

DUNDEE CITY COUNCIL

REPORT TO: Personnel and Management Services Committee

REPORT ON: Disclosure of Criminal Convictions - Subject Access Form

REPORT BY: Director of Personnel and Management Services

REPORT NO: 269-2000

1 PURPOSE OF REPORT

- 1.1 To seek Committee approval for the use of a Subject Access Form for employees who will have unsupervised contact with children and vulnerable adults, for those categories of employees not covered by Scottish Office Circulars SED 5/1989, SW 9/1989 and SW 7/90.

2 RECOMMENDATION

- 2.1 It is recommended that the Council adopts the use of the Tayside Police Subject Access Form to gain information on convictions or pending prosecutions on prospective employees who will have unsupervised contact with children and/or vulnerable adults or in respect of existing employees who move to posts where there is unsupervised contact with children and/or vulnerable adults.

3 FINANCIAL IMPLICATIONS

- 3.1 The cost of implementing the proposals contained within this report is £10.00 per Subject Access Form enquiry. This expenditure will be met from employing departments' Revenue Budgets.

4 LOCAL AGENDA 21 IMPLICATIONS

- 4.1 None.

5 EQUAL OPPORTUNITIES IMPLICATIONS

- 5.1 None.

6 BACKGROUND AND PROPOSALS

- 6.1 At present, Scottish Office Circulars specify the categories of individuals who can be checked for criminal convictions via the Scottish Criminal Record Office. SED 5/1989 and SW 9/1989 respectively cover staff employed by Education and Social Work who have substantial access to children. SW 7/90 covers those who are under consideration for appointment to the management of local authority residential establishments for children.
- 6.2 The Scottish Criminal Record Office is only authorised to supply disclosure information on individuals whose previous duties were managed by and were the responsibility of Regional Council Social Work and Education Departments. It is unable to provide information on the categories of individual or post previously the responsibility of District Councils, even if that position involves substantial access to children and vulnerable adults. The Circulars were not amended to take account of local government re-organisation and the scope and criteria of vetting have not been extended.
- 6.3 The Police Act 1997 will alter current practice and address the anomalies that exist. However, this Act will not be enacted until at least the end of 2000.
- 6.4 As a result of requests from various Departments within the Council, the Personnel and Management Services Department has been investigating the possibility of obtaining access to information on criminal convictions for posts (please refer to Appendix 1) where there is unsupervised contact with children and/or vulnerable adults, where the posts are not specified in the Scottish Office Circulars.
- 6.5 Tayside Police have a Subject Access Form (please refer to Appendix 2) which allows an individual to obtain access to information held on Police computers for a fee of £10.00. This form could be used by Dundee City Council to obtain information on criminal convictions or pending prosecutions for prospective employees whose jobs fall within the categories outlined in Appendix 1. These categories were proposed by representatives from each Department.
- 6.6 This procedure would be used for new employees and also for existing employees who move to posts that have substantial contact with children and vulnerable adults.
- 6.7 By using a Consent Form (please refer to Appendix 3), the prospective employee/existing employee would authorise Dundee City Council to receive a copy of the information. The Rehabilitation of Offenders Act 1974 would be applied to determine the suitability or otherwise of the candidate. The suggested procedure is outlined in more detail in Appendix 4.

7 CONSULTATION

- 7.1 Tayside Police have been consulted on this report and are in agreement with the proposals.
- 7.2 The Management Team have been consulted on this report and are in agreement with the proposals.

8 **BACKGROUND PAPERS**

Rehabilitation of Offenders Act 1974.

Data Protection Act 1984.

Scottish Office Circulars SED 5/1989, SW 9/1989 and SW 7/90.

9 **SIGNATURE**

J.C. Petrie

Director of Personnel and Management Services

Date

DUNDEE CITY COUNCIL**POSTS REQUIRING SUBMISSION OF SUBJECT ACCESS FORM****LEISURE AND PARKS DEPARTMENT**

Parks Rangers
Leisure Attendants
Lifeguards
Sports Coaches
Duty Officers/Supervisors

HOUSING DEPARTMENT

Caretakers
Concierge Staff
Homeless Service Unit Staff

ARTS AND HERITAGE DEPARTMENT

Volunteers

SOCIAL WORK DEPARTMENT

Staff who work:-

- with older people, particularly with dementia;
- with adults with learning or physical disabilities;
- with people with HIV Aids/in hospitals;
- with service users or carers or volunteers who have children;
- in criminal justice.

