

Criminal Convictions Policy

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1. Introduction

1.1 The college has a positive policy of equality and diversity and strives to support students wherever possible. The college also has a duty of care to safeguard all its stakeholders including staff, students and visitors and is committed to providing a safe environment for study and work.

1.2 As part of an ongoing commitment to safeguard all its stakeholders the college operates a policy whereby all applicants must declare whether they have an unspent criminal conviction.

1.3 The college will make every effort to ensure that applicants with criminal convictions are given every opportunity to study, provided it can ensure its safeguarding commitment to the whole college community.

1.4 Those declaring such a conviction will be risk assessed to gauge their suitability for undertaking a course of study within the college. Additionally, if a current student is convicted during their course of study, it is their responsibility to inform a member of staff, who will in turn notify a Safeguarding Officer immediately.

2. Aims of the Policy

- To ensure that everyone who works and learns at the College achieves their full potential safely in an environment free from discrimination.
- To have procedures that take account of an individual's right to education balanced by the risk to the college and its wider community.

3. Scope of Policy

3.1 This policy applies to all students irrespective of their method of application or enrolment or their type of study including those on further education, higher education (including programmes awarded by partner institutions), school links and apprenticeship programmes, studying either full-time or part-time, whilst attending a college centre, at a College-approved placement or whilst engaging in remote learning.

3.2 Any outcome of an assessment taken under this policy will apply to all college sites and all enrolment venues and programmes, wherever these are delivered.

3.3 Any risks identified could relate to information / evidence arising prior to or at the time of enrolment or arising post-enrolment whilst studying at the college.

4. Fitness to Practise

4.1 Some qualifications require an Enhanced Disclosure and Barring Service check (DBS). In this circumstance students must disclose any spent convictions that would appear on a DBS. The onus is on the student to establish, prior to enrolment, if they will be able to work in the type of sector connected to their chosen course. The college is available to assist with any queries which potential students may have and

are obliged to tell us about any convictions (including pending) when applying/enrolling.

5. Declaration of Convictions

5.1 Applicants and students are required to declare if they have an unspent criminal conviction or if they are convicted of an offence during their course.

5.2 Applicants requiring a DBS must declare any spent convictions either at application stage or during their course of study if the conviction becomes spent.

5.3 Exceptions:

- Minor motoring offences – these do not need to be disclosed on the College application form and at the enrolment stage.
- Cautions, warnings or reprimands will not be considered, unless there is a requirement to undertake a DBS check for their college course.

5.4 When assessing convictions as part of the risk assessment process, several factors need to be taken into consideration including:

- Spent convictions
- Placement on the Violent and Sex Offender Register (ViSOR) in line with the Rehabilitation of the Offenders Act
- Date conviction/s occurred
- Offending history
- Substance misuse
- Mental Health
- Circumstances surrounding conviction
- Sentence/s
- Rehabilitation
- Course appropriateness e.g., timetable, duration, health & safety factors, work placement etc.
- Who is at risk?
- Previous conduct in the college (if relevant)
- Fitness to practise
- Engagement with external agencies
- Advice from specialist agencies i.e., Probation, YOS
- References e.g., employers, education etc.
- DBS requirement
- Risk of re-offending
- Bail restrictions, tag/curfew, other orders e.g., Harassment Order
- Organised Crime Groups/Street Gangs (OCG)
- Criminal exploitation
- Multi Agency Public Protection Arrangements (MAPPA)

(This list is not exhaustive)

5.5 Additional information can be sought on the government website when looking at spent convictions:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/299916/rehabilitation-of-offenders-guidance.pdf

6. Criminal Conviction Assessment Process

6.1 Disclosure

6.1.1 All applicants will be asked if they have a criminal conviction via the application process and at the point of enrolment.

6.1.2 If an applicant declares they have a criminal conviction against them at the point of enrolment a Safeguarding Officer will be contacted and if necessary, will conduct a risk assessment which may involve meeting with the applicant to discuss the conviction. Applicants / Students will be asked if they have an unspent conviction or a potential fitness to practise issue. Meetings may take place via telephone, in person or video call.

6.2 Criminal Conviction Assessment

6.2.1 Depending on the information disclosed, where required a Safeguarding Officer will complete a Risk Assessment.

6.2.2 If there are more serious concerns around the nature of the conviction/s, a risk assessment must be completed by a Safeguarding Officer and will be discussed and signed off by the Designated Safeguarding Lead (DSL) or Deputy Designated Safeguarding Lead (DDSL). The Designated/Deputy Designated Safeguarding Lead can refuse the application at this stage.

