



Disclosure of Unspent Criminal Convictions

Policy Name:	Disclosure of Unspent Criminal Convictions
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Author:	Head of Student Services

Introduction

The College is committed to the fair treatment of all its learners and welcomes applications from a wide range of individuals including those with criminal convictions. The College actively promotes equality of opportunity. The College selects individuals to take up places on courses based on their skills, qualifications and experience and not on their background or personal circumstances. Having a criminal conviction will not necessarily prevent someone from studying at the College.

However, in managing its learner community the College is mindful, of the duty of care it owes to its learners and staff and, in appropriate circumstances, to the wider community to act reasonably to protect their health, safety and welfare. As a result, the College requires all applicants to disclose unspent criminal convictions (save for minor motoring offences), as described in this Disclosure of Unspent Convictions Policy. Disclosure is also a condition of enrolment and re-enrolment and learners will be required to disclose unspent convictions on application whenever this is appropriate. Please note that applicants pursuing courses listed in Appendix One will also be required to undergo a DBS disclosure application which will disclose any Police cautions or convictions whether spent or not. . For further information please refer to the College's DBS Guidelines which are available [on 4Policies](#).

This Policy explains how the College deals with information regarding unspent criminal convictions and how the College considers whether any such information is incompatible with an individual being offered a place on a course or taking up an offer or continuing on a course. It also describes the actions the College may take in respect of a failure by an individual to comply with its disclosure requirements

Purpose

This Policy applies to all individuals who apply for and/or are offered a place on a full/**part** time or Traineeship course, including those courses listed in Appendix One. Please note that individuals applying to and enrolling on any of the courses listed in Appendix One will also be subject to the DBS Disclosure Application process. Learners should also be aware that if they acquire a criminal conviction during a course of study this should be disclosed immediately.

Risk

Any risk involved is mitigated by this policy and procedure. If policy is not adhered to then concerns and cases of offenders will not be investigated, resulting in possible Safeguarding legal obligations not being met.

The Rehabilitation of Offenders Act 1974 distinguished between spent and unspent convictions.

If the learner has ever been convicted of an offence for which a sentence of more than 4 years was imposed (regardless of the amount of time actually spent in prison) **or a Public Protection Sentence** this conviction can never become 'spent' and therefore remains 'unspent'.

~~If the learner were given a sentence of 2½ years or less, the conviction may still be 'unspent' and this depends on the length of time that has elapsed since the date of the conviction. This length of time is called the 'rehabilitation period' and it differs according to the type of sentence imposed by the court.~~

Applicants to and learners on courses other than those listed in Appendix One do not have to disclose spent convictions. However, individuals are required to disclose unspent convictions in accordance with this Policy in order to assist the College to discharge its duty of care (Refer to Introduction above).

Applicants to and learners on courses with pending charges that could possibly result in a criminal conviction should confidentially discuss with the Safeguarding Officer how this would impact on them in their chosen vocation.

Responsibilities

Procedural Steps

All individuals are required to disclose unspent convictions on their:

- application form
- on enrolment
- on re-enrolment

If an unspent criminal conviction is disclosed or otherwise brought to the College's attention, the Head of Student Services will require the individual to complete a Disclosure Form providing the College with further information about the offence and contact details for any relevant third party e.g. **Youth Justice/** probation officer. A copy of the College's Disclosure Form is attached at Appendix Two.

Having considered the further information provided in any disclosure form the Head of Student Services may ask the individual to provide additional information ~~and/or provide consent for the College to~~ or contact relevant third parties e.g. a probation officer, medical practitioner etc. A risk assessment will then be completed with the learner (process attached at Appendix 3).

This disclosure information will then be used to determine whether the individual poses an unacceptable risk to the health, safety and/or welfare of themselves and/or others (including learners and staff) . If the Head of Student Services determines that such a concern exists, s/he will refer the matter to the Disclosure Appeal Panel, which will consist of the following staff:

- Chief Operating Officer & Deputy Chief Executive.
- The respective Assistant Principal and Director of Curriculum

The Panel will undertake a risk assessment and determine whether the individual does not pose an unacceptable risk to the health, safety and/or welfare of themselves and/or others (including learners and staff).

As part of the process for undertaking a risk assessment the nature of the concern will be put in writing to the individual and the individual invited to respond to it. The individual can choose to respond in writing or to attend a Disclosure Appeal Panel meeting. If the individual decides to attend the Disclosure Appeal Panel, they may be accompanied by a friend or relative.

The Disclosure Appeal Panel may also seek to involve relevant third parties such as a probation officer or medical practitioner.

