

Live Active Leisure

Recruitment of Ex-Offenders Policy

Introduction

Live Active Leisure [the Company] is committed to providing a safe and protected environment for ***Our People*** and customers to meet statute requirements and as part of our policy of good practice.

The Company is committed to equality of opportunity for all and to providing an environment that is free from unfair and unlawful discrimination.

Purpose & Scope

This policy presents the Company's position in relation to the employment of ***Our People*** who have criminal convictions.

The Protecting Vulnerable Groups Scheme (PVG Scheme) is established by the Protection of Vulnerable Groups (Scotland) Act 2007.

The PVG Scheme allows the Company as a registered body to request and obtain information on whether an individual has any criminal convictions and whether or not they are barred from doing regulated work with children or protected adults either as a contracted employee, relief worker or as volunteer.

Employees who carry out 'regulated work' with children and/or 'regulated work' with a 'protected adult' under the 2007 Act are required to be members of the PVG Scheme. This is to ensure that they are not barred from carrying out work with children and/or 'protected adults'.

Where a post or role does not constitute regulated work, the Company will obtain a Basic Disclosure Certificate through Disclosure Scotland.

The Company is committed to ensuring its recruitment and selection practices are fair and comply with current employment legislation and best practice.

The Company also recognises its obligation under legislation to ensure the necessary checks in respect of employees and other people who will be working with children or protected adults.

The Company is committed to equality of opportunity and aims to ensure that no applicant or employee is subject to less favourable treatment on the grounds of age, disability, race, sex, gender reassignment, marriage and civil partnership, pregnancy and maternity, sexual orientation, religion or belief or any characteristic which cannot be shown to be relevant to performance. On this basis, the Company will consider ex-offenders for appointment on their individual merits.

The fact that an individual has a conviction will not necessarily make them unsuitable for work with the Company and the HR & Admin Manager will consider the person's suitability as a whole in light of all the information available.

However, the Company cannot lawfully employ an individual to do regulated work of the type they are barred from doing.

Definitions

Disclosure Scotland –the agency in Scotland established to provide registered organisations with criminal history information on individuals applying for or holding relevant posts.

Regulated Work - means regulated work with children or regulated work with adults. The Vulnerable Groups (Scotland) Act 2007 contains a broad definition of regulated work and an employee or volunteer may

be doing regulated work if they are involved in a specified activity in relation to a protected person; or if they work in a specified establishment; or if they hold a specified position.

Activities as part of a person's normal duties which indicate they are doing regulated work with children include:

- Being in sole charge of children.
- Caring for children.
- Providing advice or guidance to children.
- Teaching, instructing, training or supervising children.
- Unsupervised contact with children.

Activities as part of a person's normal duties which indicate they are doing regulated work with adults include:

- Being in sole charge of protected adults.
- Caring for adults.
- Providing advice or guidance to protected adults.
- Teaching, instructing, training or supervising protected adults.
- Unsupervised contact with protected adults.

Children - are those under 18 years of age.

A **protected adult** - is a person aged 16 or over who is protected by the Act because he or she is receiving certain services as set out in the Act: health, care or welfare service.

A PVG Scheme Record - or scheme record update replaces an Enhanced Disclosure Certificate. The Company will insist that all prospective employees are members of the PVG Scheme for posts which undertake regulated work with children and/or protected adults within the Company. The Company however will apply for a PVG Scheme Record or scheme update for existing employees whose role is subject to change due to structure reviews or promotions. The record will contain details of both spent and unspent convictions. In addition, it will show any information from local police records considered by the Chief Constable to be relevant to the position being sought.

A Basic Disclosure Check will be obtained in respect of posts or roles which do not constitute regulated work with children and/or adults. A Basic Disclosure Check contains information on unspent convictions.

Spent and Unspent Convictions – Sentences of more than 2½ years (30 months) 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 commences on the date of conviction.

With a PVG Scheme Record, all convictions will be shown, whether the relevant rehabilitation period has been spent or not.

Lead Signatory and Counter-Signatory – Employees who are authorised to request and receive PVG Scheme Records/Basic Disclosure Scotland Certificates and criminal history information on behalf of the Company.

Key Principles

The terms of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003 (as amended) apply to posts which constitute regulated work. The Company is therefore entitled to ask about previous convictions, whether spent or unspent. Applicants for posts, which constitute regulated work are not entitled to withhold information on a criminal conviction on the grounds that it is spent under the Rehabilitation of Offenders Act 1974.

The Company is a registered body which is eligible to receive PVG Scheme information upon request. Depending upon the role, checks may be made against the list of those barred from working with children, the list of those barred from working with protected adults or both lists, or a Basic Disclosure check.

