



Written Submission to the Review of the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016

November 2020

The Union of Students in Ireland (USI)

The Union of Students in Ireland (Aontas na Mac Léinn in Éirinn) is the national representative body for third-level Students' Unions in Ireland. Founded in 1959, USI now represents more than 374,000 students in Further and Higher Education Colleges across the island of Ireland. The goal of USI is to work for the rights of students and a fair and equal post-secondary education system in Ireland. USI is a full member of the European Students' Union (ESU) which represents students from 46 National Students' Unions in 39 countries, and a member of Eurodoc, the European Council for Doctoral Candidates and Junior Researchers.

The Union of Students in Ireland (USI) welcomes the opportunity to respond to the public consultation on the Review of the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016. It is important to examine and reassess our legislation that dictates our processes and ways of living. Allowing the public and representative organisations to give their input facilitates the amended legislation to accurately reflect the needs of the public and those affected by it. In this submission we aim to address key areas that need to be thought of and reformed in order to reduce the chances of people returning to criminality and ensure those who have once been convicted in

rehabilitation are treated with dignity and respect when returning to their communities. Our emphasis lies on being a supportive, understanding and more inclusive society for those who acknowledge their wrong-doing and deserve a second chance. |

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We have grouped our responses into the following key areas:

- Education
- Inclusion, Support and Understanding
- Stigma and Return to the Community

The Union of Students in Ireland understands the significance of the passage of Criminal Justice (Spent Convictions and Certain Disclosures) Act in 2016. Yet, we acknowledge the limitations and restrictions of the Act, with often devastating impacts on particularly on young people who aim to better themselves after their conviction. At present the Criminal Justice (Spent Convictions and Certain Disclosures) Act allows for only one conviction to become spent and sets the rehabilitative period after which the conviction can become spent at a blanket seven years, without any distinction as to the nature of the sentence, the length of the sentence and the following rehabilitative period.¹ Due to the restrictions of the Act outlined above, supporting young people to reconceptualise their place in society is difficult. Hence, USI would welcome a review and reduction of the blanket seven-year rehabilitative period and taking into consideration the nature of the sentence and the length of the sentence when gaining a spent conviction.

1. Education:

The Union of Students in Ireland throughout the sixty years of our existence work in the “the defense, promotion and organisation of the fundamental educational, welfare,

¹ Government of Ireland, [Criminal Justice \(Spent Convictions And Certain Disclosures\) Act 2016](#), Dublin, 2016

economic, political, social, cultural and other interests of all the students in Ireland on a national and international level. To realise this basic principle, the Union shall work to foster an education and training system open to all the people on the Island of Ireland, irrespective of any consideration, and which truly serves their interests”² and therefore ensuring access to education is a priority in USIs work. Education is vitally important factor in enabling those convicted of a crime to reconceptualise their place in society.³

- Professional courses

Given the restrictive nature of the blanket seven years rehabilitative period many people within rehabilitative period cannot apply to professional degree courses within Higher Education in Ireland. With no consideration to the nature of the sentence and the length of the sentence when gaining a spent conviction, this can impact on many young people postponing their entry to these professions. A large number of courses available through the CAO require Garda Vetting to gain entry, including the following professions: medicine, health, social work and education. Therefore, many people applying for a place on a professional course cannot do so during the seven-year rehabilitative period and resulting in a barrier to accessing these courses and supporting their return to society.

- Supportive Education Programmes

USI acknowledges the immense impact which targeted education programmes have on supporting those within the criminal justice system return to education and society and as a result combat the exclusion of one of society’s most marginalised groups. For many their educational experience prior to their conviction was profoundly negative due to their socio-economic background, difficulties with teachers, discrimination, stigma and interactions with school and authorities.⁴ USI commends the work of College Connect in supporting the rehabilitation of those who have spent time within the criminal justice system and providing clear pathways in accessing education. Within the College

² Union of Students in Ireland, [Constitution](#) , June 2020.

³ S. Meaney., [Community Needs Analysis with the Pathways Centre for Prisoners and Former Prisoners A Pilot Study as part of College Connect](#), 2019.

⁴ S. Meaney., [Community Needs Analysis with the Pathways Centre for Prisoners and Former Prisoners A Pilot Study as part of College Connect](#), 2019.

Connect report “Community Needs Analysis with the Pathways Centre for Prisoners and Former Prisoners: A Pilot Study as part of College Connect” the barriers for those with criminal convictions in accessing Higher Education are outlined and nine clear recommendations are outlined in order to eliminate these barriers.⁵

2. Inclusion, Support and Understanding

The impact of a criminal record for minor offences greatly impacts those particularly young people who often engage in risky behaviour. The development of the National Youth Justice Strategy (2008–2010)⁶, the establishment of Garda Youth Diversion Projects (GYDPs) and the Better Outcomes Brighter Futures: The national policy framework for children & young people 2014 – 2020⁷ highlights the critical intervention needed to support and positively impact young people at the onset of offending behaviour.⁸

The impact on young people of a conviction includes:

- Gaining and progressing in employment;
- Garda Vetting for employment, education courses, housing or voluntary work;
- Education: an individual may not be accepted or able to complete a course due to a placement element;
- Increased insurance costs; and
- Discrimination.