In carrying out any risk assessment the Disclosure Appeal Panel may consider as appropriate in the circumstances of the case one or more of the following aspects (this is not an exhaustive list):

- the nature and circumstances of the offence
- the amount of time which has elapsed since the offence.
- the age and circumstances of the individual at the time of the offence
- the penalty imposed for the offence
- whether the offence was a one-off or a repeat offence
- the particular environment(s) that the individual would be placed in if s/he were to take up a place on a course e.g. a conviction of a sexual nature is likely to have a bearing on an applicant wishing to enrol on a course, where they would have access to children and/or vulnerable adults, or, where the admission of an applicant could place learners and/or staff at risk because the applicant has a history of violence or any other form of abuse towards others

If an individual refuses to disclose further information when requested and/or refuses to consent to the College contacting a third party for information, the College will base its decision on the information available to it.

Decision

Upon consideration of the information received as a result of the procedure referred to in section 4 above, the Disclosure Appeal Panel may make one of the following recommendations:

The individual is:

- Offered a place on a course without conditions
- Offered a place with conditions
- Not to be offered a place
- Permitted to continue on the course
- Permitted to continue on the course with conditions
- Excluded or suspended from the course.

The decision of the Disclosure Appeal Panel together with reasons will be notified to the individual in writing normally within three working days of the decision being made.

Appeal

New applicants and existing learners who wish to appeal against any decisions made during this process should set out their grounds for an appeal in writing to the Chief Operating Officer & Deputy Chief Executive, within ten working days of receiving the decision of the Disclosure Appeal Panel. The appeal must clearly explain the grounds for the appeal, e.g. that the College's procedure in this Policy was not followed, or that the decision made was unreasonable or that new material evidence has come to light

The decision will be notified to the individual in writing together with the reasons for it where appropriate. This will normally happen within three working days of the decision being made

Failure to disclose a relevant criminal conviction

The College may amend or withdraw the offer of a place or terminate a learner's enrolment or withdraw services or facilities (such as library facilities) if it determines that an individual:

- Made any misleading, false or fraudulent application or statement to the College
- Failed to disclose relevant information to the College
- Provided falsified documents whether in the course of his/her application or whilst on his/her course.

Communication & Bilingualism

If students wish, discussions can be conducted in Welsh, he/she will receive appropriate support to do so. All written processes, where paper-based or on-line, will be available in both English and Welsh.

A BSL interpreter will be provided where appropriate.

The College Safeguarding Officer will collate all reports and any action plans to the College Safeguarding Group Meetings.

In accordance with the Data Protection Act 2018 (DPA), the College is the data controller of any personal and/or sensitive personal data (including any information on previous criminal convictions, current allegations etc.) which the applicant or student and any third parties provide. Personal information submitted as part of the application process/enrolment/re-enrolment will be dealt with in accordance with the data protection statement contained on the application form.

In some circumstances the College may request additional information from the applicant on the criminal convictions to evaluate the application in more detail. To comply with the DPA, the College may require written consent to collect and process this additional information on the criminal convictions, should the College require more information in this regard.

Where consent is provided, any additional information which relates to the criminal convictions will be processed solely for the purposes of evaluating the learners application or enrolment or continued enrolment in accordance with this Policy and otherwise as required or permitted by law under the DPA.

If consent is not provided, the College will be immediately return the application to the learner as it will not be considered under this Policy until such consent is provided. Failing to provide consent may lead to the College being unable to process the application in time for the next academic year or at all or may result in the enrolment being terminated.

Any information provided to the College under this Policy shall be retained in accordance with its obligations under the DPA and the College's Secure Storage Policy.

Equality Impact Assessment

Completed following consultation with internal and external stakeholders.

Consultation Process

Consultation will be every 3 years or if new legislation is approved regarding the rehabilitation of offenders. External organisations will be given the opportunity to comment on this policy, eg. Youth Offending Teams, Probation Service. This policy will be reviewed by the Safeguarding Group.

Lifespan of Document

Please see the front cover for information.

Implementation Plan

This Policy and procedure is already in place. Training for the relevant staff will be provided as part of the department induction. Students will have access to this policy and guided through the procedure when necessary.

Key Performance Indicators & Standards

The College Safeguarding Officer will collate all reports and present statistics to the College Safeguarding Group meetings. It is not feasible to set performance targets.

References

Appendix 1

List of courses that the DBS Guidelines applies to

- Access to HE
- Childcare
- Health & Social Care
- Sports
- Teacher Training
- Traineeships
- Steps to Employment
- Volunteering

Appendix 2

Disclosure Form and Consent

DISCLOSURE FORM

For each unspent conviction that you have, please provide the following information:

- The type of offence
- The date of conviction
- Your age at the time of the commission of the offence
- A brief explanation of the circumstances of the offence
- The country in which the offence was committed

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Type of sentence imposed, including for example, imprisonment, fine, probation order, supervision order, etc. and length of the sentence.

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Period of time before the conviction becomes spent.

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Contact details for any relevant third parties, such as probation officer or a support worker

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-----Please return to the Safeguarding Officer at Coleg Cambria, address detailed in the letter. Please mark the envelope "Private & Confidential"

Appendix 3

Process

