



Protection of Vulnerable Groups and Criminal Record Checks Policy

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Author:	HR Manager
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1 Policy Statement

- 1.1 The Caledonia Housing Association Group (“the Group”), comprises of Caledonia, Bellsmyre and Cordale Housing Associations. The Group partners are committed to providing a safe and protected environment for its staff, volunteers and service users at all times, therefore will comply fully with the Code of Practice, issued by Scottish Ministers, regarding the use of information provided to registered persons by Disclosure Scotland under Part V of the Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007, for the purposes of assessing individuals’ suitability for employment purposes and voluntary positions.
- 1.2 The Group partners will also comply fully with the Data protection Act 1998 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure information. Full details are contained within Appendix 2.
- 1.3 A Police Act disclosure check or Protecting Vulnerable Groups (PVG) Scheme Membership will only be requested where it is considered proportionate and relevant to the particular position or type of regulated work.
- 1.4 This policy applies to existing and prospective employees and volunteers of the Group depending on how the legislation applies to each partner organisation.
- 1.5 The legislation referred to in section 1.1 with regard to Police Act Disclosures or Protecting Vulnerable Groups (PVG) Scheme Membership applies fully to Caledonia Housing Association as it is a registered care provider which gives the Association the right to seek such checks.
- 1.6 The legislation as referred to above does not currently apply to Cordale or Bellsmyre Housing Associations.

2 Background

- 2.1 Posts which are determined to be undertaking “regulated work” as defined by the Protection of Vulnerable Groups (Scotland) Act 2007 will require applicants to join the PVG Scheme.
- 2.2 This means that applicants for such posts are required to declare convictions and they will be asked to complete a self-declaration as part of the application for employment process in addition to undertaking an appropriate Disclosure Scotland check.
- 2.3 Caledonia Housing Association has identified the posts which require PVG Scheme membership. Appendix 1 provides specific detail. This list will be regularly reviewed and may be updated if other roles fall within the scope of the requirements.
- 2.4 Posts which Caledonia Housing Association does not determine to be “regulated work” may still require an appropriate level Disclosure Scotland check under the Police Act 1997. This involves posts delivering care services

which do not fall within the criteria for “regulated work” but still involves work with vulnerable adults. Caledonia Housing Association has identified specific posts which meet this criteria. These posts are also listed at Appendix 1.

- 2.5 This means that applicants for such posts are required to declare convictions and they will be asked to complete a self-declaration as part of the application for employment process in addition to undertaking an appropriate Disclosure Scotland check.
- 2.6 Certain positions are exempted from the Rehabilitation of Offenders Act 1974 by the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2013. What this means is that applicants for such posts are required to declare certain convictions. In September 2015 and February 2016 the Scottish Government made changes to what conviction information needs to be disclosed. The rules are complex and detailed information can be found on the Disclosure Scotland website at www.disclosurescotland.co.uk

3 General Principles

- 3.1 The Group partners are committed to equality of opportunity and to providing an environment that is free from unfair and unlawful discrimination and will not discriminate unfairly against the subject of a Disclosure check on the basis of conviction or other information revealed. The Group partners will only use the Disclosure information for the purposes for which it has been provided.
- 3.2 The relevant work within the Group related to the PVG Act is only concerned with protected adults therefore the remainder of the policy will only include reference and definitions relating to protected adults.
- 3.3 The legislation makes it an offence for an organisation to employ a person who is barred from regulated working with protected adults and for an individual to put themselves forward for regulated work whilst barred.

4 Pre-Employment Disclosure Checks

- 4.1 The appropriate Disclosure Scotland check will be requested where it is considered proportionate and relevant to the particular post.
- 4.2 Where a Disclosure check is deemed necessary for a post, applicants will be made aware of this via the job advert and further particulars of the post and it will detail what level is required; i.e. Standard Disclosure or PVG Membership.
- 4.3 The Group partners undertake to ensure an open and measured discussion on the subject of any offences disclosed or other matters that might be considered relevant for the post under consideration.
- 4.4 Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment or dismissal.

4.5 Under no circumstances will prospective employees who have access to adults covered by the legislation within this policy, commence employment without a satisfactory Disclosure Scotland check being received.

4.6 In the instance of seeking to recruit an individual who has lived overseas it may be necessary to access criminal records held another country as a Disclosure check through Disclosure Scotland may not provide a complete picture of an individual's criminal record. The HR team can advise if this circumstance arises.

