



north west
regional college
Derry-Londonderry • Limavady • Strabane

**North West Regional College Policy
and Procedures**

Criminal Record Policy & Procedure on the Recruitment of Ex-offenders
(Extract from Safeguarding Care and Welfare Policy)



North West Regional College The Criminal Record Policy

1 POLICY STATEMENT

The College is committed to ensuring individuals appointed to posts within the College are appointed on the basis of merit. We undertake to treat all applicants for positions fairly and not to discriminate unfairly or unlawfully against the subject of a Disclosure on the basis of a conviction or other information revealed.

In line with The Rehabilitation of Offenders (Exceptions) (Northern Ireland) Order 1979, as amended in 2014 some old and minor spent convictions will no longer have to be disclosed i.e. they will be considered as 'Protected' and cannot be taken into account in employment decisions.

Applicants are required to disclose certain information concerning their criminal convictions. They must disclose information about 'Spent' and 'Unspent' convictions that are not 'Protected' under the Rehabilitation of Offenders (Exceptions) (Northern Ireland) Order 1979, as amended in 2014. See Appendix 1 which details circumstances where offences are 'Protected'.

The College will consider all convictions and relevant information detailed on the Enhanced Disclosure Certificate.

This Policy is made available to all Disclosure applicants at the outset of the recruitment.

The College is committed to securing equality of opportunity for all employees and applicants to the College. We will ensure that they will be afforded equality of opportunity irrespective of Gender (including gender reassignment), Marital or Civil Partnership status, having or not having Dependents, Religious Belief or Political Opinion, Race (including colour, nationality, ethnic or national origins or being an Irish Traveller), Disability, Sexual Orientation or Age.

We ensure that all those in the College who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of Disclosure Information. We also ensure that they have received appropriate guidance and training in the relevant legislation relating to employment of ex-offenders (e.g. the Rehabilitation of Offenders (Northern Ireland) Order 1978).

The College complies fully with the AccessNI Code of Practice issued by the Department of Justice, in connection with the use of information provided to registered persons, their nominees

and other recipients of information by AccessNI under Part V of the Police Act 1997, for the purposes of assessing an applicant's suitability for employment purposes.

We undertake to make every subject of an Access NI Disclosure aware of the existence of the Code of Practice, and to make a copy available on request.

Convictions will not necessarily debar an applicant from obtaining employment. On occasion it may be necessary to disclose information to a third party in connection with legal proceedings for example an Employment Tribunal.

The College is committed to promoting equality of opportunity and good relations in accordance with Section 75 of the Northern Ireland Act 1998. This policy should be interpreted in a manner consistent with the aforementioned legislation.

The College will provide this policy in alternative formats on request where reasonably practicable, eg, Braille, Large Print, Computer Disk, Audio Formats, etc, and/or alternative language.

North West Regional College Procedure on the Recruitment of Ex-offenders

1 CRIMINAL RECORD PROCEDURE

The College will request an Access NI Disclosure only where this is considered necessary to the particular position. This will be based on a thorough risk assessment of that position and having considered the relevant legislation which determines whether or not an Enhanced Disclosure is available to the position. Where an Access NI Disclosure is deemed necessary, all applicants will be made aware at the initial recruitment stage that the position will be subject to a Disclosure and that the College will request the individual being offered the position to undergo an appropriate Access NI Disclosure check.

The guidelines on how the Criminal Record procedure operates for appointments are indicated below:-

- 1.1 Successful job applicants will be required to register with AccessNI online for an Enhanced Disclosure Certificate. The required identification checks will be made in accordance with AccessNI guidelines and the persons details will then be submitted online to AccessNI by the nominated officer or Deputy.
- 1.2 If the person has had an address outside of the UK or the Republic of Ireland in the last 5 years, a Certificate of Good Conduct should be sought from the Country they resided in (including UK Citizens). (For appointments this can be done concurrently with health assessment and should therefore only cause minimal delay, if any in the appointment procedure).
- 1.3 There are no formal arrangements for checking Police records in countries outside of the UK and the Republic of Ireland. However, citizens of some countries can obtain official statements giving details of convictions or confirming a clean record (see Appendix 2). Overseas applicants should be asked either to provide such a document or to confirm that such a document is not available in their country. Where it is not available, meticulous care must be taken with other checks (such as references for appointees).
- 1.4 AccessNI will confirm via their online case tracking service if and when a Certificate has been issued to the applicant.

