POLICY STATEMENT ON THE RECRUITMENT

OF EX-OFFENDERS

It is a requirement of Access Northern Ireland’s Code of Practice that all Registered Bodies must treat Disclosure applicants who have a criminal record fairly and do not discriminate because of a conviction or other information revealed.

**The fact that a person has a criminal record can be irrelevant to the job for which they are applying.**

Employers will need to decide, given the nature of the job they are trying to fill, whether they wish, or are required by law, to seek a Disclosure Certificate.

If there is no legal obligation, a Disclosure Certificate need not be a blanket requirement in all circumstances.

It is good employment practice that all applicants should be asked to disclose appropriate convictions.

In most cases the employer will only be able to ask about spent convictions. This ensures consistency and fairness and also ensures that the employer is seen to be recruiting safely.

It is essential that anyone who has been convicted is treated fairly.

All employers should have available a written policy on the recruitment of people who have been convicted in the past. The Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO) have produced a guide entitled Working with Conviction to assist employers facing such situations. A copy of the guide is available from NIACRO offices or by contacting them at 02890 320157 Email: niacro@niacro.co.uk or www.niacro.co.uk

**Anyone applying for a position should be informed at the outset if a Disclosure Certificate or a check on the Child DWC and/or Adult DWVA list is required.** This will provide a basis for the person to decide whether or not to apply for the post. Organisations should emphasise that this information will be used only to assess the person’s suitability for employment insofar as it is relevant and that they will be considered on merit and ability and not discriminated against unfairly.

The information contained on a Disclosure Certificate is very sensitive and should only be sought where there is a legitimate need. Certificates must not be used as a means of turning down job applicants simply because they have a criminal record.

Employers must therefore ensure that they carry out an objective risk assessment in considering the relevance of the conviction to the post on offer.

It is for the employer to decide the appropriate level of check.

However, if an individual’s name is included (other than provisionally) on the Disqualified from Working with Children (NI) (DWC) List or the UP List they are disqualified from working in a regulated position and it is an offence to employ them in such a position.

It is also an offence for the individual to seek work in a regulated position.

If an individual is listed on the Disqualified from Working with Vulnerable Adults (NI) (DWVA) list they are disqualified from working in a care position and it will be an offence to employ them in such a position. It will also be an offence for the individual to seek work in a care position.

POLICY STATEMENT ON THE RECRUITMENT OF

 EX-OFFENDERS

**[Insert your Organisation Name and/or Logo here]**

## Policy Statement

1. [Insert your Organisation Name] complies fully with the Code of Practice, issued by the Northern Ireland Office, 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 Applicant’s suitability for employment purposes, voluntary positions, licensing and other relevant purposes.  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 conviction or other information revealed.

2. This policy is made available to all Disclosure applicants at the outset of the recruitment process.

3. [Name of organisation] are committed to equality of opportunity, see separate Equal Opportunities Policy, to following practices, and to providing a service which is free from unfair and unlawful discrimination\*.  We ensure that no applicant or member of staff is subject to less favourable treatment on the grounds of gender, marital status, race colour, nationality, ethnic or national origins, age, sexual orientation, responsibilities for dependants, physical or mental disability political opinion or offending background, or is disadvantaged by any condition which cannot be shown to be relevant to performance.

4. [Insert your Organisation Name] actively promotes equality of opportunity for all with the right mix of talent, skills and potential, and welcomes applications from a wide range of candidates, including those with criminal records.  The selection of candidates for interview will be based on those who meet the required standard of skills, qualifications and experience as outlined in the essential and desirable criteria.

5. We will request an Access NI Disclosure only where this is considered proportionate and **relevant** 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 a Standard or Enhanced Disclosure is available to the position in question.  Where an Access NI Disclosure is deemed necessary for a post or position, all applicants will be made aware at the initial recruitment stage that the position will be subject to a Disclosure and that [insert Organisation Name] will request the individual being offered the position to undergo an appropriate Access NI Disclosure check

6. In line with the Rehabilitation of Offenders (Northern Ireland) Order 1978, [insert your Organisation Name] will only ask about convictions which are defined as "unspent" within the terms of that Order, unless the nature of the position is such that we are entitled to ask questions about an individual's entire criminal record.

7. We undertake to ensure an open and measured and recorded discussion on the subject of any offences or other matters that might be considered relevant for the position concerned eg the individual is applying for a driving job but has a criminal history of driving offences.  Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of the conditional offer of employment.

8. Your organisation may consider discussing any matter revealed in a Disclosure Certificate[[1]](#footnote-1) with the subject of that Disclosure before considering withdrawing a conditional offer of employment.

9. We ensure that all those in [insert your Organisation Name] 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).

10. 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.

HAVING A CRIMINAL RECORD WILL NOT NECESSARILY DEBAR YOU FROM WORKING WITH [insert your ORGANISATION NAME].  THIS WILL DEPEND ON THE NATURE OF THE POSITION, TOGETHER WITH THE CIRCUMSTANCES AND BACKGROUND OF YOUR OFFENCES OR OTHER INFORMATION CONTAINED ON A DISCLOSURE CERTIFICATE OR PROVIDED DIRECTLY TO US BY THE POLICE.

NAME OF REGISTERED EMPLOYER

MODEL POLICY ON THE STORAGE, ACCESS, HANDLING, USAGE, RETENTION AND DISPOSAL OF INFORMATION

General Principles

As an organisation using Access Northern Ireland to help assess the suitability of applicants for positions of trust, [NAME OF REGISTERED EMPLOYER] complies fully with Access NI’s Code of Practice regarding the correct handling, use, storage retention and disposal of Disclosure Applications and Disclosure information. [NAME OF REGISTERED EMPLOYER] will also comply fully with its obligations under the Data Protection Act 1998 and other relevant legislation pertaining to the safe handling, storage, retention and disposal of Disclosure information.

Storage and Access

Disclosure information is kept securely, in lockable, non-portable, storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties. Disclosure information is never kept on an applicant’s personnel file.

Handling

In accordance with Section 124 of the Police Act 1997, Disclosure information is only passed to those who are authorised to receive it in the course of their duties. We maintain a record of all those to whom Disclosures or Disclosure information has been revealed and recognise it is a criminal offence to pass this information to anyone who is not entitled to receive it.

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.

Retention

Once a recruitment (or other relevant eg regulatory or for licensing purposes) decision has been taken, we do not keep Disclosure information for any longer than is necessary. This will normally be for a period of up to six months, to allow for the consideration or resolution of complaints. If, in very exceptional circumstances, it is considered necessary to keep Disclosure information for longer than six months, AccessNI will be consulted and full consideration to the individual’s data protection and human rights will be given. Otherwise, information will not be retained but destroyed once a decision, recruitment or otherwise has been made.

Disposal

Once the retention period has elapsed, we will ensure that any Disclosure information is immediately destroyed by secured means, e.g. shredding. While awaiting destruction, Disclosure information will not be kept in any unsecured receptacle (eg waste-bin or confidential sack). We will not keep any photocopy or other image of the Disclosure or any copy or representation of the contents of a Disclosure or any other relevant non-conviction information supplied by police but not included on the Disclosure. However,

despite the above, we may keep a record of 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 AccessNI unique reference number of the Disclosure Certificate and the details of the recruitment decision taken.

1. We are only able to discuss what is contained on a Disclosure Certificate and not what may have been sent under separate cover by the Police. [↑](#footnote-ref-1)