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**RECRUITMENT OF EX-OFFENDERS**

**POLICY**

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| This policy was approved by the Management Committee of Belfast and Lisburn Women’s Aid onDate 7 December 2015Signed:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Position: Chair of Management Committee |

**BELFAST AND LISBURN WOMEN’S AID**

**RECRUITMENT OF EX-OFFENDERS POLICY**

**Introduction**

Belfast and Lisburn Women’s Aid is the lead voluntary organisation addressing domestic violence against women and children, recognising it as one form of violence against women. The overall aim of Women’s Aid is to eliminate domestic violence and to challenge the attitudes and beliefs that perpetuate it.

Belfast and Lisburn Women’s Aid works to support women and their children who have been abused through domestic violence. Children may suffer both directly and indirectly where they live or have lived in households where there is domestic violence.

**Policy Statement**

1. Belfast and Lisburn Women’s Aid complies fully with the Code of Practice, issued by the Department of Justice (appendix 1), 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 on *request*.

3. Belfast and Lisburn Women’s Aid is 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 marital status, race colour, nationality, ethnic or national origins, age, sexual orientation, responsibilities for dependants, physical or mental disability political opinion or offending background.

4. Belfast and Lisburn Women’s Aid 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.

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 AccessNI Disclosure only where this is considered proportionate and relevant to the particular position. This will be based on a 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 AccessNI 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 Belfast and Lisburn Women’s Aid will request the individual being offered the position to undergo an appropriate AccessNI Disclosure check.

6. In line with the Rehabilitation of Offenders (Exceptions)(Northern Ireland) Order 1979 (as amended in 2014), (Appendix 2), Belfast and Lisburn Women’s Aid will ask about convictions which are defined as “not protected”, spent convictions, for the purposes of obtaining a Standard or Enhanced disclosure.

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. Belfast and Lisburn Women’s Aid may consider discussing any matter revealed in a Disclosure. We are only able to discuss what is contained on a Disclosure, and not what may have been sent under separate cover by the Police (without police agreement), with the subject of that Disclosure before considering withdrawing a conditional offer of employment. Belfast and Lisburn Women’s Aid will hold the offer of employment for 14 days on receipt of Disclosure.

9. We ensure that all those in Belfast and Lisburn Women’s Aid who are involved in the recruitment process are *experienced in identifying* (have been suitably trained to identify) *and assessing* 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 AccessNI 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 SOMEONE FROM WORKING WITH BELFAST AND LISBURN WOMEN’S AID. THIS WILL DEPEND ON THE NATURE OF THE POSITION, TOGETHER WITH THE CIRCUMSTANCES AND BACKGROUND OF THE OFFENCES OR OTHER INFORMATION CONTAINED ON A DISCLOSURE OR PROVIDED DIRECTLY TO US BY THE POLICE.

Staff and volunteers are required to comply with this Recruitment of Ex-Offenders Policy. Failure to do so may result in disciplinary action, which could include dismissal.

**Review**

This policy will be reviewed every three years.

The Code of Practice (the Code) in Appendix 1 is intended to ensure that information released in Standard and Enhanced Disclosures is used fairly; and, to provide assurance to applicants that this is the case.

The Code also seeks to ensure that sensitive personal information is handled and stored appropriately and kept for only as long as is necessary.

Guidance to the Code, in the form of an Explanatory Guide, is appended to this document (Appendix 2).

Offences relating to Disclosure are listed in Appendix 3 and the Rehabilitation of Offenders Order 2014 is in Appendix 4.

**Appendix 1**

**CODE OF PRACTICE**

**Section 1**

**Introduction**

The Code of Practice (the Code) is an important document that sets out the obligations which must be met by Registered Persons and other recipients of Standard and Enhanced Disclosure information.

It is intended to ensure that information released in Standard and Enhanced Disclosures is used fairly; and, to provide assurance to applicants that this is the case.

The Code also seeks to ensure that sensitive personal information is handled and stored appropriately and kept for only as long as is necessary. Guidance to employers on other matters will be issued separately.

The Code is published under section 122 of the Police Act 1997 (the Act) in connection with the use of information provided to registered persons (Disclosure information) under Part V of that Act.

Disclosure information is information:

- contained in criminal records certificates under section 113 of the Act (which are referred to in this Code as Standard Disclosures); or

- contained in enhanced criminal record certificates under section 115 of the Act (which are referred to in this Code as Enhanced Disclosures); or

* provided by the police under section 115(8) of the Act.

Except where indicated otherwise, the Code applies to all recipients of Disclosure information; namely,

* Registered persons;
* those countersigning Disclosure applications on behalf of registered persons; and,
* others receiving such information.

Where reference is made to “employers”, this should be read as including any person at whose request a registered person has countersigned an application, including;

* voluntary organisations and others engaging; or using the services of, volunteers; and,
* regulatory and licensing bodies.

Further information in relation to the Code; and other matters relating to registered persons and others having an involvement with Disclosure information, is contained in the Explanatory Guide (see later).

**Section 2**

**Obligations of the Code**

These are as follows:

Fair use of Disclosure information

Recipients of Disclosure information shall:

* observe guidance issued or supported by Access Northern Ireland (Access) on the use of Disclosure information;
* and, in particular, recipients of Disclosure information
* shall not unfairly discriminate against the subject of Disclosure information on the basis of conviction or other details revealed.

In the interest of the proper use of Disclosure information and for the reassurance of persons who are the subject of Disclosure information, registered persons shall:

* have a written policy on the recruitment of ex-offenders, so that a copy can be given to all applicants for positions where a Disclosure will be requested;
* ensure that a body or individual at whose request applications for Disclosures are countersigned, has such a written policy and, if necessary, provide a model for that body or individual to use.

In order that persons who are, or may be, the subject of Disclosure information, are made aware of the use of such information; and be reassured, employers shall:

* ensure that application forms for positions where Disclosures will be requested contain a statement that a Disclosure will be requested in the event of a successful application, so that applicants are aware of the situation;
* include in application forms or accompanying material, a statement to the effect that a criminal record will not necessarily be a bar to obtaining a position, in order to reassure applicants that Disclosure information will not be used unfairly;
* discuss any matters revealed in Disclosure information with the person seeking the position before withdrawing an offer of employment;
1. make every subject of a Disclosure aware of the existence of this Code of Practice; and make a copy available on request; and
* in order to assist staff to make appropriate use of Disclosure information in reaching decisions, make available guidance in relation to the employment and fair treatment of ex-offenders and to the Rehabilitation of Offenders (Northern Ireland) Order 1978 (SI 1978/1908 (NI 27)).

