



**Northern Ireland
Fire & Rescue Service**

THE RECRUITMENT OF EX-OFFENDERS AND THE SECURITY OF DISCLOSURES POLICY & PROCEDURE

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Prepared by: Human Resources Department

NORTHERN IRELAND FIRE & RESCUE SERVICE

**THE RECRUITMENT OF EX-OFFENDERS AND THE SECURITY OF DISCLOSURES
POLICY & PROCEDURE**

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Appendix 1: Information of the Rehabilitation of Offenders (NI) Order 1978 and the Rehabilitation of Offenders (Exceptions) Order (NI) 1979 (Amended by 1987, 2001, 2003 and 2009 Orders)

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1 Introduction

Northern Ireland Fire & Rescue Service (NIFRS) complies fully with the 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 Access NI 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.

2 Purpose and Scope

2.1 The purpose of the Northern Ireland Fire and Rescue Service (NIFRS) Recruitment of Ex-Offenders and the Security of Disclosures Policy & Procedure is to:

- Ensure that all applicants within recruitment and selection processes are treated fairly and not discriminated against unfairly or unlawfully due to the content of an AccessNI Disclosure or Self-disclosure on the basis of a criminal conviction or other information revealed
- establish clear principles and procedures to govern how applicants who have a criminal conviction are treated within recruitment and selection; and to
- provide clear guidance regarding the use and storage of AccessNI disclosures.

3 Aim

3.1 This policy establishes a transparent, consistent and fair process to decide whether an applicant who has a criminal conviction is suitable for appointment to NIFRS ensuring they are treated fairly and not discriminated against unfairly or unlawfully due to the content of an AccessNI Disclosure or Self-disclosure.

4 Policy Principles

4.1 This policy & procedure will be made available to all Disclosure applicants at the outset of the recruitment and selection process.

4.2 Individuals are not discriminated against on the grounds of religious belief, political opinion, marital status, gender, sexual orientation, age, race disability or trade union membership.

4.3 NIFRS 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, and this can include those with criminal records.

4.4 The selection of candidates during recruitment and selection will be based on those who meet the required standard of skills, qualifications and experience as outlined in the essential and desirable criteria.

4.5 NIFRS require only candidates who have successfully completed the selection process and are conditionally offered posts to have a satisfactory criminal record and to provide a self-declaration or complete an AccessNI Disclosure.

4.6 NIFRS will conduct a thorough risk assessment and considering the relevant legislation will determine whether or not a Self-disclosure of Criminal Convictions form, Basic or Enhanced AccessNI Disclosure is required for the role.

- 4.7 NIFRS will request either a Basic or Enhanced Access NI Disclosure only where this is considered to be proportionate and relevant to the particular position. In the case relating to certain roles Barred Lists will also be checked but this will be communicated to individuals as required.
- 4.8 Where an Access NI Disclosure is deemed necessary for a post, all applicants will be made aware, at the initial recruitment stage that the position will be subject to a Disclosure and that NIFRS will request the individual being offered the position to undergo an appropriate Access NI Disclosure check.
- 4.9 In line with the Rehabilitation of Offenders (Northern Ireland) Order 1978, NIFRS 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. This will include Wholetime Firefighter, On-Call Firefighter and relevant operational posts. See Appendix 1 for more information.
- 4.10 If a criminal conviction or another related matter is disclosed all candidates will be treated the same and the procedure outlined in Section 5 will be applied to determine their suitability for the post.
- 4.11 NIFRS will ensure those who are involved in making a decision regarding a candidates suitability for employment surround criminal convictions are at the appropriate level to assess the relevance and circumstances of Disclosure information.
- 4.12 NIFRS will ensure that AccesNI signatories will have received appropriate guidance and training in the relevant legislation relating to employment of ex-offenders (eg, the Rehabilitation of Offenders (Northern Ireland) Order 1978).
- 4.13 We undertake to make every subject of an Access NI Disclosure aware of the existence of the Access NI Code of Practice, and to make a copy available on request.

