



## Criminal Convictions Procedure

Key Information	
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ELT Post Responsible for Update and Monitoring	Vice Principal Innovation, Curriculum and Quality
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## **1. Purpose**

- 1.1 To ensure that applicants and learners with criminal convictions are given every opportunity to benefit from the courses the College offers, whilst maintaining the College's duty of care to do everything reasonable to provide a safe and secure environment for all its learners, staff and visitors.
- 1.2 Applicants and learners will not be refused access to College courses/programme of study (*including apprenticeships and traineeships*) which they are academically suited for on the grounds of a previous criminal record, unless their presence at the College has been demonstrated to pose a risk to others or to College property, or unless their criminal record significantly limits their chance of success on their course. In such cases the College reserves the right to refuse an applicant a place on the course applied for, or in the case of an existing learner may deny progression on the current course/programme of study or to another course/programme of study. In such cases full reasons will be given for the decision, and the applicant/learner will be offered appropriate information, advice and guidance to explore other options.
- 1.3 The College can play an appropriate part in the rehabilitation of offenders and can network with other agencies involved with the applicant/learner to ensure a fair risk assessment is undertaken and appropriate support is offered.
- 1.4 All records are kept securely and destroyed in line with the College's Retention Schedule.
- 1.5 This procedure applies to all applicants and learners.
- 1.6 This policy will not discriminate either directly or indirectly against any individual on the grounds of gender, race, ethnicity or nationality, sexual orientation, marital status, religion or belief, age, disability, socio-economic status or any other personal characteristic.

## **2. Applications - General**

- 2.1 All applicants enrolling on all courses are asked to disclose if they have any unspent criminal convictions, relevant convictions or hearings pending. If they indicate "yes" they are given an *R1 form* to complete and return (*Appendix 1*).
- 2.2 If an external professional (Probation Worker or Youth Justice Service Team) informs the College that an applicant has a conviction that needs to be declared, the relevant professional will be asked to disclose the information with the College. (The external professional will gain permission to share the information before doing so.)
- 2.3 Applicants will be made aware at interview that for some courses (namely the 'caring professions'), all and any previous convictions may be considered relevant (*regardless of whether they are deemed to be spent*).
- 2.4 Appropriate information, advice and guidance will be given in relation to the DBS procedure and the potential impact on work placements and/or future applications to employment or higher education. (*See Section 3*)
- 2.5 *R1 forms* are screened by the Safeguarding, Behaviour and Welfare Manager or the Assistant Principal Learner Services, who will make an initial assessment about whether the disclosure needs further consideration.
- 2.6 All *R1 forms* are kept securely in Learner Services and destroyed in line with the College's Retention Schedule.
- 2.7 Where the criminal record is considered relevant an interview with the Safeguarding, Behaviour and Welfare Manager or the Assistant Principal Learner Services, will take place and *R2 form* completed (*Appendix 2*). This interview may also include any external agencies currently working with or supporting the applicant. This will determine if a risk management plan is required and whether the case will be presented to the Criminal Disclosure Panel.
- 2.8 Where the disclosure originates from an external professional, the Safeguarding, Behaviour and Welfare Manager or the Assistant Principal Learner Services will assess the nature of the disclosure and if further information is required will request that an *R2 form* is completed (*Appendix 2*).

- 2.9 Advice and information from other agencies involved with the applicant will be sought where applicable to inform the risk management plan and the learner will be included in the process to obtain their prior consent to such information being obtained, and to clarify or confirm information received.
- 2.10 The risk management plan will be recorded and the applicant informed of the outcome by the Safeguarding, Behaviour and Welfare Manager or the Assistant Principal Learner Services.
- 2.11 The Assistant Director will inform staff on a need-to-know basis after agreement with the applicant/learner if an applicant/learner is admitted to the course with conditions for managing risk or particular support needs. Otherwise, information on the criminal record is not passed on.
- 2.12 Intentional non-disclosure of a criminal conviction could lead to exclusion.

### 3. Disclosure Levels

- 3.1 Disclosures will be categorised by level and potential risk to learners, staff and visitors. However, the examples in the table are not exhaustive and disclosures of other offences will need to be considered appropriately.