Handling of Disclosure information

Recipients of Disclosure information:

- must ensure that Disclosure information is not passed to persons who are not authorised to receive it under section 124 of the Act. Under section 124, unauthorised disclosure is an offence;

* must ensure that Disclosures and the information they contain are available only to those who need to have access in the course of their duties
* must securely store the Disclosures and the information they contain;
* should retain neither Disclosures nor a record of Disclosure information contained within them for longer than is required for the particular purpose. In general, this should be no later than six months after the date on which recruitment or other relevant decisions have been taken; or after the date on which any dispute about the accuracy of the Disclosure information has been resolved. This period should be exceeded only in very exceptional circumstances which justify retention for a longer period.

Registered persons shall:-

* have a written security policy covering the correct handling and safekeeping of Disclosure information; and,
* ensure that a body or individual at whose request applications for Disclosures are countersigned, has such a written policy; and, if necessary, provide a model for that body or individual to adopt.

Assurance

Registered persons shall:

* co-operate with requests from ANI to undertake assurance checks as to the proper use and safekeeping of Disclosure information;
* report to ANI any suspected malpractice in relation to this Code of Practice or any suspected offences in relation to the misuse of Disclosures.

Umbrella Bodies

An Umbrella Body is one which has registered with ANI on the basis that it will countersign applications on behalf of others who are not registered.

(b) Umbrella Bodies must satisfy themselves that those on whose behalf they intend to countersign applications, are likely to ask exempted questions under the Exceptions Order to the Rehabilitation of Offenders (Northern Ireland) 1978 and subsequent amendments to that legislation.

(c) Umbrella Bodies must take reasonable steps to ensure that those to whom they pass Disclosure information observe the Code of Practice.

Failure to comply with the Code of Practice

ANI is empowered to refuse to issue a Disclosure if it believes that:

* a registered person; or,
* someone on whose behalf a registered person has acted; has failed to comply with the Code of Practice.

**Appendix 2**

**THE EXPLANATORY GUIDE**

The Explanatory Guide should be read in conjunction with the Code of Practice.

**CONTENTS**

* + Introduction
	+ General principles and registration
	+ Countersigning applications for Disclosures
	+ Consideration of checks
	+ Assurance
	+ Terminating registration

**APPENDIX:** Offences relating to Disclosure

**1 INTRODUCTION**

1.1 Purpose of this Guide

1.1.1 This guidance supplements the information in the Code of Practice published by the Secretary of State under section 122 of the Police Act 1997 (the Act).

1.2 Background and types of certificates (Disclosures)

1.2.1 ANI is a branch of the Northern Ireland Office which exercises the powers and fulfils the responsibilities of the Secretary of State under Part V of the Act.

1.2.2 Access will issue three types of document:

* criminal conviction certificates under section 112 of the Act (which are referred to in this Guide as Basic Disclosures).

These will be issued to individuals who complete the appropriate application form, pay the appropriate fee and whose identity is confirmed.

* A Basic Disclosure (BD) will contain details of convictions held in central police records which are not spent under the terms of the Rehabilitation of Offenders (Northern Ireland) Order 1978 or it will state if there are no such convictions. Any employer will be able to request a potential employee to apply for a BD.
* criminal record certificates under section 113A of the Act (which are referred to in this Guide as Standard Disclosures).

These will be available in respect of positions and professions within the terms of the Exceptions Order under the Rehabilitation of Offenders (Northern Ireland) Order 1978.

A **Standard Disclosure** (SD) will contain details of any spent and unspent convictions, as well as cautions, reprimands and warnings, recorded by the police centrally. It will also indicate if there are no such matters on record.

Enhanced criminal record certificates under section 113B of the Act (which are referred to in this Guide as Enhanced Disclosures).

**Enhanced Disclosures** (ED) will be available where the registered person makes a statement that it is required for the purposes of an exempted question asked for a prescribed purpose within the meaning of section 113B(2)(b) of the Act.

They are available, for example, where the position involves working in regulated or controlled activity or regularly caring for, training, supervising or being in sole charge of children or other vulnerable groups.

A full list of the purposes for which an ED may be required can be found in the Police Act 1997 (Criminal Records) (Disclosure) (Amendment No2) Regulations (Northern Ireland), SI 2009/2495.

An ED will contain the same criminal record details as a SD.

It will also reveal whether the applicant is barred from working with vulnerable groups by virtue of his/her inclusion on the Independent Safeguarding Authority’s (ISA) Children’s List or Vulnerable Adults list or appropriate Scottish lists.

An ED may also contain non-conviction information from police records which a chief police officer thinks may be relevant in connection with the matter in question.

1.2.3 Applications for Disclosures are made by the persons being checked upon or vetted and often at the request of his or her employer or prospective employer. The Act, however, does not place any obligation on such persons to apply for a criminal record check.

1.2.4 In this Guide, Disclosure information has the same meaning as in the Code of Practice; namely, it is information that is:

* contained in Standard Disclosures; or,
* contained in Enhanced Disclosures; or’
* provided by the police under section 113B(4) and (5)

1.3 Good recruitment practice

1.3.1 Access Northern Ireland is committed to encouraging the spread of best practice in recruitment to ensure the best possible use of the information it provides and to encourage safer recruitment. The establishment of Access widens the availability of criminal record information. It is crucially important that people who have been convicted are treated fairly and are given every opportunity to establish their suitability for positions.

1.3.2 The existence of a comprehensive Disclosure service should not be regarded as a substitute for any of the full range of existing pre-appointment checks, including the taking up of references and enquiring into the person’s previous employment history. Disclosures should be seen as complementary to existing recruitment practice and should only be sought after a candidate has been provided with a provisional offer of employment or a voluntary position.

**2 GENERAL PRINCIPLES AND REGISTRATION**

2.1 Eligibility

2.1.1 Disclosures are designed to help employers make safer recruitment decisions. They are also available to persons exercising regulatory and licensing functions.

2.1.2 All recipients of Disclosure information; namely,

* registered persons;
* those countersigning Disclosure applications on behalf of registered persons; and,
* others receiving such information must adhere to the Code of Practice.

2.1.3 If ANI believes that a registered person has:

* failed to comply with the Code of Practice; or,
* countersigned an application at the request of a body or individual that has failed to comply with the Code of Practice;
* ANI may refuse to issue a Disclosure.

2.2 Sensitivity of Disclosure information

2.2.1 All information disclosed by ANI is sensitive personal information. ANI publishes guidance covering the full range of its services. This includes guidance to employers on how to make best use of the information contained within Disclosures and how to make sensible and fair decisions about the suitability of individuals for positions.

2.2.2 All recipients of Disclosure information must treat such information with care and responsibility. Such information may be particularly sensitive; and the arrangements made must fully recognise this.

2.3 The Register

2.3.1 Applications for Standard and Enhanced Disclosures must be countersigned by a person registered with ANI for this purpose. A person, in this context, includes a body. Persons applying to be registered will undergo a check to assess their suitability to receive information from ANI.

