

Appendix B



Criminal Records Bureau (CRB) Disclosure Policy

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1. Introduction

- 1.1 GMFRS has a responsibility to ensure that criminal record checks undertaken comply fully with the CRB Code of Practice and all relevant legislation.
- 1.2 Greater Manchester Fire & Rescue Service (GMFRS) is a Registered Body for the purposes of seeking the 'Disclosure' of criminal records of applicants for posts within GMFRS under the statutory requirements governing the CRB.
- 1.3 The CRB Code of Practice is concerned with the use of information provided to organisations in receipt of criminal record disclosure documents.
- 1.4 The CRB Code of Practice is intended to ensure that information released for disclosure purposes will be used fairly and only by authorised personnel.
- 1.5 The CRB Code of Practice also requires that sensitive data is handled, stored and destroyed appropriately in line with governing requirements.
- 1.6 The CRB Code of Practice should be read in conjunction with this policy. This sets out the obligations of the Code in more detail.
- 1.7 The purpose of this policy is to provide management guidance both in the consideration of disclosure information and in response to the non disclosure of criminal convictions (during the recruitment process and/or during employment).
- 1.8 GMFRS is committed to being an equal opportunities employer ensuring that no employee or job applicant receives less favourable treatment on the grounds of sex, age, disability, religion or race.

2. The Criminal Records Bureau (CRB)

- 2.1 The Criminal Records Bureau was established under Part V of the Police Act 1997 and provides wider access to criminal information for employers through its disclosure service. This enables public, private and voluntary sector organisations to make safer recruitment decisions for roles involving children and/or vulnerable adults.
- 2.2 GMFRS is a registered body and complies fully with the CRB Code of

Practice to ensure fair and appropriate use of information provided through the CRB. For further information on the CRB Code of Practice please refer to www.crb.gov.uk

3. Scope

- 3.1 The CRB Disclosure Policy will apply to all existing GMFRS staff and prospective employees and will also incorporate GMFRS's Recruitment & Selection best practice guidelines as detailed in the management handbook.

For the purposes of the policy, the definition of staff applies to:

- Substantive
- Temporary/Fixed Term
- Agency Workers
- Volunteers
- Re-engaged

*Please note this list is not exhaustive.

4. Principles

- 4.1 GMFRS are committed to ensuring that particular rigour and vigilance is applied when recruiting people to specific roles in the organisation, especially those which require contact with children and/or vulnerable people.
- 4.2 GMFRS will not unfairly discriminate against any person with a criminal conviction, however, GMFRS reserve the right to consider the nature of the conviction against the post applied for.
- 4.3 GMFRS expects honesty and integrity from existing and prospective employees. Any non disclosure of information will be considered to be a breach of this element of the employment relationship.
- 4.4 GMFRS are committed to ensuring confidentiality of disclosure information at all times and in line with the CRB Code of Practice.
- 4.5 This Policy provides clear guidance on management's actions in response to a non disclosure for both prospective and existing employees or unsatisfactory disclosure information.

5. Obligations of the CRB Code of Practice

5.1 Those assigned as authorised personnel will be required to observe the obligations set out in this code of practice. These obligations cover the following areas:

- Fair use of Disclosure Information
- Responsible Handling of Disclosure Information
- Co-operation with Bureau assurance checks/reporting any suspected malpractice to the Bureau.
- Use of Umbrella Bodies

6. Relevant Legislation

6.1 Disclosure information is governed not only by the CRB Code of Practice but also by the following legislation:

- The Protection of Children Act, 1999 and 2004
- The Police Act, 1997
- Data Protection Act, 1998
- The Equality Framework, 2003
- The Criminal Justice and Court Services Act, 2000
- Education Reform Act 1988
- Rehabilitation of Offenders Act, 1974

7. Types of Disclosures

7.1 There are three types of criminal record checks that can be conducted. The level of check required will be dependent on the role the individual is to be recruited or promoted to.

7.2 As part of the checking process, the Criminal Records Bureau and Disclosure Scotland will check records held by the Police National Computer, local police forces, and (where relevant), the Department of Health and the Department for Education and Skills.

