

Staff & Applicants Criminal Record Disclosure & Employment of Ex-Offenders Policy

OWNED BY:		Head of Human Resources					
DATE OF LAST REVIEW		December 2020					
PLANNED NEXT REVIEW:		December 2021					
APPROVAL:		Senior Leadership Team					
APPLIES TO:	Staff	✓	Student	✓	Public	✓	

1. Introduction

The aim of this policy is to state the College's approach towards employing people who have criminal convictions.

The College promotes equality of opportunity and recruits staff based on suitability, talent, skills and potential.

The College has a duty to protect children and vulnerable adults from harm or abuse under the relevant safeguarding provisions. Therefore, the College is exempted from the Rehabilitation of Offenders Act 1974 and requires candidates to provide details of all previous convictions, including those that are "spent".

Certain people convicted of specified offences are banned from working with children and vulnerable adults under the Protection of Children Act 1999 and the Criminal Justice and Court Services Act 2000. Their names are present on certain lists (e.g. List 99) held by various departments/agencies and are accessible and checked by the College prior to any offer of employment

Other criminal records will only be taken into account where relevant and will not necessarily bar a candidate from employment.

Disclosure of all criminal records is, however, a necessary precaution, protecting the college and its students and ensuring that the College meets its statutory safeguarding requirements and duties.

The processes, agencies and information sources that are involved in these checks regularly undergo change at national level and therefore this policy will be regularly reviewed every 12 months to ensure accuracy, good practice and legal compliance.

The aim of this policy is to highlight:

- How the College informs prospective employees that it is exempted from the 1974 Act
- The procedure that an applicant with a criminal record must follow
- The procedure that the College will follow in order to consider fairly an application from an ex-offender
- DBS /banned list checks and use of disclosure information
- The procedure the College will follow for dealing with existing employees who are discovered to have not disclosed a conviction
- The procedure the College will follow for dealing with existing employees who receive a criminal conviction whilst employed at the College.

2. Advertising a Vacancy

All applicants are informed at the outset of recruitment that the College is exempt from the Rehabilitation of Offenders Act 1974. The College's application form and briefing pack asks applicants to state if they have any convictions spent or unspent. Applicants are informed that they are obliged to detail all convictions but that having a conviction is not necessarily a bar to employment.

Applicants are therefore able to make a decision as to whether or not to apply for any post at the College, knowing that the relevant lists of people barred from employment in this type of establishment, will be checked and if not barred, the relevance of any convictions will be considered.

3. Providing Details of a Conviction

Applicants who indicate on their application form that they have either a spent or unspent conviction are asked to forward details of the conviction to the Head of Human Resources.

The details are to be sent in a sealed envelope marked Private and Confidential, and addressed to the Head of Human Resources.

A discussion will take place surrounding the nature of the offence between the Head of Human Resources and the applicant; (if deemed necessary the Head of Human Resources may discuss the offence with the Head of Safeguarding prior to offer). If an appointment is made, any letters or notes relating to the offence will be held on the employees personnel file.

4. Consideration of a Conviction

If a candidate is invited for Interview, the Head of Human Resources will consider the relevance of any conviction to the post that is being recruited. This may include, amongst other considerations:

- The length of time since the offence occurred
- Whether the offence was a one-off, or part of a history of offending
- Whether the applicant's personal situation has changed since the offence, making re-offending less likely
- Any mitigation the applicant offered by way of explanation
- The nature of the post applied for, levels of supervision and responsibility
- The potential access to children and vulnerable groups
- The seriousness of the offence and its relevance to the safety of students and other staff.

If appropriate, the Head of Human Resources will make an individual and confidential decision as to whether the applicant may be considered for employment. Should the Head of Human Resources feel unable to make this decision in isolation, confidential consultation with the Head of Safeguarding may be required; the applicant may be contacted for further information.

If it is considered that a conviction is not relevant to the post applied for and at interview, the candidate is considered the most suitable for the post, a provisional offer of employment will be made. The offer will of course be subject to a satisfactory enhanced disclosure from the Disclosure & Barring Service (DBS, List 99 and Prohibition check) and receipt of satisfactory references.

In certain circumstances, the relationship between an offence and the post will obviously render the applicant unsuitable. The applicant will be informed by the Head of Human Resources that the College is not prepared to consider their application for employment further.

Should an applicant feel that they have been treated unfairly as a result of their criminal record, they have the right of appeal. An appeal must be made in writing to the Head of Safeguarding. The letter should state why the applicant believes they have been treated unfairly.

5. Disclosure & Barring Service Checks (DBS Checks)

Information on DBS checks may be found in the College's Security Checks for Safeguarding Policy and other Recruitment policies. All policies are located on the Intranet. Self-declared criminal records or convictions by applicants will be checked against the subsequent DBS disclosures and discrepancies will be regarded as possible means for non-employment and withdrawal of offer.

6. Current Employees who have withheld details of a Conviction

If an employee of the College is discovered to have deliberately withheld details of a criminal record, they may be subject to the College's Disciplinary Procedure. In certain circumstances, withholding details of a criminal record may be considered as gross misconduct and could result in dismissal.

7. Current Employees who receive a Conviction, Caution, Warning, Reprimand etc. whilst employed at the College

If an employee obtains a criminal record whilst employed at the College, they must inform the Head of Human Resources, in writing. Full details relating to the record must be sent in a sealed envelope, marked Private and Confidential, to the Head of Human Resources.

The relevance of the conviction will be considered using the same criteria as outlined in section 4. The Head of Human Resources will decide if the conviction has any relevance to the employee's job. If it is considered that the record bears no or minimal relevance to their work at the College, no further action will be taken. Should the Head of Human Resources feel unable to make this decision in isolation, confidential consultation with the Head of Safeguarding may be required; the applicant may be contacted for further information.

The employee's Line Manager will normally only be informed if there is a specific reason for doing so and / or the record obtained is considered directly connected with their job.

Depending upon the seriousness of the record, the employee may be moved to another role, or safeguards may be introduced. In certain serious situations, the employee may be subject to the College's Disciplinary Procedure. A conviction may be considered gross misconduct and could result in their dismissal. If there is a need to refer (to the DBS), this should be made as soon as possible after the resignation, removal or redeployment of the staff member.

Disciplinary Procedures may be obtained on the intranet.

8. Sixth Form College Governors

Governing bodies in sixth form colleges can request an enhanced DBS certificate without a barred list check on an individual as part of the appointment process for governors. An enhanced DBS certificate (which will include the barred list check), should only be requested if the governor will be engaging in regulated activity. This applies equally to volunteer governors who will be engaging in regulated activity and should be treated on the same basis as other volunteers in this respect.

9. Other Relevant Policies

All policies are held on the staff intranet and this policy should be read in conjunction with the:

- Recruitment Policy and Procedures
- Security Checks for Safeguarding Policy (inc DBS & other checks)
- Any other safeguarding policies

10. Data Protection

When managing an employee's personal data information will be collected in accordance with the College's data protection policy. Data collected is held securely and accessed by, and disclosed to, individuals only for the purposes of information relating to this policy. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the College's data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the College's disciplinary procedure.

11. Equality

As with all College Policies and Procedures due care has been taken to ensure that this policy is appropriate to all employees regardless of sex, age, race, marital status, maternity, ethnicity, disability, gender identity, sexual orientation or religion/faith. The policy will be applied fairly and consistently whilst upholding the College's commitment to providing equality to all.