

Code of Practice

Introduction

This Code of Practice is published under Section 122 of the Police Act (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 of "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 person; 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 other engaging, or using the services of, volunteers; and
- Regulatory and licensing bodies

Further information relating to the Code and other matters relating to registered persons and others having an involvement with the 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 the 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 Disclosure 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 applications 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 applications forms or accompanying material a statement to the effect that a criminal record will not necessarily be a bar to obtain the 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.
- 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 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 safe-keeping of Disclosure information;
- Ensure that a body or individual at whose request applications for Disclosures are counter-signed 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 safe-keeping 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 is 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.