

<i>Title:</i>	<b>Student Criminal Conviction Procedure</b>		
<i>Version number:</i>	2		
<i>Author:</i>	Teresa Latcham, Student Services Manager		
<i>Consultation taken place with:</i>	Student Recruitment Manager Head of HE Quality & Academic Standards Safeguarding Strategic Lead	<i>Dates:</i>	
<i>Approved by:</i>	Safeguarding Committee	<i>Date:</i>	21/06/16
<i>Approved by:</i>	Principalship	<i>Date:</i>	27/10/16
<i>Date to be reviewed:</i>	October 2018		
<i>Minor amendments:</i>	<i>Date:</i>		
	<i>Nature of:</i>		

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.

## 1. BACKGROUND

- 1.1 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.
- 1.2 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.
- 1.3 Spent convictions are not relevant to this procedure. Any applications to study at the College containing spent convictions should be subject to the same process as an application that contains no criminal convictions.

## 2. DISCLOSURE WITHIN THE APPLICATION PROCESS

- 2.1 All applications require declaration of relevant criminal convictions for any applicant applying either to Further Education courses or Higher Education undergraduate programmes at the College. The principles of the process are the same for direct applications (Further Education and postgraduate) as for UCAS applications (undergraduate).
- 2.2 **Further Education applications**
- 2.2.1 Applicants applying directly to the College for a Further Education course who have a **relevant** criminal conviction or who are serving a prison sentence for a **relevant** criminal conviction must tick the box on the application form to indicate this.
- 2.2.2 The Admissions staff will highlight on the application form those applicants who have declared a relevant criminal conviction.

## 2.3 UCAS applications (Higher Education)

2.3.1 All UCAS applicants who have a **relevant** criminal conviction or who are serving a prison sentence for a **relevant** criminal conviction must tick a box on their UCAS application to indicate this.

2.3.2 Applicants also agree to the following statements when submitting their UCAS application:

- "I confirm that the information given on this form is true, complete and accurate and no information requested or other material information has been omitted."
- "I agree to my personal data being processed by UCAS and passed to my chosen educational establishments and understand how my data will be used."
- "I accept that, if I do not fully comply with these requirements, UCAS shall have the right to cancel my application and I shall have no claim against UCAS or any higher education institution or college in relation thereto."
- "I agree to allow details of my application and its progress to be shared with my school/college/centre."

2.3.3 There is no firm guidance to UCAS applicants regarding where they should declare details of any convictions, although the most likely choice is the Personal Statement section of their application or through a separate letter to the College.

2.3.4 If an undergraduate applicant is convicted of a relevant criminal offence after they have applied, they must inform both UCAS and the College. For direct applications the applicant must inform the College.

2.3.5 The Admissions staff will highlight on the application form those applicants who have declared a relevant criminal conviction. It is the responsibility of the College to check the Personal Statement/references for any indication of convictions, which might necessitate the following procedures.

## 3. RECEIPT OF AN APPLICATION WHICH INCLUDES A DECLARATION OF A CRIMINAL CONVICTION

3.1 The Admissions staff process the application form on academic merit alone in the first instance to ensure that the application meets the entry requirements. If there are no academic grounds for making an offer then the application should be rejected in the normal way.

3.2 If the entry requirements have been met and further information is required of the declared conviction (that is, it has not been supplied) a letter (Appendix 1) will be sent from Admissions staff asking for further information and explaining

that the application cannot progress until this is received. A deadline date will be stated on the letter for receipt of the additional information and explanation of the outcome if there is no response by that date. Should no response be received by the deadline date, then the application will be withdrawn.

- 3.3 Only when the College has all the information it needs regarding the conviction will the application be processed. Admissions staff will record the details of the applicant in order to ensure an offer is not made without the criminal conviction being taken into account. The application information will be forwarded to the course staff or programme staff conducting the interview in the normal way, however if the details of the conviction are included on the form they will be detached by the Admissions staff and forwarded to the Student Recruitment Manager. The course or programme staff conducting the interview will therefore be aware that the applicant has ticked the criminal convictions box on the form but will not have any details relating to the nature of the conviction(s). In this way the College will be able to ensure that criminal convictions are not taken into account when academic decisions are made regarding the outcome of interviews.
- 3.4 If it is decided to make an offer according to the normal stated entry requirements the application should be returned to the Admissions department who will then forward it to the Student Recruitment Manager.
- 3.5 If the information received states that the applicant has an unspent minor offence (convictions that do not carry a custodial sentence) then the decision to admit the applicant can be taken by the Student Recruitment Manager and the offer can be processed in the normal way.
- 3.6 If the conviction resulted in a major offence, however, this should be placed before a Criminal Convictions Panel.
- 3.7 Once the Panel has met and a decision reached, the applicant will be notified in the normal way.

