

<b>DBS Disclosure and the Recruitment of Ex-Offenders Policy</b>		
<b>Lead:</b> Head of HR and WD	<b>Status:</b> Final	
<b>Version:</b> 1	<b>Date of Version:</b> 1 August 2017	
<b>Approving Body:</b> SLT	<b>Supersedes:</b> February 2013 version	
<b>Approved on:</b> N/A	<b>Next Review date:</b> August 2022	
<b>Equality analysis tool<sup>1</sup></b>		
1.	<b>Is the policy relevant to the public sector equality duty?</b>	<b>Yes</b>
2.	<b>Have any concerns previously been raised about this policy or practice?</b>	<b>No</b>
3.	<b>Is likely to result in discrimination against a protected group?</b>	<b>No</b>
4.	<b>Does this policy positively contribute to the participation of under-represented groups in the College's activities?</b>	<b>No</b>
<b>Version Control</b>		
<b>Version</b>	<b>Date</b>	<b>Change(s)</b>
1	1 August 2017	No change to content. New EIA and updated review date.
<b>Access</b>		
<b>Location</b>	<b>Address/Link</b>	
<b>Sharepoint</b>		
<b>Service Centre</b>		
<b>Document Centre</b>		
<b>Communication</b>		
<b>Medium</b>	<b>Audience</b>	
<b>e.g. Team Briefing, Managers' Briefing, All-site Staff Meetings</b>		

The Screening Template relating to the DBS Disclosure and the Recruitment of Ex-Offenders Policy can be found of page 10 of this document.

Review Cycle: 5 Years  
 Next Review Date: August 2022  
 Person Responsible: Head of HR  
 Approving Body: Senior Leadership Team  
 Impact Assessment: Renewed August 2017

## **DBS DISCLOSURE AND THE RECRUITMENT OF EX-OFFENDERS POLICY**

**Review Cycle:** Every 5 years

**Next Review Date:** August 2022

**Person Responsible:** Head of HR

**Approving Body:** Senior Leadership Team

### **1. Purpose**

The purpose of this policy is to:

- present the College's position in relation to the recruitment of those with a criminal record;
- state the College's commitment to supporting the principles of rehabilitation balanced against its responsibilities in relation to safeguarding;
- outline what action the college will take when a disclosure of a criminal record is made.

### **2. Aims**

The Policy aims are:

- to ensure as large a pool of suitable applicants as possible is attracted to vacancies without unreasonably excluding those with a previous criminal record;
- to maintain commitment to the fair treatment of its staff, potential staff or users of its services, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background;
- to deter unsuitable applicants by publicly stating College responsibilities in relation to employment vetting;
- to encourage confidence that the College will not automatically exclude ex-offenders from employment.

### **3. Detail**

The safety and wellbeing of our learners is our utmost priority. The College aims to adhere strictly to the published guidance provided by the DBS.

However, the College understands the difficulties experienced by ex-offenders in finding work. We recognise that many ex-offenders have valuable skills to offer and

support the principles of rehabilitation. The disclosure of a conviction will not necessarily determine a candidate unsuitable for employment. There are some exceptions and these include persons disqualified by the Secretary of State by virtue of list 99 or those debarred by the General Teaching Council.

The College will adhere to the guidance from the Disclosure and Barring Service (DBS) and the Code of Practice to ensure that Disclosure information is used fairly, appropriately and treated as confidential information.

#### **4. Criminal Record – interpretation**

A 'record' is a far wider term than 'criminal conviction'. There are also police records and these are not criminal convictions. They include cautions, reprimands, final warnings and other information (acquittals and some bind-overs).

Cautions (for adults) are based on the seriousness of the offence. A caution is a warning about future conduct given by a senior police officer after a person has admitted an offence. It is used as an alternative to a charge and possible prosecution. Reprimands and final warnings (for offenders under 18 years old) are issued by the police as an alternative to putting a young person before the court.

