

**Student Criminal Convictions Disclosure Policy**

**LOCAL POLICY**

Scope of Policy: All Students

Policy Owner: Learners Success

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Approved By: Senior Leadership Team

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**Policy Compliance details:-**

Compliance with Equality Legislation.

**PLEASE NOTE: Policies must be equality screened before being submitted to SLT and Trade Unions:-**

|  |  |
| --- | --- |
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**Document History**

| **Version Number** | **Author** | **Reason for Change** | **Date** |
| --- | --- | --- | --- |
| 1.0 | Learner Success | Policy reviewed by College Designated Safeguarding team. The following changes were made: Page 5 - Context – reworded from first person direction e.g. “you” to “a student”. Page 7 - Non disclosure of relevant unspent convictions – grammar error. Page 7 - AccessNI Enhanced Disclosure Checks – removal of a partial sentence. Page 9 – School Partnership - provision updated to coincide with the developments from school links to school partnership. Page 10 - Appeals – modified to ensure gender neutrality.  | 09/01/2017 |
| 2.0 | Learner Success | Policy transferred to new format | 04/02/2019 |
| 3.0 | Learner Success | Policy Review Aug 2021Amendments to sections 4.2 clarifying spent convictions. “Offences dealt with by sentences of 30 months’ imprisonment, or more are never spent; in practice this means that more serious offences must always be declared. Otherwise, the definition of ‘spent’ is complex, being affected by such factors as the type of the offence, the age at which the person was found guilty, and the sentence received.” 4.4 Inclusion of “Some statutory or professional bodies/organisations may not allow a student to practice, based on their criminal disclosures, even after a student’s successful completion of their course.”5 Inclusion of “The panel then determines whether the associated risk can safely be managed, and that their disclosure will have no impact on their professional careers upon the successful completion of their programme of study. A decision is then taken as to whether the applicant is approved for the admissions and enrolment process.” | 19/8/21 |
| 4.0 | Learner Success | Review date changed to August 20243 ContextClarified the legal position on Filtered Offences with the inclusion: **Filtered Offences:** If convictions are over 11 years old (or 5 and a half years if under 18) these should not appear on an Access NI standard or Enhanced Certificate, unless ‘specified’. Therefore, they should not be disclosed.Specified offences include: • murder, manslaughter, kidnap, hijack, money laundering • violence • sexual crimes • safeguarding or child protection matters Pg. 8:Referral to the College’s Designated Safeguarding Team for advice.“Any student or member of staff who is unsure about a criminal record and how it may affect a college course should contact a member of the College’s Designated Safeguarding Team for advice.”Pg.9: Remove:* “A spent conviction will remain on your criminal record.

This is no longer the case with the filtering legislation. Pg. 10 4.4 title, added in word “unfiltered”.Added in:“(With the exception of filtered convictions)” 4.7 added in:all unfiltered Pg.11 7 remove:“and are kept securely in a locked safe pending secure disposal.” We had to move away from this as a result of COVID restrictions.  | 19/5/22 |
| 4.0 | Corporate Development | Paragraphs 6 & 8 - Director of Curriculum and Learner Success changed to Deputy Chief Executive (Curriculum and Partnerships) | June 2022 |

**Distribution**

This document has been distributed as follows:

| **Name** | **Date**  |
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# Purpose of this policy

The purpose of this policy is to have in place a robust disclosure and risk management process in respect of criminal convictions, and to ensure that this information is managed in keeping with legal obligations.

# Data Protection Statement

The information disclosed on criminal convictions is considered to be ‘sensitive personal data’ under the terms of data protection legislation. The College will ensure that all such information is stored and protected in accordance with its data protection policies and procedures and has in place a confidential disclosure process to safeguard the student and the information disclosed.

***Belfast Metropolitan College actively promotes equality of opportunity for all and welcomes applications from a wide range of applicants, including those with criminal convictions.***

# Context

A conviction will not prevent an application from being considered by the College, nor will the information disclosed necessarily prevent a student from studying on the course of their choice.

However, if it is later discovered that a student has unspent convictions which have not been disclosed, the student may be asked to leave the course. Sometimes a current/previous conviction may preclude a student from doing a particular course. We will discuss this with the student and offer alternatives, where possible.