#### **4. ACTION TO BE TAKEN FOR AN UNDECLARED CRIMINAL CONVICTION THAT IS IDENTIFIED DURING INTERVIEW**

- 4.1 If the declaration of a criminal conviction is made at interview, the information must be taken during the interview in as much detail as possible by the member(s) of staff conducting the interview. This information should then be passed on to the Student Recruitment Manager. If the conviction is an unspent minor offence the Student Recruitment Manager, in consultation with the Head of FE (for Further Education applicants) or Head of HE (Academic) (for undergraduate applicants), can make the decision regarding any offer.
- 4.2 If the conviction is an unspent major offence, this should be forwarded to the Criminal Convictions Panel.

## **5. ACTION TO BE TAKEN IF THE DECLARATION OF A CRIMINAL CONVICTION TAKES PLACE WHILE A STUDENT IS ENROLLED ON A COURSE OR PROGRAMME OF STUDY**

- 5.1 All convictions are required to be declared by students to ensure that appropriate risk assessments can be carried out and that the College is not being 'brought into disrepute'.
- 5.2 If, at any time during a course or programme of study, a student is arrested by the police and charged with a criminal offence, the student is required to report this immediately to the Student Services Manager, who will record as much information as possible and carry out a thorough risk assessment based on the information received. Where required, other staff can provide support in this risk assessment, such as the Safeguarding Officer for Health and Safety. The Head of FE or the Head of HE (Academic) will also be informed, as appropriate to whether the student is enrolled on a Further Education course or an undergraduate programme.
- 5.3 If the student is sent to trial, the College must also be kept informed at all stages either by the student or by his or her legal representative. If the student is convicted, then this must also be reported along with details of any sentence imposed.
- 5.4 The nature of the offence and the risk assessment must then be disclosed to the Head of FE or Head of HE as appropriate, who will make a decision based on this information as to the students' continuation on the programme. Depending on the seriousness of the conviction, this could be referred to the Criminal Convictions Panel.
- 5.5 If at any time during a student's course or programme of study at the College it is made known that the student has a previously unspent criminal conviction that they failed to disclose at the point of application or notify the College of in a timely manner, then they will be subject to the relevant Student Disciplinary Procedure and possible expulsion. The same will apply if the student obtains a criminal conviction during their course/programme of study which they fail to disclose in a timely manner.
- 5.6 It is deemed a disciplinary offence not to have disclosed any unspent conviction(s) at the point of application, regardless of whether the conviction is subsequently spent at the time of actual disclosure or when such information is made known to the College.

## **6. RECORDING INFORMATION RELATING TO CRIMINAL CONVICTIONS**

- 6.1 All correspondence and documentation relating to the declaration of criminal convictions by an applicant or student will be held confidentially by the College's Operational Safeguarding Lead in a secure location within Student Services.
- 6.2 A note will be made on the applicant's or student's file, and will be carried through to the students' record and flagged on Pro-solution if accepted, to the effect that a criminal record has been disclosed and that further information, if needed, can be obtained from the Operational Safeguarding Lead.
- 6.3 At all stages, staff should ensure that all necessary steps are taken to restrict access to information relating to an applicant's or student's criminal record to a strictly "need to know" basis.

## **7. CRIMINAL CONVICTIONS PANEL**

- 7.1 Where it has been decided that it is necessary for a case to go to the Criminal Convictions Panel for decision, the Student Recruitment Manager or the relevant Head will present the information that they have been provided with.
- 7.2 The Criminal Convictions Panel will consist of:
  - MIS Manager
  - Student Recruitment Manager
  - Head of FE or Head of HE (Academic) as appropriate
  - Student Services Manager (Operational Safeguarding Lead)
  - Safeguarding Officer for Health and Safety
- 7.2 The Panel will be able to take the following actions:
  - Refuse an application/withdraw a student on the basis that the risk posed to the student community and its staff is too great. In this case, the applicant/student will be contacted in the normal way to inform them of the decision as normal, along with the appeals procedure (see section 8).
  - Defer a decision where it is felt that more information is required to conclude the decision-making process, whether from the applicant/student or other sources (such as probation officer, for example). Where this is the case, the Operational Safeguarding Lead will be tasked with gathering all the required information to present when the Panel re-convenes.

