



# NIID Policy & Procedure for Handling & Assessing Criminal Convictions

---

Human Resources Department  
20/05/2015

# **NIID POLICY & PROCEDURE FOR HANDLING & ASSESSING CRIMINAL CONVICTIONS**

## **Statement of Non-Discrimination**

NIID is committed to equal opportunity for all applicants including those with criminal convictions. Information about criminal convictions is requested to assist the selection process and will be taken into account only when the conviction is considered relevant to the post. Any disclosure will be seen in the context of the job criteria, the nature of the offence and the responsibility for the care of existing clients/customers and employees.

## **Application Packs**

NIID Application Packs include an application form, a fair employment monitoring form, a job description and personnel specification, information about NIID, identification documents required, NIID's Policy on Handling and Assessing Criminal Convictions and supporting information on the Rehabilitation of Offenders legislation. Applicants are never asked to disclose convictions.

## **Shortlisting**

Applicants are shortlisted in a way which is reliable, valid and fair by comparing evidence in the application form against the essential and desirable criteria in the personnel specification. Shortlisted applicants are sent a letter inviting them to interview.

## **Making a Decision after Interview**

The information obtained from the interview process will allow candidates to be placed in order of merit, and therefore a selection decision to be made. Successful candidates will be asked to apply for a criminal records disclosure from Access NI. Where the successful candidate has a criminal conviction, it will be seen in the context of the job criteria, the nature of the offence and our responsibility for the care of existing clients/customers and employees. HR will consult with the candidate, if further clarification on a disclosure is required. To ensure that the offence(s) that led to conviction(s) is/are not incompatible with the post in question, NIID will conduct a risk assessment for all disclosed convictions of successful candidates, following guidelines provided by the Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO).

## **Access NI**

Access NI is a system for the disclosure of an individual's criminal history. It has been established by the Northern Ireland Office as a result of the introduction in Northern Ireland of Part V of the Police Act 1997. It replaces the POCVA NI service that was provided by DHSSPS. It provides access to criminal history information for individuals and in certain circumstances, to organisations who are recruiting to sensitive positions to make more informed recruitment decisions. There are 3 levels of disclosures: basic disclosure, standard disclosure and enhanced disclosure.

## **Access NI Criminal Record Disclosure Check: Enhanced Disclosure**

An enhanced disclosure applies to all regulated/controlled activity positions with children and vulnerable adults as defined under the Safeguarding Vulnerable Groups (NI) Order 2007. An enhanced disclosure contains details of both spent and unspent convictions, cautions, reprimands, final warnings and non-convictions information from UK police records, if it is thought to be relevant to the position being applied for. NIID require all successful applicants to apply for an enhanced disclosure. Depending on the post applied for, this will also include a barred list check. A barred list is a list currently held by the Disclosure and Barring Service that provides details of individuals barred from working with vulnerable adults or children. A barred

list check will be undertaken if the position applied for involves access to children or vulnerable adults, in defined circumstances.

HR will clarify and discuss with the candidate, any discrepancy in the information received via the Access NI check. Based on the outcome of the discussion a final decision to appoint or reject will be made and communicated to the candidate.

### **Access NI Code of Practice**

NIID adheres to the Access NI Code of Practice. The Code of Practice is intended to ensure that information released in Enhanced Disclosures is used fairly; and, to provide assurance to applicants that this is the case. The Code also seeks to ensure that sensitive personal information is handled and stored appropriately and kept for only as long as is necessary.

### **Convictions Risk Assessment**

NIID do not wish to exclude ex-offenders but we must ensure that the offence(s) that lead to conviction(s) is/are not evidently incompatible with the post in question. To do this HR will carry out a risk assessment for all disclosed convictions of successful candidates, following guidelines provided by the Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO).

The risk assessment will be recorded in writing, and will consider the following:

- The seriousness of the offence and its relevance to the safety of clients, other employees, and other relevant persons, and/or property
- The length of time since the offence occurred
- Any relevant information offered by the applicant about the circumstances which led to the offence being committed
- Whether the offence was one-off or part of a history of offending
- Whether the nature of the job could present opportunities for the postholder to re-offend
- Whether the applicant's circumstances have changed since the offence was committed, making re-offending less likely

If further exploration is necessary, HR will ask the candidate to attend a meeting to discuss the relevant conviction(s). The discussion with the candidate will be recorded in writing, as will the outcome.

HR will communicate the decision to the appropriate line manager, who will have been on the interview panel. Other pre-employment checks will include two references, proof of the right to work in the UK, and registration status with professional bodies, if applicable.