2.3.2 For some persons or bodies with a legitimate requirement to have access to Standard and Enhanced Disclosures, separate registration may not be appropriate for reasons of practicality or cost. They may, however, be able to gain access to the information they require by asking another, registered, organisation to countersign applications for Disclosures on their behalf. Such registered organisations are known as Umbrella Bodies.

2.4 Registration

2.4.1 Basic criteria

2.4.1.1 A person will be registered if he/she applies in writing, provides such information as may be requested by ANI, pays the applicable fee and meets the requirements summarised in sections 2.4.2 and 2.4.3 below.

2.4.2 Registered persons

2.4.2.1 A person applying for registration must be:

* + 1. a body; or,
		2. a person appointed to an office by virtue of any enactment; or,
		3. an individual who employs others in the course of a business.

2.4.2.2 Applicants must satisfy ANI that they are likely to ask exempted questions, under the terms of the Exceptions Order to the Rehabilitation of Offenders (Northern Ireland) Order 1978, or that they are a body that is likely to countersign applications for Disclosures at the request of bodies or individuals asking exempted questions (see section 2.4.3).

2.4.3 Umbrella bodies

2.4.3.1 Even if a body is not likely to ask exempted questions, it may apply for registration if it satisfies ANI that it is likely to countersign Disclosure applications at the request of bodies or individuals asking exempted questions. Such an organisation is known as an Umbrella Body.

2.4.3.2 In turn, the Umbrella Body must satisfy itself that those on whose behalf it wishes to countersign applications, are likely to ask exempted questions.

2.4.3.3 Umbrella Bodies should also satisfy themselves that the relevant terms of the Code of Practice are observed by those on whose behalf they countersign applications. However, ultimate responsibility for compliance with those parts of the Code which relate to all recipients of Disclosure information rests with each recipient.

2.4.4 When and how to apply for registration

2.4.4.1 Applications for registration should be made in writing, in the form determined by ANI

2.4.5 Identity

2.4.5.1 Each person applying for registration must provide such evidence of identity as may be requested by ANI.

2.5 Lead Countersignatory

2.5.1 Applicants for registration are required to nominate a Lead Countersignatory. The Lead Countersignatory will be required to countersign the initial application for registration.

2.5.2 The Lead Countersignatory should be a senior person within the organisation who has a measure of management responsibility for those making recruitment decisions. For example, a human resources director would be a suitable nominee although, clearly, many organisations may not have an obvious equivalent. The Lead Counter signatory will not necessarily be expected to countersign Disclosure applications with the frequency of other counter signatories.

2.5.3 The Lead Counter signatory will be ANI’s principal point of contact on all matters connected with the registration and use of the Disclosure service. The exception is that results of individual Disclosure applications will be sent to the individual who countersigned the application.

2.5.4 A Lead Counter signatory must be assigned at all times. If a Lead Counter signatory leaves that position, a new Lead Counter signatory should be nominated as soon as possible and ANI should be informed in writing of the change at the same time (see also 2.7 below).

2.5.5 A person who is the only counter signatory in an organisation (including a person who employs others in the course of a business and who is seeking registration) may countersign his/her own application for registration. He/She should indicate that this is the case in the application.

2.6 Confidentiality

2.6.1 Details of registrations are confidential and are not made public. However, those registered may wish to make some contact details available for members of the public or prospective recruits. This is particularly true for Umbrella Bodies.

2.7 Changes

2.7.1 Registered persons shall inform ANI promptly of any material changes to the details of their registration. ANI will make any necessary amendments according to published service standards.

2.7.2 Registered persons who consider that they are no longer likely to wish to countersign applications should notify ANI so that they can be removed from the register.

2.8 Applicability

2.8.1 The Code of Practice and this Guide apply to those registering with ANI in Northern Ireland. Disclosure information supplied by ANI will include information about all relevant matters including, where appropriate, convictions and cautions that were disposed of in other jurisdictions. Employers offering positions that are located within Northern Ireland will therefore only need to make an application for registration to ANI

2.8.2 The Criminal Records Bureau (CRB) provide a broadly similar service in England and Wales.

2.8.3 Disclosure Scotland (DS) provide a broadly similar service for Scotland.

2.8.4 Employers in Northern Ireland offering positions that are located within England or Wales, make an application for registration to CRB and submit their applications for Disclosure information to CRB.

2.8.5 Employers in Northern Ireland offering positions that are located within Scotland, make an application for registration to DS and submit their applications for Disclosure information to DS.

**3 COUNTERSIGNING APPLICATIONS FOR DISCLOSURES**

3.1 Identity of the applicant

3.1.1 It is standard good recruitment practice for employers to satisfy themselves as to the identity of those applying for positions. This is especially sensible in relation to sensitive posts, such as those working with children or vulnerable adults, to which Standard and Enhanced Disclosures apply. Moreover, such checks will also be very helpful in ensuring that identity is correctly established for the purposes of Disclosure. Although Access NI may in some cases conduct its own checks to confirm identity, these are no substitute for thorough identity checks by employers. Application forms for Disclosures, which contain details of the required identification evidence, should, where appropriate, be completed by employers to indicate the checks undertaken to establish the identity of the applicant.

3.1.2 Although there are no definitive rules about the types of evidence of identity that would be acceptable, employers are nevertheless required to follow the clear guidance that is contained in page 55 of this document. Even so, at least one item of photographic evidence would be desirable, such as a current UK passport or UK driving licence plus at least one item of address-related evidence such as a utility bill or a bank, credit card or mortgage statement containing the applicant’s name and address. In the absence of photographic evidence, a full birth certificate, issued at the time of birth, will carry more weight than one issued more recently.

3.1.3 Consistency of information with the information provided by the applicant in his/her application for the position, tends to lead to a greater level of confidence in his/her identity.

3.1.4 Where an applicant claims to have changed his/her name by deed poll or by any other mechanism, such as, for example, by marriage or by statutory declaration; the employer should see evidence of such a change.

3.1.5 Registered persons should ensure that employers seek documentary evidence; and that they indicate on the application form, the checks that have been made.

3.1.6 Disclosures should not be accepted by prospective employers as proof of identity, but a previous AccessNI Disclosure can be used to establish identity provided it is used in conjunction with other forms of identification as set out on page 2 of the current application form.

 3.2 Overseas applicants

Employers seeking to make use of Disclosure information should consider carefully before deciding whether to request a Disclosure in respect of an applicant with a substantial record of overseas residence.

3.2.2 Applicants falling into this category include United Kingdom residents, whether British nationals or otherwise, with recent periods of overseas residence. Also in this category are those with little or no previous United Kingdom residence. .

