

<i>Title:</i>	<b>Student Criminal Conviction Policy</b>		
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<i>Consultation taken place with:</i>	Principalship Student Recruitment Manager Head of HE Quality & Academic Standards Safeguarding Strategic Lead	<i>Dates:</i>	
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The policy or procedure will be reviewed by the date shown on the front cover sheet, or sooner if a change in legislation, best practice, or other circumstances indicate that this is necessary. If, for whatever reason, the policy or procedure is not reviewed by the date shown, the policy or procedure shall stay in force until formally reviewed.

## **POLICY STATEMENT**

### **1. INTRODUCTION**

- 1.1 CCAD is committed to providing, creating and maintaining an atmosphere which is conducive to the academic and social wellbeing of the whole College community.
- 1.2 The College has a duty of care to staff, students, visitors and clients. In order to fulfil this duty it is necessary for the College to consider the impact of any criminal convictions relating to students.
- 1.3 The College does not wish to debar individuals with criminal records from taking advantage of the opportunities offered and actively promotes equality of opportunity for all with the right mix of talent, skills, and potential. This includes welcoming applications from a wide range of applicants, including those with a criminal conviction record. A criminal record may not be an obstacle to studying at the College or participating in extra-curricular activities, but we must balance our responsibilities to provide a safe and secure environment for our staff, students, visitors and others.
- 1.4 In order to do this we will consider the nature of the course or programme and the circumstances and background of the offence(s) as outlined in this Policy.
- 1.5 The College acknowledges that some applicants may have a criminal conviction, or convictions, or be subject to police investigation prior to making an application to the College. Equally students may be subject to a criminal investigation, charged with an offence or convicted of a criminal offence during their time at College.
- 1.6 The Policy and related procedures applies to all potential students (applicants) and current students (students).
- 1.7 The Policy and related procedures take into account the relevant statutory legislation, such as the Rehabilitation of Offenders Act 1974.

### **2. GENERAL PRINCIPLES**

- 2.1 There is a requirement for all applicants and students to declare relevant police investigations and criminal convictions to the College throughout the duration of the application process and the duration of the course or

programme. The student or applicant must inform the College in a timely way in order that it can introduce any appropriate safeguards for the security of other members of the College community as well as supporting the student against any likelihood of reoffending. The College will be duly supportive of a student's desire for rehabilitation, especially if the conviction has been obtained before the commencement of the period of study.

- 2.2 Failure to declare any unspent criminal convictions will result in the application of the relevant Student Disciplinary Procedure and may lead to expulsion from the College.
- 2.3 The College defines relevant and unspent convictions in line with the Rehabilitation of Offenders Act 1974, details of which are included in Appendix 1.
- 2.4 Relevant criminal convictions are only those convictions for offences that are unspent, as defined by the Rehabilitation of Offenders Act 1974 and include convictions, cautions, admonitions, reprimands, final warnings, bind over orders or similar involving one or more of the following:
- Any kind of violence including (but not limited to) threatening behaviour, offences concerning the intention to harm or offences which resulted in actual bodily harm;
  - Offences listed in the Sex Offences Act 2003;
  - The unlawful supply of controlled drugs or substances where the conviction concerns commercial drug dealing or trafficking;
  - Offences involving firearms;
  - Offences involving arson;
  - Offences listed in the Terrorism Act 2006.
- 2.5 If a conviction involves an offence similar to those set out above, but was made by a court outside of Great Britain, and that conviction would not be considered as spent under the Rehabilitation of Offenders Act 1974, it should be declared and dealt with as any other unspent conviction.
- 2.6 Spent convictions are not subject to the Policy and related procedures. Any applications containing spent convictions should be subject to the same process as an application that contains no criminal convictions.
- 2.7 All information provided to the College as part of this process will be considered objectively and assessed against any potential risk to College staff, students, visitors and clients.

- 2.8 All disclosures of criminal records by students or applicants will be treated as 'sensitive and confidential data' in line with the College Policy and in accordance with the Data Protection Act 1998. They will therefore be handled with a high degree of discretion and will not be disclosed to other members of College staff unnecessarily.
- 2.9 Information relating to convictions will be considered separately from academic achievements by appointed College staff.
- 2.10 Where necessary third parties may be asked for additional information to inform a decision. This will not be done without the applicant's / student's permission.
- 2.11 When considering a criminal conviction a number of factors will be taken into account. These will include:
- The nature of the offence(s)The time that has passed since the offence was committed
  - Any additional information provided by other sources, such as the Probation Service, Social Services or senior prison officers, in the form of independent references or reports
  - If more than one offence was committed, whether each was a separate offence or part of a series of similar offences
  - The potential impact on fellow students, staff and others with whom the student or applicant will have contact
- 2.12 The decision on whether to accept an applicant who has declared a criminal conviction will involve consideration of the College's duty of care to staff, students, visitors and clients and also its commitment to individual human rights, right to an education and the right not to be discriminated against as protected under the Rehabilitation of Offenders Act 1974. All cases will be considered on an individual basis and all applicants will be treated in a fair and equitable manner. Decisions will be based on the risk posed to staff and students and the well-being of the College.
- 2.13 Conduct which may constitute a criminal offence may also amount to misconduct under the College's Student Disciplinary Policy and Procedure. Therefore, in addition to any criminal process, the student may be subject to disciplinary action by the College: however fair and proportionate steps will be taken not to place unnecessary additional penalties on a student who has already received a criminal sanction for their behaviour.

