

Policy Name	Dealing with Disclosure of Unspent Criminal Convictions Policy and Procedures
Department	Student Services – Student Recruitment
Created by (Job Title)	Director of Student Services
Date Reviewed	February 2019
Date of Next Review	February 2020
Pathway	https://college.oak.com > Departments > Student Recruitment
E & D Disclaimer	

Issued

May 2009

Last Updated

February 2019

Dealing with Disclosure of Unspent Criminal Convictions

Policy and Procedures

Policy statement

The College has a duty of care to all its students, staff and visitors to ensure their safety and well-being. It also has an obligation under the relevant safeguarding legislation to protect and safeguard any of its users who are under 18 or vulnerable (see Safeguarding Policy).

In order to undertake best endeavours to meet these duties, it is necessary to require potential students to disclose any unspent criminal convictions. This will enable the College to make a judgement in relation to any potential risks related to their enrolment.

The College ensures that any information obtained is processed and retained within the GDPR regulations. For more information, please see the College's Data Protection Policy and Data Privacy Policy.

Having a conviction will not necessarily bar anyone from a place at College. However, it will help us to ensure that, if they do enrol, it is on an appropriate course and that any potential risks to other College users or the applicant/enrolee are minimised. Convictions of particular concern are those relating to offences against the person, whether of a violent or sexual nature, those involving the unlawful supply of controlled substances or drugs, theft or damage to property.

Guidance on whether or not a conviction is deemed to be spent (as defined by the Rehabilitation of Offenders Act 1974, and reformed under the Legal Aid, Sentencing and Punishment of Offenders Act 2012) is attached at annex A. It is the responsibility of the applicant/enrolee to determine their own circumstances in relation to spent convictions. If they are in any doubt as to their situation they should be advised to contact Nacro on 0300 123 1999 or email helpline@nacro.org.uk

Procedure

At general enquiry stage:

1. Explain to the applicant/enrolee why the College is required to ask for this information. A guidance sheet for applicants is attached at annex B.
2. Explain that we only need to know about unspent convictions (except for those courses requiring DBS checks).
3. Be reassuring and avoid any response which may sound judgemental. Explain the College's confidentiality policy and the fact that their disclosure will not necessarily prevent them from enrolling.
4. Make it clear that they do not need to tell you any details of the conviction, but that they will be contacted by the Head of Enquiries and Admissions or Customer

Contact Manager who will discuss their application with them on an individual basis.

5. Advise the applicant that when disclosing a conviction(s) they are entitled to provide a supplementary written 'disclosure statement' which sets out the circumstances relating to their offence (s). For support in creating a disclosure statement they should contact Nacro. The applicant should also be advised that the statement should be marked 'confidential' and will only be shared with those members of college staff that are involved in the decision making process on a 'need to know' basis
6. If they are uncertain about the status of their conviction they should be advised to contact Nacro. The helpline number is given on the guidance notes for applicants.

At application stage (full-time and substantive part-time):

7. If an applicant declares an unspent conviction the application should be entered onto Radius and the form passed to the Head of Enquiries and Admissions or Customer Contact Manager (or Director of Student Services in their absence). The applicant will be contacted within 5 working days to seek further details and, if appropriate, a meeting will be arranged with the Head of Enquiries and Admissions (or Director of Student Services) to discuss the conviction. Part 1 of the risk assessment form at annex C will be completed by the Head of Enquiries and Admissions or the Customer Contact Manager (or Director) who will decide whether a risk assessment panel meeting is required and, if so, convene a meeting. Advice may be sought from the Health and Safety Manager or Course Manager.
8. If no panel meeting is required the application form will be returned to Enquiries & Admissions to progress to interview/offer stage.
9. If the applicant does not respond to the contact they will be given a second opportunity, and be advised that, if they do not respond, we will assume they no longer wish to be considered for a place at College. They will be entered onto Radius using the 'no response' code.
10. The risk assessment panel will normally comprise the Director of Student Services, Head of Enquires and Admissions, Health and Safety Manager and the relevant Course Manager or Assistant Director. The following information will be deemed relevant:
 - course applied for
 - nature of conviction
 - seriousness and relevance
 - age when convicted
 - length of time since offence
 - pattern of offending behaviour
 - circumstances of individual at the time the offence was committed and now
 - remorse shown.
11. The outcome of the panel meeting will be recorded on part 2 of the assessment form.

