**Employee and Managers Guide to**

**Consideration for Listing**

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**Introduction**

If Disclosure Scotland receives information about a Glasgow Life employee that might mean they are unsuitable for regulated activity, they follow an assessment process to decide whether to list that person.

This is called a **consideration for listing** assessment.

Disclosure Scotland may receive:

* information about a conviction or other relevant information from the police
* information about a conviction from the Scottish Court Service
* a referral from a former employer or regulatory body

 Disclosure Scotland keeps a list of:

* people unsuitable to do regulated activity with children
* people unsuitable to work with protected adults

The lists are separate, but people can be on both lists.

If Disclosure Scotland adds someone to one or both of these lists, it means that person has been 'listed'.

**It is a criminal offence to do regulated activity with the vulnerable groups someone is listed for. It is also against the law for Glasgow Life to employ a listed person in regulated role. If someone is listed, then they are not eligible for PVG scheme membership.**

**1.Initial Consideration:**

If Disclosure Scotland get information about an employee that could mean they are unsuitable for regulated activity, they start the assessment process to decide if they should list that person. This means that the person is under “**consideration for listing.”**

There is a two-step assessment to decide if Disclosure Scotland need to add a person to the lists of people not allowed to work with children and/or protected adults.

In the first step, Disclosure Scotland check the information received and decide if they should consider listing the person. If Disclosure Scotland decide it is not appropriate to continue considering that person for listing, the consideration process will end. During the initial consideration process, Disclosure Scotland will not inform current employer.

**2. Full Consideration:**

If the initial consideration shows that it might be appropriate to list a person, Disclosure Scotland will carry out a full consideration for listing. This will determine if Disclosure Scotland should list that person as unsuitable to provide regulated activity with children, protected adults, or both. An employee can continue to work with vulnerable groups while Disclosure Scotland is carrying out their consideration, however the employees PVG Scheme Record will say they are under consideration for listing.

During **a full consideration, Disclosure Scotland will tell Glasgow Life that it is considering listing the employee.**

**3. Notification and representations:**

If Disclosure Scotland goes ahead with the full consideration for listing, they will contact the employee to let them know:

* that they are under consideration for listing
* what information Disclosure Scotland has about the person
* that the person can give any extra information they think is useful

The employee then has 28 days to send any information which:

* may explain their conduct
* responds to the information given about them

This information may include testimonies or references that could change Disclosure Scotland’s decision about listing that person. This is known as a representation.

**4. Information Gathering:**

During the full consideration, Disclosure Scotland examines the information they have about the person. If they need more, they will contact Glasgow Life. In some cases, if the person gives information that is different to what other sources have provided, Disclosure Scotland will send this information to the sources and ask them for any further comments or evidence they hold.

Any extra evidence Disclosure Scotland gets from other sources will be given to the person so they can respond if they wish.

**5. Making a decision:**

Once they have the information they need, Disclosure Scotland will decide whether the person is added to one or both lists. Disclosure Scotland will give its decision in writing to:

* the person
* any organisation that the person is doing regulated activity for

**6. If Disclosure Scotland decides not to list the person:**

If Disclosure Scotland decide not to list the person, they will update their records to show the person is no longer under consideration for listing. Disclosure Scotland will tell Glasgow Life that they decided not to list the person.

**7. If Disclosure Scotland decides to list someone:**

It is against the law for someone barred from regulated activity to do it. It is also against the law for Glasgow Life to employ them in the regulated activity from which they are barred.

If someone is on one of these lists, they are barred from working with the vulnerable groups covered by that list.

For example, if someone is listed as unsuitable to work with children then they are not allowed to do regulated activity with children. However, If someone is only listed as unsuitable to work with children they can still work with protected adults and vice versa.

**8. Glasgow Life and Consideration for Listing**

When an employee applies for a PVG Scheme Record or PVG Scheme (Existing) check through Glasgow Life, Disclosure Scotland will note Glasgow Life as an interested party. This means that Disclosure Scotland would notify Glasgow Life if any employee employed in a regulated role is considered for listing in respect of that type of work.

If Disclosure Scotland are considering listing an existing employee with PVG Scheme membership, they will contact the lead signatory to check that the employee is still an employee. Should the lead signatory confirm this is the case, Disclosure will then write to indicate that the employee is being put “under consideration for listing.”

Consideration must be given as to whether to allow the employee to continue undertaking regulated activity whilst the Disclosure Scotland assessment by Scottish Ministers is being undertaken.