6.2.4 Decisions regarding a potential student's suitability will be made on an individual basis; full consideration will be given to all the relevant facts.

6.3 Outcomes of the Assessment Process

6.3.1 Following assessment one of the following outcomes will be recommended:

- a) Confirm the student's application or enrolment without any restrictions.
- b) Confirm the student's application or enrolment with conditions. For example, the student may be allowed to enrol on condition that their Head of School is made aware of his/her convictions; may be allowed to enrol with appropriate support etc. These conditions must be made clear to the applicant and their agreement to them confirmed. If this is not forthcoming the individual will be refused a college place.
- c) Decide not to give a learner permission to commence their course. As part of the response the college will provide details of their reasons for this decision and how a student can appeal against it

d) Defer a student's application or enrolment until further information is obtained – such as references from a Probation Officer, or the outcome of a DBS disclosure. If such information is withheld or cannot be supplied, the individual will be refused a college place.

6.4 Communicating Decisions

6.4.1 Students must be informed in writing of the outcome of the risk assessment. The Designated / Deputy Safeguarding Lead will send a letter.

6.4.2 Student Data Team must be informed by a Safeguarding Officer as to whether a student should be allowed to enrol. The Safeguarding Officer places a note confirming the outcome against the student on ProSolution.

6.4.3 Any recommendations must be coordinated by the relevant Safeguarding Officer or named person/s within the Risk Assessment document. Where appropriate, member/s of staff may be informed about the conviction in confidence (e.g., Progress Leaders, Security staff, Heads of School, Curriculum staff, Director of Facilities Management).

6.4.4 Any concern regarding fitness to practise in their potential future career must be highlighted to the student.

6.4.5 Where the student may need to complete a work placement as part of their course, the Work Placement Co-ordinator will be informed.

6.4.6 Note: *Each time an application is submitted by the applicant it will be reviewed under this process to determine relevance to the course applied for, and a risk assessment completed. When a risk assessment has taken place and a decision has been made not to allow a student to enrol a flag will be added to the potential student's record.*

7. Appeals Procedure

7.1 In the event that the outcome of the risk assessment is that a student/potential student's application and enrolment cannot proceed, then the student/potential student has 15 working days to appeal in writing to the Director of Student Support and Wellbeing.

7.2 An appeals panel will meet within 10 working days of the receipt of the letter. The panel will consist of the relevant Head of School and the Director of Student Support and Wellbeing. A member of the safeguarding team will present the case. During periods of remote learning, this meeting may take place via telephone or video call as soon as is reasonable permissible.

7.3 All relevant documents will be reviewed along with any new evidence. The panel may take specialist advice where necessary.

7.4 The student/potential student will then be informed in writing of the decision. The outcome of the appeal is final.

8. Non-Declaration

8.1 If a student answers 'no' to having a criminal conviction and it is subsequently found that they do, the college has the right to terminate the student's learner agreement with immediate effect.

9. New Convictions

9.1 If a current student is convicted during their course of study, it is their responsibility to inform a member of the Safeguarding Team so a risk assessment can be carried out.

9.2 If it is found that a student has not declared a conviction to the college it has the right to terminate the student's learner agreement with immediate effect.

10. Data Protection

10.1 The College will comply with the Data Protection Act 2018 and General Data Protection Regulation (GDPR) by ensuring that personal data collected in relation to this policy is: -

- Collected and processed lawfully, fairly, and transparently for only specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes. Further processing for archiving purposes in the public interest, research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes.
- Adequate, updated, and relevant and not excessive for the purposes it was collected.
- Processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction, or damage, using appropriate technical or organisational measures. Including not being transferred to a country outside the European Economic Area unless that country has equivalent levels of protection for personal data.
- Kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed. Personal data may be stored for longer periods solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes subject to implementation of the appropriate technical and organisational measures required by the GDPR to safeguard the rights and freedoms of individuals.

11. Confidentiality

11.1 The Data Protection Act and GDPR are not only restrictions on disclosure of information about the college, but they are also bound by a common law duty of confidentiality. This duty prevents the College from releasing information about students, without their consent. This duty applies to manual records as well as information held on computers.

11.2 Information which must be treated as confidential includes the names and addresses of students and any other information about them which is not publicly known, i.e., "personal data". Accordingly, to ensure that the College does not breach

its duty, no information, even if it only exists in printed form, should be disclosed unless all the relevant procedures have been followed.

11.3 There may be occasion where the College is obliged to disclose information, notwithstanding that the learner has refused consent:

- Where the learner's behaviour threatens their safety or safeguarding, and that of others.
- Or where the college would be liable to civil or criminal liability for failure to disclose.