

Guidance Notes about Convictions, Cautions and Charges for the Church of Scotland Self Declaration Form.

Introduction

The Church of Scotland aims to ensure a safe Church and services for children and adults. All paid staff and volunteers are recruited safely and fairly. In order to assess your suitability for this post you must complete the Self Declaration Form.

Who needs to complete this form and what conviction information needs to be disclosed?

Everyone as part of being recruited to a voluntary or paid post working with children or protected adults in a Church congregation, Church project or CrossReach service.

New Rules: In 2018 the Scottish Government made changes about what conviction information needs to be disclosed. The new rules are complicated as illustrated by the official Disclosure Scotland wording about these changes:

1. Applicants are therefore required to disclose any unspent convictions or cautions and any spent convictions for offences included in Schedule A1, 'OFFENCES WHICH MUST BE DISCLOSED SUBJECT TO EXCEPTIONS' of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2018.

OFFENCES WHICH MUST ALWAYS BE DISCLOSED: see link below.

<https://www.mygov.scot/offences-always-disclosed/>

2. Applicants are not required to disclose spent convictions for offences included in Schedule B1, 'OFFENCES WHICH ARE TO BE DISCLOSED SUBJECT TO RULES' until such time as they are included in a higher level disclosure issued by Disclosure Scotland.

OFFENCES WHICH ARE TO BE DISCLOSED SUBJECT TO RULES: see link below.

<https://www.mygov.scot/offences-disclosed-rules/>

What we will do with the information

Ninety-three percent of the population do not have any criminal convictions, or what is called 'vetting information' under the PVG Scheme. See **Appendix 2** on page 4 for what is meant by convictions, cautions, charges etc. For the seven percent of people who do, we will compare the information that you provide on this form with your PVG Scheme Record. This will help us to assess whether the information has a bearing on your suitability to be appointed.

Conviction and non-conviction information is not looked at in isolation. It is viewed along with this Self Declaration form and references that you have submitted.

Having convictions will not automatically make you unsuitable for employment as a volunteer or paid member of staff, but we will assess the information that you provide to determine its relevance. We will take into account the nature of your offences, the sentence, the time that has elapsed since the last offence and changes that reflect how you have moved on in life etc.

We will only consider information about convictions, cautions and charges that are relevant to the post applied for e.g. a minor motoring offence 15 years ago is unlikely to have any relevance to being a pastoral care visitor for the congregation or a helper at a summer play scheme for children.

When assessing the suitability of a person for a position of trust, the Church is entitled to ask an applicant to reveal details of all convictions, whether spent or not. These positions of trust are set out in the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2018.

It is an offence for a person disqualified from working with children or disqualified from working with adults under the Protection of Vulnerable Groups (Scotland) Act 2007 to seek or accept offers of employment with those groups.

What if my PVG Scheme Record has a conviction or other information that may affect my suitability for the post I've applied for?

If your PVG Scheme Record shows that there is conviction or non-conviction information, cautions or charges, this will be compared with information on your Self Declaration form. If it is likely that the information affects your suitability for the post, in confidence, the information will be risk-assessed by a Church of Scotland group that meets in 121 George Street, Edinburgh, called the Recruitment Subcommittee. This consists of persons with experience and expertise in this area. This group will look at your Self Declaration form, the PVG Scheme Record, references and any other information to decide whether or not to recommend that you should be appointed.

If I have convictions, cautions or charges, how do I find out about the decision to employ me or not?

For church congregations your Safeguarding Coordinator will receive an email or letter to say that you are recommended or not recommended for appointment as a volunteer or paid member of staff. For posts within CrossReach their HR Department will notify the relevant CrossReach service about the decision to employ or not.

What if I'm not satisfied with the decision?

If the Recruitment Subcommittee recommends that you are not to be employed, or remain in post, then you will also receive a letter confirming this decision. You have the right to appeal. We can provide further information about how you can do this.