3.2.3 It may be difficult to obtain satisfactory evidence of identity in respect of such applicants. It may also be of limited value to ask for a Disclosure in respect of persons with very substantial gaps in their United Kingdom residence; or, of individuals with little or no previous residence in the United Kingdom. The Police National Computer (PNC) contains a limited number of overseas convictions but this data is by no means comprehensive.

3.2.4 Access NI will offer guidance to employers about the availability of criminal record checks in a variety of foreign countries. Employers are free to ask those with overseas residence to apply for the equivalent of a Disclosure, if available.

3.2.5 However, a substantial period of overseas residence should not preclude employers from considering applicants with such backgrounds and reference to Access NI should only be part of the overall recruitment process. In these situations, as for other appointments, employers should engage in a full range of pre-employment checks which goes beyond a simple reference to Access NI.

3.3 Policy in relation to persons with a criminal record

3.3.1 It is essential that those who have been convicted are treated fairly. All employers should have available, a written policy on the recruitment of people who have been convicted in the past. Individuals and organisations making use of an Umbrella Body, should be able to obtain a model policy from the Umbrella Body. A sample policy will be provided by Access NI on request.

3.4 Information for applicants

3.4.1 Each applicant for a position should be given a copy of this policy at the commencement of the recruitment process.

3.4.2 Wherever appropriate, a statement expressing a willingness to consider persons with a criminal record on their merits, should be included on application forms. Application forms, or other recruitment documentation, should also carry a statement that the provisionally selected applicant for a position, will be asked to apply for a Disclosure.

3.4.3 Applicants should be made aware of the Code of Practice and the employer’s commitment to it. Umbrella Bodies should satisfy themselves that all employers, on whose behalf they act, are aware of the Code; and should take reasonable steps to ensure that they comply with it.

3.5 Guidance to staff

3.5.1 Staff involved in employment and other decisions using Disclosure information, should receive guidance in the following areas;

* the employment of persons who have been convicted in the past;
* the Rehabilitation of Offenders (Northern Ireland) Order 1978 and the Exception Order enacted there under;
* Part V of the Police Act 1997; and,
* the Code of Practice.

**4 CONSIDERATION OF CHECKS**

4.1 Factors to take into account

4.1.1 Employers should take into account, a number of factors before reaching a recruitment decision. Other guidance that will be issued by Access NI will help employers to consider how best to use the information contained in Disclosures. Umbrella Bodies should make such guidance available to those at whose request they countersign applications.

4.1.2 Employers shall consider the following:

* whether the conviction or other matter revealed is relevant to the position in question;
* the seriousness of any 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 applicant’s circumstances have changed since
* the offending behaviour or the other relevant matters
* occurred; and,
* the circumstances surrounding the offence and the
1. explanation(s) offered by the convicted person, which may need to be verified.

4.1.3 Ultimately, it is the responsibility of the employer to decide whether to offer the applicant a position. However, recruiters should be fully aware of their duties and responsibilities under the provisions of the Safeguarding Vulnerable Groups (NI) Order 2007 and any other requirements stipulated in law or by regulatory bodies.

4.2 Validity

4.2.1 Disclosures obtained from Access NI carry no absolute guarantee of accuracy. Neither do they carry a pre-determined period of validity; simply because a conviction or other matter could be recorded against the subject of the Disclosure at any time after it is issued. Employers are advised to make recruitment decisions as soon as possible after receiving their copies of Disclosures.

4.2.2 Where a prospective employee or volunteer disputes the information provided in a Disclosure, that dispute will need to be resolved before the employer can reach a recruitment decision. In the final analysis, if it should prove impossible to resolve matters by other means, the ANI dispute procedures will apply. In the event of a dispute about the accuracy of a Disclosure certificate, the applicant may make an application in writing to ANI for a new certificate. If ANI is of the opinion that the information in the certificate is inaccurate, it will issue a new certificate. Registered Bodies, including Umbrella Bodies or applicants, as appropriate, may contact ANI for assistance in this regard.

4.2.3 Where information has been released by the police to an employer in a separate letter, that information must not be discussed with the applicant.

4.3 Handling information

4.3.1 Security

4.3.1.1 Disclosure information must be kept securely and only those entitled to see it in the course of their duties should have access.

4.3.1.2 Employers should have available, a written security policy for the handling of Disclosure information. Individuals and organisations making use of an Umbrella Body should be able to obtain a model from the Umbrella Body. Access NI will make available a specimen policy on request. In particular, employers should keep a written record of the names of those, whether in or outside their organisations, to who Disclosure information has been revealed.

4.3.2 Storage

4.3.2.1 All recipients of Disclosure information must store Disclosures and other confidential documents issued by Access NI in secure conditions. Documents should be kept in locked, non-portable storage containers. Keys or combinations for such storage units should not be freely available within an organisation and access must be restricted to named individuals. Wherever possible, access to rooms containing storage containers should be restricted to staff engaged in recruitment work.

4.3.3 Retention of Disclosure information

4.3.3.1 Once a recruitment decision or other relevant decision, for example, for regulatory or licensing purposes, has been made, a recipient of a Disclosure must not retain it, or any associated correspondence, for longer than is necessary for the particular purpose. In general, this should be for a maximum of 6 months. This period allows for any dispute about the accuracy of a Disclosure or a recruitment decision to be made and considered.

4.3.3.2 In the case of a dispute, Disclosure information may need to be maintained for a longer period, but in general this should be for no longer than 6 months after resolution of the dispute.

4.3.3.3 If, very exceptionally, it is considered necessary to retain Disclosure information for a longer period, ANI should be consulted. In dealing with such a case, ANI will need to give full weight to the rights of the subject of such information under Human Rights and well as Data Protection legislation.

4.3.3.4 Where the Regulation and Quality Improvement Authority (RQIA) require an assurance from their registered providers that all staff have been subject to an AccessNI disclosure prior to employment, it is sufficient for a provider to maintain an accurate and up to date record of

 - The unique AccessNI reference for certificates;

 - The date individual disclosures were applied for and received; and

- The outcome of the registered provider’s consideration of that certificate.

This gives the registered provider assurance they have complied with the Data Protection Act and satisfies RQIA’s statutory requirement

4.3.3.5 The usual conditions in respect of storage and access (as detailed in 4.3.2.1) should continue in place during this period. If an Umbrella Body has forwarded a Disclosure to an employer on whose behalf it has countersigned an application, the employer should either store the Disclosure securely according to the Code, or should return it to the Umbrella Body for storage.

4.3.3.6 Disclosures should be destroyed by suitably secure means; namely, by shredding, pulping or burning. They should not be kept in any insecure receptacle; such as a waste bin or confidential waste sack, whilst awaiting destruction.

