



# Disclosure Policy and Procedure

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## **Policy Statement**

The Disclosure Scheme, as provided for under Part V of The Police Act 1997, is designed to assist employers in the making of safer appointment decisions when recruiting and employing staff.

The information received from a criminal records check allows the College to determine whether the past behaviour of an individual would suggest that s/he is unsuitable for employment in a particular post. College will not, however, discriminate unfairly against any individual on the basis of any conviction or other details received from Disclosure.

Three types of Disclosure can be requested from Disclosure Scotland: Basic, Standard and Enhanced (see appendix two). The nature of the business undertaken by Moray College is such that it is felt appropriate to request Enhanced level Disclosures for all members of College staff.

## **1.0 INTRODUCTION**

### **1.1 Scope**

This procedure applies to all employees of Moray College Board of Management, and to all individuals who are offered employment with Moray College Board of Management.

### **1.2 Objective**

To explain the reasons why disclosure checks are undertaken; the process to be followed when undertaking such checks and the procedures in place for ensuring the correct handling, storage and retention of disclosure information.

### **1.3 Responsibilities**

It is the responsibility of all employees to disclose to the HR Section, in writing, and within 2 working days of knowing, of:

- any criminal conviction which has been imposed since the employee's last disclosure check or
- any criminal charge which has been imposed since the last disclosure check.

It is the responsibility of the Head of HR to ensure that all disclosure information is handled, stored and retained in line with this procedure.

It is the responsibility of the HR Officer to ensure the revision and maintenance of this procedure.

### **1.4 References**

Police Act 1997  
Data Protection Act 1998  
Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland)  
Order (SSI 2003/231)  
Protection of Children (Scotland) Act 2003  
Disclosure Scotland's Code of Practice and Explanatory Guide

## **2.0 DISCLOSURE PROCESS AND PROCEDURE**

### **2.1 New Appointments**

- 2.1.1 All applicants will be informed at the application stage of the recruitment process that College is exempt from the Rehabilitation of Offenders Act, and that an enhanced level Disclosure will be requested for all successful candidates. To this end, all applicants will be required to complete and sign the statement relating to previous spent and unspent convictions on the College application form.
- 2.1.2. Where an applicant has previous conviction(s), s/he will be asked to provide this information in a sealed envelope attached to the application form. This sealed envelope will be passed to the HR representative on the selection panel, and details will only be divulged on a need to know basis.
- 2.1.3. Failure on the part of an applicant to disclose previous conviction(s) when asked to do so will be viewed as a serious matter and may lead to the withdrawal of any offer of employment. It will be made clear to applicants, however, that the fact that an applicant has previous conviction(s) will not necessarily make them unsuitable for employment with Moray College.
- 2.1.4. All offers of employment with Moray College will be made subject to the receipt of an Enhanced Disclosure being obtained. No individual will be allowed to commence work in Moray College until an enhanced disclosure check has been undertaken. Where there is an urgent requirement for a post to be filled, the Principal can give his/her consent to allow the individual to commence work under strict supervision.
- 2.1.5. On receipt of the completed Disclosure application form, the Counter-Signatory will check the form, the identification submitted and will complete part E of the form. The form will then be sent to Disclosure Scotland for processing.
- 2.1.6. On receipt of the Disclosure certificate, the information will be handled and stored as detailed in paragraphs 3 and 4 below.

## **2.2. Staff Already Employed by Moray College**

All members of College staff have a responsibility as detailed in paragraph 1.3 above to inform College of any conviction or criminal charge, imposed since the date of his/her most recent Disclosure check.

All members of College staff will be required to complete an Enhanced Disclosure application every 3 years.

## **3.0 HANDLING DISCLOSED CONVICTIONS**

Where a Disclosure reveals convictions, a judgement will be made based on the nature of the offence; the time period that has elapsed since the offence was committed; the relevance of the conviction to the position applied for/held; any pattern of repeat offending behaviour. This judgement will be made by the Assistant Principal: Learning and Teaching, working with the HR Officer, and will be discussed with the individual concerned. Any relevant information offered by the individual concerned about the circumstances surrounding the offence being committed or any change in circumstances since the conviction will be taken into consideration.

## **4.0 HANDLING AND STORAGE OF DISCLOSURE INFORMATION**

- 4.1 Moray College does not use any information obtained through the Disclosure process for any purposes other than that for which it has been provided, namely for the purpose of ascertaining the suitability of an individual for a particular position.
- 4.2 The information obtained through the Disclosure process is sensitive, personal information, and as such will be handled responsibly. Once received, Disclosure certificates will be held no longer than 90 days, following which they will be securely destroyed. A record will be kept indicating that the individual has been Disclosure checked, but this record will not detail any sensitive information. This record will consist of the name of the employee; the post for which Disclosure was undertaken; the issue date of the Disclosure; the type of Disclosure obtained and the unique reference number of the Disclosure. This information is retained to ensure a clear audit trail.
- 4.3 All Disclosure information is kept in secure conditions. Documents will be kept in lockable, non-portable storage containers, the keys of which will be available only to the HR section.

