

# Disclosure and PVG Policy

*We will provide this policy on request at no cost, in large print, in Braille, on tape or in another non-written format.*

We can produce information on request in large print, Braille, tape and on disk. It is also available in other languages. If you need information in any of these formats please contact us on Freephone 0800 479 7979.

如果你向我們提出要求，我們可以為你提供本資訊的其他語言的版本，或者是盲文或磁帶。如果你需要本資訊的任何一種這些版式的版本，請聯繫我們，電話號碼是 0800 479 7979。

Si vous nous le demandez, nous pouvons vous remettre ces informations en d'autres langues, en braille ou sur cassette. Si vous souhaitez que ces informations vous soient fournies sous l'un de ces formats, contactez-nous en composant le 0800 479 7979.

چنانچه مایل باشید می‌توانید این مطالب را به فارسی یا زبان‌های دیگر و همچنین بریل و یا بر روی نوار کاست دریافت دارید. در صورت نیاز خواهشمندیم با شماره تلفن 0800 479 7979 با ما تماس بگیرید.

ਜੇ ਤੁਸੀਂ ਸਾਨੂੰ ਬੇਨਤੀ ਕਰੋ ਤਾਂ ਅਸੀਂ ਤੁਹਾਨੂੰ ਇਹ ਜਾਣਕਾਰੀ ਹੋਰ ਭਾਸ਼ਾਵਾਂ, ਬ੍ਰੇਲ (ਨੋੜਹੀਣਾਂ ਲਈ ਭਾਸ਼ਾ) ਵਿੱਚ, ਜਾਂ ਟੇਪ ਉੱਪਰ ਦੇ ਸਕਦੇ ਹਾਂ। ਜੇ ਤੁਹਾਨੂੰ ਇਨ੍ਹਾਂ ਵਿੱਚੋਂ ਕਿਸੇ ਰੂਪ ਵਿੱਚ ਚਾਹੀਦੀ ਹੋਵੇ, ਤਾਂ ਕਿਰਪਾ ਕਰਕੇ ਸਾਡੇ ਨਾਲ 0800 479 7979 ਨੰਬਰ ਤੇ ਸੰਪਰਕ ਕਰੋ।

Na Pana/Pani życzenie możemy zapewnić te informacje w innych językach, alfabetem Braille'a lub na kasecie. Jeśli chciał(a)by Pan(i) uzyskać te informacje w którejś z tych form, prosimy skontaktować się z nami pod numerem telefonu 0800 479 7979.

Haddii aad na weydiisato waxaanu warbixintan kugu siin karaa iyadoo ku qoran luuqad kale, farta ay dadka indhaha la' akhriyaan ama cajalad ku duuban. Haddii aad jeclaan lahayd in warbixintan lagugu siiyo mid ka mid ah qaababkaas, fadlan nagala soo xidhiidh telefoonka 0800 479 7979.

По вашей просьбе данная информация может быть предоставлена на других языках, шрифтом Брайля или в аудиозаписи. Если вам требуется информация в одном из этих форматов, позвоните нам по номеру 0800 479 7979.

|                                 |                               |
|---------------------------------|-------------------------------|
| Approval body                   | <i>Executive Team</i>         |
| Date of approval                | <i>27 September 2022</i>      |
| Review Year                     | <i>October 2025</i>           |
| Customer engagement required    | <i>No</i>                     |
| Trade union engagement required | <i>Yes - For Consultation</i> |
| Equality Impact Assessment      | <i>No</i>                     |

## 1. INTRODUCTION

It is an obligation of Wheatley Homes South Limited (WHS) to ensure that we employ appropriate staff and Board members to provide services to our tenants and residents, and as part of this commitment, WHS requests information regarding criminal records at recruitment stage and from employees at regular intervals thereafter. The information assists WHS to assess the suitability of applicants for particular posts and helps the organisation make safer recruitment decisions in relation to positions of trust by widening access to criminal record information.

- 1.2 WHS is currently a registered body with Disclosure Scotland and has Officers who perform the duties of counter-signatories for applications. It complies fully with the Code of Practice regarding the use of information provided to registered persons and other recipients of information by Disclosure Scotland under Part V of the Police Act 1997, for the purposes of assessing applicants' suitability for relevant positions. As such it is subject to audit by the Compliance Unit of Disclosure Scotland. A copy of the Code of Practice will be made available from the Human Resources Department on request.

