



**Short Guide to
Northern Ireland's
Criminal Records Disclosure Regime**

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NORTHERN IRELAND'S CRIMINAL RECORDS DISCLOSURE REGIME

INFORMATION ABOUT THE DISCLOSURE PROCESS

1. What is a criminal record?

This is, broadly, a record of a person's convictions and/or any non-court disposals that have been given to them.

- A **conviction** results from a prosecution where an individual is found guilty of an offence in court.
- **Non-court disposals** (also called diversionary disposals) are those which do not require a person to appear in court. They are used to deal with minor offending, and to help “divert” people away from the formal criminal justice system. They can only be used in cases where a person admits that they have offended, and where the offence is at the lesser end of the scale of criminal activity.

The **diversionary disposals** are:

- Adult caution
- Informed warning
- Restorative caution
- Diversionary youth conference

Although a diversionary disposal is not a conviction, the details of the offence form part of a person's criminal history and can be disclosed on a standard or enhanced disclosure certificate, or to a court by the police.

2. When is criminal record disclosure required?

The purpose of criminal record disclosure is to make sure that the public, and especially children and adults in vulnerable situations, are kept safe. By law, some employers and colleges must check a person's criminal history before they offer them a job or a volunteering role, or a place on a training course. This check is

usually required if an individual wants to work or volunteer unsupervised with children, or closely with adults in vulnerable situations – for example:

- in schools, nurseries, creches, hospitals, and care homes;
- when a person wants to train for these kinds of roles in further education colleges or universities.

These are sometimes referred to as “**regulated activities**”.

3. Who carries out criminal record checks?

AccessNI is the government body responsible for carrying out criminal history checks in Northern Ireland. Its services can be used by people or organisations working in the areas described above who need to ask a job applicant, volunteer or student/trainee to provide criminal history information. AccessNI carries out 3 levels of check - basic, standard and enhanced, and issues a certificate for whichever check is carried out (see sections 4-6 below).

Note: An enhanced disclosure certificate is required if someone wants to work, volunteer or train in a “regulated” activity, such as those above. This also includes people who want to foster or adopt children or who want to be child minders.

4. What is a basic disclosure certificate?

A basic disclosure certificate provides information only on convictions that have not been spent (see note below for meaning of “spent”). Diversionary disposals would not be disclosed.

Note: Spent convictions are those that do not normally have to be disclosed because a required period of time has passed and an individual has no new or related offences. The periods of time (which are called “rehabilitation periods”) are set out in the table attached at Annex A.

Individuals can apply directly to AccessNI for basic checks, or through an organisation that is registered with them. An employer can ask job applicants to apply for a basic check as part of the recruitment process – for example, the Civil Service would normally require a basic check to be carried out.

5. What is a standard disclosure certificate?

A standard disclosure certificate includes details of a person’s full criminal record – i.e:

- any **convictions** they have had - even if they are now spent (see above); and
- any **non-court disposals** (such as cautions, informed warnings, and youth diversionary conferences).

Applications for standard certificates can only be made through organisations that are registered with AccessNI. Standard checks may be made for those seeking security industry licences (such as door men etc), for example.

Note: Employers or colleges recruiting to the kinds of roles described at section 2 are legally allowed to ask someone about their spent convictions.

6. What is an enhanced disclosure certificate?

An enhanced disclosure certificate includes the same information as a standard certificate, but:

- it may also contain **information that police have added** because they think it is relevant; and
- in addition, enhanced checks also include a **check of the Disclosure and Barring Service's barred lists** – these are the lists of those people in the UK who are not allowed to work with children or adults.

As with standard certificates, applications for enhanced certificates can only be made through organisations that are registered with AccessNI.

7. How does someone apply for a standard or enhanced certificate?

If an employer or college is registered with AccessNI, and asks a person to provide a standard or enhanced certificate, they should complete an AccessNI application form on line and then submit it to the employer/college. They will then countersign it and forward it to AccessNI.

Further information on AccessNI, including links to relevant forms can be accessed as follows:

www.nidirect.gov.uk/accessni

8. What does an AccessNI check involve?

Sourcing information

- When AccessNI receive an application for a certificate, they will check the Police National Computer (PNC) for information held about the applicant. The PNC contains details of everybody's criminal record from across the United Kingdom, and its data base is used for all types of checks.
- Where the application is for an enhanced check, AccessNI will also search a police intelligence database to find out if the applicant's details are recorded on this.
- If the applicant is matched to a criminal record, or his or her details are found on the police intelligence database, their application will be referred to the police so that they can decide if the information they hold is relevant to the role being applied for, and should be disclosed on the certificate. (This could be about an incident which did not go to court or about an ongoing police investigation). If the police believe that the information ought to be disclosed, it will be shown in the "other information" section of the certificate.

Filtering

- There is some information that AccessNI do not have to disclose on a standard or enhanced certificate. The kind of information that can be filtered is usually about old and minor convictions or about cautions or informed warnings. There is more information on the filtering process at section 9 below.

Issuing a certificate

- When the process has been completed, AccessNI will then print and issue a certificate to the applicant.