More detailed information regarding the handling, use, storage and retention of disclosure information is included in Appendix One.

## **Appendix One**

### **THE SECURE HANDLING, USE, STORAGE AND RETENTION OF DISCLOSURE INFORMATION**

#### **General Principles**

1. Moray College complies fully with the Code of Practice, issued by Scottish Ministers, regarding the correct handling, holding and destroying of Disclosure information provided by Disclosure Scotland under Part V of the Police Act 1997 ("the 1997 Act"), for the purposes of assessing applicants' suitability for employment purposes, voluntary positions, licensing and other relevant purposes. It also complies fully with the Data Protection Act 1998 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure information and has a written policy on these matters. This policy is available to anyone who wishes to see it on request.

#### **Usage**

2. We use Disclosure information only for the purpose for which it has been provided. The information provided by an individual for a position within Moray College is not used or disclosed in a manner incompatible with the purpose. We process personal data only with the express consent of the individual. We notify the individual of any non-obvious use of the data, including further disclosure to a third party, identifying the Data Controller, the purpose for the processing, and any further relevant information.

#### **Handling**

3. Moray College recognises that, under section 124 of the 1997 Act, it is a criminal offence to disclose Disclosure information to any unauthorised person. We, therefore, only pass Disclosure information to those who are authorised to see it in the course of their duties. Moray College will not disclose information provided under subsection 113(B)(5) of the 1997 Act, namely information which is not included in the Disclosure, to the applicant.

#### **Access and Storage**

4. We do not keep Disclosure information on an individual's personnel file. It is kept securely, in lockable, non-portable storage containers. Access to storage units is strictly controlled to authorised and named

individuals, who are entitled to see such information in the course of their duties.

### **Retention**

5. We do not keep Disclosures or Disclosure information for any longer than is required after a recruitment (or any other relevant) decision has been taken. In general, this is no longer than 90 days. This is to allow for the resolution of any disputes or complaints. Disclosure information will only be retained for longer than this period in exceptional circumstances which justify retention for a longer period. The same conditions relating to secure storage and access will apply during any such period.

### **Disposal**

6. Once the retention period has elapsed, we will ensure that Disclosure information is immediately destroyed in a secure manner i.e. by shredding, pulping or burning. Moray College will ensure that Disclosure information which is awaiting destruction will not be kept in any insecure receptacle (e.g. a waste bin or confidential waste sack). We will not retain any image or photocopy or any other form of the Disclosure information. We will, however, keep a record of the date of issue of the Disclosure, the name of the subject, the Disclosure type, the position for which the Disclosure was requested, the unique reference number of the Disclosure and details of the recruitment decision taken.

### **Umbrella Bodies**

7. Before acting as an Umbrella Body (i.e. a body which countersigns applications for Standard or Enhanced Disclosures on behalf of another organisation), Moray College will take all reasonable steps to ensure that the organisation on whose behalf we are acting will comply with the Code of Practice, and in full accordance with this policy. We will also take all reasonable steps to satisfy ourselves that they will handle, use, store, retain and dispose of Disclosure information in full compliance with the Code of Practice, and in full accordance with this policy. We will also ensure that any body or individual at whose request applications for Disclosures are countersigned, has such a written policy and, if necessary, will provide a model policy for that body or individual to use or adapt for this purpose.

## **Appendix Two**

### **Levels of Disclosure**

Three levels of Disclosure can be requested from Disclosure Scotland.

#### **Basic Disclosure**

A Basic Disclosure is the lowest level of Disclosure, and is available to anyone for any purpose on payment of the appropriate fee. It contains details of convictions considered unspent under the Rehabilitation of Offenders Act 1974, or states that there are no such convictions. This type of Disclosure is issued only to the applicant and is not job specific or job related. It may be used more than once.

#### **Standard Disclosure**

A Standard Disclosure includes convictions held on central records, and records both spent and unspent convictions. A Standard Disclosure application must be countersigned by a registered person. Both the applicant and the Registered Body Countersignatory will receive a copy of the Disclosure.

#### **Enhanced Disclosure**

In addition to the details included in Standard Disclosures, Enhanced Disclosures may contain non-conviction information which a Chief Officer or Chief Constable may choose to disclose if they believe it to be relevant to the post in question. The application must be signed by a counter signatory, and both the applicant and the Registered Body will receive a copy of the Disclosure.