It is not a criminal offence to allow the employee to continue in the regulated role. The matter must be discussed between the employee and the manager (appointed person), the employee will be asked to share the communications from Disclosure Scotland and must complete an updated PVG Scheme (Existing) check. In addition, a risk assessment will be undertaken by the appointed person and guidance should be sought from a member of the Employee Relations team. The risk assessment should consider the circumstances of the case and the employee’s work. It may be appropriate to make adjustments to the employee’s duties and/or work location until the Disclosure Scotland assessment is complete. In some cases, it may be necessary to place the employee on precautionary suspension depending on the nature of the information and commence a formal investigation outlined within the Glasgow Life Discipline and Appeals procedure. Glasgow Life may make a decision prior to the conclusion of the employee’s consideration for listing.

It can take several months for Scottish Ministers to make a determination in relation to being listed or not. If the outcome of the consideration process is that the applicant is placed on one or both lists, then they must be removed from doing that type of regulated activity but could potentially work in a non-regulated role within Glasgow Life.

The barring may also result in employment being terminated. Failure to remove the employee from the appropriate post is a criminal offence.

If the outcome of the consideration process is that the employee is not barred, then the matter is closed. Any temporary change to duties due to the consideration process should cease, unless there were other reasons for the change in duties. When an employee is being considered for listing, this fact is added to their Scheme Record. Correspondence from Disclosure Scotland in relation to a “under consideration for listing” will be held electronically and securely by the Employee Relations team, whilst the consideration case is ongoing.

Following an outcome of the employee being listed, this will be placed in their personnel file and will be held in line with our Data Retention Schedule.

Following an outcome of the employee not being listed, this will be deleted and disposed of by the lead signatory in line with the Data Retention Schedule.

**9. Manager (Appointed Person) role for Consideration for Listing**

The person appointed to deal with the Consideration for Listing may not necessarily be the employee’s line manager. It is the role of the appointed person to meet with the employee and ensure the Risk Assessment is completed and if necessary, an investigation is commenced in accordance with Glasgow Life Discipline and Appeals Policy.

**10. Consideration for Listing – Process Flow and Q&A**

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| Consideration for Listing Questions & Answers | |
| **What does it mean if I am “under formal consideration for listing”?** | If an employee is under formal consideration for listing, it means that Disclosure Scotland are making enquiries and carrying out a full assessment to establish if an employee is unsuitable to carry out regulated activity with children and/or protected adults. Glasgow Life will be notified and that will depend on when Disclosure Scotland decide when the employee should be under formal consideration. |
| **What leads to someone being placed under formal consideration for listing?** | An employee will be under formal consideration for listing because Disclosure Scotland have received “vetting information” which indicates that it may be appropriate to include that information on one or both of the lists. This information can be a criminal record and/or other relevant police information, regulated activity providers such as Glasgow Life also have a duty to refer any harmful behaviour. |
| **Will I always be told the reason I am under formal consideration for listing?** | Yes, Disclosure Scotland will tell you why you are being placed under formal consideration for listing. |
| **What action will Glasgow Life take if I am placed under formal consideration for listing.** | Formal consideration does not mean that an employee is not allowed to do regulated activity. However, it is for Glasgow Life to consider whether we need to take any action to restrict or suspend your duties whilst the consideration is ongoing. An manager will be appointed alongside an ER Specialist who will review the information provided from Disclosure Scotland. A risk assessment will be completed, and this assessment will take into account the circumstances of the case and the employee’s work. It may be appropriate to adjust the employee’s duties and/or work location until the Disclosure Scotland assessment is complete. In some cases, it may be necessary to place the employee on precautionary suspension depending on the nature of the information and commence a formal investigation outlined within the Glasgow Life Discipline and Appeals procedure |
| **What happens if Disclosure Scotland notify Glasgow Life that I am unsuitable for regulated work?** | If Disclosure Scotland notify Glasgow Life that you will be included on either or both lists then that means that you must not do regulated activity, it is against the law for someone who is included in a list to do regulated activity for that group.  If an employee is included on the children's list, they must not do regulated activity with children but may do regulated activity with adults. |
| **What happens if I leave Glasgow Life during my formal consideration?** | If someone stops working for us, then Glasgow Life will cease to be an “interested party” and our details will be removed from that Scheme Record. Glasgow Life will contact Disclosure Scotland to inform them that you are a leaver from the organisation. |
| **How long will it be before Glasgow Life know what the decision is?** | Disclosure Scotland will aim to have the consideration completed and a decision made as early as possible and within 6 months for straightforward cases, however, sometimes those timescales are constrained by the complexity of the case.  Where the information which caused the consideration of listing is the subject of legal or disciplinary proceedings, the disclosure period of 6 months runs from the conclusion of those procedures. |