

# CRIMINAL CONVICTIONS AND DBS POLICY

Policy Details			
<b>Policy Owner</b>	Vice Principal: Student and Information Services		
<b>CE Sponsor</b>	Principal and Chief Executive		
<b>Date created this year</b>	19 October 2023		
<b>Version:</b>	<b>Approved by:</b>	<b>Date approved:</b>	<b>To be reviewed:</b>
1	College Executive	01 November 2023	August 2026
1	Curriculum and Quality Committee	16 November 2023	August 2026

Version Control	
Version Number	Changes from previous 12 months policy
1a	Reference to on-line and provision hosted off college campuses
1b	Updated instructions for Adult Learning Centres and very short courses
1c	Updated guidance on consent to share with external agencies, including the police and updated declaration on Appendix 2
Changes to policy in year	
2	

### Equality Impact Assessment Tool

		Yes/No	Comments
1	<b>Does the policy/guidance affect one group less or more favourably than another on the basis of:</b>		
	Race or ethnicity	No	
	Disability	No	
	Gender	No	
	Religion or belief	No	
	Sexual orientation	No	
	Age	No	
	Marriage and Civil Partnership	No	
	Maternity and Pregnancy	No	
	Gender Reassignment	No	
2	<b>Is there any evidence that some groups are affected differently?</b>	No	
3	<b>If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable?</b>	N/A	
4	<b>Is the impact of the policy/guidance likely to be negative?</b>	No	
5	<b>If so, can the impact be avoided?</b>	N/A	
6	<b>What alternatives are there to achieving the policy/guidance without the impact?</b>	N/A	
7	<b>Can we reduce the impact by taking different action?</b>	N/A	

## **1. Introduction**

The purpose of this policy is to ensure that applicants, and enrolled students, who have criminal convictions and / or are under Police investigation, are treated consistently and equitably and in accordance with the Disclosure and Barring Service (DBS) Code of Practice. Enrolling students declaring a conviction will not automatically be excluded from the enrolment process.

Under the terms of its registration with the DBS, the College is bound by the Code of Practice, which gives comprehensive guidance on all related issues, including equality of opportunity and data protection.

Whilst being committed to equality of opportunity, the College has a duty to reduce the risk of harm, or safeguarding issues, to its students, staff and visitors, which may be caused by criminal behaviour. This also covers students who may have access to children and / or vulnerable people through work placements. Therefore, applicants to some programmes involving work with children and/or vulnerable adults will be required to complete an enhanced DBS check.

The College has a duty to assess any potential risk to the large number of students, staff and visitors studying at Colchester Institute, therefore all students are required to declare whether they have any cautions, reprimands, warnings, criminal convictions or prosecutions pending on their enrolment form.

This full process is not required where a course is delivered fully on-line, for example through CIDORI, Learn Direct or Access to Higher Education or if programme is not delivered on a Colchester Institute campus, such as at the Military Training Corrective Centre or Chelmsford Prison.

The student declaration/consent on the College enrolment form also states that students must inform Colchester Institute of any prosecutions pending, or convictions received whilst an enrolled student. It is confirmed that failure to do so may lead to disciplinary action.

## **2. Courses requiring an Enhanced DBS Check**

Applicants to programmes involving work with young people (i.e. under the age of 18) and work placements or industry experience involving children or vulnerable adults are required to undertake an Enhanced DBS check as part of the admissions process. This includes applicants to relevant Further Education and Higher Education programmes. For apprenticeships, the DBS process is carried out by the employer, not Colchester Institute.

Colchester Institute works with a third-party processor called eSafeguarding so that DBS checks can be processed online.

This requirement is clearly stated in College prospectuses, and on the website information as part of the published entry criteria. For these courses the DBS enhanced check should take place before the course starts but after the applicant has reached their 16th birthday.

Where the DBS certificate has not been received prior to enrolment, students may still be enrolled but they cannot take part in any placements until this is received, and must be advised that an unsatisfactory DBS enhanced check may result in their withdrawal from the course.

A DBS enhanced check is required where a work placement

- involves caring for, training, supervising or being in sole charge of children or adults.
- a placement which involves unsupervised contact with children.

No student will be allowed to undertake a work placement on these courses until a satisfactory DBS certificate has been received and approved. It will be the responsibility of the relevant counter-signatory or work placement co-ordinator to ensure that this is the case.

The re-use of a current DBS enhanced check for an application to a programme at Colchester Institute will only be accepted where:

- The student is currently enrolled on a Colchester Institute programme and wishes to progress to another programme;
- The student received a satisfactory enhanced DBS check for the course they are currently enrolled on;
- The type of workforce check(s) requested for the initial enhanced DBS check are the same as those required for the new course
- Or, the applicant has signed up to the DBS Update Service and given authorisation for Colchester Institute to carry out an update check.