Any offer of employment is conditional on other pre-employment checks being satisfactory to NIID.

### **Confidentiality, Handling & Storage of Information**

Information supplied by you will be processed in accordance with the provisions of the Data Protection Act 1998. Risk assessments and related recruitment decisions are stored securely within NIID's HR department in a locked filing cabinet (separately from personnel files) and only available on a need to know basis (this is usually HR and the appropriate line manager).

All Access NI disclosure certificates are shredded onsite once a recruitment decision has been made and the certificate reference number has been recorded.

### **Updates in Legislation and Procedures**

Human Resources attend courses throughout the year provided by the Labour Relations Agency, the Equality Commission, Legal Island and NIACRO to gain refresher knowledge as well as updates on new legislation. Human Resources will provide relevant information to Line Managers/Panel Members in relation to fair practice at all stages of the recruitment process.

## THE REHABILITATION OF OFFENDERS (EXCEPTIONS) ORDER (NI) 1979 (amended by 1987, 2001 and 2003 and 2009 Orders)

Some jobs are considered so sensitive or risky that all criminal offences must be declared regardless. A range of occupations are exempted from the legislation for these posts, applicants **MUST** disclose information on both 'spent' **AND** 'unspent' convictions. The list of posts is extensive and can be summarised as follows:

- **WORK THAT INVOLVES CONTACT WITH CHILDREN OR YOUNG PEOPLE OR VULNERABLE ADULT GROUPS** – e.g. provision of health care or social services or provision of other services within a hospital or nursing home, education, leisure centres, the homeless, adults with learning disabilities, mental illness and the elderly.
- **PROFESSIONS THAT ARE REGULATED BY LAW** - e.g. medical practitioner, nurse, chemist, optician, accountant, manager of an insurance company.
- **POSTS INVOLVING NATIONAL SECURITY** e.g. security personnel or senior civil service posts.
- **POSTS CONCERNED WITH ADMINISTRATION OF JUSTICE** e.g. police officers, solicitors, probation officers, traffic wardens, judges, prison officers.

## THE REHABILITATION OF OFFENDERS (NI) ORDER 1978

Other jobs such as retail, general operatives, administration etc. which do not have access to the vulnerable or their personal details may allow sentences to become 'spent' after fixed periods from the date of conviction.

**If a conviction is 'spent' you do not have to mention it, even when asked, unless applying for a post which is 'excepted' under this legislation (see above).**

Sentence	Aged 18 or over at conviction	Under 18 years at conviction
Absolute Discharge	6 months	
Probation Order, Bind Over, Conditional Discharge, Care/Supervision Order	Date Order ceases OR 1 year – whichever longer	
Attendance Centre Order Juvenile Justice Centre Order Youth Conference Order, Reparation Order, Community Responsibility Order	1 year after Order expires	
Hospital Order	5 years or 2 years after Order expires – whichever longer	
Fine or Community Service Order Combination Orders	5 years	2 ½ years
Prison – (immediate or suspended) OR Young Offenders Centre – sentence of 6 months or less	7 years	3 ½ years
Prison – (immediate or suspended) OR Young Offenders Centre over 6 months up to and including 2 ½ years	10 years	5 years
A period of detention of less than 6 months under Article 45 of the CJ (Children) (NI) Order 1998	N/A	3 years
A period of detention over 6 months but less than 30 months under Article 45 of the CJ (Children) (NI) Order 1998	N/A	5 years
<b>NB: CUSTODIAL SENTENCE OF MORE THAN TWO AND A HALF YEARS CAN NEVER BECOME SPENT</b>		

- Consecutive prison sentences count as a single term when calculating the rehabilitation period.
- If more than one sentence was imposed for an offence, the longer rehabilitation period applies.
- If a person receives new conviction during rehabilitation period:
  - (i) for a summary offence (i.e. can only be tried at Magistrates Court) both rehabilitation periods expire separately;
  - (ii) for a more serious offence (i.e. which **could** be tried at the Crown Court) **neither** conviction will become spent until longest period expires.
- Cautions, reprimands and final warnings are not considered to be convictions and become 'spent' immediately unless relevant to 'excepted' posts.
- A spent conviction will remain on your criminal record.
- It is an offence for anyone to give information about spent convictions from official records except in the course of official duties.

**For further information you can contact NIACRO (Northern Ireland Association for the Care and Resettlement of Offenders) on Tel: 028 90 320157**