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- We will consider any request for this policy to be made available in an alternative format or language. Please note that the College may charge for this. Please contact: Principal
- We review our policies regularly to update them and to ensure that they are accessible and fair to all. We welcome suggestions for improving the accessibility or fairness of this policy.
- All our policies are subject to equality impact assessments. We are always keen to hear from anyone who wishes to contribute to these impact assessments. Please contact: Principal

<b>Approved by:</b>	<b>Version:</b>	<b>Issue Date:</b>	<b>Review Date:</b>	<b>Contact Person:</b>
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**Equality Opportunities:      Impact**

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**Policy Number - 118**

# **Criminal Convictions Policy and Procedure**

## **1. Policy Statement**

Tyne Coast College take a proactive and positive approach to equality and diversity and strives to support students where ever possible. The College also has a duty of care to safeguard all of its stakeholders including staff, students and visitors and is committed to providing a safe environment for study and work.

## **2. Scope**

This policy cover all students of the college community irrespective of method of application, enrolment or their type of study.

## **3. Legislation**

- Human Rights Act 1998
- The Equality Act 2010
- Mental Health Act 1983
- Mental Capacity Act 2005

## **4. Policy Aims**

This policy aims 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 individuals right to education balanced by the risk to the college and wider community

## **5. Fitness to Practise**

5.1 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. Students are obliged to tell us about any convictions (including pending) when applying/enrolling. In signing the Learning Agreement the student is deemed as confirming they are 'fit to practise'.

5.2 Failure to disclose could result in being withdrawn from the course

## 6.0 Declaration of Convictions

**6.1 Declaration:** 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.

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

**6.3 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; however, if a DBS is required for the course these will need to be disclosed.

**6.4 When assessing:** convictions as part of the risk assessment process a number of factors will 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 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

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

## **6. Failure to Disclose**

If an individual applying to a programme fails to declare unspent criminal conviction(s), cautions, pending charges, inclusion on the sex offenders register or police investigations, the application may be considered 'fraudulent'.

Current Students studying on a course are required to inform the Safeguarding Officer at their college location of any unspent criminal conviction(s), cautions, pending charges, inclusion on the sex offenders register or police investigations that have occurred since their start date.

## **8. Criminal Conviction Disclosure and Assessment Process**

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

**8.2** If an applicant declares they have a criminal conviction against them at the point of enrolment a Safeguarding Officer will be contacted to meet with the applicant. The Safeguarding Officer will discuss details of the conviction. Applicants/ Students will be asked if they have an unspent conviction or a potential fitness to practise issue. During periods of remote learning, this meeting may take place via telephone or video call.

**8.3** Following an initial meeting with a Safeguarding Officer, applicants/students will be provided with a form to provide full details including, dates of charges/allegations, conditions, probation officer/youth offending officer/social worker/investigating officer name and telephone numbers.

Advice can be given if applicants are unsure of information to include. NACRO 0300 123 1999 [helpline@nacro.org.uk](mailto:helpline@nacro.org.uk). Paper declaration forms must be handed to the campus Safeguarding Officer within one working day of completion.

## **9. Disclosure Levels**

**9.1** Once the fully completed criminal disclosure form is received by the Safeguarding Officer, an initial review of content must take place within the same working day. The Safeguarding Officer will review the disclosures and confirm with relevant probation officer/youth offending officer/social worker/investigating officer where appropriate that the details are correct. The Safeguarding Officer will assess the unspent criminal conviction(s), cautions,

pending charges inclusion on the sex offenders register or police investigations and rate the offence as one of the following:

- Low Risk
- Medium Risk • High Risk

Ratings are at the discretion of the College and made with due regard to the Safeguarding, Health and Safety and Welfare of other members of the college community. The Designated Safeguarding Lead will be notified if a student is classed as medium or high risk the same working day. The Designated Safeguarding Lead (or designate) and the HOD will decide if suspension/delayed start date is required.

The HOD will notify the student if suspension/delayed start is agreed.

### **Low Risk**

The Campus Safeguarding Officer will review the initial declaration form and make the following recommendations:

- Approved and signed off; no risk assessment required
- Approved; risk assessment required (unusual for low risk)

### **Medium Risk or High Risk**

Where the Safeguarding Officer and / or Designated Safeguarding Lead have rated the offences as Medium or High Risk, the HOD will be notified and a Criminal Disclosure Panel meeting will be convened. High risk criminal panel meetings will be convened within 48 hours

The College Safeguarding Officer will share the declaration form and all details of their recommendations with the relevant Head of Department within 5 working days, who may:

- Sign off and agree to the recommendations
- Change the recommendation and sign off the form
- Disagree with the outcome and convene a Criminal Disclosure Panel  
Medium

## **10. Criminal Disclosure Panel**

The Panel will consist of:

- Designated Safeguarding Lead (or nominee) (Chair)
- Head of Department / Deputy where the student/potential student will be studying (HOD / Deputy invited, however if unable to attend within the time frame, the panel meeting will still go ahead)
- Representatives from external partners e.g. Police, Probation, Youth Offending Team (if appropriate)

The Designated Safeguarding Lead will present the declaration, alerting the panel to any potential concerns they may have. During the meeting, the Admissions risk assessment form will be completed and signed by panel attendees.

