

FORTH DISTRICT SALMON FISHERY BOARD

Disclosure Statement

Adopted 25th June 2014

Version 1.0

1. Purpose

Forth District Salmon Fishery Board (FDSFB) is formally registered with Disclosure Scotland and is able to make application for Standard and Enhanced Disclosures in relation to current staff and prospective staff.

This statement sets out the commitment of FDSFB to ensure that any disclosure checks and the information provided by such checks for current or future staff are administered and processed appropriately and confidentially as required by the Disclosure Scotland Code of Practice. The code sets standards which govern the use of information provided to FDSFB by Disclosure Scotland.

This statement applies to FDSFB as a statutory body tasked with protecting and enhancing stocks of salmon and sea trout across the district.

2. Statement

This outlines the policy of FDSFB on the employment of ex-offenders and the use of criminal records checks. It is made available to all job applicants at interview stage and to any existing member of staff (including unpaid/honorary staff or volunteers) for whom a criminal records check is appropriate.

FDSFB actively promotes equality of opportunity for all with the right levels of talent, skills and potential, and welcomes applications from a wide range of candidates, including those with criminal convictions. Having a criminal record will not necessarily debar an individual from working with FDSFB. The nature of the position and the relevance to the job, together with the circumstances and background of the offences, will be considered very carefully by FDSFB.

3. Background

Disclosure Scotland is a service designed to enhance public safety by providing potential employers and the voluntary sector with criminal history information on individuals applying for posts. Disclosure Scotland issues certificates known as 'Disclosures' which detail an individual's criminal convictions if applicable.

There are three types of Disclosure checks, Basic, Standard and Enhanced. The Serious Organised Crime and Police Act 2005 requires that an Enhanced Disclosure check should be obtained whenever an individual is working with children or vulnerable adults.

FDSFB will make use of the Disclosure Scotland checks as part of the recruitment process to assess a candidate's suitability for posts involving regular contact with under 18s (children) and vulnerable adults. It may also be used for existing staff if FDSFB deem it necessary and appropriate.

An Enhanced Disclosure contains details of both spent and unspent convictions and any cautions. In addition, it may show information from police records considered by the Chief Constable to be relevant to the position being sought and which can be disclosed without harming the interests of the prevention or detection of crime. Additional information may be sent separately to FDSFB and must be withheld from the job applicant in the interests of the prevention and detection of crime.

The Rehabilitation of Offenders Act 1974 allows an employer to ask any job applicant whether or not they have any unspent convictions. The employer can only ask about spent as well as unspent convictions if the job applied for is excluded from the 1974 Act by way of the Exclusions and Exemptions (Scotland) Order 2003. Posts identified as childcare and vulnerable adults jobs are excluded under this Order, and, therefore, subject to a Disclosure Scotland check.

4. Policy statement

Disclosure policy and procedure for the recruitment and selection of FDSFB staff

- 4.1 Applicants for all posts who are invited for interview will be invited to voluntarily declare any unspent convictions via the completion of a Criminal Offences Declaration Form (**see annex A**).
- 4.2 All positions recruited in FDSFB will be subject to a Standard Disclosure Scotland check.
- 4.3 Any position which FDSFB deems to be likely to include contact with childcare or vulnerable adults will be subject to an Enhanced Disclosure Scotland check will have this information clearly stated in the further particulars for the job at the advertising stage. For these posts all applicants invited for interview will have to declare all spent as well as unspent convictions on the Criminal Offences Declaration Form.
- 4.4 A Criminal Offences Declaration Form will be included with the invitation to attend interview along with guidance notes and a copy of this policy. The Declaration Form should be returned to FDSFB prior to or at interview but it will only be opened if FDSFB would like to offer the individual the position.
- 4.5 The information contained on the Declaration Form will only be shared by those who need to know it as a part of the selection process and forms provided will be destroyed unopened at the close of the recruitment process.
- 4.6 FDSFB will seek a Disclosure Scotland check even when a job applicant has made details of their criminal record known to FDSFB at an earlier stage.
- 4.7 No appointment will be fully confirmed until FDSFB receives a Disclosure Certificate that it deems to be satisfactory to the position offered.
- 4.8 Failure to reveal information relating to unspent convictions (and spent convictions in the case of excluded occupations) could lead to withdrawal of an offer of employment or termination of employment.
- 4.9 Generally no individual will commence work with FDSFB until a satisfactory disclosure has been received. However, in some instances employment may be commenced prior to the receipt of a formal Disclosure Certificate. In such instances this will be offered subject to, and conditional upon, the receipt of a Disclosure Certificate confirming the suitability of the candidate to the position. Contracts of employment can be terminated upon the receipt of unsatisfactory Disclosure Certificates in instances when employment has been commenced.
- 4.10 FDSFB will take into account the following when considering an applicant with a criminal conviction:
 - *Whether the conviction or other matter revealed is relevant to the position in question*
 - *The seriousness of any offence revealed*
 - *The length of time since the offence or other matter occurred*
 - *Whether the applicant has a pattern of offending behaviour or other relevant matter*
 - *Whether the applicant's circumstances have changed since the offending behaviour or the other relevant matters*
- 4.11 Successful candidates who have not spent the previous 12 months in the United Kingdom will have to provide appropriate documentation from the countries they have resided in.

