



**STUDENT CRIMINAL CONVICTIONS DISCLOSURE  
POLICY AND PROCEDURE**

<b>Process Area</b>	<b>Student Services</b>
<b>Reference Number</b>	<b>STS/001</b>
<b>Directorate</b>	<b>Client Services</b>

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**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. POLICY STATEMENT

Southern Regional College actively promotes equality of opportunity for all and welcomes applications from a wide range of applicants, including those with criminal convictions. The information disclosed on criminal convictions is considered to be 'sensitive personal data' under the terms of data protection legislation. The College will ensure that all such information is stored and protected in accordance with its data protection policies and procedures and has in place a confidential disclosure process to safeguard the student and the information disclosed.

The purpose of the Policy is to identify any applicants who have criminal convictions and to assess the risk they may pose to themselves and to other students, staff and visitors, in order to provide a safe and inclusive College environment.

A conviction or ongoing investigation will not prevent an application from being considered by the College, nor will the information disclosed necessarily prevent a student from studying on the course of their choice. However, if it is later discovered that a student has unspent convictions which have not been disclosed, the student may be asked to leave the course. Sometimes a conviction may preclude a student from undertaking a particular course and/or pursuing a career in a particular field. In these circumstances we will discuss this with the student and offer alternatives, where possible.

Southern Regional College has a legal obligation known as a "duty of care" to do everything reasonable to protect students, staff and visitors from potential harm. The College's Student Criminal Convictions Disclosure Policy and Admissions procedures help us ensure that our duty of care is upheld. As part of those procedures, we require students to declare if they:

- have unspent criminal convictions
- are currently under investigation
- applied for a subject area, where a career working with children or adults at risk is the likely outcome, all criminal convictions (spent or otherwise, unless filtered off) must be disclosed.

## 2. SCOPE

This policy applies to all course applicants and current students of the College and should be read in conjunction with other relevant organisational procedures and student support policies.

### 3. DEFINITIONS

PSNI	Police Service of Northern Ireland
NIACRO	Northern Ireland Association for the Care and Resettlement of Offenders
PBNI	Probation Board for Northern Ireland
PPANI	Public Protection Arrangements Northern Ireland
Risk Assessment	Internal College activity which considers the suitability of ex-offenders for placement on a programme of study
Filtered Offences	AccessNI filters convictions and cautions for minor or certain old offences from standard and enhanced checks. Filtering does not remove convictions for serious offences or convictions that resulted in a prison sentence. If convictions are over 11 years old (or 5 and a half years if under 18) these should not appear on an Access NI standard or Enhanced Certificate, unless 'specified'. Therefore, they should not be disclosed.
Specified Offences	Specified offences are serious crimes that will always appear on an AccessNI check no matter when the crime occurred or the offender's age when convicted. Specified offences include: <ul style="list-style-type: none"> <li>• murder, manslaughter, kidnap, hijack, money laundering</li> <li>• violence</li> <li>• sexual crimes</li> <li>• safeguarding or child protection matters</li> </ul>
Spent and Unspent Convictions	If a person is still in their rehabilitation period following a criminal conviction, their conviction is unspent. Any custodial sentence over two and a half years stays unspent. If they were found guilty of a criminal offence by a court, following the specified time-period, the conviction will be considered "spent". The specified time is the rehabilitation period.

### 4. PROCEDURE FOR IMPLEMENTATION

#### 4.1 Student Criminal Convictions Disclosure

Applicants who tick 'YES' to one or both of the two safeguarding questions on the application/enrolment form, will be required to disclose unspent criminal convictions, (see section 4.2 below) by submitting a Student Criminal Convictions Disclosure Form. For certain courses, applicants are required to disclose spent and unspent convictions by submitting an Enhanced Student Criminal Convictions Disclosure Form. The forms are available on the Staff Intranet/SharePoint site and on the College website: <https://www.src.ac.uk/criminal-convictions>. The College Criminal Conviction enrolment procedure is detailed in the process flowchart below section 8.