The Student Criminal Convictions Disclosure Policy is an important part of the Admissions Process for all prospective students at Belfast Metropolitan College. The purpose of the Policy is to identify any applicants who have criminal convictions and to assess the risk they may pose to themselves and to other students, staff and visitors, in order to provide a safe and inclusive College environment.

Belfast Metropolitan College has a legal obligation known as a “duty of care” to do everything reasonable to protect students, staff and visitors from potential harm. The College’s Student Criminal Convictions Disclosure Policy and Admissions Procedures help us to ensure that our duty of care is upheld.

As part of those procedures, we require students to declare if they:

* Have unspent criminal convictions
* For subject areas where a career working with children or adults at risk is the likely outcome, all criminal convictions (spent or otherwise, unless filtered off) must be disclosed.

**Filtered Offences:**

If convictions are over 11 years old (or 5 and a half years if under 18) these should not appear on an Access NI standard or Enhanced Certificate, unless ‘specified’. Therefore, they should not be disclosed.

Specified offences include:

• murder, manslaughter, kidnap, hijack, money laundering

• violence

• sexual crimes

• safeguarding or child protection matters

# Scope of Policy and General Principles

**4.1 Student Criminal Convictions Disclosure**

Anyone who applies to study at the College is required to disclose unspent criminal convictions by submitting a completed **Belfast Metropolitan College Student Criminal Convictions Disclosure Form**. For certain courses, applicants are required to disclose spent (unless filtered off) and unspent convictions by submitting a completed **Belfast Metropolitan College Enhanced Student Criminal Convictions Disclosure Form.**

**The forms are available on the Staff Intranet/SharePoint site and on the College website:**

[**https://www.belfastmet.ac.uk/studentcriminaldisclosures/**](https://www.belfastmet.ac.uk/studentcriminaldisclosures/)

* 1. **Rehabilitation of Offenders (NI) Order 1978**

Depending on the offence, The Rehabilitation of Offenders (NI) Order 1978, states that it is not always necessary to declare criminal convictions.

Under certain circumstances, once a period of time has elapsed from the date of conviction and there have been no further convictions, the conviction becomes ***spent***. This means that the ex-offender, if asked if they have a criminal record, can legally answer ‘no’.

Offences dealt with by sentences of 30 months’ imprisonment, or more are never spent; in practice this means that more serious offences must always be declared. Otherwise, the definition of ‘spent’ is complex, being affected by such factors as the type of the offence, the age at which the person was found guilty, and the sentence received.

The Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO) can provide further information on spent and unspent convictions (telephone number 028 9032 0157, Fax: 087 0432 1415, Email: niacro@niacro.co.uk).

Certain professions and occupations are exempt from the Rehabilitation of Offenders (NI) Order 1978. This means that, for certain professional courses, all criminal convictions must be declared (unless filtered off), regardless of when the offence was committed.

The types of courses for which this is relevant include: **teaching, health, social work, veterinary medicine, veterinary science or courses involving work with children or adults at risk.**

The list of professional posts exempt from the Rehabilitation of Offenders (NI) Order 1978 is extensive but can be summarised as follows:

* WORK THAT INVOLVES CONTACT WITH CHILDREN OR YOUNG PEOPLE OR VULNERABLE ADULT GROUPS – e.g. provision of health care or social services, work with children such as youth work, education, or with adults with learning disabilities, mental illness, the elderly.
* PROFESSIONS THAT ARE REGULATED BY LAW - e.g. medical practitioner, nurse, chemist, optician, accountant, manager of an insurance company.
* POSTS INVOLVING NATIONAL SECURITY e.g. security personnel or senior civil service posts.
* POSTS CONCERNED WITH ADMINISTRATION OF JUSTICE e.g. police officers, solicitors, probation officers, traffic wardens, judges, prison officers.

This information is particularly relevant where a course contains a work placement element.

Students on courses that involve such a work placement will also be required to complete an AccessNI check prior to the start of the work placement. This means that the student will be required to complete a form which will be passed to AccessNI for a criminal record check.