What you need to do

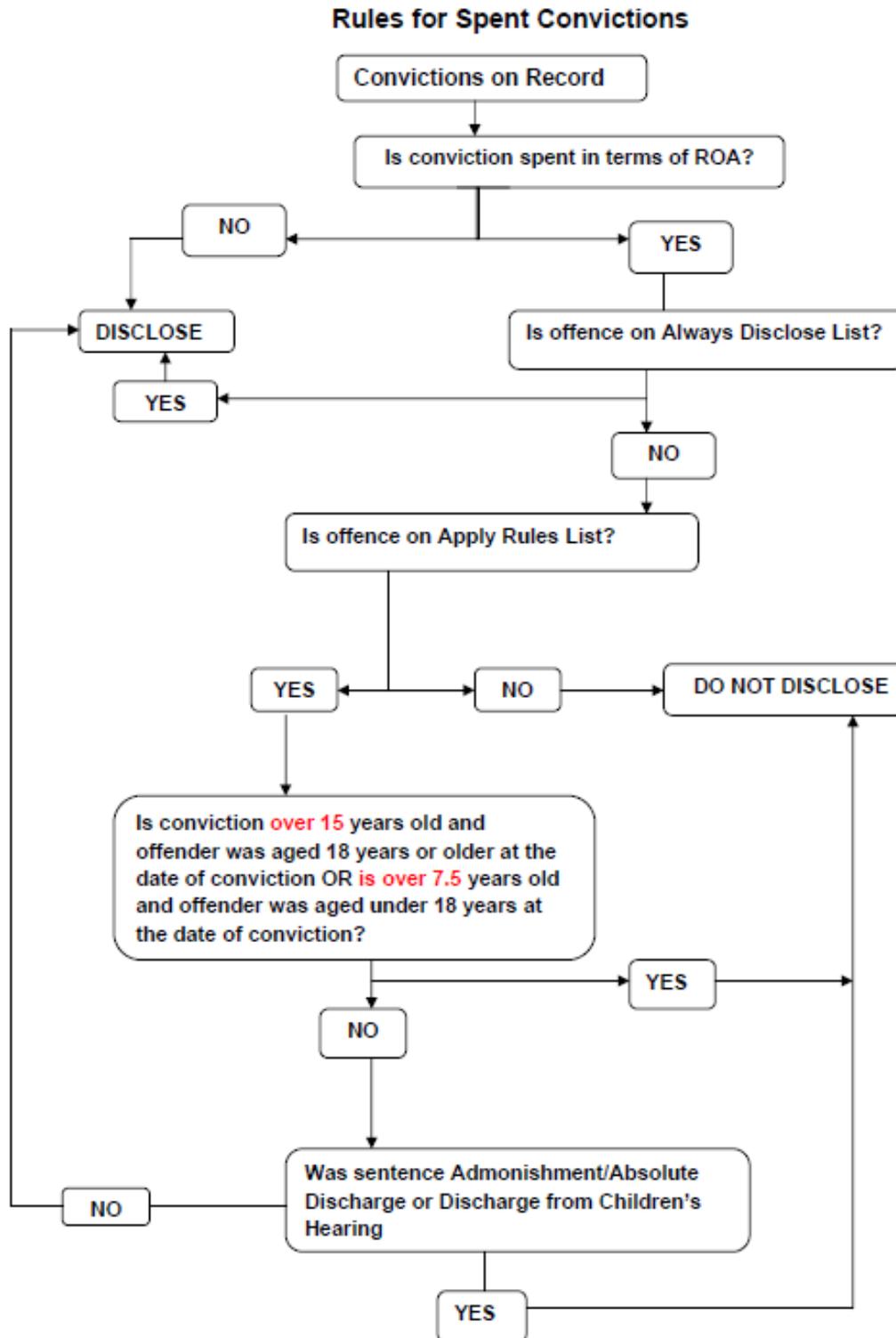
Complete and sign the form, place it in the provided brown envelope marked 'Confidential' and give it to your Safeguarding Coordinator. Your Safeguarding Coordinator who will forward it to the Church of Scotland Safeguarding Service with your PVG Scheme application. Your Safeguarding Coordinator will not see the Self Declaration form.

All the information that you provide on this form will be treated confidentially to meet the requirements of the UK Data Protection Act 2018. Please provide as much information as possible on this form. Then it will be less likely that we need to contact you for more details

Further information or advice: who to contact

If you need further advice or assistance on what information should be included on this form, or how to complete it, please contact your Safeguarding Coordinator.

Appendix I



Appendix 2

What is meant by convictions, cautions, charges etc?

All of the following need to be declared on the Self Declaration form

Conviction: found guilty of an offence. Some of the possible disposals are detailed below.

Charge: the police will charge a person when they have enough evidence to prove that they have committed an offence. The charge is a statement which says what crime the person is charge with, when and where.

Admonition (or "being admonished"): this is a disposal under Scots law when an offender has been found guilty but is neither imprisoned nor fined but receives a verbal warning. The conviction is still recorded.

Absolute Discharge: the person has been found guilty of an offence. This differs from a conditional discharge in that the full benefit of a discharge is immediate; there is no probation order; no "wait and see" period with respect to probationary conditions.

Conditional Discharge: the person has been found guilty of an offence. It is a sentence passed by a court whereby the defendant is not punished, provided they comply with certain conditions. An absolute discharge is unconditional: in some jurisdictions, where no conditions are imposed at all, in others where the conditions have been successfully complied with.

Police Caution: a formal alternative to prosecution in minor cases, administered by police and other law enforcement in England and Wales. It is commonly used to resolve cases where full prosecution is not seen as the most appropriate solution.

Procurator Fiscal's Warning: a letter that is sent to the offender advising that proceedings are not being taken. But it is a warning that this disposal will be taken into account by the Procurator Fiscal should the individual come to notice again.

Procurator Fiscal's Fine: for certain low level offences the individual is issued with a fixed penalty notice. If the individual pays the set fixed penalty they do not need to attend court. Accepted offers are *not* criminal convictions. However, if prosecuted before a court for another offence within two years of accepting an offer, and convicted or plead guilty, the court can be told before passing sentence about the offer accepted.

Not Proven. The Crown has failed to prove the case against the accused beyond reasonable doubt.

No Proceedings: The Procurator Fiscal or Crown Office have decided to take no criminal proceedings.