

## Recruitment of Ex-Offenders Policy

### Statement of Intent

1. MG ALBA is dedicated to ensuring equal opportunities for all job applicants, irrespective of their background, including individuals with previous criminal records.
2. MG ALBA actively supports the rehabilitation of ex-offenders. We believe in giving people a second chance and helping them reintegrate into society and we recognise that employment plays a crucial role in reducing reoffending rates. We recognise that people with convictions can make valuable contributions to our workforce.

### Introduction

3. This policy outlines the approach MG ALBA takes in the recruitment of ex-offenders, in line with the Rehabilitation of Offenders Act 1974, as amended by the Management of Offenders (Scotland) Act 2019, and other relevant legislation. MG ALBA is committed to promoting equality of opportunity for all, and this policy ensures fair treatment of all applicants, including those with a criminal record.

### Scope

4. This policy applies to all recruitment activities for employees, volunteers, contractors, and any other individuals engaged by MG ALBA.

### Policy Statement

5. MG ALBA will not discriminate against any applicant on the basis of a conviction or other criminal record information that is unrelated to the duties of the position.
6. We will consider each applicant's circumstances on a case-by-case basis, ensuring a fair and objective assessment.
7. Information about an applicant's criminal record will only be requested and considered where it is relevant to the role being applied for.

### Legal Framework

8. This policy is governed by the following legislation:
9. Rehabilitation of Offenders Act 1974 (as amended): Establishes the concept of spent convictions and limits the disclosure of criminal records.
10. Management of Offenders (Scotland) Act 2019: Amends the Rehabilitation of Offenders Act and provides further protections for ex-offenders in relation to disclosure.
11. Equality Act 2010: Prohibits discrimination on various grounds, including past criminal convictions.

### Disclosure of Criminal Records

12. Basic Disclosure: Required for positions that do not involve significant risks or access to vulnerable groups. Only unspent convictions will be disclosed.
13. Standard Disclosure: Required for roles involving work with children, protected adults, or other vulnerable groups. Both spent and unspent convictions relevant to the position may be disclosed.

14. Enhanced Disclosure: Required for roles that involve a high level of responsibility and/or significant unsupervised access to vulnerable groups. This includes a more detailed check on an individual's criminal record.

#### **Assessment of Disclosure Information**

15. Relevance to Role: The relevance of a conviction or other criminal record information to the role applied for will be considered. Factors such as the nature of the offence, its recency, and its relevance to the role will be assessed.
16. Opportunity for Disclosure: Applicants will be provided with the opportunity to discuss their criminal record with the recruiting manager if any disclosure is relevant to the role.
17. Confidentiality: All information related to an applicant's criminal record will be treated in the strictest confidence and in accordance with data protection legislation.
18. MG ALBA complies with the Disclosure Scotland Code of Practice, issued by Scottish Ministers, in connection with the use of information provided to registered persons and other recipients of information by Disclosure Scotland under Part V of the Police Act 1997, or the Protection of Vulnerable Groups (Scotland) Act 2007 for the purposes of assessing applicants' suitability for positions of trust.

#### **Decision-Making Process**

19. Risk Assessment: If a conviction or other criminal record information is disclosed, a risk assessment will be conducted to determine whether the individual poses any significant risk to the organisation, its employees, or service users.
20. Objective Decision-Making: Decisions will be made based on the risk assessment, relevance of the offence to the role, and any mitigating circumstances. The final decision will be made by a senior manager in consultation with HR and, if necessary, legal counsel.

#### **Appeals Process**

21. Applicants who believe they have been unfairly treated due to their criminal record may appeal the decision. The appeal should be made in writing to the HR Adviser within 10 working days of the decision. The appeal will be reviewed by an independent panel, and a final decision will be communicated within 15 working days.

#### **Training**

22. All recruiting managers and HR personnel involved in the recruitment process will receive training on the Recruitment of Ex-Offenders Policy, relevant legislation, and how to conduct fair and objective assessments of applicants with criminal records.

#### **Review**

23. This policy will be reviewed every two years or sooner if required by changes in legislation or best practice.

Policy Owner: Office Manager

Date of Next Review: September 2026

## GUIDANCE

MG ALBA complies fully with the Disclosure Scotland Code of Practice, issued by Scottish Ministers – [Disclosure Scotland Code of Practice - mygov.scot](https://www.mygov.scot/disclosure-scotland-code-of-practice).

This deals with the use of information provided to registered persons and other recipients of information by Disclosure Scotland under Part V of the Police Act 1997, or the Protection of Vulnerable Groups (Scotland) Act 2007 for the purposes of assessing applicants' suitability for positions of trust.