4.3.3.7 No photocopy or other image of the Disclosure may be retained, nor must any copy or other representation of the contents be made or kept. It is advisable, however, for recipients of Disclosure information to:

 - keep a record of the date of the Disclosure;

- the name of the subject of the Disclosure;

- the type of the Disclosure; namely, whether it is the Basic, Standard or Enhanced type;

- the position which the Disclosure was applied for;

- the unique number that was issued by Access NI for that Disclosure; and,

- the recruitment decision taken.

4.3.3.8 The references in this section to Disclosures, include relevant non-conviction information that was supplied by the police but not included in the Disclosures themselves.

**5 ASSURANCE**

5.1 Assurance checks

5.1.1 ANI has a responsibility to check that recipients of Disclosure information act responsibly and use the information provided in an appropriate manner. Accordingly, ANI will monitor compliance with the Code by recipients of Disclosure information. All such recipients should co-operate with ANI in respect of any compliance enquiries and related matters.

5.1.2 In conducting assurance checks, ANI will seek to confirm that recipients of Disclosure information are complying with the Code of Practice, identify any breaches and provide for remedial action to be taken. In particular, ANI will seek to:

- identify those no longer likely to ask exempted questions;

- ensure that requirements in respect of security and retention of Disclosures are being met;

- confirm that those registered are seeking the appropriate level or type of Disclosure in respect of those being recruited;

- ensure that information provided by Access NI is being used fairly; and not unjustly to the detriment of persons with a criminal record; and,

- advise those registered on good practice in the use of Disclosure information.

5.2 Complaints and audits

5.2.1 Assurance checks may be instigated by ANI for one of two reasons.

* + 1. Complaints
		2. Checks may be made following complaints from:
		- members of the public;
		- any authority or organisation;
		- counter signatories, if one reports that the organisation of which he/she is a part; or to which he/she may be passing information; may be in breach of the Code of Practice or may be using the information provided by ANI inappropriately.

5.2.3 Audits

5.2.3.1 ANI will conduct audits of those registered with it, in order to check compliance and to provide advice on good practice where that would be helpful. Audits may also be undertaken at the request of employers.

5.2.3.2 ANI will provide written reports of each audit to the audited organisation and these will contain recommendations, where this would be helpful. ANI may undertake further audits to check that any recommendations made as a result of any earlier audits, have been implemented.

5.2.3.3 All recipients of Disclosure information must co-operate with audits.

5.3 Lost Disclosures

5.3.1 If Disclosure information, or information contained within a Disclosure, is lost, the registered person or body should inform ANI immediately. ANI will consider whether to issue a replacement, if this is requested.

5.3.2 Where an individual or body using the services of an Umbrella Body loses Disclosure information, or information from a Disclosure, the individual or body must immediately inform the Umbrella Body so that the loss can be reported to ANI

5.4 Offences

5.4.1 Where ANI has reason to believe that a criminal offence may have been committed in respect of some aspect of Disclosure, it will consider passing details to the police.

5.4.2 Offences relating to the misuse of Disclosure information are summarised in the Appendix.

5.4.3 The Safegurading vulnerable Groups (NI) Order 2007, makes it an offence to apply for, offer to do, accept or do any work, whether paid or unpaid, with children or vulnerable adults, if barred from working with children or vulnerable adults. Disqualification can arise from inclusion in the ISA’s Children or Vulnerable Adults lists. It is an offence knowingly to offer a disqualified person work with children or to allow them to continue in such work.

5.4.4 There may be circumstances where a recipient of Disclosure information is asked to reveal details of a Disclosure to a third party in connection with legal proceedings, in for example, a case submitted to an Employment Tribunal. In such instances, the recipient of Disclosure information should inform ANI of any such request immediately and prior to the release of any information.

**6 TERMINATING REGISTRATION**

6.1 Withdrawal from the register

6.1.1 A person who considers that he/she is no longer likely to wish to countersign applications for Disclosures should ask to be removed from the register. Any such request should be made to ANI in writing. Thereafter, he/she shall be free to apply to rejoin the register again, on payment of the prescribed fee.

6.2 Removal from the register

6.2.1 The following summarises the provisions set out in the Police Act 1997 (Criminal Records) (Registration) Regulations (Northern Ireland) 2007.

6.2.2 Where ANI considers that a registered person is no longer likely to wish to countersign Disclosure applications, it may remove that person from the register.

6.2.3 In such cases, ANI will write giving notification of the intention to remove the person from the register and reasons for this decision. The person shall also be informed of his/her right to make representations as to why he/she should not be removed from the register.

6.2.4 The registered person may make representations, in writing, within 28 days.

6.2.5 Having considered such representations, ANI will inform the registered person either

- that, giving reasons, it remains of the view that the person is unlikely to wish to countersign applications and that the person will be removed from the register at the end of a further period of 28 days; or,

- that it does not propose to take further action.

6.2.6 If no further representations are received within the period of 28 days, ANI may remove the person from the register at the end of that period.

6.2.7 The procedure described above will not apply where –

* + 1. ANI is satisfied, in the case of a registered person; other than a body, that the person has died; or is incapable due to physical or mental impairment, of countersigning applications; or,
		2. the registered person has requested that ANI remove that person from the register.

**Appendix 3**

**OFFENCES RELATING TO DISCLOSURE**

This appendix is not a definitive guide to the provisions of the Police Act 1997. For an authoritative statement of the law; ANI recommends that professional legal advice is sought.

Registered bodies acting on their own behalf

A member, officer or employee of a body that is registered may only disclose Disclosure information –

* in the course of his/her duties; and either
* to another member, officer or employee of that body.

Registered bodies acting on behalf of others (Umbrella Bodies)

A member, officer or employee of a registered body that is acting at the request of an unregistered body, or at the request of an individual, may only disclose Disclosure information

* in the course of his/her duties; and either
* to another member, officer or employee within the Umbrella Body; or
* to a member, officer or employee of the body at whose request the Umbrella Body countersigned the application; or
* to the individual at whose request the Umbrella Body countersigned the application.

Unregistered bodies receiving Disclosure information from Umbrella Bodies

A member, officer or employee of an unregistered body at whose request a Disclosure application is countersigned by another body which is registered; namely, an Umbrella Body, may only disclose Disclosure information –

* in the course of his/her duties; and only then
* to another member, officer or employee of the unregistered body.

An individual who is registered

An individual who is a registered person may only disclose Disclosure information-

* in the course of his/her duties; and,
* to an employee of the individual, for the purpose of the employee’s duties.

Likewise, an employee of a registered individual may only disclose Disclosure information –

* in the course of his/her duties; and,
* to another employee of the same individual.

Passing Disclosure information in any other circumstances may be a criminal offence.

