailed to info@tact.scot using subject heading ‘Recruitment Appeal’. All appeals should be submitted within 5 days and the appeal process should last no more than 12 working days.

**Spent Convictions**

This section should only be completed following the guidance below, if you will be applying for a standard, enhanced or PVG disclosure but 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, as amended in 2022, order gives 2 lists of offences that may be disclosed for an extended period.

Convictions detailed in Appendix 2 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 3 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 1). 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.

# Appendix 1

# Summary guidance for the self-disclosure of previous convictions & alternatives to prosecution in Scotland under the Rehabilitation of Offenders Act 1974.

**Contents of this document:**

(click on headings to jump to that section)

* [Disclosure Periods: Custodial sentences](#_Disclosure_Periods:_)
* [Rules Consecutive and concurrent sentences](#_Section_5_Rules)
* [Suspended sentences](#_Suspended_sentences)
* [Sentences imposed out with Scotland](#_Sentences_imposed_outwith)
* [Custodial sentence over 48 months](#_4._What_happens)
* [Children’s hearings](#_Children’s_hearings)
* [Alternatives to Prosecution (AtP)](#_Alternatives_to_Prosecution)
* [Disclosure periods: Service Disciplinary Offences](#_Disclosure_periods:_Service)
* [The disclosure period applicable to a conviction](#_Section_6_(the)
* [Solemn proceedings](#_Section_6(4)_of)
* [Ancillary orders](#_Section_6(5)_to)
* [Summary proceedings, service proceedings and convictions outside a Scottish court](#_Section_6(6)_rule:)
* [What happens if I get another conviction for which an “excluded sentence” is imposed before my first conviction becomes spent?](#_8._What_happens)
* [What happens if I was given an excluded sentence and was convicted again?](#_9._What_happens)
* [What happens if I get an AtP before my first conviction becomes spent?](#_What_happens_if)
* [What happens if I was given a life sentence or an equivalent to a life sentence?](#_What_happens_if_1)
* [What happens if I breach a Community Payback Order (CPO), Drug Testing and Treatment Order (DTTO) or a Restriction of Liberty Order (RLO)?](#_15._What_happens)

**Appendix 2**

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/offences-always-disclosed)

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 3**

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](https://www.mygov.scot/offences-disclosed-rules)

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.

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| --- | --- | --- |
| 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 SPENTA review mechanism will be available in due course for relevant sentences over 48 months. | NEVER SPENTA 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 Offenderswhere(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. |

# Appendix 4 – Disclosure periods: Ordinary cases

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