Risk Level	Description
Low Risk	Level 1 e.g., speeding offences first level cautions
Medium Risk	Level 2 e.g., theft, first low-level acts of violence, drunk and disorderly, drug related (personal use).
High Risk	Level 3 e.g., GBH, ABH, drug offences, sexual violence, and any offence resulting in a custodial sentence.

*(Table 1: Disclosures categorised by level and potential risk to learners, staff and visitors)*

- 3.2 The Safeguarding, Behaviour and Welfare Manager or the Assistant Principal Learner Services, will assess each disclosure and will:

#### 3.2.1 Level 1

- 3.2.1.1 Either write or telephone the applicant/learner (or relevant external professional) to advise them no additional interview is necessary and there are no conditions placed on their course offer.
- 3.2.1.2 Invite the applicant/learner in for an interview if the assessed risk is relevant for the course applied for and progress to level 2 of the procedure.

#### 3.2.2 Level 2

- 3.2.2.1 Request further information from the applicant/learner or relevant external professional, which may include a face-to-face interview, a telephone interview or a request for the external professional to complete *R2 form*.
- 3.2.2.2 During the meeting with the applicant/learner the Criminal Convictions Interview *R2 form* will be completed.
- 3.2.2.3 Following the meeting it may be necessary for a further risk management plan to be completed which may include specific conditions on place of study and liaison with identified external professionals.
- 3.2.2.4 If during the interview it is established that there is minimal risk and it is an appropriate application, the Safeguarding, Behaviour and Welfare Manager or the Assistant Principal Learner Services may recommend that the application process can continue.
- 3.2.2.5 If during the meeting it becomes apparent that the risks are higher than originally anticipated, it can be referred to a level 3 and be heard by the Criminal Disclosure Panel.

#### 3.2.3 Level 3

- 3.2.3.1 The Safeguarding, Behaviour and Welfare Manager or the Assistant Principal Learner Services present the case to the Criminal Disclosure Panel who will assess the appropriateness of the application, review associated risks and then determine any conditions that may be required, the applicant/learner details will remain anonymous so that the decision is fair and transparent.
- 3.2.3.2 The panel reserves the right to decline an applicant/learner on the basis of Safeguarding/Health and Safety implications. In such cases the applicant/learner will be entitled to full reasons for

the decline of the offer of a course/programme of learning and will be made the offer of appropriate information, advice and guidance to consider other options available.

3.2.3.3 If an external professional is acting on behalf of the applicant/learner, they will be informed of the outcome of the panel meeting.

3.2.3.4 If the applicant/learner is accepted further risk assessments may be required during the course/programme of study.

3.3 The Criminal Disclosure Panel will consist of:

3.3.1 a member of the Executive Leadership Team;

3.3.2 an Assistant Principal;

3.3.3 the Safeguarding, Behaviour and Welfare Manager (*DSL or Deputy DSL*),

3.3.4 the Assistant Principal Learner Services \*;

3.3.5 representatives from external Partners *E.g.*, Police, Probation, Youth Offending, Prison where appropriate.

*\*or their nominated representative.*

#### **4. Course Specific Criminal Records Issues**

4.1 On certain courses criminal records can be a bar to successful completion of the course or to gaining employment in the vocational area. These issues must be addressed at the application stage.

4.2 For courses with mandatory elements which require applicants/learners to have DBS (*Disclosure & Barring Service*) checks, the interviewing member of staff will outline the importance of this and the consequences of not disclosing any record, caution, reprimand or final warning no matter how minor, at this stage.

4.3 Applicants/learners for these courses should be encouraged to apply for their checks as early as possible.

4.4 When an applicant/learner receives their DBS Certificate, they should bring it into College and present it to the Faculty Coordinator, who will record the certificate number. If the certificate shows a conviction the Faculty Coordinator will notify the relevant Assistant Director.

4.5 If an applicant/learner declares a criminal record or a DBS check reveals a criminal record which is likely to cause the applicant/learner to be unable to complete some mandatory element of the course, a place cannot be offered. The applicant/learner should be directed to the Personal Development Tutor Team, Learner Services or the careers team for advice on other options.