7.3 The types of checks available are as follows:

7.3.1 The Basic Disclosure (BD)

This contains details of convictions held in central police records which are unspent according to the Rehabilitation of Offenders Act (1974) (see Appendix A) or will state if there are no such convictions. (Please note this

level of disclosure is only available through Disclosure Scotland by the applicant.)

7.3.2 The Standard Disclosure (SD)

This is primarily available to anyone involved in **working with** children or vulnerable adults, as well as certain other occupations and entry into professions as specified in the Exceptions Order to the Rehabilitation of Offenders Act (ROA) 1974.

Standard Disclosures show current and spent convictions, cautions, reprimands and warnings held on the Police National Computer.

If the post involves working with children or vulnerable adults, the following may also be searched:

- Protection of Children Act (POCA) List
- Protection of Vulnerable Adults (POVA) List
- Information that is held under Section 142 of the Education Act 2002 (formerly known as List 99)

The Standard Disclosure also reveals whether an individual is banned from working with children or vulnerable adults. These lists are held by the Department for Education and Employment and the Department of Health.

7.3.3 The Enhanced Disclosure (ED)

This is the highest level of check available to anyone involved in **regularly** caring for, training, supervising or being in sole charge of those aged under 19 or vulnerable adults. It is also available for certain licensing purposes and judicial appointments.

The Enhanced Disclosure will contain the same details as the Standard Disclosure. However, it may also contain non-conviction information from local police records which the chief police officer may think relevant and proportionate in connection with the role applied for.

- 7.4 All roles within the organisation which require a level of disclosure are held by Human Resources.
- 7.5 Applications for criminal record checks (known as Disclosures) are made by the individual, at the request of GMFRS.
- 7.6 When processed, the CRB will send a copy of the Disclosure only to the applicant and the person who countersigned the form.
- 7.7 On occasion 'additional' information may be released by the police to the registered body in the interests of the prevention or detection of crime. Where this occurs, this information will be sent to the Counter signatory

only, in a separate letter.

This additional information will be held in the same way as the disclosure information in line with the CRB Code of Practice but the information **must never** be revealed to the applicant or any other person who is not involved in the recruitment decision.

It is a criminal offence under the Police Act (1997) to reveal the information to the applicant or any person not involved in the recruitment decision without the written permission of the Chief Police Officer.

8. Responsibilities

- 8.1 A CRB check can only be accessed through a Registered Body authorised by the Criminal Records Bureau. All data disclosed by the CRB will be treated as sensitive personal information and will be handled responsibly in line with the Data Protection Act (1995).
- 8.2 GMFRS has identified a limited number of authorised staff who are responsible for handling this information in the normal course of their duties. A register will be kept by the Lead Signatory.
- 8.3 The Lead Signatory and any Counter Signatories will be subject to disclosure and must have been approved by the Criminal Records Bureau to handle any disclosure information of employees.

9. CRB Recruitment Processes

- 9.1 The recruiting manager is responsible for identifying if a CRB disclosure is required for the post and at what level. This will need to be detailed on the PER96 form.
- 9.2 The PER96 must then be authorised by the Head of Department or equivalent and sent to the Recruitment Unit prior to the role being advertised.
- 9.3 All job application forms, job advertisements and associated recruitment papers will contain a statement that a disclosure will be requested.
- 9.4 Any offer of employment for roles which require a criminal record check will be conditional on the outcome of the CRB Disclosure.
- 9.5 GMFRS reserve the right to decide whether to offer the applicant or employee the role.

9.3 Application of the policy for prospective employees

- 9.3.1 All candidates who apply for a job which requires a CRB disclosure will be subject to a disclosure being completed at the appropriate level as detailed at 9.1.
- 9.3.2 External candidates will not be able to commence employment until a satisfactory CRB disclosure has been received.
- 9.3.3 If information comes to light through the CRB process that is so serious in nature, that it is deemed to fall within the Scope of CRB Disclosure in the Public Interest, consideration will be given to passing this to the appropriate third party.