5 Procedures

- 5.1 Candidates are required to complete a Self-declaration, Basic or Enhanced AccessNI check. If a candidate fails to complete the required disclosure they will not be able to progress in the recruitment and selection process.
- 5.2 If a criminal conviction, or another related matter is disclosed the candidate will be invited to attend a meeting with the HR Manager, Resourcing & Employee Services to allow the candidate to provide any relevant information surrounding the conviction/related matter and a record will be kept of this meeting
- 5.3 The Disclosure and relevant information from the meeting with the HR Manager, Resourcing & Employee Services will be referred to a Panel (normally consisting of two Directors) who will consider the following relevant factors;
- Whether the conviction or other information revealed is relevant to the position in question e.g. if the individual is applying for a driving role or promoting Road Safety but has a history of driving offences

- The seriousness of the offence, or other matter revealed;
- The length of time since the offence or other matter occurred;
- Whether the applicant has a pattern of offending behaviour, or other relevant matters;
- Whether the applicants circumstances have changed since the offending behaviour or other relevant matters took place;
- The circumstances surrounding the offence and the explanation offered by the applicant in relation to this.

- 5.4 A record of the Panel discussion on the subject of any offences or other matters that might be considered relevant for the position concerned will be recorded.
- 5.5 Candidates who fail to reveal information that is directly relevant to the position sought could lead to withdrawal of the conditional offer of employment.
- 5.6 The panel decision regarding whether a candidate is suitable to continue in the recruitment and selection process will be communicated to the candidate in writing.
- 5.7 Candidates who feel they have been treated unfairly must raise their concerns in line with the Code of Procedures on Recruitment and Selection.

6 Conflict Related Convictions

- 6.1 A conflict-related conviction that pre-dates the Good Friday Agreement (April 1998) should only be considered by an employer if it is materially relevant to the post being sought.
- 6.2 The procedure outlined in Section 5 (point 5.1 to 5.6) will be applied if the conviction is conflict related.
- 6.3 If NIFRS withdraw a conditional offer of employment relating to a conflict related conviction, and after providing an explanation, the candidate does not accept NIFRS will meet with the candidate to discuss the issue. The candidate may bring along a representative and may supply supporting evidence in regard to their case that the conviction is not materially relevant. The candidate will be given the opportunity to make their views known regarding the conviction and its relevance, or otherwise, to the post.
- 6.5 Following this discussion, if NIFRS continues to consider that the conviction is materially relevant and manifestly incompatible with the post, the candidate may bring the matter to a review panel.
- 6.6 Only if a satisfactory outcome cannot be arrived at through informal discussion between NIFRS and the candidate should the next step be to refer the matter to a review panel. The panel, which will be non-statutory, will comprise representatives of Government, the CBI in Northern Ireland and the ICTU.

Please note: Having a criminal record will not necessarily debar you from working with Northern Ireland Fire & Rescue Service 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 relevant police service.

7 Security of Disclosures

7.1 General Principles

NIFRS fully comply with Access NI's Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosure Applications and Disclosure information. We also comply fully with our obligations under the Data Protection Act 1998 and other relevant legislation pertaining to the safe handling, storage, retention and disposal of Disclosure information.

7.2 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.

7.3 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 it is a criminal offence to pass this information to anyone who is not entitled to receive it.

7.4 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.

7.5 Retention

Once a recruitment decision or other relevant decision, for example, for regulatory or for licensing purposes, has been made, we do not keep Disclosure information for any longer than is necessary. This will be no longer than six months after this decision has been taken or after the date on which any dispute about the accuracy of the Disclosure information has been resolved. This period will only be exceeded in very exceptional circumstances which justify retention for a longer period.

7.6 Disposal

Once the retention period has elapsed, we will ensure that any Disclosure information is immediately destroyed by secure means, i.e., by shredding, pulping or burning. 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. We also do not keep any other relevant non-conviction information supplied by police which was 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 Access NI unique reference number of the Disclosure Certificate and the details of the recruitment decision taken.

7.7 Assurance

NIFRS co-operates fully with Access NI to undertake assurance checks as to the proper use and safekeeping of Disclosure information. NIFRS will report any suspected malpractice to Access NI in relation to this policy & procedure or any suspected offence concerning the handling or storage of Disclosure information.