- Permit an offer to be made or allow the student to continue with no further conditions. In this case, the offer is transmitted in the normal way. Consideration will be given as to whether a risk assessment is required.
- Permit an offer to be made or allow the student to continue but with particular conditions, for example, specific support for the applicant, restriction to certain external projects, etc. In this case a risk assessment will be undertaken with relevant staff, for example the Head of FE or the Head of HE (Academic) as appropriate, the Operational Safeguarding Lead and the Safeguarding Officer for Health and Safety. The applicant/student will be notified in writing of the conditions and will be required to accept the conditions prior to an offer being made or being allowed to return to study on the course or programme. They will also be informed of any other members of staff that will have to be involved if needed to enforce any of the conditions (for example, Estates and Facilities Team). The risk assessment will be shared with relevant staff on a “need to know” basis, along with any information on specific actions to take in case of any breach or emergency.

7.3 Throughout the process, all members of the Panel will endeavour to keep any delay to a reasonable minimum.

7.4 If the Panel permits an offer to be made or allows the student to continue with certain conditions in place and those conditions are not adhered to, then the student will be deemed to have committed an act of gross misconduct and their studies will be terminated following the relevant Student Disciplinary Procedure.

## **8. APPEALS**

8.1 An applicant may appeal against the decision of the Criminal Convictions Panel as follows:

- Where an application has been rejected or student asked to withdraw because of a criminal conviction
- Where an offer has been made or student allowed to continue subject to a condition and the applicant/student feels that the condition is unfair or disproportionate

8.2 The applicant/student should appeal in writing against the decision within 10 working days of receipt of the Panel’s decision. The applicant/student should establish the grounds of their appeal and provide any further evidence that they wish to be considered.

### **8.3 Stage 1 – First Stage Appeal Panel**

At this stage the Appeal Panel will constitute the original Criminal Convictions Panel, which will have an opportunity to reconsider its decision in the light of further information. The Panel will have several options available to it:

- To overturn the original decision and make an offer
- To overturn the original decision and make an offer subject to certain conditions
- To reduce or amend conditions
- To uphold the original decision

8.4 The applicant/student will be notified of the Panel's decision in writing as soon as possible. In cases other than when the original decision has been overturned, applicants/students should also be made aware of the second stage of the appeal procedure.

### **8.5 Stage 2 – Final Stage Appeal Panel**

Applicants/students will have the opportunity to pursue a second and final stage of appeal. This Final Stage Appeal Panel will comprise of appropriate senior members of staff who have not previously been involved in the original decision-making process, including the Principal.

8.6 The applicant/student will be invited to attend a hearing giving them an opportunity to make their appeal in person. The applicant/student will have the opportunity to be accompanied by a family member or friend, but not a legal representative. The applicant/student should provide details of this companion to the Chair of the Panel no less than 5 working days before the hearing date. Where the applicant/student does not wish to attend he/she may provide written representation. Written representations and further evidence should be provided no less than 5 working days before the hearing date.

8.7 The applicant/student will be given 10 working days' notice of the hearing date. An applicant may seek to have the hearing date changed in cases where they can show good cause e.g. work commitments, previous engagements etc. The applicant/student should notify the Chair of the Panel of the reasons for non-attendance and to request a new hearing date. An alternative mutually convenient date should be arranged as soon as possible. However, if the Chair of the Panel does not accept the reasons given or the applicant/student does not respond, the hearing will take place in their absence.

8.8 The findings of the First Stage Appeal Panel and the original decision of the Criminal Convictions Panel will be presented to the Final Stage Appeal Panel by the Student Services Manager. The Chair of the Panel will notify the applicant/student in writing within 5 working days of the decision of the Final Stage Appeals Panel.



## **9. EQUALITY IMPACT STATEMENT**

- 9.1 This procedure 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.