These impacts act as barriers to reintegration faced by people with criminal convictions that cannot be considered spent.⁹ The impact on securing employment or training, and the ability to rebuild their life after committing an offence, are crucial steps in breaking

⁵ S. Meaney., [Community Needs Analysis with the Pathways Centre for Prisoners and Former Prisoners A Pilot Study as part of College Connect](#), 2019. P 10

⁶ Government of Ireland, [National Youth Justice Strategy](#), 2008-2010.

⁷ Government of Ireland, [Better Outcomes Brighter Futures: The national policy framework for children & young people 2014 - 2020](#)

⁸ S.Redmond., [A Baseline Analysis of Garda Youth Diversion Projects: Considering Complexities in Understanding Youth Crime in Local Communities in Ireland](#), 2009.

⁹ Government of Ireland, [Joint Committee on Justice and Equality Report on Spent Convictions](#), October 2019

the cycle of offending, establishing a pro-social identity and achieving a law-abiding lifestyle.¹⁰ While continuing to construct barriers preventing those with criminal convictions gain access to employment and education pushes individuals towards lower paid, low-skill jobs when they may have preferred to progress in a very different direction but were prohibited and hence reinforces inequality.¹¹ At a community level employing people who have been through the criminal justice system often leads to high retention levels and companies that employ people with convictions can help build brand reputation within the community.¹²

3. Stigma & return to community

There are many reasons why people formerly within the criminal justice system return to crime rather than re-integrating into society and beginning an alternative lifestyle. The level of education, work experience, substance addiction, mental health, institutionalisation, life skills, financial situation, housing and social relationships are among the most significant determinants of reoffending.¹³ The majority of those with convictions come from disadvantaged social backgrounds, have a family history of criminality, are often in poor physical and mental health and societies tend to stigmatise former prisoners, further hindering their re-integration.¹⁴ Often, stigma influences the behaviour of a person after release from prison which leads to adjustments in several

Commented [ML3]: @Clare Austick do we have a reference here?

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¹⁰ Laub, J.H. and Sampson, R.J. [Understanding Desistance from Crime. Crime and Justice](#), Vol. 28 (2001), pp. 1-69.

¹¹ Government of Ireland, [Joint Committee on Justice and Equality Report on Spent Convictions](#), October 2019

¹² Government of Ireland, [Joint Committee on Justice and Equality Report on Spent Convictions](#), October 2019

¹³ Doing More with Less: Prisoner Rehabilitation in Ireland

https://coebank.org/media/documents/Doing_More_with_Less_Prisoner_Rehabilitation_in_Ireland.pdf February 2019

¹⁴The Effect of Stigma on Criminal Offenders' Functioning: A Longitudinal Mediation Model

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4788463/>

domains including substance dependence, mental health difficulty, community inclusion and are proving more difficult to reintegrate into society.

Concluding Statements

The Union of Students in Ireland welcome the opportunity to participate in the public consultation for the Review of the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016. USI acknowledges the Criminal Justice (Rehabilitative Periods) Bill 2018, a private member's bill from Senator Lynn Ruane which hopes to expand spent convictions legislation to address issues of eligibility, proportionality, and a new approach for young adults and is currently under debate in the Seanad. The possession of a criminal record presents barriers to areas which promote desistance from offending including: employment, education and training, accommodation, and volunteering.¹⁵ In an opening address to the Oireachtas Joint Committee on Justice and Equality, the Irish Penal Reform Trust highlighted the need for a spent convictions scheme in Ireland that allows those who are law-abiding and who have stopped offending to move on with their lives.¹⁶ In conclusion, the Union of Students in Ireland welcome the public consultation and the Criminal Justice (Rehabilitative Periods) Bill 2018, a private member's bill and highlights the need for review and reduction of the blanket seven-year rehabilitative period, taking into consideration the nature of the sentence and the length of the sentence when gaining a spent conviction.

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¹⁵ Irish Penal Reform Trust, [IPRT Opening Statement to Oireachtas Joint Committee on Justice and Equality Spent Convictions](#), 10th July 2019

¹⁶ Irish Penal Reform Trust, [IPRT Opening Statement to Oireachtas Joint Committee on Justice and Equality Spent Convictions](#), 10th July 2019

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References:

- Union of Students in Ireland, [Constitution](#) , June 2020.
- S. Meaney., [Community Needs Analysis with the Pathways Centre for Prisoners and Former Prisoners A Pilot Study as part of College Connect](#), 2019.
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- S.Redmond., [A Baseline Analysis of Garda Youth Diversion Projects: Considering Complexities in Understanding Youth Crime in Local Communities in Ireland](#), 2009.
- Government of Ireland, [National Youth Justice Strategy](#), 2008-2010.
- Government of Ireland, [Better Outcomes Brighter Futures: The national policy framework for children & young people 2014 - 2020](#)
- Irish Penal Reform Trust, [IPRT Opening Statement to Oireachtas Joint Committee on Justice and Equality Spent Convictions](#), 10th July 2019
- Doing More with Less: Prisoner Rehabilitation in Ireland https://coebank.org/media/documents/Doing_More_with_Less_Prisoner_Rehabilitation_in_Ireland.pdf February 2019
- Government of Ireland, [Joint Committee on Justice and Equality Report on Spent Convictions](#), October 2019
- THE EFFECT OF STIGMA ON CRIMINAL OFFENDERS' FUNCTIONING: A LONGITUDINAL MEDIATIONAL MODEL <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4788463/>