



**POLICY STATEMENT ON THE RECRUITMENT AND
EMPLOYMENT OF EX-OFFENDERS AND THE USE OF DISCLOSURE
INFORMATION**

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| Process Area | Human Resources & Development |
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| 005 | Feb 2024 | Minor changes reflecting update to definitions section and reference to police Act at para 4.1.1 | RS | Governing Body |

If requested, the College will make the policy available in alternative formats to accommodate visual impairments. The policy can also be downloaded from the College website and made available in alternative languages upon request.

1. INTRODUCTION

Southern Regional College actively promotes equality of opportunity for all and welcomes applications from a wide selection of candidates. The procedure for selecting candidates for appointment is fair and transparent and focuses on identifying those most suitable for a post on the basis of merit.

Part V of the Police Act 1997 provides for a scheme which is aimed at helping employers and other organisations assess the suitability of applicants for particular jobs and to make safer recruitment decisions in relation to positions of trust. It does this by widening access to criminal record information and providing for the issue of criminal conviction certificates to appropriately registered organisations.

In Northern Ireland, AccessNI provides employers and others with access to criminal records and other information through a service called Disclosure. Southern Regional College is registered with AccessNI to use this service and to comply with the Safeguarding Vulnerable Groups (NI) Order 2007 and the Protection of Freedoms Act 2012 to help it make more informed decisions when recruiting staff into positions of trust or roles which cover a range of specified activities – often referred to as regulated activity.

This policy outlines Southern Regional College's approach to recruiting ex-offenders and how we use disclosure information. The policy is available to all job applicants who apply for a job which is subject to an Enhanced level of Disclosure as a condition of employment.

2. SCOPE

This policy will apply to all those who are recommended for appointment in the College.

3. DEFINITIONS

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| Regulated Activity for Children and Adults | The College adopts the amended definitions as applied by the updated Protection of Freedoms Act 2012. |
| Standard Disclosure Check | <p>A standard check discloses an individual's criminal record, giving:</p> <ul style="list-style-type: none"> • spent and unspent convictions. • informed warnings and other non-court disposals from the Police National Computer. <p>Some old and minor convictions and non-court disposals on a criminal record may not be disclosed. Fixed penalty tickets and parking fines will not be included in a standard check.</p> <p>Standard checks are only available where the position or role in question is exempt from the Rehabilitation of Offenders (NI) Order 1978. They are not suitable for roles working with children or adults at risk of harm or adults at risk of protection.</p> |
| Enhanced Disclosure Check | <p>An enhanced check discloses an individual's full criminal record, giving:</p> <ul style="list-style-type: none"> • spent and unspent convictions from the Police National Computer. • cautions, informed warnings and other non-court disposals from the Police National Computer. • information held by the Disclosure and Barring Service (for positions in regulated activity). • information held by the police that is relevant to the role applied for. <p>Some old and minor convictions and non-court disposals on a criminal record may be filtered. Fixed penalty tickets or parking fines will not be included in an enhanced check.</p> <p>Enhanced checks are normally required where the applicant will work or volunteer in a role providing services to or having close and regular supervision of children and / or vulnerable adults.</p> |
| Enhanced Disclosure Check including barred list check (EDCBL) | An EDCBL contains all of the information in the Enhanced Disclosure check and will also check whether the applicant is on the Disclosure & Barring Service barred lists and therefore barred from working with children and/or adults. |
| Risk Assessment | Internal College activity which considers the suitability of ex-offenders for appointment. |

4. PROCEDURE FOR IMPLEMENTATION

4.1 Recruiting Ex-Offenders

- 4.1.1** Section 122 of the Police Act 1997 requires the Minister of Justice to publish a Code of Practice. Disclosure information can be extremely sensitive and personal and this Code of Practice ensures that employers and other recipients of Disclosures handle the information fairly and properly.
- 4.1.2** Southern Regional College complies with the Code of Practice in connection with the use of information provided to it as a registered person (by AccessNI under Part V of the Police Act 1997, for the purposes of assessing an individual's suitability for employment, voluntary positions and other relevant purposes).
- 4.1.3** A copy of the Code of Practice can be viewed at [Code of Practice](#) and a copy can be made available on request.
- 4.1.4** Having a criminal record will not necessarily bar an applicant from working for Southern Regional College. In line with the Data Protection Act 2018, Southern Regional College will ensure that where a certificate, or a copy of a certificate, is obtained from an applicant, that it is not retained longer than is required for the specific purpose of taking a decision on that applicant's suitability. It should be noted that information disclosed on AccessNI certificates are regarded under the Data Protection Act as 'sensitive personal data.'
- 4.1.5** As a regulated authority Southern Regional College will ask applicants about their entire criminal history and therefore, applicants will be required to declare all convictions (spent and unspent).
- 4.1.6** Southern Regional College undertakes not to unlawfully discriminate against any person on the basis of information revealed on the disclosure documentation issued by AccessNI.
- 4.1.7** In line with the Rehabilitation of Offenders (Exceptions) (Northern Ireland) Order 1979 (as amended in 2014), Southern Regional College will only ask about convictions which are defined as "not protected" for the purposes of obtaining a Standard or Enhanced disclosure.
- 4.1.8** Any action taken on the basis of the information will be proportionate and depend on the nature of the job concerned and the details of the offence.
- 4.1.9** Successful applicants will be required to undergo an Enhanced Disclosure AccessNI check. Those applicants deemed to be working in regulated activity will be required to undergo a further check indicating whether individuals are on one of the barred lists (*Disqualified from Working with Children List* or the *Disqualified from Working with Adults' List*). For the purpose of this policy, this check will be referred to as the EDCBL. Any offer of employment will be conditional upon a satisfactory outcome of that process.