12. The applicant will be notified of the decision and the decision will be returned to Enquiries & Admissions for action. If supported by the panel, the applicant will proceed to course interview stage or offer stage (depending upon the course). If the application is not supported by the panel it will be entered onto Radius using the 'no offer' code.

At application stage (Apprenticeships, learning centres and provision for the unemployed):

13. The application will be passed to the appropriate manager or co-ordinator, who will complete parts 1 and 2 of the risk assessment as above. At that stage they will discuss the application with the Director of Student Services or Head of Enquiries and Admissions or the Customer Contact Manager. Together they will agree either to allow the application to proceed or to convene a risk assessment panel as in (9) above. A copy of the completed risk assessment will be sent to the Director of Student Services.

At application stage (ESOL/EFL, Basic Skills)

14. At assessment sessions for ESOL/EFL, Basic Skills courses if a potential student declares a criminal conviction, the relevant course manager will discuss the applicant with the Director of Student Services or Head of Enquiries and Admissions or the Customer Contact Manager. Together they will agree either to allow the application to proceed or to convene a risk assessment panel as in (9) above. A copy of the completed risk assessment will be sent to the Director of Student Services.

At application stage (Higher Education)

For applicants who apply for higher education courses direct through the College, the same process for full-time and substantive part-time courses will apply.

For applicants who apply through UCAS, applicants are not required to declare criminal convictions through this application process however, as a College, we will continue to collect this information under GDPR Article 9 2 (a) and (d), asking applicants to notify us on any unspent criminal convictions prior to interview or at offer stage. If an applicant makes such a disclosure, the Admissions Team will refer the application to the Head of Enquiries and Admissions or the Customer Contact Manager who will contact the applicant and then complete the normal risk assessment process.

Applicants who apply for Teacher Education programmes with the UOB will also be asked to complete a declaration of offences form annex D

At enrolment stage:

15. If an enrolee declares an unspent conviction a copy of the learning agreement should be passed to the Head of Enquiries and Admissions. However, the

enrolment may proceed so that the applicant is not subsequently disadvantaged if places are limited. They should however be advised that this is provisional subject to the outcome of the risk assessment. Any fees paid will be reimbursed if the nature of their conviction is such that it is not possible to confirm their place.

16. The Director of Student Services or Head of Enquiries and Admissions or the Customer Contact Manager will contact the applicant to discuss their conviction in more detail and proceed as in (6) above.
17. Details of the progress of applications will be recorded on a spreadsheet on the Student Services shared drive.

Current students receiving/notifying a criminal conviction:

18. Where a student receives a conviction after they have been enrolled, the course manager and/or personal tutor will complete pages 1 and 2 of the risk assessment. They will discuss their findings with the Director of Student Services, the Head of Enquiries and Admissions or the Student Wellbeing Manager to determine whether a risk assessment panel is required. Depending on the nature of the conviction, the student may be suspended pending the outcome of the panel meeting.

Copies of all risk assessments, whatever the outcome, will be held securely on a central file by the Director of Student Services.

When is a conviction considered spent?

Rehabilitation of Offenders Act 1974 (as amended by section 139 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012).

This Act enables criminal convictions to become 'spent' or ignored after a 'rehabilitation period'. The length of the rehabilitation period depends on the sentence given – not the offence committed. The grid below is a guide for assessing whether any conviction may be considered 'spent'. It should not be regarded as comprehensive or definitive.

Applicants should be advised to contact Nacro on 0300 123 1999, email helpline@nacro.org.uk

People aged 18 or over when convicted

Sentence	Rehabilitation Period
Prison sentence: more than 48 months or a public protection sentence	Cannot ever be spent
Prison sentence: more than 30 months up to, and including, 48 months	7 years from the end of the sentence (inc. time on licence)
Prison sentence: more than 6 months up to, and including, 30 months	4 years from the end of the sentence (inc. time on licence)
Prison sentence: 6 months or less	2 years from the end of the sentence (inc. time on licence)
Community order* *or where no end date specified, 2 years from the date of conviction	12 months from the end of the order*
Referral order	At the end of the order
Fine	1 year
Conditional discharge order	At the end of the order
Compensation order	Once the compensation is paid in full
Conditional caution	3 months or when caution ceases to have effect if earlier
Simple caution	Spent immediately
Absolute discharge	Spent immediately