Also:-

- all support staff who work in settings for children, including the above vulnerable groups;
- all staff working in offices accessible by users and their families, residential units, the community, such as home care, sheltered housing.

Also, any other post, not as yet identified, where there is one to one contact with children or vulnerable adults.

TAYSIDE POLICE

DATA PROTECTION ACT 1984



SUBJECT ACCESS FORM

TAYSIDE POLICE

DATA PROTECTION ACT 1984

How to apply for access to Information held on Police Computers

These notes explain how you can find out what information, if any, is held about you on Police computers. There is an application form over the page for use if you wish to have access to this information.

YOUR RIGHTS

Subject to certain exemptions, you have a right to be told whether any information is held about you and a right to a copy of that information. The Chief Constable will only give that information if he is satisfied of your identity. He does not have to give you any information if someone else can be identified from it, unless that person agrees. If you think that information might be held about you which may identify another person, you may want to get that person's agreement to you being given information and send it with your application.

EVIDENCE OF CHARACTER

Police Forces within the United Kingdom **DO NOT** issue documents variously described as "certificates of good character" or "Police clearance certificates". Nor do they provide other evidence of good character. It should therefore be noted that the exercise of your rights under the subject access provisions of the Data Protection Act, 1984 will not provide you with a certificate of this nature.

THE CHIEF CONSTABLE'S RIGHTS

The Chief Constable may deny access to information where the Act allows but the main exemptions in relation to information held on Police computers are where the information is held for:-

- The prevention or detection of crime
- The apprehension or prosecution of offenders

and giving you the information would be likely to prejudice any of these purposes.

FEE

You will have to pay a fee of £10 **for each category** you wish to access (see Sections 5 and 6 enclosed). Cheques should be made payable to TAYSIDE JOINT POLICE BOARD.

THE APPLICATION FORM

Section 1 asks you to give information about yourself which will help the Chief Constable to confirm your identity. He has a duty to ensure that information he holds is secure and he must be satisfied that you are who you say you are.

Section 2 asks you to provide evidence of your identity by producing a document with your application.

Section 3 of your application must be signed by you and countersigned by someone of standing who has known you for at least one year, for example, a doctor, local councillor, Justice of the Peace, minister of religion, police officer, school teacher, social worker, solicitor or other person of similar standing. You should note that some of those people may make a charge for doing this.

Section 4 asks you to give as much information as possible to help find the information you want.

Completing the Application Form contd...

Section 5 describes the purposes for which the Chief Constable keeps and uses information on computers in his force.

Section 6 describes the purposes for which the Chief Constable keeps and uses information on the Police National Computer. Where the Chief Constable also holds information in his force which is used for purposes similar to those held on the Police National Computer this is also shown.

If you have difficulty in completing any section of the application form please ask for some advice at your nearest Police Station - see below:

MAIN POLICE STATIONS

Police Headquarters, Dundee
Divisional Headquarters, Perth
Divisional Headquarters, Forfar
Police Office, Arbroath

MORE INFORMATION

These notes are only a guide. The law is set out in the Data Protection Act 1984 obtainable from HMSO. Further information and advice may be obtained from:

The Office of Data Protection Registrar
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

(01625 535777)

SECTION 1

ABOUT YOURSELF

The information requested below is to help the Chief Constable (a) satisfy himself as to your identity and (b) find any data held about you.

PLEASE USE BLOCK LETTERS AND BLACK INK

Title (tick box as appropriate)

Mr ☐ Mrs ☐ Miss ☐ Ms ☐

Other title (eg Dr. Rev. etc)

Surname/Family Name

First Names

*Other/Former Names

Sex (tick box)

Male

☐

Female

☐

Date of Birth

*Place of Birth

Town

Country

*Height

Details marked with * need only be given where the category in Sections 5 and 6 is also marked

Home Address

Postcode

Tel No.

(a telephone no. will be helpful
in case you need to be contacted)

If you have lived at the above address for less than 5 years please give your previous addresses for that period below. Continue on another piece of paper if you need to.

Previous Address 1

Previous Address 2

It would be helpful to know, for statistical purposes, why you are requesting this information, e.g. immigration or emigration (state which country), employment, etc.