## 2. Legal and Policy Framework

- 2.1 The principal pieces of legislation which inform this Policy are:

- The Rehabilitation of Offenders Act 1974
- The Police Act 1997
- The Vulnerable Groups (Scotland) Act 2007

- 2.2 It also links to the following WHS Policies and documents:

- Recruitment and Selection Policy
- Rehabilitation of Offenders Policy
- Disciplinary Policy
- Policy on Secure Handling, Use, Storage and Retention of Disclosure Information
- Contract of Employment
- Code of Conduct

- 2.3 Part V of the Police Act 1997 is a system of disclosing criminal history information to individuals and organisations for employment and other purposes. To this end, the Act provides for the issue of criminal information certificates. In Scotland, these certificates are issued by Disclosure Scotland and are known as Basic, Standard and Enhanced Disclosures. Further information on these levels is provided in Section 9 of this Policy.

- 2.4 Since October 2007, Disclosure Scotland has been part of an agency which operates the scheme provided for in the Protection of Vulnerable Groups (Scotland) Act 2007. The Protection of Vulnerable Groups (PVG) Scheme, now allows organisations to ask Disclosure Scotland the "Exempted Question" regarding spent convictions under the Rehabilitation

of Offenders Act 1974 (Exclusions and Exceptions (Scotland)) Order 2003. The 2003 Order has been amended by the 2006 Order and 2007 Order in relation to people conducting regulated work with vulnerable adults and/or children.

### **3. Scope of Policy**

- 3.1 This policy applies to the recruitment of all paid and unpaid or voluntary posts within WHS, whether advertised externally or internally. All posts will be subject to a minimum Basic Disclosure with certain other posts requiring higher levels as appropriate.
- 3.2 The Policy also applies to existing employees who may be required to undergo regular Disclosure Scotland checks or PVG Scheme Record Updates in their current roles or Disclosure or PVG checks, as appropriate, when changing roles within the organisation.

### **4. Recruitment**

- 4.1 WHS deems that at least a Basic Disclosure is required for every post and therefore it will be stated within the job advertisement and any other appropriate literature that an appropriate Disclosure Scotland Check will be requested in the event of the individual being offered the position.
  - 4.1a All members of WHS Board of Management are required to undertake a Basic Disclosure check prior to their appointment to the Board.
- 4.2 Employment will not be confirmed until the Disclosure Procedure has been satisfactorily completed. Information that is directly relevant to the position sought, which is subsequently revealed in a Disclosure Check, may result in the withdrawal of a conditional offer of employment.
- 4.3 Exceptionally, an employee may be allowed to start employment before the Disclosure process is complete with the approval of the relevant Director and HR Manager but will only be allowed limited access to information and records until their Disclosure has been received. If a PVG check is required, the employee will only be allowed limited access to information and there will be no contact with vulnerable individuals until the PVG process is completed.
- 4.4 WHS undertakes to treat all applicants for positions fairly and not to discriminate unfairly against on the basis of conviction or other information revealed. Information revealed in a Disclosure check will not automatically exclude a person from working within WHS. The decision on suitability will depend on the nature of the position, together with the circumstances and background of any information on offences or activities identified in the check. Every application pack includes a copy of WHS's Recruitment of Ex-Offenders Policy, and it is also available on WHS's website.

### **5. Recruitment Decisions in Relation to Disclosed Convictions**

- 5.1 In relation to WHS's Recruitment of Ex-Offenders Policy, when deciding what action is required in respect of a convicted person's employment, the HR Manager in conjunction with the relevant Director will consider factors including:

- whether the conviction (or other information) is relevant to the post e.g., any applicants with unspent convictions of theft or fraud will not be appointed to any position involving regular visits to our tenants;
  - the seriousness of any offence revealed e.g., any applicants for Visiting Officer positions who have had convictions for motoring offences are unlikely to have their application rejected as a result of this;
  - whether the person is fully listed and disqualified from working with particular vulnerable groups;
  - the length of time since it occurred;
  - whether the applicant has a pattern of offending behaviour or other relevant matters; and
  - the applicant's circumstances since the offending behaviour/s.
- 5.2 In the case of a PVG Scheme Record revealing that a person is barred from conducting regulated work with vulnerable adults and/or children WHS cannot employ them. WHS also has a legislative duty to report the applicant to Disclosure Scotland for attempting to apply for regulated work.

## **6. Employees Changing Roles Within the Organisation (temporarily or permanently)**

- 6.1 If an employee has had a disclosure within the 3 years before taking up a new appointment, they will not require to submit another Disclosure Application until three years have passed from their previous Disclosure, unless they are moving into regulated work or a post requiring a higher level of disclosure. If they are long standing employees who may not have had a disclosure at recruitment, they will be required to have one before the appointment is confirmed. They will then be checked every three years.

