



# NIACRO: Off The Record

## Policy Briefing Update and FAQs, February 2015

In January 2015, NIACRO met with the five political parties represented on the Executive to discuss the '[Off The Record](#)' proposals to change the criminal records regime for people convicted of minor offences as children. Bob Ashford and Simon Weston OBE supported NIACRO at these meetings and shared their experiences of childhood offences impacting on their careers decades later.

Representatives from all five parties responded positively to the proposals and were supportive of the principles. However, there were a handful of queries and areas for clarification which were common to each of the parties. This short paper seeks to clarify these issues, and also takes into consideration the Minister's comments during Question Time on 27<sup>th</sup> January.

Bob and Simon also supported NIACRO's launch of our short film on this issue ([watch here](#)), which received positive feedback from representatives of the voluntary sector, the youth justice sector, and the public. Off The Record has also received a huge amount of media interest and in the space of one week was discussed favourably in a range of press and broadcast programmes, including: BBC Radio Ulster (GMU, Talkback, Evening Extra); U105; Downtown Radio; News Letter; Irish News; Belfast Telegraph; Sunday Life; Ulster Gazette; Blast 106fm; DNTV; and Scope magazine, amongst others.

### 1. What is a 'minor' offence?

There is currently no definition of a 'minor' offence. This is something that needs to be determined, and we are keen to work with the Department of Justice (DOJ) to agree a definition. We have recently commissioned research which we hope will provide a starting point for discussions about this definition.

### 2. Would young people be able to apply to have their criminal record reviewed immediately, or would there be a 'cooling off' period?

We agree there should be a set period of time before someone can apply to the process. We suggest three years is an appropriate length of time, given the low age of criminal responsibility and the development rate of young people.

### 3. We already have a filtering scheme; does that not already do what you're asking for?

We welcomed the introduction of filtering for people who offended as adults, and more recently the planned appeals mechanism and automatic referral scheme proposed by the Minister. However, we don't think it goes far enough for children. Filtering only makes a conviction 'spent': it does not take it 'off the record' entirely and the offence may still be disclosed on enhanced employment checks, as well as visa and insurance applications. The list of 1,190 specified offences which filtering does not apply to also prohibits many of the thousands of young people with convictions or cautions from benefiting from this process – including those whose offences could be considered 'minor'. The filtering process may also preclude those who have more than one childhood conviction.

It's also important to recognise that the impact of minor convictions goes beyond Access NI and disclosing criminal record information to employers; it can impact on a person's ability to travel or even get house or car insurance. If that young person lives with their parents, their parents also have to disclose the conviction to insurers and may be denied that service. More information is available in our position paper [here](#).

#### **4. Why does NIACRO want a multi-agency panel to be responsible for this process?**

We believe a multi-agency panel would provide the right balance and expertise to objectively assess whether the offence should be removed from the person's record, based on their personal circumstances, commitment to desistance, the likelihood of reoffending, the impact on the local community and/or victims, and other relevant factors.

While we recognise that the Minister prefers the idea of an Independent Reviewer to that of a multi-agency panel, we think there needs to be more information about how that Reviewer's independence would be guaranteed. For example, it may be appropriate that the Reviewer is accountable to a panel made up of representatives from justice, social services, the voluntary sector and the victims sector to ensure objectivity and accountability. A multi-agency panel should also be involved in the drafting of the terms of reference and guidance.

#### **5. How would that panel be resourced, and who would be on it?**

We understand the reservations about the potential resource required in setting up this panel; however, we believe it would be more effective and cost-efficient in the long-term than having one Independent Reviewer looking at every application. We recognise there is a sifting role required, initially at least, to reduce the workload and the amount of applications: this role could be performed by one Reviewer once the definition of minor and the waiting period is agreed (see Q1 and Q2), with only cases fitting the criteria moving on to the panel to determine the outcome.

We are keen to work with the Department in determining membership of the panel, though our initial suggestion is that representatives from justice, social services, the voluntary sector and the victims sector would be appropriate. There is precedent for this kind of panel in the Public Protection Arrangements for Northern Ireland (PPANI), where Local Area Public Protection Panels (LAPPP) have a similar make-up.

#### **6. How would the process work?**

After an individual applies to the process and the official documents relating to their case are considered, the panel would determine if the offence should be taken off the person's record. If they find in favour of the applicant, that person would be told in person and the ramifications of that decision explained to them, to mark a reinstatement of 'full citizenship'. **We recommend a pilot is run, as with Youth Engagement, in order to determine the most effective and efficient process.** This pilot is likely to highlight any issues which need to be resolved and provide an opportunity for innovative thinking in response to matters arising.

There is also scope for Magistrates to be involved at an earlier stage of this process, by stating in court that an offence will be removed from the record after a period of time if specific, relevant conditions are met. Similarly, there is scope to change the disclosure remit of discretionary disposals given to children by police, as noted in the recent CJINI report 'Police Use of Discretion Incorporating Penalty Notices' (January 2015).