4.6 Where a criminal record is revealed which does not impact on the applicant/learner's ability to complete the course, but which might affect their chances of gaining employment in the vocational area, this should be discussed with them and a record of the discussion kept on their file. It should also be pointed out where relevant that universities might refuse places on these grounds. A place can still be offered on the course if the member of staff interviewing is clear that the applicant/learner understands the implications and still has valid reasons for doing the course (*e.g.*, *it represents a good general grounding for a number of career options or for admission to a range of university courses*).

#### **5. Issues 'On Course'**

5.1 Where it is revealed during a course that a learner has not disclosed a criminal record, the Personal Development Tutor or other appropriate staff member will inform the Assistant Director who will, in consultation with the Safeguarding, Behaviour and Welfare Manager, Safeguarding Team Leader or the Assistant Principal Learner Services, consider whether a risk assessment is required. This will be dependent on the severity and impact of the disclosure.

5.2 An *R1 form* and *R2 form* can be completed for an 'on course' discloser to help assist with gathering the correct information from the learner.

5.3 Where a criminal prosecution or conviction occurs during the course, the Assistant Director and Safeguarding, Behaviour and Welfare Manager or the Assistant Principal Learner Services, will make a judgment on implementing any control measures, as necessary.

- 5.4 Personal tutors and relevant teaching staff will be alerted to any particular support needs for learners resulting from their criminal records and liaise with Learner Services to ensure that these are met where practical.

## **6. Right of Appeal**

- 6.1 An applicant/learner who is unhappy with the outcome of this procedure can appeal to the Principal\*.
- 6.2 The appeal must be in writing and must be made within 10 working days of the decision made on the application.
- 6.3 The Principal\* will respond providing a final decision on the matter within a further 10 working days.

*\* or their nominated representative.*

# Appendix I

## Declaration of Convictions (R1)

### Guidance Notes for Applicants and Current Learners

Having a criminal record or a pending prosecution will not necessarily bar you from a place at College. This will depend on the nature of the course and the circumstances and background of any offences. If you fail to disclose any relevant information, then your offer of a place or enrolment on the course may be withdrawn.

This declaration will be passed onto the Safeguarding, Behaviour and Welfare Manager or the Assistant Principal Learner Services, who may need to contact you for further information and complete a risk assessment. Discussion where appropriate may be needed with the Vice Principal – Innovation, Curriculum and Quality.

### Declaring Criminal Convictions and Pending Convictions

The College has a Duty of Care to all its learners, staff and visitors to ensure their safety and wellbeing. It also has a duty to safeguard and protect any of its users who are under the age of 18, and in particular any under 16. In order to meet these responsibilities, it is necessary to require all applicants/learners to declare any convictions or pending hearings to enable the College to make a judgement on any potential risks posed by their enrolment on a course.

### Spent Convictions

You are not required to reveal a spent conviction unless you are hoping to join a Child Care or Health and Social Care course, or any other course where a Disclosure and Barring Service (DBS) check is required.

### When is a Conviction Considered Spent?

The Rehabilitation of Offenders Act 1974 enables criminal convictions to be 'spent' after a rehabilitation period. Rehabilitation periods vary dependant on the conviction and sentence given. If you are not sure whether your conviction is spent and should be declared, you should get advice from the appropriate agency e.g. Youth Offending Team or Probation Service, NACRO (*National Association for the Care and Resettlement of Offenders*) or visit the online calculator [www.disclosurecalculator.org.uk](http://www.disclosurecalculator.org.uk) or [www.unlock.org.uk](http://www.unlock.org.uk) for up-to-date advice.

### Relevant Convictions

Relevant Convictions are offences against a person, whether of a violent or sexual nature and convictions involving unlawful supplying or possession of a controlled drug or substances. Relevant convictions must be disclosed, even when they are spent.

## PRIVATE AND CONFIDENTIAL

Name:		Date of Birth:	
Address:		Home Contact Number:	
		Mobile Contact Number	
Course Applied for and Campus:		Existing Learner ID Number	

The College needs as much information as possible for it to undertake an accurate risk assessment. We appreciate the need for Data Protection and ask that you ensure you have informed consent to share data or are making sure you are sharing this information legally.

