

**NIACRO** is a voluntary organisation which has been working for more than 40 years to reduce crime and its impact on people and communities. NIACRO provides services for, and works with, children and young people, adults in the community and people in prison and their families, whilst working to influence others and apply our resources effectively.

### **The Issue:**

Old and minor convictions received under the age of 18 can have a lasting and damaging impact as a person moves through life. Having a criminal or police record restricts access to education, employment or training, travel opportunities and goods or services including insurance; if the person still lives at home, it can also void their parents' house or car insurance. Moreover, it can also act as a precursor to further offending – rather than the deterrent it was intended to be. Even old, minor and spent convictions received under the age of 18 can be disclosed through enhanced disclosure checks used by some employers – despite the fact that the vast majority of young people who offend do not pose a real danger to others.

### **Key Facts:**

- Between January 2005 and June 2009, **more than 7,800 cautions** were given to children and young people by the PSNI, with some children as young as 10 years old.
- For the period April-June 2014, the rate of young people in Northern Ireland who were 'NEET' was **14.8%** - higher than the UK average of 12.8%. Several of the barriers to education, employment and training outlined in the Executive's *Pathways to Success* (2012) strategy are pertinent to young people who have criminal records. Youth criminal records therefore compound our 'NEET' situation.
- The age of criminal responsibility in Northern Ireland is just **10 years old**: this was deemed to be internationally unacceptable by the Youth Justice Review.
- The current regime for youth criminal records is in contrast to several **human and children's rights**, including the UN Convention on the Rights of the Child, the UN Rules for the Protection of Juveniles Deprived of their Liberty (The Havana Rules), the UN Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), and Article 8 of the European Convention on Human Rights.
- In June 2014, the report of the inquiry into the effectiveness of the youth court in England and Wales, chaired by **Lord Carlile**, said children who committed non-serious offences should have their record expunged when they turn 18.
- The Republic of Ireland has a **Spent Convictions Scheme** for young people who offend before they turn 18; if specific criteria are met, the conviction is automatically spent when they are 18.

The Review of the Youth Justice System in Northern Ireland (2011) acknowledged that currently old and minor convictions damage the life chances of young people. It stated that "children must be given the best chance possible to succeed in life and become responsible citizens ... they should be given every opportunity to put youthful misdemeanours and even serious offending behind them". The Review recommended that rehabilitation legislation should be overhauled to reflect the principles of proportionality, transparency and fairness and called for a mechanism to allow for young people who offend to be allowed to apply for "a clean slate" (**Recommendation 21**). This Recommendation has not been implemented; instead, new filtering arrangements were introduced in April 2014 which changed the length of time until convictions become spent (i.e. no longer must be disclosed on a basic criminal record check). While we welcome the move to review the criminal records regime in Northern Ireland, we are concerned that this provision does not take into account the specifics of youth offending and it does not allow for a person to ever 'move on' from offending behaviour when they were aged 10-17. Moreover, the new filtering arrangements introduced a list of 1,190 'specified offences' which will never be filtered from a person's record – even if they were aged under 18 at the time and received a caution or diversionary youth conference: these specified offences can include 'breach of the peace' and 'damaging property' and can affect many young people caught up in disturbances throughout Northern Ireland. Therefore, we believe that **these filtering arrangements do not go far enough in facilitating the effective resettlement of young people who offend**.

### **The Idea:**

NIACRO believes that now is the time to implement and extend the scope of Recommendation 21 of the Youth Justice Review. We believe there is an opportunity to include this amendment to the current criminal records regime within the Justice Bill currently being considered by the Committee for Justice.

We propose that young people and adults should have the opportunity to apply to a multi-agency panel to have old and minor offences committed when they were under the age of 18 removed from their criminal record.

Similarly, they should be able to apply to have non-conviction information relating to when they were aged under 18 removed from their police records.

### **The Proposed Way Forward:**

- We propose that anyone could apply, regardless of their age or how long ago the record was acquired, to a multi-agency panel to have old and minor offences removed from their criminal record. The only criteria would be that the offence (or non-conviction information) relates to when the person was aged under 18.
- We suggest that the multi-agency panel would be made up of representatives of the justice sector, social services, and the voluntary and community sector.
- Guidance regarding the definition of 'old' and 'minor' convictions would be outlined in the terms of reference for the multi-agency panel. NIACRO has commissioned research into these definitions.
- Proposed Process:
  1. An individual applies to the multi-agency panel for their criminal record to be reviewed.
  2. The official documents relating to the relevant conviction(s) / non-conviction information are retrieved and considered by the multi-agency panel. The individual and any agency working with him/her then make representations to the panel.
  3. The panel invites the individual to a Record Review, in the style of the 'Review and Congratulate' panels used by the Wrexham Youth Justice Service to symbolise reinstatement of 'full citizenship'.
  4. The panel delivers its decision and explains the reasoning behind the decision taken.
  5. If the decision is made in favour of the applicant, the relevant information is removed from the criminal and/or police record and is no longer disclosable.
  6. In instances where the panel decides against the individual, that person should then be able to appeal to an independent review panel.

### **Our Work in This Area:**

This policy position is based on our experience of service delivery and research, including the feedback we receive from our service users. Several of our projects work directly with young people and adults who have previously offended and have faced barriers to employment, education and training as a consequence of having a criminal record – despite sustainable employment being identified as a key factor in preventing re-offending.

NIACRO also offers a confidential advice line to employers and applicants who require information about recruitment and disclosure of convictions:

- In 2013-14, we supported 1,578 calls to the advice line.
- Between April 2014 and December 2014, we received 1,659 calls – indicating the level of confusion surrounding the filtering arrangements.
- We estimate that 30% of the calls to the advice line are made by young people.

### **Contact:**

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