**The potential outcome of the meeting will be:**

1. Admit the applicant/continue on programme on the basis of the evidence presented
2. Admit the applicant subject to agreed contract of conduct/other restrictions. (The student will be contacted by the curriculum team who will explain the details of the contract and the consequences of non-adherence. The student must sign the contract of conduct as a condition of being offered or maintaining a place at college). • Admit the applicant with Careers guidance from Curriculum area (Secretariat inform Curriculum)
3. Admit the applicant for this course only, future courses would require further consideration.
4. Recommend continued exclusion or non-admittance due to the risks presented to the institution Re: safeguarding. (Any student who is declined will be sent a letter advising that this is the case. Where a student is under the age of 18, parents/carers will also be informed in writing with appropriate consent. Where a student is currently working with the Youth Offending Team or the Probation Service, their assigned worker will be informed.) Any decisions the college make to decline a student can only be done on the basis where it is felt that the risks to the college community are too high.
5. The H.O.D of the relevant department, would then communicate the outcome via the phone initially and then followed up with a letter of confirmation.
6. Letter of confirmation example

Dear \_\_\_\_\_

*Following a safeguarding risk assessment panel to assess your course application approval, we have concluded that due to the nature of the disclosure, and the potential risk around the conviction we are unable to continue with your application at this time.*

*You can appeal this decision. Appeals must be made in writing and must be received by the College within 15 working days of the date of the panel outcome letter.*

*The appeal should be sent to the; the Principals PA, Tyne Coast College, St. George's Avenue, South Shields, Tyne and Wear. Appeals will be heard by a member of the Senior Management Team, usually the College Principal, who will*

*consider each individual case and confirm their decision to the applicant or student in writing.*

*For the purposes of this procedure, an appeal is defined as a request for a formal review of the outcome of a safeguarding risk assessment panel. The*

*appellant may appeal a decision regarding the outcome of the panel if they feel that the panel was not conducted in accordance with this procedure or that the decision did not take account of the available evidence or was unreasonable, given the evidence available.*

*In making an application for an appeal, the appellant must state on which of these grounds the appeal is being made.*

## **11. Other Circumstances:**

The College reserves the right to conduct a risk assessment on any applicant or any student at any time. This could include when an applicant has already been made an unconditional or conditional offer of a place on a course or when students are already on course. This may be in response to a range of circumstances including information on an EHCP, a Disclosure and Barring Service (DBS) certificate that was not disclosed at the application/enrolment stage and information received from social services, the police and other relevant agencies or organisations. If the outcome is that an applicant is refused a place at the College, an offer of a place to an applicant is withdrawn or a student on programme is withdrawn, the decision will be communicated in writing to the applicant or student. This letter will be copied to the parent/carer for a student under the age of 18, with appropriate consent.

## **12. Appeals**

Applicants who have been refused a place at the College or have had an offer of a place withdrawn and students on programme who have been withdrawn due to a safeguarding risk assessment panel, may appeal against this decision. Appeals must be made in writing and must be received by the College within 15 working days of the date of the panel outcome letter.

The appeal should be sent to the; the Principals PA, Tyne Coast College, St. George's Avenue, South Shields, Tyne and Wear. Appeals will be heard by a member of the Senior Management Team, usually the College Principal, who will

consider each individual case and confirm their decision to the applicant or student in writing.

For the purposes of this procedure, an appeal is defined as a request for a formal review of the outcome of a safeguarding risk assessment panel. The appellant may appeal a decision regarding the outcome of the panel if they feel that the panel was not conducted in accordance with this procedure or that the decision did not take account of the available evidence or was unreasonable, given the evidence available.

In making an application for an appeal, the appellant must state on which of these grounds the appeal is being made.

## **13. Data Protection**

The College will comply with the Data Protection Act 2018 and General Data Protection Regulation (GDPR).

#### **14. Confidentiality**

The Data Protection Act and GDPR are not only restrictions on disclosure of information about the College, they are 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.

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.

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.

#### **15. Linked Policies and Procedures**

- Admissions Policy
- Higher Education Admissions Policy
- Safeguarding Policy and Procedures
- Equality and Diversity Policy
- GDPR and Data Protection Policy
- Fitness to Study Policy

## Appendix A

### Guidance Notes for Students – Disclosure of Criminal Convictions

Rehabilitation of Offenders Act 1974 The Rehabilitation of Offenders Act 1974 enables criminal convictions to become 'spent' or ignored after a specified 'rehabilitation period'. After this period, with certain exceptions, an ex-offender is not normally obliged to mention their conviction.

Students are not obliged to disclose Spent convictions if they are applying for or attend programmes that are not professionally validated programmes or do not require a DBS disclosure.

Full details of the rehabilitation of offender's act can be found here Rehabilitation of Offender Act 1974 Sentence/disposal Buffer period for adults (18 and over at the time of conviction or the time the disposal is administered). This applies from the end date of the sentence (including the licence period). Buffer period for young people (under 18 at the time of conviction or the time the disposal is administered). This applies from the end date of the sentence (including the licence period). Custodial sentence\* of over 4 years, or a public protection sentence Never spent Never spent Custodial sentence of over 30 months (2 1/2 years) and up to and including 48 months (4 years) 7 years 3 1/2 years Custodial sentence of over 6 months and up to and including 30 months (2 1/2 years) 4 years 2 years Custodial sentence of 6 months or less 2 years 18 months Community order or youth rehabilitation order\*\* 1 year 6 months \*Custodial sentence includes a sentence of imprisonment (both an immediate custodial sentence and a suspended sentence), a sentence of detention in a young offender institution, a sentence of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000, a detention and training order, a sentence of youth custody, a sentence of corrective training and a sentence of Borstal training.

\*\*In relation to any community or youth rehabilitation order which has no specified end date, the rehabilitation period is 2 years from the date of conviction.