9.4 Application of the policy for existing employees

- 9.4.1 Where an existing employee is appointed to a new post which requires a criminal records check, a satisfactory CRB disclosure applicable to the role must be obtained before the employee can be appointed to the new post.
- 9.4.2 Existing employees will not normally require a further CRB disclosure if they are moving to a post within 12 months which requires the same level of disclosure.
- 9.4.3 Existing employees will be required to report any changes to circumstances which could affect their CRB status. See Section 14 for further detail.

10. Non-disclosure or unsatisfactory disclosure during the recruitment process

- 10.1 There are a number of opportunities for a candidate to inform GMFRS of any convictions they have, whether 'spent' or 'unspent' under the Act.

Opportunities include: Application Form
 Interview
 CRB Disclosure Form

- 10.2 Where a conviction is detailed on the application form, an authorised person must review the information and consider the following:

- The nature of the offence

- The age it was committed
- The relevance to the role applied for
- Whether there is a pattern of offending
- Whether the individual's circumstances have changed

10.3 The final decision as to whether the candidate proceeds to interview stage will lie with the Director of HR or their nominated person.

10.4 If during the interview process, the candidate declares a conviction which hadn't previously been detailed on their application form, then advice must be sought from the Human Resources Department before any decision to appoint is made.

10.5 Successful candidates will be made a conditional offer of employment subject to satisfactory clearance of a CRB Disclosure and any other pre-employment checks as part of the recruitment and selection procedures.

10.6 Only authorised personnel will be able to cross reference the information received on the CRB Disclosure with the candidates recruitment file.

10.7 Where the information is consistent following a completion of pre-employment checks including CRB and GMFRS are satisfied, the candidate will be formally offered the position.

10.8 Where the pre-employment checks are unsatisfactory, a meeting will be arranged with the candidate. The candidate should be made aware at this stage of the findings and that this could lead to the offer of employment being withdrawn.

10.9 If a satisfactory explanation is provided, this should be documented and confirmation of a formal offer should be made.

10.10 If no satisfactory explanation is given, then the conditional offer of employment should be withdrawn in writing to the candidate. The decision of the Authority will be final.

11. **Non-disclosure or unsatisfactory disclosure for existing employees**

11.1 There is a requirement for existing employees to advise GMFRS of any changes in circumstances which could affect their CRB status.

11.2 Employees are responsible for ensuring that their Line Manager/HR are made aware of any change in circumstances as soon as they are notified.

- 11.3 Where there is a concern that an employee has not disclosed a conviction, then GMFRS reserve the right to require the employee to undergo a CRB Disclosure.
- 11.4 Where it comes to light that an employee has failed to declare a conviction, then this should be investigated under GMFRS's Disciplinary Policy.

12. Consideration of Disclosure Information

- 12.1 When a disclosure contains information that an employee is in possession of a conviction or indication of any other matter, GMFRS will not automatically debar an employee or applicant from the role.
- 12.2 GMFRS will take into account a number of factors before reaching a decision in respect of the disclosure such as:
- Whether the conviction or other matter revealed is relevant to the role applied for
 - The seriousness of any offence contained on the Disclosure
 - The length of time since the offence or other matter occurred
 - Whether the individual has a pattern of offending behaviour or other relevant matters
 - Whether the individual's circumstances have changed since this date
- 12.3 GMFRS undertakes to discuss any matter revealed in a disclosure with the individual prior to any decision being reached.

13. Storage, Handling, Use, Retention and Disposal of Information

- 13.1 Disclosure information will only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.
- 13.2 Access to disclosure information is limited to those who are in approved posts.
- 13.3 Any disclosure information will be kept in a sealed envelope and stored securely, separate from an employee's/applicants personnel file in secure lockable cabinets in Human Resources.
- 13.4. Once a recruitment or other relevant decision has been made, Disclosure information will not be kept for any longer than is required, and generally this will be no longer than 6 months after the date on which the decision has been taken.

Disclosure information after this time will be destroyed confidentially.