Subsequent use of information

If Disclosure information is disclosed to a person in circumstances which constitute an offence under the terms set out above, that person commits an offence if he/she then divulges the information to any other person.

Other circumstances in which disclosing Disclosure information would not be an offence

 In addition to the circumstances set out above, information contained in a Disclosure may also be communicated in other specified, exceptional, circumstances, including in particular:

* with the written consent of the subject of the Disclosure;
* to a government department (but note that the Data Protection Act places limits on the purposes and situations in which such a disclosure can be made).
* to a person appointed to an office by virtue of any enactment;
* in accordance with an obligation to provide information under or by virtue of any enactment.

Similarly, Disclosure information conveyed by the police separately from a Disclosure (under section 113B (4) and (5) of the Police Act 1997 may also be communicated, with the written consent of the chief officer who provided the information.

**Appendix 4**

**The Rehabilitation of Offenders (Exceptions) (Amendment) Order (Northern Ireland) 2014.**

Statutory Rules of Northern Ireland 2014 No. 27 Rehabilitation of Offenders.

The Rehabilitation of Offenders (Exceptions) (Amendment) Order (Northern Ireland) 2014 made 5th February 2014 coming into operation 14th April 2014.

The Department of Justice makes the following Order in exercise of the powers conferred by Articles 5(4) and 8(4) of the Rehabilitation of Offenders (Northern Ireland) Order 1978(1).

Citation, commencement and interpretation

1.

(1) This Order may be cited as the Rehabilitation of Offenders (Exceptions) (Amendment) Order (Northern Ireland) 2014 and shall come into operation on 14th April 2014.

(2) In this Order “the 1979 Order” means the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979(2).

Amendment of the 1979 Order

2.   The 1979 Order is amended in accordance with the following provisions of this Order.

Amendment of Article 1

3.

(1) In Article 1(2) after the definition of “the PRA” insert “protected conviction” means a conviction of the kind described in Article 1A;”

(2) Omit paragraph (3).

(3) Before paragraph (4) insert—

“(2A)  Nothing in this Order applies in relation to a conviction for a service offence which is not a recordable service offence; and for this purpose—

(a) “service offence” means an offence which is a service offence within the meaning of the Armed Forces Act 2006(3) or an SDA offence within the meaning of the Armed Forces Act 2006 (Transitional Provisions etc) Order 2009(4);

(b) “recordable service offence” means an offence which is a recordable service offence within the meaning of the Police and Criminal Evidence Act 1984 (Armed Forces) Order 2009(5).”

Insertion of new Article 1A

4.  After Article 1 insert—

“1A.

(1) For the purposes of this Order, a person’s conviction is a protected conviction if the conditions in paragraph (2) are satisfied and

(a) where the person was under 18 years at the time of the conviction, five years and six months or more have passed since the date of the conviction; or

(b) where the person was 18 years or over at the time of the conviction, 11 years or more have passed since the date of the conviction.

(2) The conditions referred to in paragraph (1) are that —

(a) the offence of which the person was convicted was not a listed offence;

(b) no sentence mentioned in paragraph (3) was imposed in respect of the conviction; and

(c) the person has not been convicted of any other offence at any time.

(3)  The sentence referred to in paragraph (2)(b) is a sentence of imprisonment, sentence of service detention or a custodial order within the meaning of Articles 2 and 6 of the Order.

(4)  In paragraph (2)(a) “listed offence” means —

(a) The following offences–

(i) Abducting girl under 18 with intention of marriage;

(ii) Abducting girl under 18;

(iii) Affray;

(iv) Breach of the peace;

(v) False imprisonment;

(vi) Going armed so as to terrify the public;

(vii) Indecency – outraging public decency;

(viii) Kidnapping;

(ix) Manslaughter;

(x) Murder;

(xi) Publishing obscene libel;

(xii) Publishing/exhibiting/selling indecent/obscene things;

(xiii) Rape;

(xiv) Riot;

(xv) Rout (incipient riot); and

(xvi) Unlawful assembly.

(b) an offence under section 1 of the Unlawful Drilling Act 1819;

(c) an offence under section 10 or 11 of the Slave Trade Act 1824;

(d) an offence under section 2 or 3 of the Tumultuous Risings (Ireland) Act 1831;

(e) an offence under section 35 of the Malicious Damage Act 1861;

(f) an offence under section 32, 33, 34, 58, 59 or 64 of the Offences Against the Person Act 1861;

(g) an offence under section 26 of the Criminal Justice Act (Northern Ireland) 1945;

(h) an offence under section 2 of the Nuclear Installations Act 1965;

(i) an offence under section 13, 13A or 13B of the Criminal Justice Act (Northern Ireland) 1966(6);

(j) an offence under section 5(1) of the Criminal Law Act (NI) 1967;

(k) an offence under section 25 or 30 of the Children and Young Persons Act (Northern Ireland) 1968;

(l) an offence under section 7(2)(a), 52, 58(2)(a), 58(2)(b), 63(b), 67 or 67 (1A) of the Medicines Act 1968(7);

(m )an offence under section 1, 2 or 3 of the Protection of Persons and Property Act (Northern Ireland) 1969;

(n) an offence under section 7 of the Public Order Amendment Act (Northern Ireland) 1970;

(o) an offence under section 4(2), 5(2), 5(3), 6(2), 8, 9, 11, 12, 13, 18, 19, 20 or 23 of the Misuse of Drugs Act 1971;

(p) an offence under section 1 of the Biological Weapons Act 1974;

(q) an offence under section 2 of the Criminal Jurisdiction Act 1975;

(r) an offence under Article 5 of the Poisons (Northern Ireland) Order 1976;

(s) an offence under Article 4 or 5 of the Criminal Damage (Northern Ireland) Order 1977;

(t) an offence under Article 19 of the Criminal Damage (Compensation) (Northern Ireland) Order 1977;

(u) an offence under Article 3 of the Criminal Law (Amendment) (Northern Ireland) Order 1977;

(v) an offence under section 50 of the Customs and Excise Management Act 1979;

(w) an offence under section 6(2) or section 7(2) of the Aviation Security Act 1982;

(x) an offence under Article 5, 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983(8);

(y) an offence under sections 1A to 1D or 2 of the Nuclear Material (Offences) Act 1983(9);

(z) an offence under section 38 of the Public Order Act 1986;

(aa) an offence under Article 11, 28, 29, 31, 58, 58ZA or 59 of the Adoption (Northern Ireland) Order 1987(10);

(bb) an offence under Article 9, 10, 11, 12, 13, 18(3), 22 or 23 of the Public Order (Northern Ireland) Order 1987;

(cc) an offence under section 139, 139A, or 141 of the Criminal Justice Act 1988(11);

(dd) an offence under Article 3, 4 or 5 of the Crossbows (Northern Ireland) Order 1988;