5. The Rehabilitation of Offenders Act 1974

Spent and Unspent Convictions

The Rehabilitation of Offenders Act was introduced to prevent people being discriminated against in their employment because of an offence committed in their past. For employers, this means that people whose convictions are 'spent' should be treated as rehabilitated and as if their conviction had never taken place.

Rehabilitation periods are indicated in the table below:

Sentence	Rehabilitation period for people aged under 18 when convicted	Rehabilitation period for people aged 18 or over when convicted
Prison sentences of 6 months or less including suspended/deferred sentences, youth custody or detention in a young offender institution	3.5 years	7 years
Prison sentences of more than 6 months to 2.5 years	5 years	10 years
Borstal (abolished in 1988)	7 years	7 years
Detention centres (abolished in 1988)	3 years	3 years
Fines, compensation, probation, community service/community punishment orders, combination/community punishment and rehabilitation orders, action plan, curfew, drug treatment and testing, and reparation orders	2.5 years	5 years
Absolute Discharge/Admonished	6 months	6 months

There are certain sentences excluded from rehabilitation under the Act which are never considered spent. These are:

- A sentence of life imprisonment.
- A sentence of preventive detention.
- A sentence of imprisonment, youth custody or corrective training for a term exceeding 30 months.

FDSFB reserves the right to undertake a disclosure check on existing staff if the nature of the activity dictates that it is appropriate and relevant e.g. activities involving school children; activities which come under the banner of social exclusion; research that potentially involves children or vulnerable adults etc. External organisations involved with these groups may, as a matter of course, expect any of our participating staff to be disclosed.

If an existing member of staff's disclosure check raises any cause for concern, the matter will be dealt with by the FDSFB.

6. Validity / expiry of Disclosure information

The Disclosure Certificate is valid for the date of issue only, as it represents information to Disclosure Scotland on that date only.

For this reason, FDSFB will always ask a job applicant (or current employee, where checks are being done on members of staff already in post) to make a new Disclosure application.

7. Handling, holding and destroying Disclosure information

All information disclosed by Disclosure Scotland is sensitive and highly confidential and therefore, FDSFB will handle this information in a responsible way in line with the Disclosure Scotland Code of Practice and the Data Protection Act.

Storage and access - Disclosure information will not be kept on an individual's personal file and will always be kept separately in a lockable, non portable storage device with access strictly controlled and limited to those who are entitled to see it as part of their duties.

Handling - in accordance with section 124 of the Police Act 1997, Disclosure information is only passed to those who are entitled to see it in the course of their duties. FDSFB will maintain a record of all those to whom Disclosure information has been revealed. It is important to note that it is a criminal offence to pass this information to anyone who is not entitled to receive it.

Usage - Disclosure information is only used for the specific purpose for which it was requested and for which the applicant's consent has been given.

Retention - Disclosure information will not be kept longer than 90 days to allow for the consideration and resolution of any disputes or complaints. If, in very exceptional circumstances, it is considered necessary to keep the information longer than 90 days, Disclosure Scotland will be consulted about the validity of this.

Disposal - At the end of the retention period, Disclosure information will be destroyed by shredding. Disclosure information will be taken from secure storage and shredded immediately; it will not be placed in transitory storage e.g. confidential waste bag. No photocopies, digital images or computer-based copies of the Disclosure Certificate will be kept. However, details of the date the Disclosure Certificate was received, the unique reference number and the level of Disclosure requested will be kept on the individual's personal record.

8. Umbrella Bodies

Before acting as an Umbrella Body (i.e. a body which countersigns applications for Standard or Enhanced Disclosures on behalf of another organisation), FDSFB will take all reasonable steps to ensure that the organisation on whose behalf we are acting will comply with the Code of Practice, and in full accordance with this policy. We will also take all reasonable steps to satisfy ourselves that they will handle, use, store, retain and dispose of Disclosure information in full compliance with the Code of Practice, and in full accordance with this policy. We will also ensure that anybody or individual at whose request applications for Disclosures are counter-signed, has such a written policy and, if necessary, will provide a model policy for that body or individual to use or adapt for this purpose.

