

# Criminal Convictions Policy and Procedure

## Introduction

1. Birkbeck, University of London fully supports the rehabilitation of offenders and recognises that higher education can positively support an individual's personal and professional rehabilitation. The College also recognises that the circumstances surrounding particular convictions places a duty of care to the wider College community.
2. In most cases, a criminal record will not be an obstacle to studying at the College or participating in extra-curricular activities, but there may be circumstances where the nature of the programme and the circumstances and background of the offence(s), alongside the demands of various professional bodies and requirements under law to protect special categories of people might mean that it is not appropriate for an individual to follow a particular programme of study, or to take a particular option within a specific programme of study. A list of specific programmes and modules which include such restrictions will be posted on the College website. In all cases the College must balance the needs of the individual student against the needs of the wider student body, and make decisions in light of the need to ensure that its resources (including human and learning resources) are optimally deployed. All circumstances will be reviewed on a case by case basis.
3. As part of the College commitment to equality it is important to ensure that students with a criminal conviction are not treated differently from other students unless there is a specific and compelling reason to do so.
4. This policy is relevant to applicants to the College and enrolled students. The College requires all applying and enrolled students to disclose on application, as a condition of enrolment, a relevant criminal conviction or bind-over that is not spent (as defined by the Rehabilitation of Offenders Act 1974). Additionally students on professional programmes that entitle them to work in professions that are exempt from the Rehabilitation of Offenders Act 1974, or students undertaking other work with children or vulnerable adults either as part of their course or independently (including volunteering activity) may also be required to declare spent convictions in accordance with the relevant guidance.
5. For the purposes of this policy, a **relevant** criminal conviction is defined as a conviction or bind-over order 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

- Offences involving firearms or other weapons
- Offences involving arson
- Offences listed in the Terrorism Act 2006
- Offences involving dishonesty

If you would like to discuss any of the above, you are encouraged to make contact in the strictest confidence to our Safeguarding Officers: via email at [safeguarding@bbk.ac.uk](mailto:safeguarding@bbk.ac.uk) or via telephone at 020 7631 6316 (ask for the Head or Deputy Head of Student Services). Further information can be obtained from [www.unlock.org.uk](http://www.unlock.org.uk) and [www.bbk.ac.uk/registry/policies/policies-1](http://www.bbk.ac.uk/registry/policies/policies-1) where you can view the Safeguarding, Admissions and Appeals Policies. Additional phone contacts and information can be found in the [Safeguarding Policy & Procedure](#).

## Safeguarding

6. In most cases prior convictions will have no relevance on study and nothing further will be done with this information after the initial assessment is made. If the applicant is applying for study where there is an issue, the Academic Registrar, on behalf of the Master will convene a safeguarding panel which will consider any action that may be necessary for the applicant to enrol, and any appropriate advice or support they may need in relation to their programme of study. Risk assessments will consider contextual information. The Academic Registrar (or nominee) may write to the applicant or student to request further information to help inform the safeguarding discussion and risk assessment. The risk assessment will consider the risks to the individual with a relevant criminal conviction as well as that of the wider College community. For more information on Safeguarding, please refer to the College [Safeguarding Policy and Procedure](#).
7. While the College is committed to supporting the rehabilitation of offenders, the Safeguarding Panel may feel that disclosure of an offense could make a student's continued studies difficult or even place them in danger. Under such circumstances the College may need to discuss a plan with the applicant or student as to how they would wish the College to manage the situation should their previous conviction become widely known within the College community. If the conviction is a matter of public knowledge, consideration will be given to developing a plan to support the student manage this. It is anticipated that the Safeguarding Panel will consider the following topics in table 1, as part of any risk assessment. The impact and likelihood of each will also be considered.

<ul style="list-style-type: none"> <li>• Are there any statutory restrictions placed the applicant that would prevent or seriously disadvantage study? E.g. Court orders on the use of the internet.</li> </ul>
<ul style="list-style-type: none"> <li>• Can the Department/School practically support the intended programme of study?</li> </ul>
<ul style="list-style-type: none"> <li>• Does the applicant/student face an unacceptable level of risk to their own well-</li> </ul>

being?
<ul style="list-style-type: none"> <li>• Does the applicant/student pose an unacceptable level of risk to staff, students or visitors to the College?</li> </ul>
<ul style="list-style-type: none"> <li>• Has the applicant/student been advised on study and career options?</li> </ul>
<ul style="list-style-type: none"> <li>• Are there any known local situations that the Programme team need to be mindful of e.g. staff, students or visitors who have been the victims of crime or course content?</li> </ul>
<ul style="list-style-type: none"> <li>• Is the conviction a matter of public knowledge e.g. can the student and situation be identified by a web search?</li> </ul>