## **7. Disclosures, PVG Scheme and Existing Staff**

- 7.1 All WHS employees are contractually obliged to inform WHS of any material change or occurrence which might affect their employment, including but not limited to conviction, charge with a criminal offence, sequestration, or bankruptcy.
- 7.2 Existing staff in particular positions may be required to undergo regular Disclosure Scotland or PVG Scheme checks during their employment. These may be Basic, Standard or Enhanced disclosures or a PVG Scheme Record Update.
- 7.3 Existing Board members will be required to undergo a new Basic Disclosure check each time that they are standing for election.
- 7.4 For all employees who have completed disclosure checks during recruitment process, the disclosure process or PVG Scheme Record

Update will be undertaken every three years. It is an obligation of WHS to ensure that we have appropriately employed staff to provide services to our tenants and residents.

- 7.5 Should a Disclosure Check or PVG Scheme Record Update provide new information regarding a criminal conviction or the criminal record of an employee, then WHS will have to consider whether it is in the interests of WHS, taking into account the safety and security of our tenants, that the individual continues in the same role. In this situation an investigation under WHS's Disciplinary and Capability policy will take place.

## **8. Right to Appeal Information Revealed by Disclosure Scotland**

- 8.1 If any individual disagrees with the information provided on any Disclosure Scotland certificate or PVG Scheme Record then there is a Disclosure Scotland disputes procedure.

## **9. Disclosure Scotland Levels and Application Process**

### **9.1 Basic Disclosures**

- 9.1.1 WHS will require Basic Disclosure checks to be completed for all employees and Board members every three years, unless specified otherwise. This type of disclosure is enabled by Part V of the Police Act 1997 and is available to anyone for any purpose.
- 9.1.2 Basic Disclosures will contain details of convictions held in central records which are unspent according to the Rehabilitation of Offenders Act 1974 or will state that there are no such convictions. Applicants should use the provided Disclosure Scotland Applicants Guide to complete the form.
- 9.1.3 Guidance on the completion of the form can be sought from the HR team. The fee will be paid for by WHS and therefore applicants should return the completed form to the HR department.
- 9.1.4 Basic Disclosure Certificates will then be forwarded to the individual, not WHS, normally within 14 days. Therefore, the applicant must provide the HR Department with the original certificate as soon as they receive it. Failure to provide the HR Department with the certificate could result in a delay to the recruitment process, or a withdrawal of conditional offer of employment.
- 9.1.5 As per the Secure Handling, Use, Storage and Retention policy the HR Department will record the date of issue of the certificate, 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 any recruitment decision (if recruitment) will be shown. A photocopy of the disclosure form will not be taken. The HR Department will then return the original certificate within two weeks.

### **9.2 Standard Disclosures**

- 9.2.1 Posts regulated by financial and legal bodies will require a Standard Disclosure. As of July 2012, these are the posts of

Director of Finance, Finance Manager, Head of Corporate Business & In-House Solicitor and Company Secretary.

- 9.2.2 WHS will require Standard Disclosures for the counter-signatories of the Disclosure Scotland Standard, Enhanced and PVG applications
- 9.2.3 The intermediate level of Disclosure is the Standard Disclosure (termed as a "criminal record certificate" under Part V of the Police Act 1997). This includes convictions held on central records and records both spent and unspent convictions and cautions. This means that even minor convictions, perhaps dating from years ago, are included on the Disclosure.
- 9.2.4 Applicants should use the provided Disclosure Scotland Applicants Guide to complete the form. Guidance on the completion of the form can be sought from the HR team. The fee will be paid for by WHS. A Standard Disclosure requires to be countersigned by the Registered Body; therefore, the applicant is required to hand the completed form to the counter signatory in order for them to verify their identity.
- 9.2.5 Standard Disclosure Certificates will be sent directly to WHS, as well as a copy to the applicant. As per the Secure Handling, Use, Storage and Retention Policy the HR Department will record the date of issue of the certificate, 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 any recruitment decision (if recruitment) will be shown. A photocopy of the disclosure form will not be taken. The certificate will then be confidentially disposed of.