The Rehabilitation of Offenders Act 1974 and Management of Offenders (Scotland) Act 2019 detail a process by which convictions become “spent” following a set time or “Disclosure Period” related to the severity of the offence. While a conviction is still within its disclosure period it is considered to be “unspent” and is made available to employers. The full list of Scottish Disclosure periods is available on the Government website.

It is during that time that it is legal to discriminate on the grounds of that conviction. This does not always mean that unspent convictions will be relevant to job roles and not all those who disclose a conviction will be excluded from employment. Once a conviction has passed its disclosure period then it will not be made available and become a “spent” conviction, it then becomes unlawful to discriminate on the grounds of this information.

Where there is access to vulnerable people or privileged information then posts may be listed as “Exempt” from the 1974 Act and the protections of spent convictions do not apply. When a post is exempt from the 1974 Rehabilitation of Offenders Act, the majority of roles will fall within the Protecting Vulnerable Groups (PVG) Scheme, this means that both spent & unspent information is available as well as Other Relevant Information (ORI) which has a bearing on the persons suitability for such roles. Some posts are still subject to Standard or Enhanced disclosure within specific circumstances & departments.

Where posts are within the PVG scheme, members must be deemed as fit person to work with Children or Vulnerable adults and can be members of either or both schemes. If an applicant is barred from the PVG system, they cannot undertake work with children or the vulnerable and it is an offence for them to seek work. MG ALBA will never employ anyone within the PVG system who has been barred from the scheme. When a post is within the PVG scheme it means that privileged information is made available in order that relevant assessment can take place in order to ensure the protection of Children & Vulnerable people. It will be made clear that although information on job applicants' previous convictions is made available it does not mean they will be unsuitable for employment.

## Procedure

We will use a higher-level disclosure check by Disclosure Scotland only where this is relevant to the particular position or type of regulated work. This will be based on a thorough risk assessment of the position or work and having considered the relevant legislation which determines whether a standard or an enhanced disclosure under the 1997 Act or a scheme record under the 2007 Act (the PVG scheme) is applicable.

Individuals will be made aware that:

- the nature of the position or work entitles us to ask about unspent convictions and certain spent convictions.
- where a standard or enhanced disclosure is deemed necessary, that the position or work will be subject to such a check by Disclosure Scotland
- where a scheme record under the PVG scheme is deemed necessary, that position will be subject to such a check by Disclosure Scotland

As a component of our recruitment process, we may include a self-declaration form for criminal records. We emphasise to individuals the crucial nature of honesty in their responses.

When completing the self-declaration form, an individual should reveal any unspent convictions in their name. The individual should also reveal a spent conviction for an offence included in Schedule A1 (Offences which must be disclosed subject to exceptions) of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 (as amended) unless, in respect of the Schedule A1 offence:

- i. the individual was under the age of 18 at the date of conviction and at least 7 years and 6 months have passed since the date of conviction, or
- ii. the individual was aged 18 or over at the date of conviction and at least 15 years have passed since the date of conviction

Individuals do not have to self-declare any other spent convictions, regardless of the role they have applied for. If a higher-level disclosure provided by Disclosure Scotland does contain information about a spent conviction for an offence other than an offence as set out above, the individual cannot be prejudiced by not having declared it previously.

This form will be returned under separate, confidential cover, to the HR Adviser. We guarantee this will only be seen by those who need to see it as part of the recruitment decision-making process. We will discuss any matter revealed in a standard or an enhanced disclosure issued under the 1997 Act or a scheme record issued under the 2007 Act with the individual subject of that disclosure before a decision on recruitment is made.

In instances where a role necessitates clearance by Disclosure Scotland and a conditional offer of employment made, such offer is contingent upon the satisfactory clearance provided by Disclosure Scotland. It is imperative that no employee be assigned to a position of trust until Disclosure Scotland has confirmed satisfactory clearance of relevant information

The Recruiting Manager will receive notification regarding the outcome of any Disclosure/PVG Scheme Record. In the event of a "No Trace" result, the HR Adviser will update the Recruiting Manager once all pre-employment checks are deemed satisfactory. Conversely, if the record contains any entries, a joint risk assessment will be conducted by the Recruiting Manager and the HR Adviser in consultation with the individual in question before any conditional offer is rescinded.

In accordance with Disclosure Scotland Guidelines, Disclosure information will be retained for a maximum 90-day period to allow for any dispute about the accuracy of a Disclosure or a recruitment decision to be made and considered. We will however keep a record of the issue date of the Disclosure information, the name of the subject, the date of birth of the subject, the type of Disclosure, the position in question, the unique number issued by the Disclosure Bureau and the recruitment decision taken.

### **Supporting Documents**

[Criminal Conviction Declaration Form.docx](#)