Offence:	Date of Conviction:	Penalty/Nature of Offence:

Any comments or further information you would like us to take into consideration:

Are you currently on a:

Tagging Order:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Home detention curfew:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Sex Offenders Register:	<input type="checkbox"/> Yes <input type="checkbox"/> No
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Do you have a history of the following:

Arson:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Violence against a person:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Offences against children/vulnerable adults:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Drug supply/dealing:	<input type="checkbox"/> Yes <input type="checkbox"/> No
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Are you currently:

Under bail conditions:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Pending a court hearing:	<input type="checkbox"/> Yes <input type="checkbox"/> No
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Do you have a Learning Difficulty/Disability?

☐ Yes  
☐ No

If yes please give details below:

### Information Sharing with Other Professionals

It may be useful for College staff to talk to other professionals who have been, or are currently, involved in helping you with the issues connected to your conviction(s). Sharing information with other professionals involved in your case will enable us to develop a clearer picture of your situation and needs. By working together, we can plan appropriate courses of action. For example, it can be useful to contact probation officers/social workers to gain a reference for you, or more details about the circumstances of your conviction or treatment. Similarly, they may wish to find out if you have been offered a place at College.

Please give details of your YOT worker/Probation Officer (please circle) and additional support workers (only if appropriate):

Name:		Telephone:	
Name:		Telephone:	

### Applicant Declaration

I have read, or listened to, the information provided on this form and understand that the College needs this information to ensure I am provided with the appropriate information, advice and guidance. I confirm that I give my consent to Cheshire College South & West to use this information to risk assess my application. I understand that this information will be stored and managed in line with Data Protection legislation.

Name (please print):		Signature:		Date:	
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Please complete and forward this form marked 'Confidential' to: Safeguarding, Behaviour and Welfare Manager, Cheshire College South and West, Dane Bank Avenue, Crewe, CW2 8AB

If you would like to discuss anything relating to this document, please telephone the Safeguarding, Behaviour and Welfare Manager on 01270 654654.

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R1 part 2 For office use only

*Additional information received*

Level of risk **High** ☐ **Medium** ☐ **Low** ☐ Progress to:

**Level 1** ☐ **Date letter sent** \_\_\_\_\_

**Date of interview** \_\_\_\_\_

**Level 2** ☐ **Date letter sent** \_\_\_\_\_

**Level 3** ☐ **Date letter sent** \_\_\_\_\_



## Appendix 2

### Criminal Convictions Interview (R2)

This form should be completed on receipt of a “Declarations of Convictions” form and inform any risk assessment necessary (follow Individual Learner Risk Assessment Procedure)

Name:		Date of Birth:	
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Course Applied for and Campus:	
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Date:		Existing Learner ID Number	
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ISSUES TO BE CONSIDERED	COMMENTS
<i>The Nature of the offence</i>	
<i>Who might be at risk? E.g., learners themselves, other learners, the learner themselves, other learners, staff or public?</i>	
<i>When the crime was committed e.g., the length of time since the offence was committed, age of learner</i>	
<i>The circumstances involved e.g., the involvement of drugs or alcohol</i>	
<i>The sentence (the length of sentence is usually dependant on the seriousness of the crime)</i>	
<i>Patterns of offending (was the offence a one off or is there a history of offending)</i>	
<i>Efforts to avoid reoffending e.g., involvement of probation Service or other agencies, degree of remorse expressed</i>	
<i>Requirements of the course e.g., working with children, young people or vulnerable adults</i>	
<i>Safeguards available to guard against offending whilst at College e.g., supervision, reviews, partnerships</i>	
<i>Will the nature of the course present any temptations for the learner to reoffend?</i>	
<i>Conditions – supervision, reviews, partnerships working with agencies.</i>	
<i>Likelihood of meeting anyone at College who may have been involved in, or who may have knowledge of the previous offence?</i>	
<i>Feedback from third parties e.g., YOT, Probation service</i>	
<i>Other comments:</i>	

### Outcomes/Conditions

<i>Progress to enrolment/continuation with studies?</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
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<i>Reason for declining application/discontinuing studies?</i>

## Conditions of Offer

<i>Reference required?</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<i>Support Services required?</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<i>Further Risk assessment needed?</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
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<i>If further Risk Assessment is required, who needs to be involved?</i>

Does information need to be shared?	<input type="checkbox"/> Yes <input type="checkbox"/> No
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If so with whom?

[illegible]

<i>CPOMs and Confidential comments updated (if required?)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
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