(ee) an offence under section 12, 18 or 19 of the Criminal Justice (International Cooperation) Act 1990;

(ff) an offence under Article 68 or 132 of the Children (Northern Ireland) Order 1995;

(gg) an offence under Article 11A or 12B of the Road Traffic (Northern Ireland) Order 1995(12);

(hh) an offence under Article 53 or 54 of the Criminal Justice (Northern Ireland) Order 1996;

(ii) an offence under section 2 or 11 of the Chemical Weapons Act 1996;

(jj) an offence specified in the Schedule to the Disqualification for Caring for Children Regulations (Northern Ireland) 1996;

(kk) an offence under section 1 or 2 of the Knives Act 1997;

(ll) an offence under Article 4, 5(6), 6 or 7(5) of the Protection from Harassment (Northern Ireland) Order 1997;

(mm) an offence under section 2 of the Landmines Act 1998;

(nn) an offence under section 35 of the Criminal Justice and Courts Services Act 2000;

(oo) an offence under section 11, 12, 15, 16, 17, 18, 38B, 39, 58, 60 or paragraph 37 of Schedule 4 to the Terrorism Act 2000;

(pp) an offence under section 52, 54, 67, 79, 80 or 114 of the Anti-terrorism, Crime and Security Act 2001;

(qq) an offence under section 58 or 59 of the International Criminal Court Act 2001;

(rr) an offence under Article 17 of the Criminal Injuries Compensation (Northern Ireland) Order 2002;

(ss) an offence under section 327, 328, 329, 330, 331, 332, 333A or 342 of the Proceeds of Crime Act 2002;

(tt) an offence under Article 12, 15(2)(a)-(e), 24 to 28 or 42 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;

(uu) an offence under Article 30 or 46 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003;

(vv) an offence stated by a court to be aggravated by hostility under Article 2 of the Criminal Justice (No 2) (Northern Ireland) Order 2004;

(ww) an offence under Article 3, 24, 37, 39, 40, 41, 42, 45, 61, 62, 63 or 67 of the Firearms (Northern Ireland) Order 2004;

(xx) an offence under section 1 or 2 of the Terrorism Act 2006;

(yy) an offence under paragraph 1 of Schedule 1 to the Violent Crime Reduction Act 2006;

(zz) an offence under section 47 of the Wireless Telegraphy Act 2006;

(aaa) an offence under Article 11, 13 or 23 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(13);

(bbb) an offence under section 27, paragraph 8 of Schedule 3 or paragraph 12 of Schedule 4 to the Justice and Security (Northern Ireland) Act 2007;

(ccc) an offence under Schedule 1 or Schedule 2 of the Criminal Justice (Northern Ireland) Order 2008(14);

(ddd) an offence under Article 68, 69 or 73 of the Sexual Offences (Northern Ireland) Order 2008;

(eee) an offence under section 71 of the Coroners and Justice Act 2009;

(fff) an offence under Article 137 or 138 of the Air Navigation Order 2009;

(ggg) an offence specified in the Schedule to the Safeguarding Vulnerable Groups (Prescribed Criteria and Miscellaneous Provisions) Regulations (Northern Ireland) 2009(15);

(hhh) an offence under section 2 of the Cluster Munitions (Prohibitions) Act 2010;

(iii) an offence under section 93 of the Justice Act (Northern Ireland) 2011;

(jjj) an offence under regulation 255 of the Human Medicines Regulations 2012;

(kkk) an offence which has been superseded (directly or indirectly) by an offence within paragraphs (a) to (jjj);

(lll) an offence of –

1. attempting or conspiring to commit any offence falling within paragraphs (a) to (kkk), or inciting or aiding, abetting, counselling or procuring the commission of any such offence, or
2. an offence under Part 2 of the Serious Crime Act 2007 (encouraging or committing serious crime) committed in relation to any such offence;

(mmm) an offence under the law of England, Scotland or Wales or any territory outside the United Kingdom which corresponds to an offence under the law of Northern Ireland within any of the paragraphs (a) to (lll);

(nnn) an offence under section 42 of the Armed Forces Act 2006 in relation to which the corresponding offence under the law of Northern Ireland (within the meaning of that section) is an offence corresponding with any of the paragraphs (a) to (lll); and

(ooo) an offence under section 70 of the Army Act 1955, section 70 of the Air Force Act 1955 or section 42 of the Naval Discipline Act 1957 of which the corresponding civil offence (within the meaning of those Acts) is an offence within any of the paragraphs (a) to (lll).”.

Amendment of Article 2

5.  Article 2 is amended as follows—

(a) the existing text is renumbered as paragraph (1);

(b) for “None” substitute “Subject to paragraph (2), none”;

(c) in sub-paragraph (a)—

(i) in paragraph (ii), after “Schedule 1”, in the first place, insert “apart from one specified in paragraph 4, 15, 16, 17 or 19” and omit “15, 16, 17,”;

(ii) in paragraph (iii), after “Schedule 1” insert “apart from one specified in paragraph 1 or 9”;

(iii) in paragraph (iv), after “Order” insert “apart from one specified in paragraph 1 or 4”;

(d) omit sub-paragraph (b);

(e) after paragraph (1) insert

“(2) Paragraph (1) does not apply in relation to a protected conviction.”

Insertion of new Article 2A

6.   After Article 2 insert—

“2A.  None of the provisions of Article 5(2) of the Order shall apply in relation to –

(a) any question asked by or on behalf of any person, in the course of the duties of his office or employment, in order to assess the suitability —

(i) of the person to whom the question relates for an office or employment specified in paragraph 4, 15, 16, 17 or 19 of Part II of Schedule 1 to this Order or for any work specified in paragraph 15,16, 17 or 19 of Part II of said Schedule 1;

(ii) of the person to whom the question relates or of any other person to pursue an occupation specified in paragraph 1 or 9 of Part III of Schedule 1 to this Order or to pursue it subject to a particular condition or restriction; or

1. of the person to whom the question relates or of any other person to hold a licence, certificate or permit of a kind specified in paragraph 1 or 4 of Schedule 2 to this Order or to hold it subject to a particular condition or restriction, where the person questioned is informed at the time the question is asked that, by virtue of this Order, spent convictions are to be disclosed; or
* any question asked by or on behalf of any person, in the course of his duties as a person employed in the service of the Crown, the United Kingdom Atomic Energy Authority, the FCA, the PRA or the Post Office corporation in order to assess, for the purpose of safeguarding national security or of protecting public safety or public order, the suitability of the person to whom the question relates or of any other person for any office or employment where the person questioned is informed at the time the question is asked that, by virtue of this Order, spent convictions are to be disclosed for the purpose of safeguarding national security or of protecting public safety or public order.”