5 The Provision of Care Services

5.1 In accordance with The Regulation of Care (Requirements as to Care Services) (Scotland) Regulations 2002, Group partner organisations as relevant, shall not employ a person in the provision of a care service "who has been convicted, whether in the United Kingdom or elsewhere, of any offence which is punishable by a period of imprisonment of not less than 3 months and has been sentenced to imprisonment (whether or not suspended or deferred) for any period with the option of a fine".

6 Retrospective and Future Disclosure Scotland Checks

6.1 In line with accepted good practice, retrospective Disclosure Scotland checks will be undertaken for relevant employees.

6.2 Furthermore, Protecting Vulnerable Group Scheme Record Updates will be sought on a 3 yearly basis.

6.3 Renewal of Standard Disclosures will be undertaken on a 3 yearly basis.

7 Handling Disclosure Records

7.1 Disclosure information is used only for the purpose for which it has been provided.

7.2 Disclosure Scotland counter-signatories within the HR team are responsible for processing, monitoring and handling all Disclosure Scotland Information.

7.3 It is recognised that it is a criminal offence to disclose Disclosure Information to any unauthorised person. Disclosure information will therefore only be shared with those who are authorised to see it in the course of their duties.

7.4 However it is noted that an individual can share their own record.

8 Action taken in the event of a disclosure containing conviction information

8.1 Applicants are advised that a conviction will not necessarily be a bar to obtaining employment. The circumstances of each case will be considered on its own merits.

- 8.2 In certain circumstances, liaison may take place with the Care Inspectorate and/or Scottish Social Services Council (SSSC) before a decision is taken to appoint or not appoint.
- 8.3 The Group partners shall use and consider the contents of Disclosure Scotland checks when making recruitment decisions.
- 8.4 Where a Disclosure check contains convictions, reprimands, warnings, cautions or other relevant information – the Group shall make a judgement upon whether or not to proceed with an appointment.
- 8.5 Primarily, and above all, consideration shall be given to the risk or potential risk presented to vulnerable adults and service users by the information presented.
- 8.6 In assessing the information and assessment of risk, the Association shall consider a range of factors including, and not restricted to:
- the type and nature of conviction, warning, caution etc.;
 - the pattern and timescale of previous offences, in particular, whether the offence is of a nature that presents particular concern for the welfare of tenants and service users such as violence, convictions of a sexual nature, theft or fraud;
 - whether a declaration has been made on the self-declaration form that is consistent with the information provided on the Disclosure certificate;
 - further information from the applicant on the details of the conviction(s), warning(s), caution(s) etc.;
 - the date of the conviction, warning, caution etc., and whether there has been repeat offending;
 - any other factors considered relevant by the Association in assessing the risk to tenants and service users.
- 8.7 Any applicant who fails to self-disclose any previous convictions that are subsequently found on a Disclosure Scotland certificate will generally be deemed not fit for employment unless there is an acceptable explanation.
- 8.8 The final decision on whether to appoint shall lie with the relevant Director who will consult with the HR Manager.
- 8.9 Details of the decision to proceed with the appointment (and not the Disclosure certificate or a photocopy or other image of the certificate shall be securely retained on the individual's personnel file, including;
- the type of Disclosure (i.e. basic, standard, PVG certificate)
 - the issue date of the Disclosure
 - the unique Disclosure number
 - the name and subject of the Disclosure
 - the position applied for;
 - the recruitment decision taken and by whom

- 8.10 Existing employees who are required to undertake retrospective Disclosure checks and future Disclosure checks every three years will be required to provide a self-disclosure. This will be followed up by requesting the relevant disclosure check from Disclosure Scotland. If a Disclosure check containing conviction information is received in this instance, the process described at point 8.6 will be undertaken and appropriate action taken.

9 Notifications of consideration for listing or barred individuals

- 9.1 The relevant Group partner will be notified about individuals who are doing regulated work who are placed under listing in respect of work with protected adults. The individual is not barred during the consideration process therefore can continue to be employed, however the situation will be discussed with the individual and a risk assessment carried out.
- 9.2 It is an offence for an individual to work with vulnerable adults if they have been barred and appear on the list. It is also an offence for the Group to employ an individual who appears on the list.
- 9.3 In these circumstances the Group partner will take appropriate action which may result in an offer of employment being withdrawn or an existing employee being subject to the disciplinary procedure and subsequent dismissal.
- 9.4 Where a notification of listing is received from Disclosure Scotland the Group partner will discuss the matter with the individual concerned in accordance with details above. The HR Manager along with the relevant Director will make the decision concerning appointment and or future employment.