This period of retention will only be exceeded in exceptional and justifiable circumstances and the individual will be notified.

13.5 For recording purposes, HR will keep the following for each employee:

- A record of the date of issue of the Disclosure
- The type of Disclosure requested
- The role the Disclosure was requested for
- The unique reference number of the Disclosure
- Details of the decision taken in respect of the Disclosure
- Date information will be destroyed

14. Renewal Process for Disclosures

14.1 Renewals of CRB Disclosures will occur on a rolling three year basis, unless there is a change in circumstances or role which requires a further Disclosure to be undertaken in the intervening period.

14.2 Existing employees may also be asked to apply for a Disclosure in response to changes to guidance or statute.

14.3 If an employee is convicted or receives any cautions, warnings or reprimands within this period, then these should be reported immediately to their Line Manager/HR. Failure to report any of the above may result in an investigation being conducted under GMFRS's Disciplinary Policy.

14.4 The HR Department will administer the renewals process for Disclosure applications.

15. Responsibilities

15.1 Responsibilities of Employees

All employees must inform GMFRS, in writing, of any criminal convictions they receive whilst in employment.

All employees have a responsibility to attend meetings to discuss any CRB related matters when required to do so.

15.2 Responsibilities of Managers

To ensure that if a member of staff reports a criminal conviction or any change in circumstances which may require a CRB Disclosure, that this is reported immediately to HR.

15.3 Responsibilities of Recruiting Managers

To ensure that the relevant CRB Disclosure is detailed and applied throughout the recruitment and selection process.

To raise any concerns to HR regarding any convictions that come to light as part of the recruitment process.

To ensure that candidates do not commence employment until a satisfactory CRB disclosure has been received.

To ensure that internal applicants do not commence in the new role until a satisfactory clearance check has been received if required.

15.4 Responsibilities of Human Resources

To provide advice and guidance to managers in the implementation of the policy.

Monitor the implementation of the policy.

Assist managers in dealing with any CRB related matters.

15.5 Responsibilities of the Recruitment Panel

Ensure that candidates are not unfairly discriminated against during the recruitment and selection process due to criminal convictions or in relation to CRB disclosures.

Ensure that confidentiality is maintained in respect of any disclosures made by the candidate throughout the process and thereafter.

Appendix A - Rehabilitation of Offenders Act 1974

This act applies to England Scotland and Wales and is aimed at helping people who have been convicted of a criminal offence and who have not re-offended since.

The Rehabilitation of Offenders Act 1974 enables some criminal convictions to become 'spent', or ignored, after a 'rehabilitation period'.

A rehabilitation period is a set length of time from the date of conviction. After this period, with certain exceptions, an ex-offender is not normally obliged to mention their conviction when applying for a job or obtaining insurance, or when involved in criminal or civil proceedings.

The Act is more likely to help people with few and/or minor convictions because of the way further convictions extend the rehabilitation period. People with many convictions, especially serious convictions, may not benefit from the Act unless the last convictions are very old.

The length of the rehabilitation period depends on the sentence given - not the offence committed. For a custodial sentence, the length of time actually served is irrelevant: the rehabilitation period is decided by the original sentence. Custodial sentences of more than 2 1/2 years can **never** become spent.

Once a conviction is 'spent', the convicted person does not have to reveal it or admit its existence in most circumstances. However, there are some exceptions relating to employment and these are listed in the Exceptions order to the ROA. The two main exceptions relate to working with children or working with vulnerable adults. If a person wants to apply for a position that involves working with children or vulnerable adults they are required to reveal all convictions, both spent and unspent.

Criminal records are generally kept confidential. Broadly, vetting is limited to protecting vulnerable people; to ensuring the probity of the administration of justice; and to matters of national security.