Amendment of Article 3

7.   Article 3 is amended as follows—

(a) the existing text is renumbered as paragraph (1);

(b) for “Paragraph” substitute “Subject to paragraph (2), paragraph”;

(c) in sub-paragraph (b)

(i) after “Part II” insert “of Schedule 1 apart from one specified in paragraph 4, 15, 16, 17 or 19”;

(ii) after “Schedule 1” insert “apart from one specified in paragraph 1 or 9”; and

(iii) omit “15, 16, 17,”

(d) omit sub-paragraph (c);

(e) after paragraph (1) insert—

“(2) Paragraph (1) does not apply in relation to a protected conviction.”.

Insertion of new Article 3A

8.   After Article 3 insert—

“3A. None of the provisions of Article 5(2) of the Order shall apply in relation to –

(a) any office, employment or occupation specified in paragraph 4, 15, 16 , 17 or 19 of Part II of Schedule 1 or paragraph 1 or 9 of Part III of Schedule 1 or any work specified in paragraph 15, 16, 17 or 19 of Part II of Schedule 1.

(b) any action taken for the purpose of safeguarding national security or of protecting public safety or public order.”.

Sealed with the Official Seal of the Department of Justice on 5th February 2014

David Ford

Minister of Justice

**EXPLANATORY NOTE**

(This note is not part of the Order)

This Order amends the Rehabilitation of Offenders (Exceptions) Order 1979 (“the 1979 Order”) The 1979 Order disapplies specified provisions of the Rehabilitation of Offenders (Northern Ireland) Order 1978 (“the 1978 Order”) to allow questions to be asked about spent convictions in order to assess a person’s suitability for admission to certain occupations or to hold certain types of employment, licences or permits. It also allows spent convictions, or a failure to disclose them, to be grounds for excluding a person from these occupations or for making decisions in relation to those types of employments, licences and permits.

Article 3(3) of this Order inserts a new paragraph (2A) into Article 1 of the 1979 Order. It provides that the 1979 Order does not apply to “service offences” within the meaning of the Armed Forces Act 2006 other than “recordable service offences” as defined in the Police and Criminal Evidence Act 1984 (Armed Forces) Order 2009. Its effect is that minor “non-recordable service offences”, which do not correlate to conduct which would be criminal in the civilian sphere, need not be disclosed once the relevant rehabilitation period has been served.

Articles 4 to 8 of this Order make amendments to the coverage of the 1979 Order by adjusting the range of spent convictions covered by it. Articles 5 and 7 amend Articles 2 and 3 of the 1979 Order respectively so that the 1978 Order is no longer disapplied in respect of a “protected conviction” when a question is asked to assess a person’s suitability for certain purposes or when a decision is made for certain purposes.

The definition of a “protected conviction” is provided in Article 4, which inserts a new Article 1A into the 1979 Order. A conviction is a “protected conviction” if it was given for an offence other than those listed in new Article 1A(4); a sentence other than custody or service detention was imposed; the person has not been convicted of any other offence at any time; and, where the person was aged 18 or over at the time of the conviction, 11 years or more have passed since the date of conviction. Shorter time periods apply in respect of a person aged under 18 at the date of conviction.

Articles 6 and 8 introduce new Articles 2A and 3A respectively into the 1979 Order. These new Articles continue the existing effect of Articles 2 and 3 in certain circumstances so that in those circumstances, such as for the purpose of safeguarding national security, the 1978 Order continues to be disapplied even in relation to a “protected conviction”.

The Order comes into operation on 14th April 2014.

(1)

S.I. 1978/1908 (N.I. 27); Article 4(1) of and paragraph 6 of Schedule 1 to S.I. 2010/976 transferred the Order making powers of the Secretary of State to the Department of Justice.

(2)

S.R. 1979 No. 195; relevant amending Orders are S.R. 1987 No. 393, S.R. 2001/No. 248, S.R. 2001 No. 400, S.R. 2003 No. 355, S.R. 2006 No. 425, S.R. 2009 No. 173, S.R. 2009 No.303 and S.R. 2012 No. 318

(3)

2006 c. 52

(4)

S.I. 2009/1059

(5)

S.I. 2009/1922

(6)

1966 c.20 (N.I.) Sections 13A and 13B have been inserted by section 60(4) of the Coroners and Justice Act 2009 (c.25).

(7)

1968 c.67 Section 67(1A) has been inserted by section 63(7) of the Health and Social Care Act 2001 (c.15).

(8)

S.I. 1983/1120 (N.I. 3). Article 9A has been inserted by section 6(1) of the Criminal Justice (Terrorism and Conspiracy) Act 1998 (c.40) and has been amended by section 72(2)(a) of the Coroners and Justice Act 2009 (c.25).

(9)

1983 c. 18. Sections 1A to 1D have been inserted by paragraph 3 of Schedule 17(1) to the Criminal Justice and Immigration Act 2008 (c. 18).

(10)

S.I. 1987/2203 (N.I. 22). Article 58ZA has been inserted by Article 12 of the Adoption (Intercountry Aspects) Act (Northern Ireland) 2001 (c. 11 (N.I.)).

(11)

1988 c. 33. Section 139A has been inserted by section 4(1) of the Offensive Weapons Act 1996 (c. 26).

(12)

S.I. 1995/2994 (N.I. 18). Article 11A has been inserted by Article 52(1) of the Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)). Article 12B has been inserted by Article 53(1) of that Order.

(13)

S.I. 2007/1351 (N.I. 11). Articles 11, 13 and 23 have been revoked by paragraph 1 of Schedule 10(5) to the Protection of Freedoms Act 2012 (c. 9). The repeal is effective from 10 September 2012 as S.I. 2012/2234 immediately after the coming into operation of S.R. 2012/320.

(14)

S.I. 2008/1216 (N.I. 1). Schedule 1 and Schedule 2 have been amended by paragraph 35(2) and (3) of Schedule 1 to the Sexual Offences (Northern Ireland) Order 2008 (S.I. 2008/1769 (N.I. 2)), section 139(2) to (4) and (6) of the Coroners and Justice Act 2009 (c. 25), section 57(2) of the Justice Act (Northern Ireland) 2011 (c. 24 (N.I.)) and section 6(3)(b) of the Criminal Justice Act (Northern Ireland) 2013 (c. 7 (N.I.)).

(15)

S.R. 2009/39. The Schedule to these Regulations has been amended by the Safeguarding Vulnerable Groups (Prescribed Criteria and Miscellaneous Provisions) Regulations (Northern Ireland) 2012 (S.R. 2012/319).

Please sign and return this page to the HR and Admin Manager.

**Staff/Volunteer Acceptance**

I have read and understood the Recruitment of Ex-Offenders Policy and agree to abide by the requirements laid down:

Signature:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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