10 Referral of Individuals to Disclosure Scotland

- 10.1 The PVG Act places a duty on organisations to refer individuals to Disclosure Scotland in certain circumstances where it believes that an employee undertaking regulated work has done something to harm a protected adult. Referral of individuals would follow circumstances where the impact of the act is so serious that the organisation has or would permanently remove the individual from regulated work.
- 10.2 Where it is identified that an employee should be referred to Disclosure Scotland, the HR Manager will gather the appropriate information and complete the referral paperwork in line with Disclosure Scotland requirements.
- 10.3 Where it is determined that an individual should be referred to Disclosure Scotland, the Care Inspectorate and SSSC will also be informed. The Scottish Housing Regulator guidance on notifiable events will also be followed.

11 Types of Disclosure Scotland checks

- 11.1 *Basic Disclosure*: is available for any purpose. This is not occupation specific and is applied for by an individual themselves. It only sets out information with respect to convictions that are unspent under Rehabilitation of Offenders Act 1974. These are not sought within Group partner Associations.

- 11.2 *Standard Disclosure:* is available for positions which are exempted from the Rehabilitation of Offenders Act 1974. This contains convictions held on central records and covers both spent and unspent convictions under the 1974 Act.
- 11.3 Standard Disclosures will be relevant for some posts within Caledonia Housing Association which undertake work related to registered care services which do not fall within the scope of the PVG scheme. Standard disclosures will not be required for Bellsmyre and Cordale Housing Associations.
- 11.4 *PVG Scheme Membership:* is for posts which are defined as “regulated work” with “protected adults” and confirms that an individual is not barred from regulated work or being considered for listing.
- 11.5 PVG Scheme Membership is relevant for posts within Caledonia Housing Association only.
- 11.7 The list at Appendix 1 shows the range of posts and the relevant Disclosure Scotland check required for each. This list will be kept under review.

12 Data Protection and Confidentiality

- 12.1 The Group partners comply fully with the Disclosure Scotland Code of Practice on the secure handling, use, storage and retention of Disclosure/Scheme membership information. Full details are set out in Appendix 2.

13 The role of Caledonia Housing Association’s HR Team

- 13.1 The HR department will support Operational Managers and Directors across the Group on all aspects of this policy by:
- ensuring the necessary checks are undertaken for all new relevant appointees;
 - ensuring checks are carried on existing staff who are transferring into a post requiring a check;
 - helping to identify posts and job content that may constitute relevant work;
 - ensuring no regulated work is undertaken before PVG Scheme membership is obtained or an existing PVG Scheme membership is updated;
 - commencing checks at the application and interview stage and obtaining the necessary information to allow the full application to be processed;
 - ensuring that checks are carried out only when necessary;
 - ensuring that the processes and procedures regarding disclosure are robust and meet the legal requirements
 - ensuring that appropriate records are maintained;
 - making referrals to Disclosure Scotland as appropriate via the lead signatory;
 - giving guidance and support to Operational Managers/Directors;
 - keeping up to date with legal and statutory matters in relation to Disclosure checks, including the Code of Practice.

14 Payment for Disclosure checks

- 14.1 The Group will meet the cost of Disclosure checks and PVG Scheme membership for applicants and employees in permanent and fixed term positions.
- 14.2 Individuals engaged on a supply staff basis will be required to pay the cost of the relevant Disclosure check themselves.
- 14.3 As a registered body with Disclosure Scotland, Caledonia Housing Association can apply for PVG Scheme membership for volunteers free of charge. However Standard Disclosure for volunteer posts are subject to a charge which will be met by the Volunteer Scheme.
- 14.4 The Group reserves the right to review the position re payment of fees at any time.

15 Policy Review

- 15.1 This policy will be reviewed regularly to ensure it keeps abreast of any changes in relevant legislation or guidance.

Appendix 1

Name of Registered Body: Caledonia Housing Association

Posts requiring a Police Act Disclosure certificate or PVG membership (legislation applies due to registered care services delivered directly by the Association).