Please Indicate

SECTION 2**PROOF OF IDENTITY**

To help establish your identity your application should be accompanied by an official document bearing your name, for example:-

If you are taking your application to a Police Station you should take one of the following:-

Banker's card, birth/adoption certificate, building society pass book, bus or rail pass, cheque book, child benefit book, credit card, driving licence, medical card, national savings/bank book, passport, retirement pension book, vehicle registration document or any other official document which has your name on it.

If you are sending your application by post you should send only one of the following:-

Birth/adoption certificate, driving licence, medical card, passport, vehicle registration document or any other official document with your name on it that you will not need for a week or so.

SECTION 3**DECLARATION AND COUNTERSIGNATURE**

(Declaration to be signed by the applicant)

The information which I have supplied in this application is correct and I am the person to whom it relates.

Signed by _____ Date _____

WARNING - a person who impersonates or attempts to impersonate another may be guilty of an offence.

COUNTERSIGNATURE

When you have completed the form and signed the declaration this section should be completed and signed by someone of standing who has known you for at least one year, for example a doctor, local councillor, Justice of the Peace, Minister of Religion, police officer, school teacher, social worker, solicitor or other person of similar standing. You should note that some of these people may make a charge for doing this. The Police may contact the person who countersigns this form.

I confirm that I have known the applicant named above for _____ years and that to the best of my knowledge and belief the facts given by the applicant on this form relating to their name and present address are correct.

Full name _____

Signature _____

Home Address _____ Business Address _____

Tel No. _____

Tel No. _____

SECTION 4**TO HELP US FIND THE INFORMATION**

This information should be given when asked for in Section 5 or 6.

Information you may be able to provide will include dates and places of incidents, the type of incident or why you think the police hold information about you. If you cannot remember the exact date, give as much detail as you can below, for example the month and year of the dates between which the incident occurred.

Please complete a separate box in respect of different categories/incidents/involvement. Continue on a separate sheet, in the same way, if necessary.

CATEGORY OF INFORMATION

Were you:- (tick a box below)

A person reporting an offence or incident ☐

A witness to an offence or incident ☐

A victim of an offence ☐

A person accused or convicted of an offence ☐

Other - please explain _____

Date(s) and time of incident _____

Place incident happened _____

Details of incident _____

SECTION 4**ABOUT YOUR VEHICLE**

This information should be given when asked for in Section 6.

Make _____ Model _____ Reg. No. _____

If the information relates to plant/marine engines or component parts of vehicles, the chassis/engine or other relevant numbers must be given where possible.

SECTION 5

INFORMATION YOU REQUIRE

Categories of information held on Police computers other than the Police National Computer are set out below. Those categories marked * require extra information to be given in Section 4. Tick which category you would like to have information from and enter total fee payable on page 7.

A	*SCOTTISH CRIMINAL RECORD OFFICE Information relating to persons convicted or pending prosecution, convictions, fingerprint details, physical description, release dates, cross-references. Other conviction/case related details. Warnings and firearm/shotgun certificate markers. NB Most Road Traffic Convictions have not been recorded since 1983. The content of this index may not correspond to Category '1' on Page 8 - if in doubt how to proceed contact the Data Protection Officer. Tel (01382) 312231	<input type="checkbox"/>
B	SCOTTISH CRIMINAL RECORD OFFICE Transaction Log for Category 'A' above - only held for a limited period	<input type="checkbox"/>
C	SCOTTISH CRIMINAL RECORD OFFICE Information relating to crime and criminals in order to identify patterns of criminal activity. Includes descriptive details of individuals and references to photographs and fingerprints. An index of stolen property is also retained.	<input type="checkbox"/>
D	ADMINISTRATION Information relating to support of organisational activities including word processing or reports, correspondence and other documents, electronic mail, electronic filing, office administration and automatic information retrieval.	<input type="checkbox"/>
E	COMMAND AND CONTROL CRIME REPORTING/MESSAGE SWITCHING Information relating to incidents/crimes reported to the police resource availability and internal message system	<input type="checkbox"/>
F	COMPLAINTS/DISCIPLINE Information relating to the investigation of complaints against the police and the enforcement of Police (Discipline) (Scotland) Regulations 1976	<input type="checkbox"/>
G	FINANCE (POLICE) Information relating to employees pay, allowances, deductions etc.	<input type="checkbox"/>
H	FIXED PENALTY Information relating to issue and processing of fixed penalty notices	<input type="checkbox"/>
I	LABORATORY Information relating to forensic science laboratory casework and statistics for crime prevention/detection	<input type="checkbox"/>
J	LICENSING AND REGISTRATION Information relating to the administration of certificates for explosives, firearms, shotguns, pedlars certificates and licences for alcoholic liquor, betting, gaming and lotteries	<input type="checkbox"/>