Broadly speaking the following posts constitute regulated work and the individuals performing them will need to be PVG Scheme Members:

- Any post in a Community Campus
- Activity Instructors (All sports incl. swimming and gymnastics)
- Coaches
- Duty Leisure Managers
- Facility Operation Managers
- Leisure Assistants who carry coaching on shift as part of their main duties

This is not an exhaustive list and it is important to continually revisit the content of posts to see if they may involve regulated work.

The Company's recruitment literature will make clear what checks will be made.

The Company will comply with the Code of Practice issued by Disclosure Scotland in dealing with requests for and in making decisions on disclosure information.

The Rehabilitation of Offenders Act 1974 requires the Company to assess the information obtained through the disclosure process against the requirements of the post. It is important that the Company does not exclude ex-offenders from posts within the Company, and neither must the Company persuade itself to employ ex-offenders for altruistic or social conscience reasons. The process must be fair and equitable and in the best interests of the employees and service users of the Company's facilities.

In such cases where a criminal conviction has been brought to the Company's attention either by self-disclosure at the time of application or through a subsequent PVG Scheme/Basic Disclosure check, the HR & Admin Manager or other senior manager, will consider the following before taking any action:

- Whether the individual is barred from undertaking regulated work of the type applied for.
- Whether the conviction or other matter is relevant to the position in question.
- The severity of the offence or other matter.
- The length of time since the offence or other matter.
- Whether the individual has a pattern of offending behaviour.
- Whether the applicant's circumstances have changed since the offending behaviour or other matters.
- The level of contact with children (under 18) or protected adults.
- The level of supervision the person will receive.
- Whether the post involves any direct contact with members of the public
- Whether the post involves direct responsibility for finance or items of value
- The honesty of the applicant in disclosing the information when requested
- The degree of remorse, or otherwise, expressed by the applicant and their motivation to change
- Any relevant information offered by the applicant about the circumstances which led to the offence being committed, for example, the influence of domestic or financial difficulties

The Company will only share disclosed information with those who legitimately need to see it as part of the recruitment process.

The Company will discuss any information revealed in a PVG Scheme/Basic Disclosure Certificate with the individual before considering withdrawing any conditional offer of employment. It must be noted that the Company is not permitted in law to discuss or disclose any information sent directly from a Police Force as part of the PVG Scheme/Disclosure Scotland certification process.

Existing Employees

All employees are contractually obliged to disclose all criminal convictions.

If it becomes appropriate to seek Disclosure information in relation to an existing employee and it is found that they have failed to disclose an unspent conviction, the Company will firstly establish whether the conviction is relevant to the post.

If information is found to be relevant and serious, the Company will consider a range of options, which might include the introduction of safeguards where this is reasonably practical and / or movement to another job or, potentially dismissal.

If notification is received from Disclosure Scotland regarding an existing employee being considered for listing by the Scottish Ministers to be barred from the 'workforce' to which their PVG relates; Children or Protected Adults, they will be immediately suspended from work pending further information. Being barred from regulated work could ultimately lead to dismissal.

Responsibilities

The **Human Resources & Admin Manager** shall be responsible for ensuring the proper application of the policy terms. This shall include the provision of relevant training to those involved in recruitment and selection activities and to Lead and Counter-Signatories who are entitled to receive PVG Scheme Records and any other relevant criminal history information.

The **Lead Signatory and Counter-Signatories** who receive PVG Scheme Records and any other relevant criminal history information shall be responsible for ensuring the safe-keeping and proper use of that information, in accordance with the Disclosure Scotland Code of Practice and the Company's policy and procedure.

It is the responsibility of **individual applicants** to ensure a full and proper disclosure of information to inform the Company's decisions and assessment of the PVG Scheme Record/Basic Disclosure Scotland information. This includes the requirement for individuals to permit the relevant signatory to view Basic Disclosure Certificates sent directly from Disclosure Scotland to the individual. Where the post is covered by the terms of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003 (as amended) individuals should note that failure to disclose relevant information may affect their employment or offer of employment with the Company.

It is the responsibility of **Facility Operations Managers and Duty Leisure Managers** to ensure that all employees who require a PVG Scheme Record prior to undertaking regulated work have such a record.

The Company will provide a copy of this policy and the Code to anyone who asks to see it.

<http://www.disclosurescotland.co.uk/publications/documents/codeofpracticeDocs/PoliceAct1997--CodeofPractice--18February2011.pdf>

Useful Organisations

Advisory, Conciliation and Arbitration Service
Head Office: Brandon House, 180 Borough High Street, London SE1 1LW
Tel: 020 7210 3613 Website: www.acas.org.uk

Chartered Institute of Personnel and Development
CIPD House, Camp Road, London SW19 4UX
Tel. No. 020 8971 9000 Website: www.cipd.co.uk

Disclosure Scotland
PO Box No 250
GLASGOW
G51 1YU

Telephone: 0870 609 6006
Website: www.disclosurescotland.co.uk