Certain convictions will prevent students from working with children or adults at risk. If it is later discovered that a student has a criminal record that they did not disclose, they may be withdrawn from their course.

Any student or member of staff who is unsure about a criminal record and how it may affect a college course should contact a member of the College’s Designated Safeguarding Team for advice.

The following table shows the nature of the conviction and the ‘spent’ period attached to it.

**If a conviction is ‘spent’ you do not have to mention it, even when asked, unless applying for a post which is exempt under this legislation.**

|  |  |  |
| --- | --- | --- |
| ***Sentence*** | ***Aged 18 or over at conviction*** | ***Under 18 years at conviction*** |
| *Absolute Discharge* | *6 months* |
| *Probation Order, Bind Over, Conditional Discharge, Care/Supervision Order* | *Date Order ceases OR 1 year – whichever longer* |
| *Attendance Centre Order**Juvenile Justice Centre Order**Youth Conference Order, Reparation Order, Community Responsibility Order* | *1 year after Order expires* |
| *Hospital Order* | *5 years or 2 years after Order expires – whichever longer* |
| *Fine or Community Service Order Combination Orders* | *5 years* | *2 ½ years* |
| *Prison – (immediate or suspended) OR Young Offenders Centre – sentence of 6 months or less* | *7 years* | *3 ½ years* |
| *Prison – (immediate or suspended) OR Young Offenders Centre over 6 months up to and including 2 ½ years* | *10 years* | *5 years* |
| *A period of detention of less than 6 months under Article 45 of the CJ (Children) (NI) Order 1998* | *N/A* | *3 years* |
| *A period of detention over 6 months but less than 30 months under Article 45 of the CJ (Children) (NI) Order 1998* | *N/A* | *5 years* |
| ***NB: CUSTODIAL SENTENCE OF MORE THAN TWO AND A HALF YEARS CAN NEVER BECOME SPENT*** |

**Please Note:**

* Consecutive prison sentences count as a single term when calculating the rehabilitation period.
* If more than one sentence was imposed for an offence, the longer rehabilitation period applies.
* If a person receives a new conviction during the rehabilitation period:
1. for a summary offence (i.e. can only be tried at Magistrates Court) both rehabilitation periods expire separately;
2. for a more serious offence (i.e. which **could** be tried at the Crown Court) **neither** conviction will become spent until longest period expires.
* Cautions, reprimands and final warnings are not considered to be convictions and become “spent” immediately unless relevant to exempted posts.

**Non-disclosure of relevant unspent criminal convictions (unfiltered)**

If the College becomes aware of an offence that has not been disclosed, the Designated Student Criminal Disclosure Team will review the risk and decide if the student must withdraw from the course (if enrolled) or be prevented from enrolling.

**4.3 AccessNI Checks**

As a Registered Body of AccessNI, the College will handle AccessNI Enhanced Disclosures checks securely and will fully comply with the AccessNI Code of Practice. The College will treat applicants fairly and will not discriminate based on information revealed on such disclosure certificates. The College will ensure that all disclosure information is handled sensitively and kept in a confidential, secure manner.

**4.4 Access NI Enhanced Disclosure Checks – the disclosure of spent convictions unfiltered.**

For some courses, disclosure is required by law or by an external statutory or regulatory body.

Certain types of course require the disclosure of spent (With the exception of filtered convictions) and unspent convictions andnon-conviction information e.g., formal cautions, informed warnings, non-conviction bind-over orders and diversionary youth conferences.

The following occupational areas are defined as “exempt” under the Rehabilitation of Offenders (Exceptions) Order (NI) 1979 and may also be defined as Regulated Activity under the Safeguarding Vulnerable Groups (NI) Order 2007, as amended :-

**teaching, health, social work, veterinary medicine, veterinary science or courses involving work with children or adults at risk, any criminal convictions, cautions (including verbal cautions), reprimands, final warnings and bind-over orders are exempt from the Rehabilitation of Offenders (Northern Ireland) Order 1978**.

In such circumstances applicants/students will be asked to agree to a criminal record check.

Course teams will specify the courses where AccessNI enhanced checks are required and advise students of the College’s enhanced disclosure process.