4.1.10 The College does not regard an AccessNI Disclosure to be a substitute for full pre-employment checks, including taking up references and enquiring into an applicant's previous employment history. AccessNI checks are part of the recruitment process and will only be sought after a candidate has been selected as the recommended candidate for the post.

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

4.1.11 In cases where the recommended candidate's Enhanced Disclosure Certificate discloses information, the College will consider the following:

- **The nature and seriousness of the conviction.**
Given that work in education will involve contact with young people, generally convictions for sexual, violent or drug offences will be particularly strong contraindications for work in this environment.
- **The nature of the appointment and whether the details disclosed are relevant to the job in question.**
Often the nature of the appointment will be helpful in addressing the relevance of the conviction. For example, offences involving dishonesty would be more relevant where the appointment involved the handling of money; drunkenness or driving convictions would be of greater concern in appointments involving transport of students or staff is required; criminal damage would be of concerns in estates related appointments.
- **When the offence occurred.**
Offences in the distant past may be less relevant than recent convictions though offences against children, sexual or violent offences will not be deemed to be diminished by the passage of time.
- **The frequency of offence - a pattern of offending behaviour.**
A pattern of related or similar offences over a period of years and a history of repeated offending will give cause for concern.
- **Any relevant information regarding the offences provided by the candidate.**
Whether the person's circumstances have changed since the offending behaviour and the account and circumstances surrounding the offence and the explanation offered. One significant consideration is whether or not the individual has declared the Criminal record as non-declaration calls into question the trust and confidence of the individual concerned.

5. FRAUDULENT MISREPRESENTATION OR FAILURE TO DISCLOSE RELEVANT DETAILS

- 5.1** It is an offence under the Safeguarding Vulnerable Groups (NI) Order 2007 for anyone on either of the barred lists to seek work or offer to engage in regulated activity. Southern Regional College will report any such attempt to the Police Service of Northern Ireland.

- 5.2** It is also an offence under the Fraud Act 2006 for any person to misrepresent themselves in any information on which the College may rely to assess their suitability for employment, e.g. by using fraudulent references, qualifications or making fictitious entries when completing a job application form. Similarly, it is an offence for any person to misrepresent themselves by failing to disclose information which is relevant such as criminal offences. If it becomes apparent (through an AccessNI check or otherwise) that an applicant has fraudulently misrepresented themselves during the application process, the offer of employment may be withdrawn or if appointed, the individual may be subject to disciplinary action which could result in dismissal. Such action would be proportionate to the nature and the significance of the misrepresentation and any relevant information provided by the individual would be considered in reaching a decision.

6. OVERSEAS APPLICANTS

AccessNI can only access information held by UK Police Services therefore overseas candidates, or those who have spent a considerable period of time residing overseas, will be required to provide a Certificate of Good Conduct from the relevant countries where available. Individuals with an address history of less than 5 years living in the UK will be required to produce a Certificate of Good Conduct. However, following a recent EU pilot project Criminal records information can be obtained from some EU countries that have participated in this programme.

7. DISPUTES

If an applicant believes that the information on an AccessNI Disclosure Certificate is inaccurate, he /she should advise Southern Regional College immediately whilst simultaneously referring the dispute to AccessNI. College Management will take into consideration the likely timeframe for resolution and outcome of any dispute and a decision may be required to be taken on the continuation of the offer of employment.

8. DISTRIBUTION

- Policy Centre, Sharepoint
- College website

9. RELATED DOCUMENTS

- Equality and Good Relations Policy
- Recruitment and Selection Policy
- FE Circular 11-13 – Recruitment in FE – Disclosure & Barring Arrangements
- Safeguarding Sector Guidance Document – 15 October 2012
- AccessNI Code of Practice