



Handling and Assessing Criminal Convictions Policy Organisational Area: Recruitment and Selection

Version 2.0

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Linked documents: Access NI: NIACROs Criminal Records Vetting Policy and Procedure

1. Policy Context

- 1.1 To ensure the furtherance of its Business and Corporate Plans NIACRO has in place a Handling and Assessing Criminal Convictions Policy.

2. Purpose

- 2.1 This policy sets out NIACRO procedures for handling and assessing criminal conviction information relating to staff and volunteers. This policy should be followed in conjunction with NIACRO Guideline on Handling and Assessing Conviction Information.
- 2.2 For every organisation involved in recruiting and selecting staff and volunteers, the key factor is ensuring that the best person for the job/role is recruited. The selection process therefore ensures that applicants with the appropriate skills, aptitude, ability and potential are considered for selection. As an organisation NIACRO also needs to recruit safely and carry out its responsibilities under the legislation.
- 2.3 While being committed to equality of opportunity for all in recruiting staff to both paid employment and volunteering roles NIACRO must also ensure that it carries out an objective risk assessment in considering the relevance of the conviction to the post/role on offer.
- 2.4 This policy and related guidelines demonstrate that NIACRO is committed to fully complying with best practice and the Code of Practice outlined by Access NI. The documents also provide a guide to good practice in handling disclosure information and factors to consider when assessing the risk and relevance of the conviction to the duties of the job/role. This reflects the recommendations set out in the NIACRO publication: "Working with Conviction-A Guide for Employers".
- 2.5 Before this is provided it is necessary to provide a clear guidance regarding information that can be requested according to the post / role advertised. This is set out below.

3. NIACRO Policy

- 3.1 In line with the "Ban the Box"¹ initiative, NIACRO does not ask applicants to declare a conviction at point of applying for a position but it is explained in the recruitment material that upon selection, the applicant will be screened via Access NI for any previous convictions.
- 3.2 NIACRO outlines in its recruitment material available to prospective candidates that this screening process will mean that convictions for some offences will effectively disbar them from positions that involve face to face contact in the delivery of services to service users.
- 3.3 These offences include (but are not limited to) Convictions for Sexual Offences (Contact and Non-contact) convictions for violence in the context of a domestic relationship, some convictions for serious assault where the offence is designated "Aggravated by Hostility" (Hate Crime), convictions for offences against children and convictions for offences against adults at risk.

¹**Ban the Box** calls on UK employers to create a fair opportunity for people with convictions to compete for jobs by removing the tick **box** from application forms and asking about criminal convictions later in the recruitment process. The campaign is led by the charity Business in the Community (BITC).

- 3.4 NIACRO will also advise that criminal records must evidence that they have remained free from offending for 24 months after the ending of any statutory supervision licence – this would include the fact that they have not come to the attention of the police (for a total 2 of years) before applying for a position.
- 3.5 Following interview, the successful individual will be contacted to disclose convictions. Whether or not there are convictions, the Access NI process will be instigated. When the disclosure is returned it will be cross referenced with the own disclosure
- 3.6 Where a conviction is disclosed that does not disbar an individual automatically a decision as to suitability is required. In this situation a NIACRO Disclosure Panel may be convened to determine their suitability.

4. Legal basis for operating Access NI

- 3.1 NIACRO is entitled to ask prospective employees / volunteers about convictions which are not spent under The Rehabilitation of Offenders (NI) Order 1978 This legislation applies to “nonregulated” and “non excepted” positions. Providing applicants with some guidance on the legislation can be helpful as many will not immediately know if their conviction has become spent.
- 3.2 If the role falls into the category of “excepted” under the Rehabilitation of Offenders (Exceptions) Order (NI) 1979 and/or is defined as a “regulated” or “previously regulated” position under the Safeguarding Vulnerable Groups (NI) Order 2007 (SVGO 2007) and Protection of Freedoms Act 2012, individuals will need to understand the implications as early as possible in the process, i.e. that if the position applied for is “excepted”, “regulated” or “previously regulated” their written consent will be required and a full Access NI criminal record check will be carried out. Further details regarding Access NI checks are outlined below.

5. Range of Access NI Checks

- 5.1 Access NI, under Part 5 of the Police Act 1997, has created a statutory framework for the disclosure of criminal and police records, including non-conviction information in certain circumstances. Access NI operates three levels of disclosure:
 - Basic,
 - Standard, and
 - Enhanced
- 5.2 The three levels provide varying degrees of access to a person’s Criminal and Police record which are explained in more detail below.
- 5.3 Access NI Basic Disclosure checks will not be requested for any post or role.
- 5.4 Standard Disclosure checks will be requested for roles that fall under the definition of “Excepted” employment as defined by the Rehabilitation of Offenders (Exceptions) Order (NI) 1979. Standard checks will reveal information relating to spent and unspent convictions and cautions.
- 5.5 Roles which involve working with children, known as “Regulated positions”, fall within the scope of the Access NI Enhanced Disclosure check. Enhanced checks will reveal information relating to spent and unspent convictions, cautions, cases pending, unless they are subject to filtering arrangements, Barred List information and other relevant information held on Police records.
- 5.6 NIACRO will request Enhanced Checks on Regulated positions as defined by the SVGO2007 and those previously defined as Regulated or Controlled as amended by the Protection of Freedoms Act (2012). Barred List information will not be revealed on Enhanced Disclosure Certificates relating to Previously Regulated posts or roles.
- 5.7 Access NI carry out checks on UK wide databases regarding criminal records and other relevant information. Where applicants are from overseas or have spent extended periods of time outside the UK they will be asked to seek a letter of good conduct from the local police station where they were resident.