### **9.3 Enhanced Disclosures**

- 9.3.1 The highest level of Disclosure is the Enhanced Disclosure (termed as a "criminal record certificate" under Part V of the Police Act 1997). Questions regarding criminal records of these post holders are an exempted question as described in the Police Act 1997 (Criminal Records) (Scotland) Regulations 2006 (SSI 2006/96). This includes convictions held on central records and records both spent and unspent convictions, cautions, inclusion of children's list, inclusion on adults list, other relevant information held by police forces and inclusion on sex offenders' register.
- 9.3.2 Applicants should use the provided Disclosure Scotland Applicants Guide to complete the form. Guidance on the completion of the form can be sought from the HR team. The fee will be paid for by WHS. An Enhanced Disclosure requires to be countersigned by the Registered Body; therefore, the applicant is required to hand the completed form to the counter signatory in order for them to verify their identity.
- 9.3.3 Enhanced Disclosure Certificates will be sent directly to WHS, as well as a copy to the applicant. As per the Secure Handling, Use, Storage and Retention policy the HR Department will record the date of issue of the certificate, 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 any recruitment decision (if recruitment) will be shown. A

photocopy of the disclosure form will not be taken. The certificate will then be confidentially disposed of.

#### **9.4 PVG Scheme Records / Updates**

- 9.4.1 Registration with the PVG Scheme is required for WHS employees doing regulated work in the housing support services which are regulated by the Care Inspectorate (Social Care and Social Work Improvement Scotland).
- 9.4.2 The PVG Act introduced the concept of ‘regulated work’. Regulated work with children supersedes the definition of childcare position in the Protection of Children (Scotland) Act 2003 (“POCSA”) and regulated work with adults supersedes contact with an adult at risk.
- 9.4.3 The PVG Act replaces the Disqualified from Working with Children List (“the DWCL”) established under POCSA with the PVG children’s list and makes provision for those individuals already included in DWCL to be migrated onto the PVG children’s list automatically. It also establishes for the first time in Scotland, a list of those who are unsuitable to do regulated work with adults. Individuals convicted on indictment of certain sexual or violent offences are included in those lists automatically.
- 9.4.4 When a person applies to join the PVG Scheme for the first time, WHS will request a Scheme Record in relation to regulated work with either vulnerable adults, children or in some cases both. When somebody is already a member of the PVG Scheme WHS will request a Scheme Record Update in relation to regulated work with either vulnerable adults, children or in some cases both. These requests require a different application form.
- 9.4.5 Applicants should use the appropriate PVG Applicants Guide to complete the relevant form. Guidance on the completion of the form can be sought from the HR team. The fee will be paid for by WHS. All PVG applications are required to be countersigned by the Registered Body; therefore, the applicant is required to hand the completed form to the counter signatory in order for them to verify their identity.
- 9.4.6 PVG Certificates will be sent directly to WHS, as well as a copy to the applicant. As per the Secure Handling, Use, Storage and Retention policy the HR Department will record the date of issue of the certificate, 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 any recruitment decision (if recruitment) will be shown. A photocopy of the disclosure form will not be taken. The certificate will then be disposed of confidentially.
- 9.4.7 When a Scheme Update is issued, it will state whether or not vetting information was on the original Scheme Record as well as whether or not new information has since been added. It will not



provide details of that information. It may be that in such cases we would wish to ask for another Scheme Record to be able to fully assess suitability for work.

## **10. Non-UK Nationals / UK Nationals Who Have Lived Outside the UK**

- 10.1 In the event of applicants being considered for appointment who have lived outside the UK, advice will be sought from Disclosure Scotland or the Criminal Records Bureau. It should be noted that criminal records will be checked from the appropriate country's records office. If comprehensive information is not available for positions requiring a criminal record check, then it is likely that appointments will not be made.
- 10.2 Disclosure Scotland works under UK legislation and has no jurisdiction to obtain criminal history information from other countries. Not all foreign countries have a system of recording information.

If a UK resident is convicted overseas and the authorities in that country notifies a UK Police Force, then that conviction will be recorded and will be available for disclosure.

## **11. Monitoring and Review of Policy**

- 11.1 The responsibility for the monitoring and review of this Policy lies with the Human Resources Department and the Policy will be reviewed every three years or sooner if legislation requires.
- 11.2 The effectiveness of the policy will be monitored against achieving 100% appropriate Disclosure checks for all new employees and employees changing roles within the organisation, and a rolling programme of three yearly checks being carried out on current employees.

For more information on Disclosure Scotland or any help or assistance with the completion of Disclosure application please contact the HR Department.

Alternatively, you may find further information from the following websites:

[://www.disclosurescotland.co.uk/](http://www.disclosurescotland.co.uk/)

Disclosure Scotland helpline number 0870 609 6006.