Applicants/students are required to pay the appropriate fee, including the online processing fee, and this will be included in the course information published in prospectuses and on the College website.

Area Heads should inform the Vice Principal: Student and Information Services of any new courses where students will require an enhanced DBS check.

### **3. Action where convictions or pending prosecutions have been identified**

Evidence of a satisfactory DBS enhanced check will be part of the applicant's offer to the specific programme. This will be confirmed at all parts of the admissions process, allowing students to decide whether the course will be suitable for them.

The applicant will be required to show evidence of their DBS enhanced check certificate to a member of Colchester Institute staff, either at enrolment or before commencing their work or industry placement.

#### **a. DBS Enhanced Check Certificate received with 'content'.**

If a DBS enhanced certificate is shown with content, the work placement co-ordinator, Head of School or Area Head will discuss this with the student, and decide whether this will prevent them from completing their work or industry placement. Reasons for this could be:

- inability to mitigate risks of working in the relevant sector
- not meeting sector professional standards.

If it is clear, and agreed, that the work placement cannot take place, the student will not be able to continue on the programme.

If the outcome is unclear the case can be brought to an Admissions Review Panel to consider the applicant's suitability for their chosen course.

#### **b. Student Self-Disclosure**

If a student discloses on their enrolment form that they have a criminal conviction or a prosecution pending, this will be picked up through a weekly report run by the Student Services and Support Co-ordinator who will send the applicant / student a pack containing Appendices 1 and 2. If the Appendix 2 is not returned the Student Services and Support Co-ordinator will send a reminder through the post and / or chase up through the curriculum team.

If a student is applying for, or enrolling on, a programme at an Adult Skills Centre or onto an adult short course, college recruiting staff will ask the student to complete Appendix 2 and will scan the completed form to the Student Services and Support Co-ordinator for review.

If a student is involved in criminal activity whilst an enrolled student, they must notify a member of College staff, as confirmed in the student declaration / consent completed at enrolment. In these cases, the student will be given a pack containing Appendices 1 and 2, with a return envelope, or might be asked to complete the form in person whilst on campus.

#### **c. Conviction / Prosecution Identified by a member of staff**

If a member of staff becomes aware of a student with a criminal conviction or prosecution pending where this has not been declared, which could be as a result of safeguarding procedures; notification through an external agency (including Police, Probation Services or Social Care); or as a result of a report by a member of the public or the media, the staff member should contact the Student Services and Support Co-ordinator to send Appendix 1 and 2 to the student.

#### 4. Review of completed Annexe 2

Once Appendix 2 has been returned, the Student Services and Support Co-ordinator will first review the answers provided on the front to see if the offence was

A	Against the person, whether of a violent or sexual nature.	YES	NO
B	A conviction for offences involving unlawfully supplying controlled drugs or substances where the conviction concerns commercial drug dealing or trafficking	YES	NO
C	Do you have any pending court cases?	YES	NO

Where the student has declared no to all three questions, and the information on the reverse supports this, the Student Services and Support Coordinator will confirm this as No or Low Risk Identified. They will complete Appendix 3 and retain a scanned copy of the form, no further action will be taken.

Where one or more of the questions has been answered yes, they will liaise with the Vice Principal: Student and Information Services to determine whether the disclosure represents a risk to other students, staff or visitors.

If the student has confirmed that they are working with the Youth Offending Team or probation service, or that their case is still under investigation by the Police, Annexe 2 includes consent to liaise with these external agencies. In these cases, the Student Services and Support Co-ordinator may be asked to contact them to seek additional information and their views on any potential risks, to assist with the risk assessment process. They may also be asked to contact the student to clarify information provided or request additional information.

Resulting Action will be either:

**Low or no Risk Identified** – No further action required, and no requirement to notify the course area.

**Medium Risk Identified** – Vice Principal: Student and Information Services will discuss with the relevant Area Head, and if the student is deemed suitable to remain on course a risk assessment will be completed.

**Significant Risk Identified/Risk Unclear** – Referred to Admissions Review Panel to agree the level of risk and subsequent action.

If the student does not respond to requests for the Appendix 2, or fails to disclose a new arising situation, then action may be taken by the relevant Head of School or Area Head under the Student Disciplinary Procedure.

## **5. Admissions Review Panel**

The membership of the Admissions Review Panel shall be as stated in the Further Education Admissions Policy and will usually be chaired by the Vice Principal: Student and Information Services.