FDSFB

June 2014

Annex A

CONFIDENTIAL **Criminal offences declaration form**

Vacancy applied for	
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PERSONAL INFORMATION			
Surname			
Forenames		Title	
Date of Birth		Place of Birth	
Address			
Postcode			
PREVIOUS NAME(S) AND ADDRESSES (FROM AGE 14)			
Name	Address	Date From -To	

DECLARATION			
<i>Please read the note overleaf before answering the declaration and tick the appropriate statement</i>			
a) Have you ever been convicted of a criminal offence?	☐ Yes ☐ No		
b) Do you have a court appearance pending or have you been charged by the Police for a criminal offence?	☐ Yes ☐ No		
<i>If you answered YES to a) or b) above, please supply the following details</i>			
Date	Court	Details of offence	Sentence
I CERTIFY THAT: I have read the Guidance Notes overleaf and have not withheld information that may affect my application for appointment. I understand that false information or omissions may lead to dismissal. The information supplied above may be verified by FDSFB. Data Protection Act 1998 I consent to the information which I have provided on this form being used by FDSFB in the decision making process which may include requesting a criminal records check for certain posts. If you are appointed to a post, this form is resealed in an envelope and filed in your personal file. If you are unsuccessful, the form will be retained in a sealed envelope, with the papers relating to the vacancy and kept for 6 months before being destroyed.			



Signature

Date

GUIDANCE NOTES FOR CRIMINAL CONVICTIONS DECLARATION FORM

Please read carefully

1. If you need help or advice in completing this form, you can seek advice from a suitable person e.g. Citizens Advice Bureau, Solicitor or Trade Union representative.
2. Every candidate invited to attend for interview must complete this form whether they have a previous conviction or not.
3. The information requested has been kept separate from the application form to protect confidentiality. You should complete the form and send it to FDSFB, sealed in the envelope provided. FDSFB will contact you if they require any further information. It will not be shown to the Interview Panel.
4. Candidates who have previously been convicted of a criminal offence.
 - a. Any details that you provide will be treated in the strictest confidence and will not automatically exclude you from being considered for this or any other vacancy.
 - b. If you have applied for a post which has been advertised as "excepted" this means that you are not entitled to withhold information on a criminal conviction on the grounds that it is "spent" or forgotten under the Rehabilitation of Offenders Act 1974. You must provide information on page 1. Convictions within the armed services, outwith the United Kingdom and disciplinary action by certain professional bodies must also be included.
 - c. If the advertised post is not "excepted", you are entitled to withhold information about any "spent" convictions. Information about what is a spent conviction is given below. Convictions within the Armed Services, outwith the United Kingdom or disciplinary action by certain professional bodies must also be included unless they are regarded as "spent" under the Act.

What is a Spent Conviction?

1. Sentences of more than 2 ½ years can never become spent. Other sentences become spent after fixed periods from the date of conviction. For a custodial sentence, the length of time actually served is irrelevant, the rehabilitation period is decided by the original sentence and begins on the date of conviction.
2. The length of a rehabilitation period depends on the sentence as outlined below.

SENTENCE	REHABILITATION PERIOD	
	People aged 18+ when convicted	People under 18 when convicted
Prison (immediate or suspended sentence) or youth custody of more than 6 months and not exceeding 2 ½ years	10 years	5 years
Prison (immediate or suspended sentence) or youth custody 6 months or less	7 years	3 ½ years
Fine/Community Service Order/Supervised Attendance Order	5 years	2 ½ years
Absolute discharge/Admonished	6 months	6 months
Probation after 5 February 1995	5 years	2 ½ years or length of probation whichever is longer

There are 2 sentences for people under 21 for which there is no variation in the rehabilitation period according to age when convicted. These are:

Borstal (replaced by youth custody in May 1983)	7 years
Detention of 6 months to 2 ½ years	5 years
Detention of under 6 months	3 years
With some sentences, the rehabilitation period varies. These are:	
SENTENCE	REHABILITATION PERIOD
Probation before 5 February 1995, Supervision Order, Conditional Discharge, Bind-over or Hospital Order under the Mental Health Act	1 year, or until the order expires (whichever is longer)
Attendance Centre orders	1 year after the order expires
Orders imposing a disqualification, disability or prohibition	Until the order expires