If the College decides to admit an applicant to a specific course, the relevant professional bodies or organisations (e.g. the General Medical Council or The Training and Development Agency for Schools (TDA)), or companies acting on their behalf, may view particular offences as unacceptable.

Some statutory or professional bodies/organisations may not allow a student to practice, based on their criminal disclosures, even after a student’s successful completion of their course.

**4.5 Student Placements**

Similarly, although the College may decide to admit a student on to a course following a criminal disclosure, a placement provider might decide not to accept the student on a placement. If the placement is an integral part of the course, it may not be possible for the student to proceed with their studies.

If the College is concerned that a student may not be able to proceed with the course, or to practise a related occupation at the end of it, the applicant will be informed of this possibility before the course starts, to prevent any misapprehension as to their prospects.

**4.6 Convictions after the commencement of a course**

If a student is convicted of a criminal offence after he/she has applied or started the course, he/she must inform the Head of Student Support immediately. All information will be treated confidentially and in line with data protection principles.

It is important to note that an individual’s circumstances may change during their course of study. The College reserves the right to conduct a risk assessment on any student at any time if the student is found to have previous or current convictions which they have failed to disclose.

**4.7 Schools Partnerships**

The schools who work with the College to facilitate the attendance of under 16-year-olds through the School Partnership Programme are required to alert the College to any students who have unspent criminal convictions, and in case of certain courses, all unfiltered convictions.

Prospective school partnership students, in such a position, will need to complete the College’s criminal convictions disclosure/enhanced criminal convictions disclosure form. If a risk assessment is required, the student and their parents/guardian/carer will be advised of the need to conduct a risk assessment and of the associated College procedures.

#  Responsibilities

**5.1 Designated Safeguarding Panel/ Criminal Disclosures Panel**

The College’s Designated Safeguarding Panel/Criminal Disclosure Panel is made up of the following five managers:

* Head of Learner Success
* Head of Student Support
* Offender Learning and Skills Manager
* Centre Manager for Learner Services
* Centre Manager for Student Wellbeing

The role of the Panel is to assess, in conjunction with external professionals (e.g. PSNI, NIACRO, PBNI) any risk associated with applications from students who have made a criminal convictions disclosure. The panel then determines whether the associated risk can safely be managed, and that their disclosure will have no impact on their professional careers upon the successful completion of their programme of study. A decision is then taken as to whether the applicant is approved for the admissions and enrolment process.

# Confidentiality

The information collected during the risk assessment process will be made available to staff on a need to know basis only.

The information will be stored securely at all times in line with the prevailing data protection legislation. Generally, the following staff will require access to risk assessments in the execution of their duties.

* Deputy Chief Executive (Curriculum and Partnerships)
* Head of Learner Success
* Head of Student Support
* Offender Learning and Skills Manager
* Centre Manager for Learner Services
* Centre Manager for Student Wellbeing
* Designated Safeguarding Officers
* Designated Safeguarding Panel Administrator

Relevant information about convictions may be made available to specific College staff and work placement providers on a need to know basis.

1. **Retention and disposal of data**

In line with the College’s Retention and Disposal Schedule, all student criminal convictions disclosure forms and risk assessments are kept on file for 6 years. As these records are classed as sensitive personal data, the files are maintained by the Designated Safeguarding Panel Administrator.

# Appeals

Applicants who have been refused a place at College following a risk assessment may submit a letter of appeal to the Deputy Chief Executive (Curriculum and Partnerships) within 14 days of the date of the decision letter. The Deputy Chief Executive (Curriculum and Partnerships) will consider the case and will inform the applicant of the appeal outcome in writing.

# Complaints

It is hoped that we will be able to resolve any complaint through the complaint’s procedure.  If the customer remains dissatisfied with the outcome, they have the right to raise the matter with the Northern Ireland Ombudsman’s Office (in his/her role as Commissioner for Complaints).

The customer can complain to the Ombudsman; however, the Ombudsman will normally only consider a complaint after it has been managed in accordance with the College’s Customer Complaints Policy.

Contact details for the Ombudsman are:

**Northern Ireland Public Services Ombudsman**

Progressive House

33 Wellington Place

Belfast

BT1 6HN

#  Review

This policy will be reviewed by August 2024.