Job title	Where position is based	Disclosure level	Legislative Provision
Asset Management Director	Office	Standard	The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 – Schedule 4, part 2, para 9 – provision of a care service
Asset Manager	Office	PVG	PVG Act Schedule 3 – regulated work with protected adults
Benefits Officer	Office	PVG	PVG Act Schedule 3 – regulated work with protected adults
Business Services Director	Office	Standard	The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 – Schedule 4, part 2, para 9 – provision of a care service
Care and Repair Assistant	Office	Standard	The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 – Schedule 4, part 2, para 9 – provision of a care service
Care and Repair Officer	Office	PVG	PVG Act Schedule 3 – regulated work with protected adults
Care Assistant	Scheme	PVG	PVG Act Schedule 3 – regulated work with protected adults
Catering Assistant/Cook – Sheltered/very sheltered)	Scheme	Standard	The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 – Schedule 4, part 2, para 9 – provision of a care service
Chief Executive	Office	Standard	The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 – Schedule 4, part 2, para 9 – provision of a care service
Clerk of Works (Planned Maintenance)	Office	PVG	PVG Act Schedule 3 – regulated work with protected adults
Cook (Care Home)	Scheme	PVG	PVG Act Schedule 3 – regulated work with protected adults
Deputy Manager (Care Home)	Scheme	PVG	PVG Act Schedule 3 – regulated work with protected adults
Domestic (Care Home)	Scheme	PVG	PVG Act Schedule 3 – regulated work with protected adults
Development Manager (relating to Care & Repair)	Office	PVG	PVG Act Schedule 3 – regulated work with protected adults
Energy and Efficiency Officer	Office	PVG	PVG Act Schedule 3 – regulated work with protected adults
Estates Operative	Scheme	Standard	The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 – Schedule 4, part 2, para 9 – provision of a care service
Estates Supervisor	Scheme	Standard	The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 – Schedule 4, part 2, para 9 – provision of a care service

Finance Manager	Office	Standard	The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 – Schedule 4, part 2, para 9 – and part 1, para 3
Finance/IT Director	Office	Standard	The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 – Schedule 4, part 2, para 9 – provision of a care service
Head of Support Services	Office	PVG	PVG Act Schedule 3 – regulated work with protected adults
Home Help	Scheme	PVG	PVG Act Schedule 3 – regulated work with protected adults
Home Help Coordinator	Scheme	PVG	PVG Act Schedule 3 – regulated work with protected adults
Housing Manager	Office	PVG	PVG Act Schedule 3 – regulated work with protected adults
Housing Officer (Neighbourhood)	Office	PVG	PVG Act Schedule 3 – regulated work with protected adults
Housing Officer (Sustainment)	Office	PVG	PVG Act Schedule 3 – regulated work with protected adults
Housing With Care Assistant	Scheme	PVG	PVG Act Schedule 3 – regulated work with protected adults
Housing With Care Deputy Manager	Scheme	PVG	PVG Act Schedule 3 – regulated work with protected adults
HR Assistant	Office	Standard	The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 – Schedule 4, part 2, para 9 – provision of a care service
HR Manager	Office	Standard	The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 – Schedule 4, part 2, para 9 – provision of a care service
HR Officer	Office	Standard	The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 – Schedule 4, part 2, para 9 – provision of a care service
Local Area Coordinator (Housing Support)	Scheme	PVG	PVG Act Schedule 3 – regulated work with protected adults
Maintenance Officer	Office	PVG	PVG Act Schedule 3 – regulated work with protected adults
Maintenance Team Leader	Office	PVG	PVG Act Schedule 3 – regulated work with protected adults
Management Accountant	Office	Standard	The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 – Schedule 4, part 2, para 9 – provision of a care service
Neighbourhood Team Leader	Office	PVG	PVG Act Schedule 3 – regulated work with protected adults
Nightshift Care Assistant	Scheme	PVG	PVG Act Schedule 3 – regulated work with protected adults
Operations Director	Office	PVG	PVG Act Schedule 3 – regulated work with protected adults
Planned Maintenance Officer	Office	PVG	PVG Act Schedule 3 – regulated work with protected adults
Property Assistant	Office	PVG	PVG Act Schedule 3 – regulated work with protected adults
Registered Manager Care Home	Scheme	PVG	PVG Act Schedule 3 – regulated work with protected adults
Registered Manager Housing With Care	Scheme	PVG	PVG Act Schedule 3 – regulated work with protected adults