#### 4.2 Rehabilitation of Offenders (NI) Order 1978

Depending on the offence, The Rehabilitation of Offenders (NI) Order 1978, states that it is not always necessary to declare criminal convictions. Under certain circumstances, once a period of time has elapsed from the date of conviction and there have been no further convictions, the conviction becomes *spent*. This means that the ex-offender, if asked if they have a criminal record, can legally answer 'no'.

Offences dealt with by sentences of 30 months' imprisonment, or more are never spent; in practice this means that more serious offences must always be declared. Otherwise, the definition of 'spent' is complex, being affected by such factors as the type of the offence, the age at which the person was found guilty, and the sentence received.

The Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO) can provide further information on spent and unspent convictions (telephone number 028 9032 0157, Fax: 087 0432 1415, Email: niacro@niacro.co.uk).

Certain professions and occupations are exempt from the Rehabilitation of Offenders (NI) Order 1978. This means that, for certain professional courses, all criminal convictions must be declared regardless of when the offence was committed. The types of courses for which this is relevant include: teaching, health, social work, veterinary medicine, veterinary science or courses involving work with children or adults at risk.

The list of professional posts exempt from the Rehabilitation of Offenders (NI) Order 1978 is extensive but 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.

This information is particularly relevant where a course contains a work placement element. Students on courses that involve such a work placement will also be required to complete an Access NI check prior to the start of the work placement. This means that the student will be required to complete a form which will be passed to Access NI for a criminal record check.

Certain convictions will prevent students from working with children or adults at risk. If it is later discovered that a student has a criminal record that they did not disclose, they may be withdrawn from their course.

Any student or member of staff who is unsure about a criminal record and how it may affect a College course should contact a member of the College's Designated Student Criminal Disclosure Team for advice.

The following table shows the nature of the conviction and the 'spent' period attached to it. If a conviction is 'spent' you do not have to mention it, even when asked, unless applying for a post which is exempt under this legislation.

<b>Sentence</b>	<b>Aged 18 or over at conviction</b>	<b>Under 18 years at conviction</b>
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
<b><i>NB: CUSTODIAL SENTENCE OF MORE THAN TWO AND A HALF YEARS CAN NEVER BECOME SPENT</i></b>		

**Please Note:**

- 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 the rehabilitation period:
  - for a summary offence (i.e., can only be tried at Magistrates Court) both rehabilitation periods expire separately,
  - 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 exempted posts.
- Non-disclosure of relevant unspent criminal convictions (unfiltered)
- If the College becomes aware of an offence that has not been disclosed, the Designated Student Criminal Disclosure Team will review the risk and decide if the student must withdraw from the course (if enrolled) or be prevented from enrolling.

### **4.3 Access NI Checks**

As a Registered Body of Access NI, the College will handle Access NI Enhanced Disclosures checks securely and will fully comply with the Access NI Code of Practice. The College will treat applicants fairly and will not discriminate based on information revealed on such disclosure certificates. The College will ensure that all disclosure information is handled sensitively and kept in a confidential, secure manner.

### **4.4 Access NI Enhanced Disclosure Checks – the disclosure of spent convictions**

For some courses, disclosure is required by law or by an external statutory or regulatory body. Certain types of courses require the disclosure of spent and unspent convictions and non-conviction information e.g., formal cautions, informed warnings, non-conviction bind-over orders and diversionary youth conferences (see section 4.2).

In such circumstances applicants/ students will be required to undertake a criminal record check via Access NI. Course teams will specify the courses where Access NI enhanced checks are required and advise students of the College's enhanced disclosure process. If the College decides to admit an applicant to a specific course following a risk assessment, this does not automatically ensure that the relevant professional bodies or organisations e.g., the Southern Health & Social Care Trust (SHSCT), Education Authority (EA), General Medical Council (GMC), or companies acting on their behalf, will view a particular offence as acceptable.

Some statutory or professional bodies/organisations may not allow a student to practice, based on their criminal disclosures, even after a student's successful completion of their course.

