

## **Declaration of Convictions, Arrests, Charges and Summons**

### **Managers' Guidance**

#### **Introduction**

In order to protect employees, service clients and the organisation, a process has been introduced requiring employees to report in a timely manner\* any convictions, Police cautions (CRB posts only\*\*), Penalty Notices, arrests, charges and summons and, in certain cases, civil offences, as specified by a **general statement on the intranet Staff Information site (under 'Managing Staff in the Workplace')**, which you should read in detail [Declaration of Convictions, Arrests, Charges and Summons](#)

\*'in a timely manner' normally refers to the first attendance at work following the event. There may be exceptions to this e.g. where an employee is held in custody or takes pre-arranged leave immediately after the event. In such cases, the employee should contact his/her manager at the first opportunity to relate the information.

\*\* Police Cautions become 'spent' under the Rehabilitation of Offenders Act as soon as they are issued. Certain occupations (including those which require CRB clearance) are exempt from the provisions of the Rehabilitation of Offenders Act

#### **How will employees be made aware of this requirement?**

The duty to report the above occurrences will be publicised in the following ways: -

- Through contracts of employment (standard clause in statements of particulars) for new contracts only
- Through a statement on the Staff Information intranet site
- Through inclusion in induction checklists (reference to statement on the Staff Information intranet site)
- Through information given at Team meetings (Managers are asked to ensure that these requirements are covered)

#### **How should employees disclose information?**

Employees should disclose information verbally, producing a copy of the court or police document, when available.

#### **What should I do if a member of my staff discloses information to me?**

You will need to undertake a risk assessment, taking advice as appropriate, and recorded your decision (with reasons). You should, in appropriate cases, put in place precautionary measures for the protection of the employee, service users and the Authority. Precautionary action may include restriction of duties, temporary redeployment, temporary change of workbase or, if none of these options are practicable, suspension from duty with pay. Managers are responsible for consulting with authorised officers\*\*/legal/HR/ as appropriate and taking relevant action.

Following careful consideration of the available evidence, any action taken must be fair and reasonable in the circumstances.

\*\*An authorised officer is a manager who has been trained and authorised to make decisions on positive CRB disclosures

Here are some example scenarios which may help: -

ISSUE	EMPLOYEE	RESPONSE
3 point fixed penalty for speeding on driving licence; now 9 points on licence	Admin Supervisor; drives occasionally on business; lives 30 miles away in village; no public transport	Indicate that if further 3 points are obtained employee is likely to lose licence. In these circumstances it will remain the employee's responsibility to attend work and fulfil their duties
Charge of causing death by dangerous driving while over the Drink/Drive limit; bailed to appear in court	Admin Assistant, lives locally	Explore circumstances and note and discuss with senior manager. Advise that if found guilty and receives custodial sentence it may not be possible to continue their employment
Charge of causing death by dangerous driving while over the Drink/Drive limit; bailed to appear in court	Road Safety Officer	Explore circumstances. Refer to senior manager for decision on suspension/other precautionary action e.g. temporary redeployment pending court case outcome, in view of relevance to post
Arrested on suspicion of downloading internet child abuse images (child pornography) – using own home PC	ICT support officer (not school-related)	Contact senior management. Seek advice from SMO** and act on advice received. Consider suspension over 'bringing authority into disrepute'.
Arrested on suspicion of downloading internet child abuse images (child pornography) – using own home PC	School Teacher	Invoke child safeguarding procedures and take immediate advice from SMO*** in procedural matters including suspension. Act on advice received.
Arrested on suspicion of credit card fraud	Care Worker	Explore circumstances. Refer to senior manager to consider whether there is a threat to clients possessions. If so implement suspension/ other precautionary action
Arrested on suspicion of credit card fraud	Internal Audit Officer	Explore circumstances. Refer to senior manager to consider suspension/other precautionary action in view of relevance to post

\*\*\*SMO = Senior Management Officer with responsibility for Child Safeguarding within the Authority

**How should the information be retained? (Data Retention Protocol)**

Any information disclosed is clearly confidential and must only be shared on a need to know basis e.g. with senior management, authorised officers, HR advisers and/or legal services, as appropriate.

Any declarations made will be recorded and filed in secure, restricted, confidential storage, with the employee’s personal information, together with a record of any action taken by management. It will be each manager’s responsibility to ensure that any information retained is securely stored.

A Form for recording disclosed information is available at Appendix 1 and is also available as a separate document on ‘Forms, Letters and Templates’.

The following is an example of how the form should be used.

<b>Date</b>	<b>Incident</b>	<b>Action taken</b>	<b>Outcome</b>
<b>27/04/2009</b>	<b>Speeding</b>	<b>No.</b>	<b>3 penalty points</b>
<b>16/06/2010</b>	<b>Traffic Offence (give brief details)</b>	<b>Yes. Reminded of her continuing obligation to attend work and undertake travel on business if she is given further penalty points in future and loses her licence</b>	<b>6 penalty points</b>
<b>04/11/2011</b>	<b>Arrested on suspicion of Indecent Assault. Suspended due to nature of employment. (Explain what the employee admitted to have done but only because action will be taken)</b>	<b>Yes. Action under the Disciplinary Procedure because he has pleaded guilty at Crown Court</b>	<b>Dismissed</b>

With regard to the detail of an incident, this will only be retained if the Authority takes any action against the employee in respect of the information disclosed.