In determining the relevance of offences, the Admissions Review Panel will consider:

- the seriousness of the offence and its relevance to the safety of students, other employees, customers, clients and property;
- the length of time since the offence occurred;
- any relevant information offered by the applicant about the circumstances which led to the offence being committed, for example the influence of domestic or financial difficulties;
- whether the offence was a one-off, or part of a history of offending;
- whether the student's circumstances and/or attitude have changed since the offence was committed, making reoffending less likely;
- whether the offence has subsequently been decriminalised by Parliament, or is not recognised in England as an offence;
- the impact of the offence on their chosen career;
- the likelihood that the existence of content on their DBS check will prevent - satisfactory completion of the intended programme of study; and
- the accuracy of the DBS check result.

The options available to the Admissions Review Panel are:

- to progress the enrolment on to the course;
- to progress the enrolment on to the course with conditions;
- refer to a different course;
- terminate the student's enrolment at Colchester Institute.

The Admissions Review Panel Chair will advise the applicant of the decision of the Admissions Review Panel and will maintain a record of their decision.

The Admissions Review Panel appeals process is outlined in the Further Education Admissions Policy.

## **6. Retention of Documents**

All records relating to the disclosure of criminal convictions will be scanned and saved in a secure location on the College network under the terms of the Colchester Institute Data Protection Policy.

Original paperwork is shredded after scanning is complete. Access to these pdf documents will be restricted to the Vice Principal: Student and Information Services and the Student Services and Support Co-ordinator and will otherwise be shared with the relevant curriculum staff and with members of the Admissions Review Panel.

## **Appendix 1**

Dear Student

### **Declaration of Criminal Convictions**

Whilst enrolled as a student at Colchester Institute you are required to disclose any cautions, reprimands, warnings, criminal convictions or any prosecutions pending received either prior to or during your time as a student at the College. If you are found not to have revealed a criminal conviction you may be excluded from Colchester Institute premises through the Student Disciplinary Procedure.

Please complete the enclosed form. If you do not return the completed form your enrolment may be terminated.

The Rehabilitation of Offenders Act 1974 enables criminal convictions to become 'spent' after a rehabilitation period. Spent convictions are not considered to be relevant and you are not required to reveal them unless you are on a course which involves working with children or vulnerable adults. In this case all students are required to undertake a Disclosure and Barring Service check which you would have been advised about during your application process.

Relevant criminal convictions are only those convictions for offences against the person, whether of a violent or sexual nature, and convictions for offences involving unlawfully supplying controlled drugs or substances where the conviction concerns commercial drug dealing or trafficking.

You will only be contacted regarding your disclosure if a further Risk Assessment is required.

If you have any queries or concerns please contact me on 01206 712307.

Yours sincerely,

Clare Garner  
**Student Services and Support Co-ordinator**



## Appendix 2

### Disclosure of Criminal Convictions

<b>Student Number</b>	
<b>Name</b>	
<b>DOB</b>	
<b>Course Code</b>	
<b>Course Title</b>	

In order to establish suitability for you to remain on your course, we require you to declare if your offence was:

A	Against the person, whether of a violent or sexual nature.	YES	NO
B	A conviction for offences involving unlawfully supplying controlled drugs or substances where the conviction concerns commercial drug dealing or trafficking.	YES	NO
C	Do you have any pending court cases?	YES	NO

***You are required to provide further details on the following page.***

<b>Date of cautions, reprimands, warnings, criminal convictions or any prosecutions pending /s:</b>	
<b>Details</b> Please provide specific information regarding the nature of the offence.	
<b>What was the outcome?</b> ie: Caution, reprimand, sentence, bail and bail conditions or other	
<b>What was the Sentence?</b> ie: Duration, probation order, suspension	
<b>Are you still working with the Police, Youth Offending Team or probation service?</b> If so please provide the name and contact details of your probation / Youth Offending Officer or police investigating officer and sign to give us your authority to contact them for clarification	
Signature	Date

Please return to the Student Services and Support Co-ordinator in the enclosed envelope.

### Appendix 3

<b>Student Number</b>	
<b>Name</b>	
<b>DOB</b>	
<b>Course Code</b>	
<b>Course Title</b>	

### Disclosure of Criminal Convictions Monitoring Form

<b>Tracking</b>	<b>Dates and Details</b>
<b>Declaration Form Sent</b>	
<b>Declaration Form Returned</b>	
<b>Risk Assessment Completed</b>	
<b>Submitted to Admission Panel Review</b>	
<b>Applicant/Student Notified</b>	

<b>Risk</b>	<b>Action</b>	<b>Signed</b>	<b>Date</b>
<b>Low</b>	No Further Action		
<b>Medium</b>	Applicant/Student continues, Risk Assessment to be completed and submitted to an Admission Review Panel		
<b>High</b>	Complete Risk Assessment form and pass to member of SLT for immediate action		