### **4.5 Student Placements**

Similarly, although the College may decide to admit a student on to a course following a criminal disclosure, a placement provider might decide not to accept the student on a placement. If the placement is an integral part of the course, it may not be possible for the student to proceed with their studies.

If the College is concerned that a student may not be able to proceed with the course, or to practise a related occupation at the end of it, the applicant will be informed of this possibility before the course starts, to prevent any misapprehension as to their prospects.

### **4.6 Convictions or charges (pending investigation) after course commencement**

If a student is convicted of a criminal offence or is under investigation for an offence after they have applied or started the course, they must immediately inform the Campus Services Manager.

All information will be treated confidentially and in line with data protection principles. It is important to note that an individual's circumstances may change during their course of study. The College reserves the right to conduct a risk assessment on any student at any time if the student is found to have previous or current convictions which they have failed to disclose.

### **4.7 Risk Assessment**

During a risk assessment, the College will consider the following:

- The type of offence and is it directly relevant to the course applied for?
- The nature and seriousness of the conviction.
- When the offence occurred?
- The frequency of offence - a pattern of offending behaviour.

#### **4.8 School Partnership Programme**

The schools who work with the College to facilitate the attendance of under 16-year-olds through the School Partnership Programme are required to alert the College to any students who have unspent criminal convictions, and in case of certain courses, all convictions.

Prospective school partnership students, in such a position, will need to complete the College's criminal convictions disclosure/ enhanced criminal convictions disclosure form. If a risk assessment is required, the student and their parent/guardian/carer will be advised of the need to conduct a risk assessment and of the associated College procedures.

### **5. ROLES & RESPONSIBILITIES**

#### **5.1 Designated Student Criminal Disclosure Team**

The following staff either collectively or individually may undertake the assessment:

- Assistant Director of Student Services and Marketing
- Campus Services Manager
- Campus Services and/or Skills Training Coordinator(s)
- Safeguarding Officer(s)

In certain circumstances, contact may be made with external professionals e.g., PSNI, NIACRO, PBNI, PPNI etc. if more information relating to charges/ convictions is required. Staff then determine whether the associated risk can safely be managed and that their offence will have no impact on their chosen programme of study. A decision is then taken as to whether the applicant is approved to proceed with their application/ enrolment.

#### **5.2 Confidentiality**

The information collected during the risk assessment process will be made available to staff on a need to know basis only.

The information will be stored securely at all times in line with the prevailing data protection legislation. Generally, the following staff will require access to risk assessments in the execution of their duties.

- Director of Client Services
- Heads of Faculty and Curriculum Area Managers
- Assistant Director of Student Services and Marketing
- Campus Services Manager
- Campus Services and Skills Training Coordinator(s)

Relevant information about convictions may be made available to specific College staff and work placement providers on a need to know basis.

#### **5.3 Retention and disposal of data**

In line with the College's Retention and Disposal Schedule, all student criminal convictions disclosure forms and risk assessments are retained for 7 years. As these records are classed as sensitive personal data, the files are maintained by the Campus Services Manager.

#### **5.4 Appeals**

Applicants who have been refused a place at the College, following a risk assessment, may submit a letter of appeal to the Director of Client Services within 5 working days of the date of the decision letter. The Director of Client Services will consider the case and will inform the applicant of the appeal outcome in writing. This decision will be final.

### **6. DISTRIBUTION**

- SRC SharePoint
- SRC Canvas
- SRC Website

### **7. RELATED DOCUMENTS**

- SRC Admissions Policy & Procedure
- SRC Equality and Good Relations Policy
- SRC Safeguarding Policy
- SRC Disclosure Form
- SRC Enhanced Disclosure Form
- Rehabilitation of Offenders (NI) Order 1978
- Criminal Record Work Placement Referral Form
- Risk Management Recommendation Form
- Criminal Disclosure Statement
- Further Education Professional Suitability & Fitness to Practice



**8. FLOWCHART**