K	*MAJOR ENQUIRY Information relating to major crime enquiries, incidents and investigations	<input type="checkbox"/>
L	PERSONNEL (POLICE) Information relating to administration of personnel, recruitment, resources and management of residential property	<input type="checkbox"/>
M	*SCOTTISH CRIME SQUAD Information relating to crime and criminals in order to identify patterns of criminal activity and possible links between such crimes and criminals	<input type="checkbox"/>
N	STATISTICS Information relating to crime/offences and road accidents. Primarily held for statistical analysis and research and in a form which does not <u>usually</u> contain personal data except to the extent that a vehicle registration number may be held. NB Access to this category is not an adequate substitute for arrangements for disclosure of information from paper records to victims of crime parties to an accident or their representatives	<input type="checkbox"/>
O	TELEPHONE CALL LOGS (POLICE) Telephone Call Logs (including directory of users of particular telephones)	<input type="checkbox"/>
P	VEHICLE FLEET MANAGEMENT (POLICE) Information relating to Police Vehicle Fleet Operation and Maintenance, including details of personnel involved in accidents	<input type="checkbox"/>
Q	CRIME RECORDING Recording of details in respect of crimes reported to the police and crime pattern analysis	<input type="checkbox"/>
R	OCCUPATIONAL HEALTH Information in relation to employees health status and analysis of relevant statistics	<input type="checkbox"/>
S	CUSTODY RECORDING Information relating to persons brought into police custody under arrest or detention and electronic mailing of information to the related courts and Procurator Fiscal's Department	<input type="checkbox"/>
T	CRIMINAL INTELLIGENCE TAYSIDE Information relating to crime and criminals in order to identify patterns of criminal activity and possible links between crimes and criminals	<input type="checkbox"/>
U	WANTED PERSONS/WARRANTS SYSTEM Information relating to persons wanted for or suspected of having committed specific offences	<input type="checkbox"/>

CATEGORIES REQUESTED ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ **TOTAL AMOUNT TO BE PAID** £ ☐

Section 6

INFORMATION YOU REQUIRE

Categories of information held on, or relating to, the Police National Computer (relevant if convicted in England or Wales). Those categories marked * require extra information to be given in Section 4. Tick which category you would like to have information from and enter the fee (£10.00).

CATEGORY

TICK BOX FEE

1. PERSON RECORD/PROPERTY

- A Prosecution/Conviction History**
Details of prosecutions, convictions and cautions. NB Not all prosecutions/convictions/cautions are held on Police computers
- B Disqualified Drivers**
People who are currently disqualified from holding or obtaining a driving licence by order of a court
- C Wanted/Missing**
Those who are sought by the Police and unidentified people found
- D Fingerprints**
Relates to the fingerprint record
- E* Vehicle Owners/Keepers**
Details of vehicles owners/keepers
- F* Stolen/Suspect Vehicles/Property**
About vehicles and other property which are of interest to the Police

<input type="checkbox"/>	£
<input type="checkbox"/>	
<input type="checkbox"/>	
<input type="checkbox"/>	
<input type="checkbox"/>	
<input type="checkbox"/>	

2. MESSAGE LOG

- * This is a record of messages between terminals and computers and is held for a limited period

<input type="checkbox"/>	£
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3. OTHER SHARED SYSTEMS

- A* Crime Pattern Analysis**
This contains information about serious crimes in order to identify possible links between them
- B National DNA Database**
Details of the DNA profiles of individuals suspected, cautioned and convicted of recordable offences

<input type="checkbox"/>	£
<input type="checkbox"/>	

CATEGORIES REQUESTED

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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TOTAL AMOUNT TO BE PAID

£

<input type="text"/>

CHECK LIST

Have you completed all of the sections you need to?

Have you enclosed appropriate identification document?

Have you signed the form?

Has your application been countersigned?

Have you enclosed the fee?

Cheques/postal orders should be made payable to Tayside Joint Police Board.

