

Recruiting Fairly (Ex-Offenders) Policy

1. Purpose

- 1.1 This policy has been written to provide clarity and guidance to all those who are, or are planning to, work with children or vulnerable adults and those recruiting them; it explains the processes necessary to protect them and the business.

2. Scope

- 2.1 This policy and guidance applies to all colleagues, candidates to whom a conditional offer of employment has been made, and volunteers for roles in which they have direct access to vulnerable adults and children which is deemed regulated activity i.e.
- all team members based in our residential care homes;
 - all team members based in our supported living schemes;
 - all our scheme staff based in our independent living schemes (not Domestic Assistants);
 - our Neighbourhood Wardens & Security staff based in our neighbourhood schemes;
 - all volunteers based at any of locations above (if they are carrying out regulated activity).

3. The Legislative Framework

- Police Act 1997 (Part V)
- The Rehabilitation of Offenders (NI) Order 1978
- The Rehabilitation of Offenders (Exceptions) Order (NI) 1979
- Safeguarding of Children & Vulnerable Adults Groups (NI) Order
- Data Protection Act 2018

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4. The Regulation Framework

4.1 Not applicable to this policy.

5. Standards Framework

5.1 Department of Justice Code of Practice.
Access NI Code of Practice
Labour Relations Agency Code of Practice Recruitment, Selection & Induction

6. Roles and responsibilities in Clanmil

6.1 **HR Manager (HRM)** – Oversees the policy implementation;
6.2 **Senior Management Team (SMT)** – The person who disclosures will be made to and who will make decisions on proceeding with offers to an applicant;
6.3 **HR Business Partner (HRBP)** – Administers all elements of the policy.
6.4 **HR Assistant (HRA)** – oversees the clearance process for all potential new team members

7. Training

7.1 We will ensure that all those involved in recruitment processes have been suitably trained in carrying out fair and equitable recruitment practices in line with LRA Code of Practice. We will also ensure that all HR team members involved in recruitment clearance processes receive training to identify and assess the relevance and circumstances of Disclosure information and the employment of ex-offenders (e.g. the Rehabilitation of Offenders (Northern Ireland) Order 1978).

8. Process

8.1 We will fully comply with the Code of Practice, issued by the Department of Justice, in connection with the use of information provided to registered persons, their nominees and other recipients of information by AccessNI under Part V of the Police Act 1997. Access NI checks are in place for the purposes of assessing an applicant's

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suitability for employment, 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.

- 8.2 This policy will be made available to all applicants at the outset of the recruitment process and in recruitment correspondence.
- 8.3 We are committed to equality of opportunity (see separate Equal Opportunities Policy) 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 gender, marital status, race, nationality, ethnic or national origins, age, sexual orientation, responsibilities for dependants, physical or mental disability, political opinion or offending background, or is disadvantaged by any condition which cannot be shown to be relevant to performance.
- 8.4
- 8.5 We will only request an AccessNI Disclosure where this is considered proportionate and relevant to the particular position. This will be based on a thorough 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. All applicants will be referred to Department of Justice website for more information.
- 8.6 In line with the Rehabilitation of Offenders (Exceptions) (Northern Ireland) Order 1979 (as amended in 2014), we will only ask about convictions which are defined as “not protected” for the purposes of obtaining a Standard or Enhanced disclosure.
- 8.7 Part V of the Police Act 1997 allows for three types of disclosures of criminal records relevant to employers:
- Basic Disclosure – a copy of persons unspent criminal record. This service is available to individuals who apply for their own record. Basic checks are not suitable for roles working with children or vulnerable adults and are suitable for volunteers.

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- Standard Disclosure – applies to posts exempt under the Rehabilitation of Offenders (NI) Order and relates particularly to certain sensitive areas of employment such as job involving regular contact with children and vulnerable adults.
- Enhanced Disclosure – provides an individual’s full criminal history including spent and unspent convictions and cautions considered to be relevant to the position applied for. This is primarily for posts that invoke working with vulnerable groups including children and adults. Employers must not knowingly employ someone who is not allowed to work in such an environment. An employer working in these areas may refuse to employ someone who does not agree to undertake an enhanced Access NI check.

9. Regulated Activity

- 9.1 Regulated activity refers to certain roles carried out by applicants in relation to children and vulnerable adults. It covers various types of activities which, by their nature, would entitle an individual to an enhanced check with applicable barred lists. If an applicant is engaging in regulated activity, they’ll also be eligible for barred list checks as required. There are two barred lists which contain information of people barred from working with children and vulnerable adults respectively. The Department of Justice (NI) has set out eligibility guidelines which outline work that is classed as regulated activity, with regard to both children and vulnerable adults.
- 9.2 Regulated activity focusses on the type of care an adult requires and there is no requirement for an activity to be carried out a certain number of times before it is categorised as regulated activity.
- 9.3 It is a criminal offence for a barred person to work or volunteer in regulated activity and it is a criminal offence for the Association to knowingly employ (either paid or voluntary) a barred person in a regulated activity. The DBS (Disclosure & Barring Service) is responsible for maintaining the list of individuals barred from engaging in regulated activity with adults across the UK.
- 9.4 A list of our colleagues who are required to carry out Regulated Activity are listed on page 2 of this policy.