- 1.5 If an applicant believes that the disclosure certificate is inaccurate, they must follow AccessNI's formal dispute process. An applicant can raise the dispute with AccessNI themselves or give permission for someone to do it on their behalf. If an applicant wishes to dispute the police information on their Enhanced Disclosure Certificate, they should ask the Independent Monitor (IM) to review the information where they believe it is inaccurate, or it is not relevant for the purpose for which the certificate was sought, or it ought not to have been included in the certificate. Detailed guidance on lodging disputes is provided at the following link: www.nidirect.gov.uk/accessni-advice-complaints-and-disputes. Where an applicant is wishing to dispute incorrect personal information e.g. misspelt name, an email should be sent to ani@accessni.gov.uk.

Raising a dispute with AccessNI will lead to delays in the College's recruitment and student placement processes, therefore if a dispute is not resolved and the College advised of the outcome within 4 weeks of the date the EDC was issued by Access NI, the College may be required to withdraw any offer of appointment.

- 1.6 Where the AccessNI tracking service indicates that the EDC has been processed and this is deemed to be satisfactory action will be taken by the College to notify the relevant individuals to proceed with the appointment (provided all other checks are cleared).
- 1.7 Where the AccessNI tracking service indicates that the EDC is processed and it is deemed necessary to request to the applicant to provide a copy of their Certificate so that the criminal conviction and/or other information disclosed can be considered, the applicant will be required to provide this within 10 working days from date of request. If this information is not provided, the College may withdraw any offer of appointment or its immediate cancellation if an appointment has been accepted (exceptional circumstances resulting in delays will be considered).
- 1.8 When the College receives a copy of the EDC from a job applicant (depending on the nature of the criminal record), the selection panel may invite the person to a meeting to consider the convictions and/or other information on the Enhanced Disclosure Certificate. Non-declaration of this information on the job application will also be considered.

This meeting will provide an opportunity to establish circumstances surrounding the information contained on the Enhanced Disclosure Certificate and where necessary elicit reasons from the person why they were not (fully) declared. The selection panel will then decide on the suitability of the person for employment, taking into account the factors set out in Appendix 3.1 attached.

2. Where there is any doubt about how to interpret the information given in an Enhanced Disclosure Certificate, or whether to proceed with an appointment, advice should be sought.
3. In general terms, where the College is concerned that the information on an Enhanced Disclosure Certificate indicates behaviour that may put children, young people or adults at risk of harm or in need of protection (if applicable) at risk, the person should not be offered employment.

4. No one should commence duty in a regulated position before a satisfactory Enhanced Check has been carried out. The only exceptions to this would be:
- if the individual has never lived in the UK or Republic of Ireland e.g. Language School placements. However these individuals are required to provide a Certificate of Good Conduct from the country they reside in;
 - where the College has put in place interim Safeguards (i.e. supervision to the legislative standard which would then exclude, for example, a Lecturer from regulated activity), then the individual can be appointed subject to the satisfactory outcome of an Enhanced Criminal Record Check. However a Risk Assessment will be required prior to commencement of work. This Risk Assessment will include approval from the HR Manager.
 - in the case of a lecturing position, if the Head of Department confirms that the class does not include any children or young people, then the individual can be appointed subject to the satisfactory outcome of an Enhanced Criminal Record Check. However a Risk Assessment will be required prior to commencement of work. Approval for this will be required from the Safeguarding panel.
5. The College may appoint to a post which is not in regulated activity prior to receiving an Enhanced Disclosure Certificate, however a Risk Assessment will be carried out prior to commencement of work. This Risk Assessment will include approval from the Safeguarding panel.

All information received as a result of a check with AccessNI must be held in the strictest confidence and in accordance with College Policy.

HAVING A CRIMINAL RECORD WILL NOT NECESSARILY DEBAR INDIVIDUALS FROM WORKING WITH THE COLLEGE. THIS WILL DEPEND ON THE NATURE OF THE POSITION, TOGETHER WITH THE CIRCUMSTANCES AND BACKGROUND OF OFFENCES OR OTHER INFORMATION CONTAINED ON A DISCLOSURE CERTIFICATE.