Do not send banknotes or coins by ordinary post.

When you have completed the form take it to a main Police Station in this force area (see list) or if you are unable to take it, send it together with the required document and fee(s) to:-

The Data Protection Officer
Tayside Police
Police Headquarters
PO Box 59
West Bell Street
DUNDEE
DD1 9JU

Telephone (01382) 596130
Fax (01382) 596149

MAIN POLICE STATIONS
Police Headquarters, Dundee
Divisional Headquarters, Perth
Divisional Headquarters, Forfar
Police Office, Arbroath

THIS SECTION FOR OFFICIAL USE ONLY

Date received _____

Checked legible YES ☐ NO ☐

Details of Identification Document _____

Document checked YES ☐ NO ☐

Date Returned _____

Total Fee (s) Paid (Force and/or PNC) _____

Method of Payment _____

Receipt No _____

Date Countersignatory contacted _____

OFFICER COMPLETING THIS SECTION

Name _____ Rank _____

Station _____ Division _____

Signature _____ Date _____

**APPLICATION FORM TO BE FORWARDED TO THE DATA PROTECTION OFFICER IN
 ACCORDANCE WITH FORCE PROCEDURES FOR PREPARATION OF A REPLY TO THE
 APPLICANT.**

CANDIDATE CONSENT FORM FOR INFORMATION ON CONVICTIONS OR PENDING PROSECUTIONS

NAME:

POST:

DEPARTMENT:

REFERENCE NO.:

Dundee City Council requires information on any convictions or pending prosecutions on employees with access to children and vulnerable people. The above post falls within this category and, therefore, as a candidate for the above post, you are required to provide any information on convictions or pending prosecutions held by the Scottish Criminal Record Office. Information received will include any spent convictions and Dundee City Council will disregard these, in compliance with the Rehabilitation of Offenders Act 1974.

You are required to carry out the following as soon as possible:-

- 1 Complete Subject Access Form (select Category A in Section 5), sign and countersign.
- 2 Complete and sign this form and submit it to Tayside Police with the Subject Access Form.
- 3 Send or hand-deliver Subject Access Form and proof of identity to the Data Protection Officer, Tayside Police, Police Headquarters, PO Box 59, West Bell Street, Dundee, DD1 9JU.
- 4 Pay Tayside Police £10 for processing the Subject Access Form. This will be reimbursed by Dundee City Council on receipt of the information.
- 5 Sign and date the Authorisation Section below, which gives Dundee City Council authorisation to receive a copy of the information from Tayside Police.

Please delete as appropriate:-

- I,, **(do/do not)** consent and authorise Dundee City Council to receive a copy of any information relating to convictions or pending prosecutions held by the Scottish Criminal Record Office. The copy should be sent to the Personnel and Management Services Department, Dundee City Council, 8 City Square, Dundee, quoting reference no.....

Signed:

Date:

Please note that the Council requires an applicant for this post to have completed this form.

SUBJECT ACCESS FORM FOR INFORMATION ON CONVICTIONS OR PENDING PROSECUTIONS

SUGGESTED PROCEDURE

- 1 Candidates are informed at interview that they will require to complete and submit the Subject Access Form and are informed of the reason for doing so.
- 2 Departments issue the candidate with a copy of the Subject Access Form and Candidate Consent Form.
- 3 The candidate returns the completed Subject Access Form to Tayside Police, along with proof of identity and the completed Candidate Consent Form.
- 4 The department notifies the Personnel and Management Services Department Administrative Office of:-
 - a) the Request for Recruitment number;
 - b) the name, job title and proposed location of successful applicant;
 - c) the name of the departmental contact who will be contacted by Personnel and Management Services when the response from Tayside Police has been received and considered.
- 5 The information received from Tayside Police is returned to the Personnel and Management Services Department Administrative Office and then passed to the appropriate Personnel Team.
- 6 The Personnel Team scrutinises the information and considers the implications of the Rehabilitation of Offenders Act 1974.
- 7 The Personnel Team notifies the department of the suitability, or otherwise, of the candidate.
- 8 The Personnel Team sends a standard letter to Tayside Police confirming receipt of the information and informing them of the suitability or otherwise of the individual.
- 9 The information is retained on file. The information can only be retained for 3 months, then must be destroyed, in compliance with the Data Protection Act 1984.