5.8 Where a letter of good conduct cannot be produced NIACRO's Disclosure Panel will assess each individual case with regard to post or role applied for and make a final decision re: recruitment.

6. Disclosure Panel

6.1 A Disclosure Panel (the Panel) exists within NIACRO to ensure consistency of practice and offer support to staff, volunteers and applicants who have made a disclosure about criminal convictions or offences. The panel should meet as required when a risk assessment needs to be undertaken for a post or role.

6.2 Panel Members: (to include the following or a deputy agreed by the Director of Operations)

- Director of Operations
- Human Resources Officer (to record meeting /decision /action)
- Adult/Children Services Line Managers (one from each area)
- Statutory Representation (as appropriate)

6.3 The Panel will:

- i) Ensure that the policies and procedures are clear and within legislative requirements.
- ii) Ensure that advice/support is given to staff /volunteers as to information required re: disclosure statements
- iii) Offer advice on relevance of convictions to specific jobs and roles.
- iv) Adjudicate in cases where there may be disagreement as regards the relevance of disclosures to a particular job or volunteer role.
- v) Advise if information which has not been disclosed comes up on a check, or if there is a discrepancy.
- vi) Fully record its deliberations and recommendation and to hold on confidential file.
- vii) include any assessment of risk they feel is relevant and ensure that a recommendation is submitted to the NIACRO CEO for final decision.

In the case of the CEO post, the chair of the panel will ensure adherence to appropriate process.

7. Factors to Consider When Advising People on Disclosing Convictions For Employment and Volunteering Purposes.

7.1 The HR Officer or member of the Panel will discuss any matter revealed in a Disclosure with the person seeking the position/role as soon as criminal convictions are brought to their attention.

7.2 The individual will be supported and advised to make a disclosure statement which will be useful for them in all job or volunteer applications.

7.3 All relevant NIACRO staff will be trained in Handling and Assessing Relevance of Conviction Information.

7.4 The following factors will be considered before reaching a recruitment decision:

- Whether the conviction or other matter revealed is relevant to the position/role in question
- The seriousness of any offence or other matter revealed
- The length of time since the offence or other matter occurred
- Whether the individual has a pattern of offending behaviour or other relevant matters
- The circumstances surrounding the offence and the explanation(s) offered by the applicant
- Whether the applicant's circumstances have changed since the offending behaviour or other relevant matters. Indicators would include accommodation, employment or training, attitudes, achievements, assistance with addiction issues.
- Any contractual requirements put in place by the funder

8. Disputes

8.1 Where an applicant disputes the content or accuracy of their Standard or Enhanced Access NI Disclosure Certificate, NIACRO will advise them to raise their dispute with Access NI. In such instances the HR Officer will advise the Disclosure Panel that a dispute has been raised. In such circumstances it may not be practicable for NIACRO to keep the position available indefinitely given funder requirements.

9. Appeals

9.1 In circumstances when the Panel deems the risk to be relevant and incompatible with the post, the applicant will be given the opportunity to discuss the outcome with the Chair of the Panel in line with NIACRO's Recruitment and Selection Appeals Process.

10. Policy on Rechecking Staff and Volunteers

10.1 In line with best practice NIACRO will carry out repeat Access NI Standard or Enhanced checks on staff and volunteers every 3 years from date of commencement in post or role.

11. Secure Storage, Handling, Use, Retention And Disposal Of Disclosures And Disclosure Information

11.1 NIACRO will ensure that all information is handled in line with NIACRO's Data Protection Policy in a sensitive manner and is kept in a confidential, secure manner.

- i) Storage & Access - All records regarding Disclosure information will be kept confidentially, in a secure place, with access strictly controlled and limited to those who are entitled to see it as part of their duties. The HR Officer will be responsible for the safekeeping and access of Disclosure information.
- ii) Handling - Disclosure information is only passed to those who are authorised to receive it in the course of their duties. NIACRO will maintain a record of all those to whom Disclosures or Disclosure information has been revealed and recognises that it is a criminal offence to pass this information to anyone who is not entitled to receive it
- iii) Usage - Disclosure information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given.
- iv) Retention - Once a recruitment (or other relevant) decision has been made, Disclosure information will not be kept for any longer than is absolutely necessary. This is generally for a period of up to six months, to allow for the consideration and resolution of any disputes or complaints. The HR Officer will review monthly the dates when information becomes obsolete. If, in very exceptional circumstances, it is considered necessary to keep Disclosure information for longer than six-months, the HR Officer will consult the Disclosure Panel about this and will give full consideration to the Data Protection and Human Rights legislation before doing so. Throughout this time, the usual conditions regarding safe storage and strictly controlled access will prevail.
- v) Disposal - Once the retention period has appropriately elapsed, NIACRO will ensure that any Disclosure information is destroyed by secure means, i.e. by shredding, pulping or burning. While awaiting destruction, Disclosure information will not be kept in any insecure receptacle (e.g. waste bin or confidential waste sack). NIACRO will not keep any photocopy or other image of the Disclosure or any copy of representation of the contents of a Disclosure. However, notwithstanding the above, a record will be kept noting the date of issue of a Disclosure, the name of the subject, the type of Disclosure requested, the position for which the Disclosure was requested, the unique reference number of the Disclosure and the details of the recruitment decision taken.