Where the information disclosed leads to a disciplinary case the information should also be added to the case file and retained in accordance with the NYCC Retention Schedule.

### **Employee Support**

It must be recognised that events of the type described above are likely to be stressful and very worrying for any employee. Therefore, as well as considering the effect on the authority, managers should ensure that employees receive the offer of appropriate support throughout the process. From the outset, employees should be reminded of the availability of the Staff Care Network (available on 07885 260198) and also their right to consult with and take advice from their trade union representative on any aspect of this subject.

Employees should be asked to advise management of any significant developments so that the situation can be kept under review.

### **Flowchart**

A flowchart is attached as Appendix 2.

**Managers' Guidance Note      Appendix 1**

**Recording of Disclosures Form**

Name of Employee.....Job Title.....

Location.....

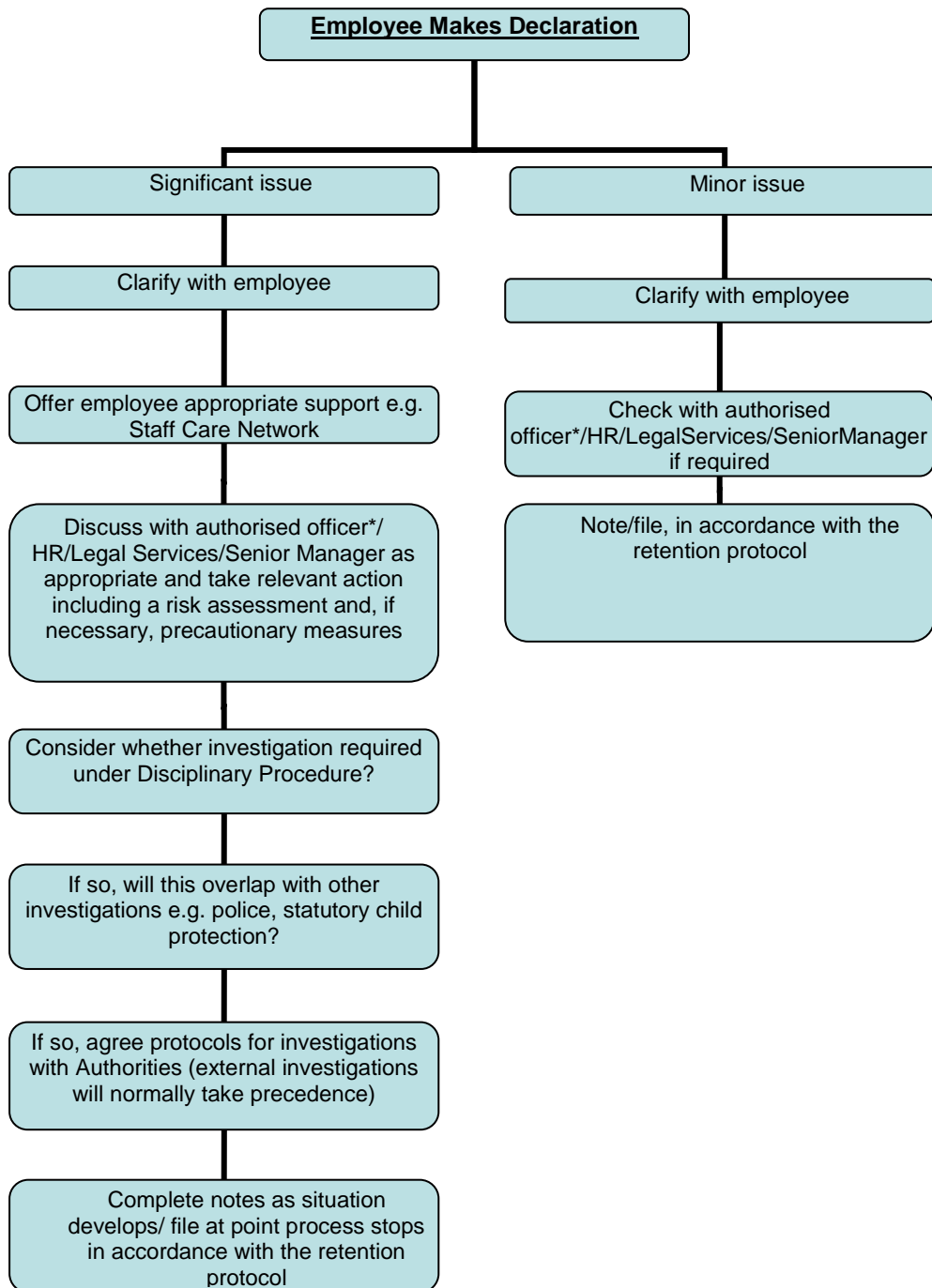
Name of Manager.....Job Title.....

Date	Incident	Action taken	Outcome

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**Managers' Guidance    Appendix 2**

**Employee Declarations of Convictions/Arrests/Summons – Flowchart**



\*An authorised officer is a manager who has been trained and authorised to make decisions on positive CRB disclosures