### **3. EQUALITY IMPACT STATEMENT**

- 3.1 This Policy will be implemented in line with the principles of the College's commitment to equality and diversity which is: Cleveland College of Art and Design is committed to the principles of equality and diversity and aims to ensure that all employees and college users are treated fairly and equally regardless of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, or sexual orientation.

### **4. MONITORING AND REVIEW ARRANGEMENTS**

- 4.1 This Policy will be monitored and reviewed on an annual basis by the Safeguarding Committee, which reports to the Principalship.

## **Appendix 1 – Guidance on the Rehabilitation of Offenders Act 1974**

The Rehabilitation of Offenders Act 1974 outlaws discrimination against ex-offenders and was amended by Section 139 of the Legal Aid Sentencing and Punishment of Offenders Act 2012 which came into force on 10th March 2014. The Act is intended to help people with few and/or minor convictions. People with many or serious convictions will probably not benefit from the Act because their rehabilitation period will usually be longer.

For most purposes the 1974 Act treats a rehabilitated person as if he or she had never committed, or been charged with charged or prosecuted for or convicted of or sentenced for the offence and, as such, they are not required to declare their spent caution(s) or conviction(s), for example, when applying for most jobs or insurance, some educational courses and housing applications.

### **How long is it before convictions are spent?**

Certain criminal convictions are 'spent' or forgotten, after a rehabilitation period. This period varies according to the offence, the length of the sentence imposed and the age of the person when convicted.

There are two types of rehabilitation period:

1. Sentences with a buffer period – start from the date of conviction and are made up of the original sentence, plus an additional buffer period
2. Sentences with no buffer period – start from the date of conviction.

Buffer periods for people aged over 18 when convicted, from the end of the sentence, including licence period are:

- community orders – one year
- prison sentence of six months or less – two years
- prison sentence of over six months up to and including 30 months – four years
- prison sentence of over 30 months and up to 48 months – seven years
- prison sentence of over 48 months or a public protection sentence – never 'spent'.  
Some buffer periods are halved if you were under 18 when convicted.

After this rehabilitation period, with certain exceptions, an ex-offender is not normally obliged to disclose their conviction.

Further information can be obtained from the Government's Guidance on the Rehabilitation of Offenders Act 1974, which is available at:

<https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>

## Rehabilitation periods for specific sentences

### Sentences with a buffer period

Sentence		Time it takes to become spent	
		Adult (18+) at conviction / disposal	Young person (U18) at conviction / disposal
Prison (including suspended prison sentences)	Over 4 years or a public protection sentence	Never spent	Never spent
	More than 30 months and less than (or equal to) 4 years	Sentence + 7 years*	Sentence +3 ½ years*
	More than 6 months and less than (or equal to) 30 months	Sentence +4 years*	Sentence +2years*
	Less than (or equal to) 6 months	Sentence +2 years*	Sentence +18 months*
Community order / youth rehabilitation order		Length of the order + 1 year	Length of the order + 6 months

\* Sentence length includes time spent on licence

If there is already an unspent conviction and a further conviction is imposed before the earlier one is spent, then neither conviction will become spent until the longest of them does.

If the further conviction results in a prison sentence of more than 4 years, then neither the second nor the first conviction will ever become spent .

## Sentences with no buffer period

Sentence/Disposal	Time it takes to become spent	
	Adult (18+) at conviction/disposal	Young person (U18) at conviction/disposal
Fine	1 year	
Conditional discharge	Length of the order	
Absolute discharge	None – spent immediately	
Conditional caution / conditional youth caution	3 months (or when it ends, if earlier)	3 months
Simple caution / youth caution	None – spent immediately	
Sentence/Disposal	Time it takes to become spent	
	Adult (18+) at conviction/disposal	Young person (U18) at conviction/disposal
Supervision order	N/A	The period of the order, or a minimum of 12 months (whichever is longer)
Compensation order	Once it is paid in full	
Attendance centre order	Period of the order	Period of the order
Hospital order	Period of the order	Period of the order
Referral order	Not available to adults	Period of the order
Reparation order	None – spent immediately	
Motoring endorsement imposed by a court	5 years	2 ½ years
Motoring penalty points imposed by a court	3 years	
Motoring disqualification imposed by a court	At the end of the disqualification	