Note: Since 31 October 2015, AccessNI no longer provides a copy of the certificate to the employer or college that countersigned the application – **it is sent only to the applicant.**

The registered body can check, via AccessNI's on line tracking system, whether or not there is information on the certificate (but not what that information is).

9. The filtering process

Where AccessNI carry out a check and find information about an applicant's criminal record, there is some information that they can filter out, so that it is not disclosed on a standard or enhanced certificate.

Note: not all information is eligible for filtering – see below.

What information can be filtered?

All **spent** convictions and non-court disposals can be filtered from a certificate **after a set period of time** (see the table below), **provided that the following conditions are met:**

- An individual has **no more than** one conviction.
- A conviction or disposal is **not for a specified offence** ("specified" offences are explained below.
- A **custodial sentence was not given.**

Note: There are certain offences which are never filtered – these are called specified offences and they are set out in law (the full list may be accessed via the following link: <http://www.nidirect.gov.uk/accessni-list-specified-offences.pdf?rev=4>). They are mainly serious sexual or violent offences which are thought to be relevant when making sure that children and vulnerable adults are protected, but they also include a wide range of other offences, such as assault on police, riotous behaviour, drug-related offences, criminal damage and so on.

The timescales for filtering

The timescales for filtering are set out below (they are much shorter for information about those who were under 18 when they were awarded the conviction or non-court disposal).

Disposal	18 or over at time of conviction/disposal	Under 18 at time of conviction/disposal
Conviction for single non-specified offence	Filtered after 11 years	Filtered after five and a half years
Caution for non-specified offence	Filtered after 6 years	Filtered after 2 years
Diversionsary Youth Conference	N/A	Filtered after 2 years
Informed warning for non-specified offence	Filtered after 1 year	Filtered after 1 year

Note: employers are not entitled to ask for details of spent convictions which are eligible for filtering, and which would not, therefore, be disclosed by AccessNI.

10. What are the next steps once the applicant receives their certificate?

Once a person receives their certificate from AccessNI, they can decide whether or not to pass it on to the employer/college, and proceed with their application for employment/volunteering/training.

AccessNI does not make recruitment decisions for employers – **it is up to each individual employer to decide whether or not they want to employ someone**, once they have received the certificate. However, if someone has been barred from working with children or vulnerable groups, AccessNI will contact the police and they may contact the employer/college to inform them.

11. Criminal Records Filtering Review Scheme

The Department of Justice has introduced a process so that a person can ask to have an **independent review** of the information on their standard or enhanced disclosure certificate if it has not already been filtered from their certificate by AccessNI.

If a person believes that the information to be disclosed is not relevant or proportionate to the purpose for which they have asked for the certificate, then they may want to ask for a review of that information (bearing in mind that if they were under 18 when convicted, or when a disposal was given to them, their information will be automatically considered by the Independent Reviewer).

Certain conditions apply, and detailed guidance on the review process, including how to access it, is available on the DOJ website, at:

<https://www.dojni.gov.uk/articles/criminal-records-filtering-review-scheme>

Rehabilitation of Offenders (NI) Order 1978 – Rehabilitation periods

Sentence/disposal	Rehabilitation Period (i.e. period of time which must pass before the conviction/disposal becomes spent)
A term of imprisonment exceeding 30 months	Never spent
A term of imprisonment exceeding six months but not exceeding 30 months	Ten years (five years if person is under 18 at the time of conviction)
A term of imprisonment not exceeding 6 months	Seven years (three and a half years if person is under 18 at the time of conviction)
A fine or community service order	Five years (two and a half years if person is under 18 at the time of conviction)
Period of probation	One year
Detention in a place directed by Minister of Justice/SofS under Article 45 of CJ (Children) (NI) Order 1998	6 months or less – 3 years Over 6 months but less than 30 months – 5 years
Attendance Centre Orders, remand home orders, training school orders, juvenile justice centre orders	1 year after order expires
Care and supervision orders under Children and Young Persons Act (NI) 1998	Date the order ceases or 1 year, whichever is longer
Hospital orders under Mental Health Act (NI) 1961 or Mental Health (NI) Order 1986	5 years from date of conviction or 2 years after the order expires (whichever is longer)
Disqualification and other orders imposing disability, prohibition or other penalty	Date the order ceases
Absolute discharge	6 months

Sentence/disposal	Rehabilitation Period (i.e. period of time which must pass before the conviction/disposal becomes spent)
Any other sentence for which the Order does not specify a specific period	5 years (2.5 if under 18 at time of conviction)
More than one conviction	Dependent on sentence which is imposed but where there is another conviction during a rehabilitation period which has not expired, that period will under certain circumstances, be extended to the longer or longest period.
Cautions including restorative and conditional cautions	Not covered by ROO. Regarded as spent immediately for purposes of disclosure certificates.
Diversionary youth conference (DYC)	Not covered by ROO. Regarded as spent immediately for purposes of disclosure certificates.
Informed warnings	Not covered by ROO. Regarded as spent immediately for purposes of disclosure certificates.