Scheme Assistant	Scheme	PVG	PVG Act Schedule 3 – regulated work with protected adults
Scheme Manager Sheltered	Scheme	PVG	PVG Act Schedule 3 – regulated work with protected adults
Scheme Manager Very Sheltered	Scheme	PVG	PVG Act Schedule 3 – regulated work with protected adults
Sleepover Assistant – Care Home	Scheme	PVG	PVG Act Schedule 3 – regulated work with protected adults
Sustainment Team Leader	Office	PVG	PVG Act Schedule 3 – regulated work with protected adults
Tenant Participation Officer	Office	PVG	PVG Act Schedule 3 – regulated work with protected adults
Volunteer Group Helper	Volunteer	Standard	The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 – Schedule 4, part 2, para 9 – provision of a care service
Volunteer Group Facilitator (in sole charge)	Volunteer	PVG	PVG Act Schedule 3 – regulated work with protected adults
Volunteer Befriender	Volunteer	PVG	PVG Act Schedule 3 – regulated work with protected adults
Volunteer Mini bus driver	Volunteer	PVG	PVG Act Schedule 3 – regulated work with protected adults
Volunteer IT support helper	Volunteer	Standard	The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 – Schedule 4, part 2, para 9 – provision of a care service
Volunteer Seated Physical Activities Helper	Volunteer	PVG	PVG Act Schedule 3 – regulated work with protected adults
Volunteer Handy person/helping hand	Volunteer	Standard	The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 – Schedule 4, part 2, para 9 – provision of a care service

*Supply posts in positions mentioned above will also require the relevant Disclosure Scotland check.

These lists will be kept under review and posts may be added or removed depending on how the work carried out configures with the legislation.

Appendix 2

Secure Handling, Use, Storage, Retention and Disposal of Disclosure Information

1 Introduction

- 1.1 The Code of Practice (“the Code”) is published by Scottish Ministers under section 122 of Part V of The Police Act 1997 (“the 1997 Act”). The Code sets out obligations for registered bodies, countersignatories and other recipients of disclosure information issued under the 1997 Act and the Protection of Vulnerable Groups (Scotland) Act 2007 (“the 2007 Act”).

2 General Principles

- 2.1 The Caledonia Group (“the Group”) comply with the Code and the 1997 and 2007 Acts regarding the handling, holding, storage, destruction and retention of disclosure information provided by Disclosure Scotland.
- 2.2 We comply with the Data Protection Act 1998 (“the 1998 Act”).
- 2.3 We will provide a copy of this policy to anyone who requests to see it.

3 Usage

- 3.1 We will use disclosure information only for the purpose for which it was requested and provided. Disclosure information will not be used or disclosed in a manner incompatible with that purpose. We will not share disclosure information with a third party unless the subject has given their written consent and has been made aware of the purpose of the sharing.

4 Handling

- 4.1 We recognise that, under section 124 of the 1997 Act and sections 66 and 67 of the 2007 Act, it is a criminal offence to disclose disclosure information to any unauthorised person. Disclosure information is only shared with those authorised to see it in the course of their duties. We will not disclose information provided under section 115(8) of the Act, namely information which is not included in the Disclosure certificate, to the subject/applicant.

5 Access and Storage

- 5.1 Disclosure information is kept securely, in lockable, non-portable storage containers. Access to storage units is strictly controlled and is limited to authorised named individuals, who are entitled to see such information in the course of their duties.

6 Retention

- 6.1 To comply with the 1998 Act, we do not keep disclosure information for longer than necessary. For the 1997 Act, this will be the date the relevant decision has

been taken, allowing for the resolution of any disputes or complaints, and no longer than 3 months. For the 2007 Act, this will be the date an individual ceases to do regulated work for this organisation.

- 6.2 We will not retain any paper or electronic image of the disclosure information. We will, however, record the date of issue, the individual's name, the disclosure type and the purpose for which it was requested, the unique reference number of the disclosure and details of our decision. The same conditions relating to secure storage and access apply irrespective of the period of retention.

7 Disposal

- 7.1 We will ensure that disclosure information is destroyed in a secure manner such as shredding. We will also ensure that disclosure information which is awaiting destruction will not be kept in any insecure receptacle (e.g. a waste bin or unlocked desk/cabinet).