*Table 1 - Outline risk assessment*

## **Support in applying and studying**

### **Applicants with Criminal Convictions**

8. Any applicant who declares a relevant criminal conviction as a part of the admissions process will firstly have their application assessed on academic grounds.
9. If the relevant Admissions Tutor (or delegated nominee) determines that the applicant is eligible for an offer of a place at the College, their application will be paused whilst the context and implications of the criminal conviction are assessed by the Safeguarding Panel. The College commits to processing any application or enrolment in a timely manner. The College may also write to the applicant requiring further information to help inform the consideration.
10. Those considering the application will not contact a third party without specific written consent from the applicant in advance, as information about criminal convictions is considered sensitive personal data and as such its use is subject to the greater protection of the Data Protection Act 1998. In the absence of a response or consent being given by an applicant, the College reserves the right to decline to continue consideration of the application.
11. Applicants to courses that require a Disclosure and Barring Service (DBS) check are required to disclose all convictions, whether spent or unspent including cautions, reprimands, warnings and bind-overs and will be required to obtain a satisfactory disclosure from the DBS. The relevant forms and notes will be sent to the applicant with their initial offer. Please review the list of affected courses posted on the College website.
12. A criminal conviction is likely to impact on the possible career choices for applicants and students. Birkbeck can support applicants and students with a criminal conviction and signpost them to information with regard to the implications of a criminal record to make informed choices about their chosen path of study.

13. The College will endeavour to highlight to applicants and students in the programme specification and other relevant programme documentation where a criminal conviction for a specific offence/ group of offences would either bar them from studying that specific subject or would restrict what options were available to them.

### **Students on Professional Programmes**

14. When a student is studying on a programme which leads to a qualification that entitles them to work in a profession that is exempt from the Rehabilitation of Offenders Act 1974 and when the determination of Fitness to Practise is part of this programme, or when the student is undertaking while at College other work with children or vulnerable adults either as part of their course or independently for which criminal record disclosure is appropriate, they will be advised of the additional checks necessary. These checks may require the disclosure not only of relevant unspent convictions, but of spent convictions, cautions and other warnings etc. as specified at the relevant time and also of other relevant personal circumstances. The Rehabilitation of Offenders Act 1974 (Exceptions Order 1975 (Amendment)) (England and Wales) Order 2003 now provides that certain spent convictions and cautions are 'protected' and are not subject to disclosure. Guidance and criteria on the filtering of protected cautions and convictions can be found on the Disclosure and Barring Service website:

<https://www.gov.uk/government/organisations/disclosure-and-barring-service/about>

15. Please note that some convictions are never filtered out. Further information can be obtained from [www.unlock.org.uk](http://www.unlock.org.uk)

### **Ex-offenders released under supervision of the probationary service**

16. Where ex-offenders are under the supervision of the probation service or equivalent, the College will liaise with the probation service and other relevant authorities to clarify whether or not it would be possible for the student to study at the College without breaching their conditions of release.
17. Where students under supervision are enrolled, a safeguarding officer will meet with them regularly (usually once a term) to agree with the student who in the College might need to know details of their past record, what the College is obliged to report back to the probation service, and to identify any support or advice needs of the student. Safeguarding contacts are detailed in the [Safeguarding Policy and Procedure](#).

## **Confidentiality**

18. Details of criminal convictions should normally remain confidential to those members of staff involved in the administration of the admissions process in relation to convictions, and those staff required to engage with probation services and the student where there are ongoing probation restrictions on the student (the Academic Registrar and named Safeguarding Officers).
19. All information relating to criminal records is sensitive personal data and will be stored securely, in keeping with data protection legislation. Applicants' information will be kept for the cycle in which they have applied plus one year. For enrolled students the information will become part of the student record and that information will be kept in line with the College records retention schedule. Details about a student's criminal conviction will be stored securely and separately from the student record.
20. There may be reasons why the conviction will need to be disclosed to other members of staff, such as to ensure that the College is able to comply with probation restrictions. Such broader disclosure will be discussed with the student unless there is a specific emergency that requires immediate action, in which case the Safeguarding Officers and the Academic Registrar will make a decision as to the necessity of disclosure.
21. A student following such a course of study or such an additional activity is required to cooperate fully with the appropriate instructions given concerning disclosure. Becoming a student has rights and obligations on both the applicant/student and the College. At the heart of this relationship is trust and respect of mutual obligations. Any information provided will be treated confidentially and in accordance with the Data Protection Policy.
22. The College will produce an annual, anonymised report for Academic Board and Equalities Committee on the number of applicants and students who declare a relevant conviction. The report will also note the number of referrals to a Safeguarding Panel.

### **Notes:**

Further information can be obtained from [www.unlock.org.uk](http://www.unlock.org.uk) and [www.bbk.ac.uk/registry/policies/policies-1](http://www.bbk.ac.uk/registry/policies/policies-1) where you can view the Safeguarding, Admissions and Appeals Policies.