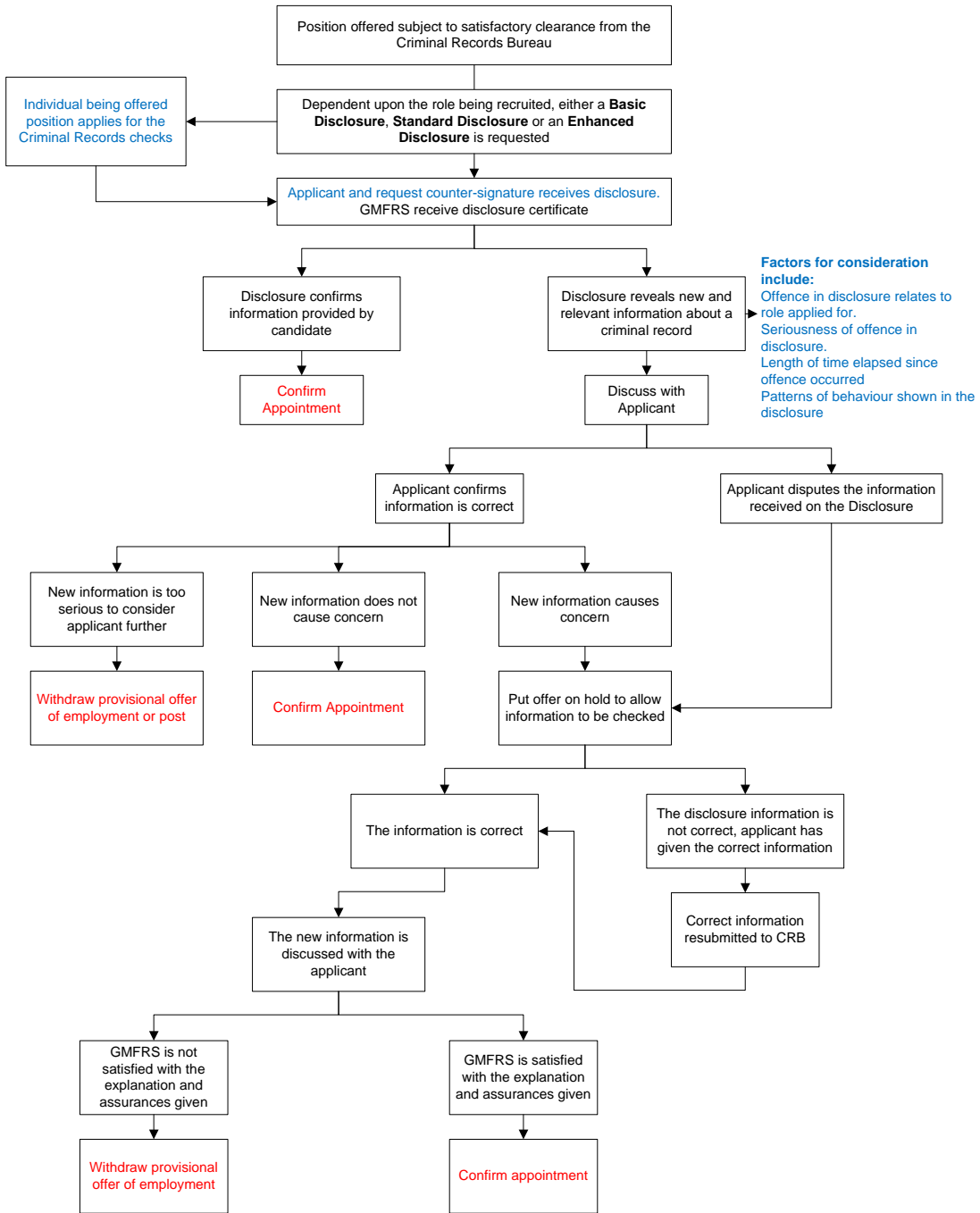
The Act makes it an offence for anyone with access to criminal records to disclose spent convictions unless authorised to do so. The Act makes it a more serious offence to obtain such information by means of fraud, dishonesty or bribe. The Data Protection Act 1984, as amended by the Criminal Justice and Public Order Act 1994, also makes it an offence to procure or supply confidential computer data.