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10. Our Responsibilities

- 10.1 It is important to us to recruit the best people to join our teams. This means choosing people with the necessary skills, knowledge and experience and ensuring that those whose behaviour could be a threat to the safety and wellbeing of vulnerable adults are screened out.
- 10.2 The fact that an applicant has a criminal history will not play a part until the applicant has successfully gone through the selection process. Access NI checks will only be undertaken after an applicant has been recommended for the post and only where the post falls under Regulated Activity as defined by Access NI. Standard checks will be carried out for those postholders noted at point 10.5 below.
- 10.3 In order to ensure the safety of our residents and tenants, we carry out a criminal history check (and re-check) on potential colleagues who currently fall into the following categories:

Persons Providing Personal Care	Persons Providing Social Care	Persons whose role includes the day to day management or supervision of any person who is engaging in regulated activity
<ul style="list-style-type: none"> • Senior Carers • Care Assistants • Domestic Assistants - based in residential care homes • Cooks - based in residential care homes • These posts require a check to be done prior to commencing post. (The Association also rerequires checks to be done 3 yearly once in post) 	<ul style="list-style-type: none"> • Scheme Co-ordinators • Housing Support Workers • Domestic Assistants at supported housing schemes • Neighbourhood Wardens • Tenancy Support Co-ordinators • Security Staff at schemes • These posts require a check to be done prior to commencing post (The Association also requires checks to be done 5 yearly once in post) 	<ul style="list-style-type: none"> • Home Managers • These posts require a check to be done prior to commencing post & 3 yearly once in post

- 10.4 For all agency workers, the agency must provide an Agency Worker Profile which states Access NI checks were carried out and on what date etc and that is retained by the home manager.
- 10.5 Standard disclosures will be carried out for colleagues in the following roles which are categorised by Access NI as “certain occupations”:-

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- Group Director of Finance;
- Head of Finance;
- Accounting Manager;
- Legal Advisor
- HR staff (in their roles as counter-signatories).

11. Making the Decision

11.2 Clanmil will not refuse to employ someone simply because they have a criminal record. Instead, the Association will consider each applicant on his/her merits and determine whether the criminal record is materially relevant or not for that particular post. In doing so, the Association will take into consideration the following:

- whether the conviction(s) or other information revealed is relevant to the position in question;
- identify the risks to the business, its tenants, residents, customers and team members;
- focus on the person's skills, experience and qualifications;
- recognise that having a criminal record does not always mean a lack of skills, qualifications and experience.

11.3 Access NI do not provide us with a copy of disclosure forms but anyone being considered for a post with us will be asked to provide us with a copy of the disclosure certificate if it is indicated through the online system that criminal convictions have been declared. We will ask for written permission for us to request copies of disclosure certificates. Failure to reveal information that is directly relevant to the position applied for, could lead to the withdrawal of an offer of employment.

11.4 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 e.g. the individual is applying for a driving job but has a criminal history of driving offences. All meetings will be carried out by a member of SMT and the HRM will also be in attendance.

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- 11.5 It is the responsibility of a member of the SMT to decide whether to offer the person a position. It is illegal to employ anyone identified through the Access NI check as being barred or disqualified from working with children or vulnerable adults.
- 11.6 If a decision is taken to withdraw the offer based on the information provided, a full explanation will be provided to the applicant to include how the conviction is of relevance to the job and therefore incompatible with the position in question.

12. Handling of Information

- 12.1 We will fully comply with Access NI's Code of Practice regarding the correct handling, use, storage, retention and disposal of disclosure information. We also fully comply with our obligations under the Data Protection Act 2018 and other relevant legislation pertaining to the safe handling, storage, retention and disposal of disclosure information.
- 12.2 In accordance with section 124 of the Police Act 1997, disclosure information will only be passed to those who are authorised to receive it in the course of their duties.
- 12.3 A register will be held centrally to show the date the disclosure was made; the name of the applicant; the type of disclosure; the position applied for; the unique reference number issued by Access NI and the recruitment decision taken.
- 12.4 Once a recruitment process is complete, we will not keep disclosure information for longer than is necessary. Information will not be retained and will be destroyed within 6 months of a decision being made. Once the retention period has passed, we will ensure that any information is immediately destroyed by secure means. We will not keep photocopies of the disclosure certificate or any other information regarding the declaration.

13. Dispute Process

- 13.1 If an applicant believes the information disclosed about them is inaccurate, they should carry out the following steps:

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- request further details on the dispute process directly from AccessNI – contact details are on nidirect’s website;
- contact AccessNI direct in writing, outlining their concerns and advising them that they are disputing the disclosure;
- be aware that disputes must be made within a three-month timeframe (i.e. 90 days) from the date of issue of the disclosure certificate.

14. Criminal Convictions Gained Whilst Employed

14.1 For existing employees the following should be followed;

- Comply with the requirements set out in the contract of employment
- inform the HRM of any conviction, other than road traffic offences if they arise during employment (unless having a full clean driving licence is required for the purposes of carrying out duties of their role);
- co-operate with HRBP in terms of re-checking specifically those colleagues who are identified as carrying out regulated activity as specified in Section 10.3 above;
- for those staff who do not work in regulated activity, they will be required to complete a criminal convictions form as part of our recruitment process and annually on our staff declaration form;

14.2 We will endeavour to deal fairly with any convictions declared as outlined in this policy.

15. Monitoring and review

15.1 This policy will be reviewed within a three-year period.

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16 APPENDICES

16.1 Supporting Procedures

Procedure	Procedure Reference	Location
CS029	Recruiting Safely (Ex-Offenders)	

16.2 Policies

Policy Title	Policy Reference	Location
Recruitment & Selection Manual		
Equal Opportunities Policy		
Safeguarding of Vulnerable Adults Policy		

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