## **10. MONITORING AND REVIEW ARRANGEMENTS**

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

## APPENDIX 1

### Letter requesting more information regarding a criminal conviction

Dear

Thank you for your recent application to *[name of programme/course]*

As you have indicated on your application form that you have a criminal conviction, we need to ask for some further details regarding this conviction in order to progress your application.

Having a criminal conviction does not necessarily exclude you from attending a programme of study at CCAD. This will depend upon the nature of the programme/course you are applying for and the circumstances and background to the offence.

We welcome applications from a wide range of applicants but must balance this with our duty of care to all of our students in order to provide a safe and secure environment in which to study.

Before we can process your application further and arrange an interview for you, we therefore need to ask you for the details of your offence. Therefore, I would be grateful if you could provide me with the following information:

- The date of the conviction
- A brief description of the conviction
- The sentence you received

Any information you provide will be treated in the strictest confidence and on a 'need to know' basis.

Please send written details to Liam Bradley, Student Recruitment Manager, and mark the envelope as 'Confidential.' If we have not received a response by {insert deadline date} then your application will be withdrawn.

Alternatively if you wish to discuss the matter, or have marked the application form in error, please call 01642 288 888 and ask to speak to Liam Bradley.

Yours sincerely

Liam Bradley

Student Recruitment Manager

## **Appendix 2 – 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	

**Appendix 3**

**Student Risk Assessment**

**Full Name:**  **Date of Birth:**

The above person has applied for a programme of study at Cleveland College of Art and Design. The information you provide on this form will be used as part of a Risk Assessment process, and to ensure the safety of all our students

***[Please gain consent from the above named person prior to forwarding a completed form].***

**Consent**

**I hereby consent to ..... supplying the following details to Cleveland College of Art and Design, in order to inform their decisions and support them in making a full risk assessment.**

**Signed.....**

**Date.....**

<b>Name of person completing form:</b>	<b>Organisation:</b>
--	----------------------

**Offending History and Risk Level**

Is the client current: **Yes**  **No**

Date of first contact:  Last Contact:

**\*Please provide details and dates of offence/s and conviction/s and any pending charges/convictions. Please also state specifically if any of these involved children.**

**\*Complete a level for all categories**

Category	Low	Medium	High	Very High
Young People (under 18s)				
Vulnerable adults				
Specified Adults				
Staff				
Self				
Public				

\*Risk of re-offending: **LOW / MEDIUM / HIGH / VERY HIGH** [*please circle or highlight*]

\*If Medium / High / Very High, please detail why

\*Is your client subject to a **SOPO**? Yes  No  If YES – please submit/attach all details

**We do require the conditions of the SOPO in writing. Please insert here or at the end of the form:**

\*Are they a looked-after child? Yes  No

\*Name / contact details of Social Worker

\*Is / was your client: **MAPPA**  **N/A**

\*Please provide the Category and Level **and** MAPPA contact details.

**Mental Health and Substance Misuse**

\*Are / were there Mental Health factors that need taking into account? Yes  No

\*What are / were these?

\*Are / were there any substance misuse? Yes  No

\*What are / were these?

**Supervision and Orders**

\*What work is being / was covered in their supervision?

\*How often do / did you see them:

Weekly  Fortnightly  Monthly  2 Monthly  Other

\*If other please detail:

\*What will / did the supervision cover?

\*Has / did the client successfully complete all Orders/Supervision? s no me

\*Has / did the client respond positively to the supervision?

Always  Often  Sometimes  Rarely  Never



\*Based on your assessments and the information available to you, are they safe to be in an age 14+ yrs College with Nurseries and vulnerable learners, and do you support their application on this basis?

Yes  No

If No, please detail why below or contact the person sending you this form.

--

\*Based on your knowledge of the client, do you know of any support needs that you feel we could assist with? E.g. Counselling, Mental Health, Learning Mentor?

--

\*Please provide any additional details that you feel are relevant to this applicant:

--

Form Completed by:

Name:	Date:
-------	-------

Position:	Organisation:
-----------	---------------

Contact Email Address:	Telephone:
------------------------	------------

**Thank you for taking the time to complete this form. If there is any additional information you wish to provide, please continue on another sheet, or contact the person who sent this form to you.**