For further information please refer to www.crb.gov.uk

APPENDIX B

Criminal Records Bureau Policy

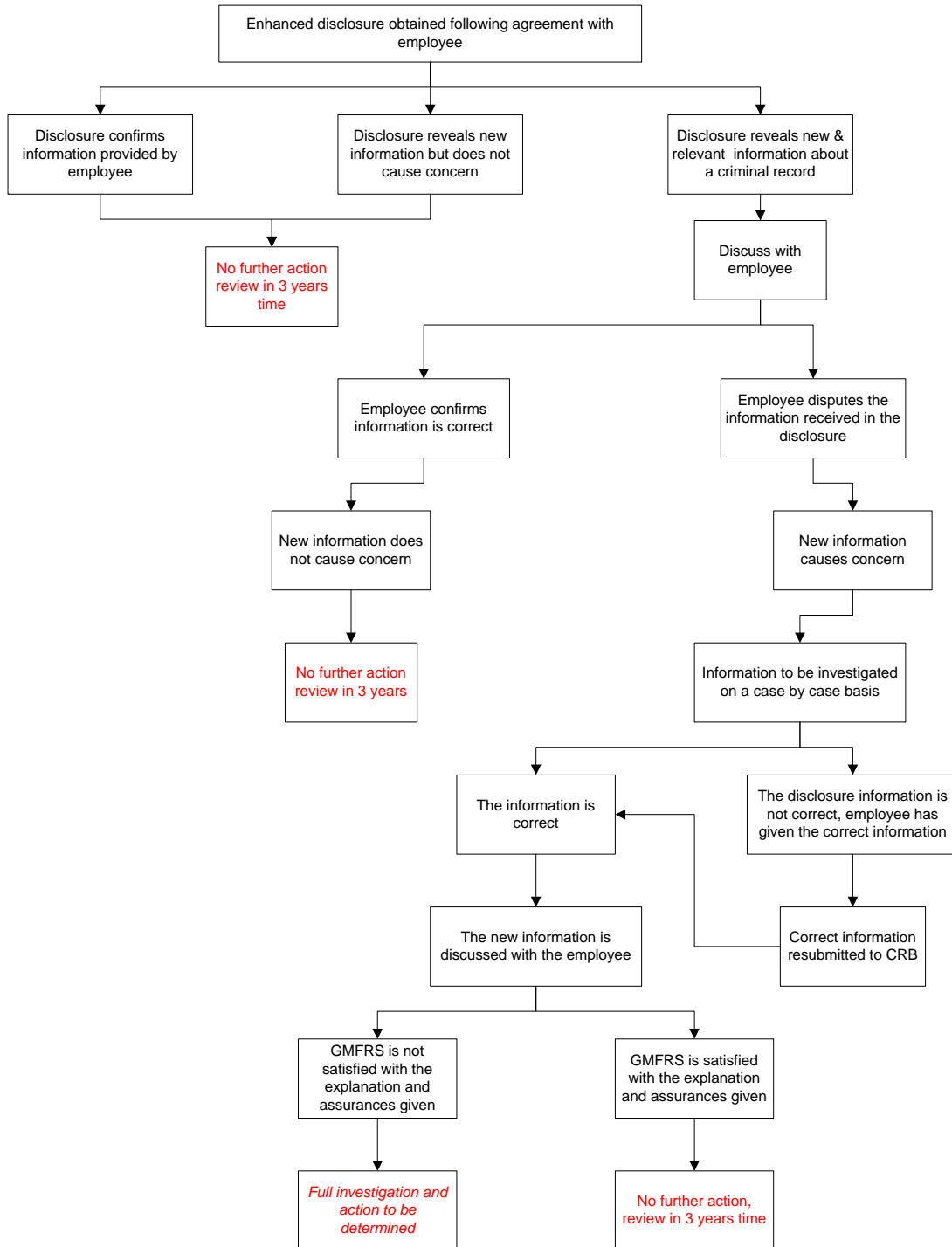
Disclosure Procedure for new employees and transferees from other fire and rescue services



APPENDIX C

Criminal Records Bureau Policy

Disclosure Procedure for existing employees



APPENDIX D

Criminal Records Bureau Policy

Disclosure Procedure for internal applicants