8 Review of policy

8.1 The HR Directorate will monitor the use of this Procedure.

The HR Directorate will review this Policy and Procedure at least triennially or in light of best practice and changes to legislation. Such review will involve consultation with the appropriate stakeholders and negotiation with the recognised Trade Unions and, where necessary, wider consultation under Section 75 of the Northern Ireland Act, 1998.

9 Further information and guidance

9.1 Further information and guidance can be obtained from the Human Resources Department at Fire & Rescue Service Headquarters.

9.2 The Recruitment of Ex-Offenders and the Security of Disclosures Policy & Procedure is available on the Global folders under Document Management System\DMS\Policies.

10 Associated Documents

The list of associated documents below is not exhaustive:

- Equality and Inclusion Statement & Equal Opportunities Policy;
- NIFRS Code of Procedures on Recruitment and Selection
- Relevant Candidate Information Packs

Information on the Rehabilitation of Offenders (NI) Order 1978

The following sentences become 'spent' after fixed periods from the date of conviction.

If a conviction is 'spent' you do not have to mention it, even when asked, unless applying for a post which is "excepted" under this legislation.

| SENTENCE | AGED 18 OR OVER AT CONVICTION | UNDER 18 YEARS AT CONVICTION |
|--|---|------------------------------|
| Absolute Discharge | 6 months | |
| Probation Order, Bind Over, Conditional Discharge, Care/Supervision Order | Date Order ceases OR 1 year – whichever longer | |
| Attendance Centre Order Juvenile Justice Centre Order Youth Conference Order, Reparation Order, Community Responsibility Order | 1 year after Order expires | |
| Hospital Order | 5 years or 2 years after Order expires – whichever longer | |
| Fine or Community Service Order Combination Orders | 5 years | 2 ½ years |
| Prison – (immediate or suspended) OR Young Offenders Centre – sentence of 6 months or less | 7 years | 3 ½ years |
| Prison – (immediate or suspended) OR Young Offenders Centre over 6 months up to and including 2 ½ years | 10 years | 5 years |
| A period of detention of less than 6 months under Article 45 of the CJ (Children) (NI) Order 1998 | N/A | 3 years |
| A period of detention over 6 months but less than 30 months under Article 45 of the CJ (Children) (NI) Order 1998 | N/A | 5 years |
| NB: CUSTODIAL SENTENCE OF MORE THAN TWO AND A HALF YEARS CAN NEVER BECOME SPENT | | |

- Consecutive prison sentences count as a single term when calculating the rehabilitation period.
- If more than one sentence was imposed for an offence, the longer rehabilitation period applies.
- If a person receives a new conviction during rehabilitation period:
 - (i) for a summary offence (i.e. can only be tried at Magistrates Court) both rehabilitation periods expire separately;
 - (ii) for a more serious offence (i.e. which **could** be tried at the Crown Court) **neither** conviction will become spent until longest period expires.
- Cautions, reprimands and final warnings are not considered to be convictions and become “spent” immediately unless relevant to “Excepted “posts.
- A spent conviction will remain on your criminal record.

The Rehabilitation of Offenders (Exceptions) Order (NI) 1979 (amended by 1987, 2001, 2003 and 2009 Orders)

A range of occupations are exempted from the legislation for these posts, applicants **MUST** disclose information on both “spent” **AND** “unspent” convictions.

The list of posts is extensive and can be summarised as follows:

- Work that involves contact with children or young people or vulnerable adult groups e.g. provision of health care or social services, work with children such as youth work, education, or with adults with learning disabilities, mental illness, the elderly.
- Professions that are regulated by law e.g. medical practitioner, nurse, chemist, optician, accountant, manager of an insurance company.
- Posts involving National Security e.g. security personnel or senior civil service posts.
- Posts concerned with administration of justice e.g. police officers, solicitors, probation officers, traffic wardens, judges, prison officers.

For confidential advice or information please contact NIACRO’s Employment Advice Line on Tel: 02890 320157