People aged 17 or under when convicted Sentence Rehabilitation Period

Sentence	Rehabilitation Period
Custodial sentence: more than 48 months	Cannot ever be spent
Custodial sentence: more than 30 months up to, and including, 48 months	3 ½ years from the end of the complete sentence (inc. time on licence)
Custodial sentence: more than 6 months up to, and including, 30 months	2 years from the end of the complete sentence (inc. time on licence)
Custodial sentence: 6 months or less	1 ½ years from the end of the complete sentence (inc. time on licence)
Community order/youth rehabilitation order* *or where no end date specified, 2 years from the date of conviction	6 months from the end of the order*
Referral order	At the end of the order
Fine	6 months
Conditional discharge order	At the end of the order
Compensation order	Once the compensation is paid in full
Youth conditional caution	3 months or when caution ceases to have effect if earlier
Youth caution	Spent immediately
Absolute discharge	Spent immediately

The rehabilitation periods for suspended prison sentences are the same as actual custodial sentences.

This is a summary only, and is correct at time of writing. Further information is available from Nacro at <http://www.nacro.org.uk>

Declaring Criminal Convictions

Guidance Notes for Applicants

Having a criminal record will not necessarily bar you from a place at College. Your enrolment will depend on the course you want to do and the nature and circumstances of your offence.

The College has a duty of care to all its students, staff and visitors to ensure their safety and well-being. It also has a duty to safeguard and protect any of its students who are under 18 or who are vulnerable in other ways.

In order to help us to meet these responsibilities we require anyone wishing to study at the College to disclose to us any unspent criminal convictions. We do not require you to supply further information on your application or enrolment form, but we will contact you to discuss your situation on an individual basis. Depending on the nature of your conviction, your application may then be referred to a Risk Assessment Panel, including the manager of the course you have applied for. We will write to you to inform you of the outcome of your application, including any conditions attached to an offer of a place (if applicable).

Under the terms of the Data Protection Act 1998 any information you give us regarding your criminal conviction is classed as 'sensitive data' and will only be used in relation to your application to join a course at Bedford College.

If you have a conviction, but you are not sure whether or not it is spent, please contact the Nacro Resettlement Advice Service on 0300 123 1999, email helpline@nacro.org.uk or check their website www.nacro.org.uk

You are not required to declare any spent convictions unless you are seeking a place on one of the designated courses in Care and Childcare for which you must complete a Disclosure and Barring Service check:

If you are applying for one of the designated courses mentioned above, you will be required to declare any cautions, convictions, reprimands and final warnings that are not protected (i.e. that are not filtered out) as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2013).

For further information on filtering please refer to [Nacro guidance](#) and the [DBS website](#).

Having a criminal record will not necessarily bar you from a place at College. Your enrolment will depend on the course you want to do and the nature and circumstances of your offence.

Failure to disclose an unspent criminal conviction may result in disciplinary action and/or your place at College being withdrawn.



Disclosure of Unspent Convictions Risk Assessment Form

1. Initial Interview

Applicant Name:	Date of Birth:	ID:
Address:		
Telephone Number:		
Course Applied for:		

Offence	Date of Conviction	Nature of Sentence	Date when Conviction will be Spent
Any other information applicant wishes to be taken into consideration:			
Name and Telephone Number of Key Worker (e.g. Probation, YOS)			
Permission to Contact:		Yes / No	

Safeguarding Risk: Yes / No

Relevant Conviction: Yes / No

Panel Meet Required: Yes / No

Interviewed by: _____ **Date:** _____

Interview Notes (Nacro Checklist)

Course Applied For	
Nature of Conviction – Seriousness and Relevance	
Does the nature of the offence present any safeguarding issues? If so, what are they?	
Sentence	
Age when convicted	
Length of time since offence	
Pattern of offending behaviour	
Circumstances of individual at the time the offence was committed and now	
Remorse shown	

2. Risk Assessment Panel

Panel Members:	
Date:	
Issues Considered:	

Likelihood of offence-related behaviour (1 = low, 5 = high) 1 2 3 4 5

Potential impact on College users (1 = low, 5 = high) 1 2 3 4 5

Risk Rating: Low 1-6 Medium 7-12 High 13-20 Unacceptable 21 – 25

Decision:	
Recommended Support / Control Measures or Conditions:	

Signed:		Date:	
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