Examples are provided on the [Gov.uk website](#).

##### **4.1 Cautions**

Cautions are given to individuals aged 10 or over for minor crimes - e.g. writing graffiti on a bus shelter.

Individuals must have to admit to an offence and agree to be cautioned. If this isn't agreed, individuals can be arrested and charged.

A caution is not a criminal conviction, but it could be used as evidence of bad character if there is a requirement to go to court for another crime.

##### **4.2 Conditional cautions**

A conditional caution requires individuals to abide to certain rules and restrictions as part of the caution, e.g.:

- going for treatment for drug abuse
- fixing damage to a property

A failure to abide to the conditions may result in being charged with a crime.

The age of criminal responsibility in England and Wales is 10 years old. This means that children under 10 can't be arrested or charged with a crime. There are other punishments that can be given to [children under 10 who break the law](#).

## **Children over 10**

Children between 10 and 17 may be arrested and taken to court if they commit a crime. They are treated differently from adults and are:

- dealt with by youth courts
- given different sentences
- sent to special secure center's for young people, not adult prisons

## **Young people aged 18**

Young people aged 18 are treated as an adult by the law. If sent to prison, they'll be sent to a place that holds 18 to 25-year-olds, not a full adult prison.

## **5. Procedure**

### **5.1 The Recruitment Process**

Adverts and recruitment information for each post will contain a paragraph stating that an enhanced disclosure is required.

Applicants will be required to declare criminal records, conviction, cautions, reprimands, and final warnings etc. at the application stage in the recruitment process.

'Do you have any convictions, cautions, reprimands or final warnings that are not "protected" as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2013)

The DBS will be removing certain specified old and minor offences from criminal record certificates issued from the 29 May 2013 onwards. [Click here for more information on the filtering of conviction information](#)

### **5.2 Assessing the Relevance of Criminal Records / Convictions**

In the case of a disclosure of a record / conviction, the chair of the recruitment panel will consult with the Executive Director of HR about an applicant's suitability for a role. An individual's criminal background will be assessed against risk to learners and the College.

In assessing the risk the following may be taken into account:

- Does the post involve unsupervised contact with learners, the public, children or vulnerable adults;
- Does the post involve direct contact with learners or the public;
- The level of supervision that might be needed;

Review Cycle: 5 Years

Next Review Date: August 2022

Person Responsible: Head of HR

Approving Body: Senior Leadership Team

Impact Assessment: Renewed August 2017

- Whether the offence would create unacceptable risks for other employees, learners or customers of the College (for example, those with convictions for assault or sexual offences employed to work on a one-to-one basis);
- Whether the post involves direct responsibility for finance or items of value (for example, those with convictions for theft employed looking after items of high value);
- Whether the nature of the job is bound by legal constraints (for example, those with motoring convictions employed in a position which involves driving);
- Whether the nature of the job will present opportunities for the applicant to re-offend in the course of their work.
- Whether the offence or other matter revealed is relevant to the position to which they will be/have been appointed;
- The seriousness of the offence or any other matter revealed and its relevance to the safety of other employees, learners and other customers of the College;
- The length of time since the offence or other matter occurred;
- Whether the offence was a one-off, or part of a history of offending;
- Whether the applicant's circumstances have changed since the offence was committed, making reoffending less likely (for example, improved personal circumstances);
- The country in which the offence was committed (for example, some activities are offences in Scotland and not in England and Wales, and vice versa);
- The circumstances surrounding the offence and the explanation(s) of the circumstances which led to the offence being committed, for example the influence of domestic or financial difficulties;
- Whether the offence has since been decriminalised by parliament;
- The degree of remorse, or otherwise, expressed by the applicant and their motivation to change.

Please refer to Appendix A & B

The College is entitled to ask applicants to disclose all cautions and convictions, whether spent or not. Applicants with a criminal record must therefore declare whether they have any previous convictions, regardless of whether they are spent or not. If applicants do not disclose any previous convictions, regardless of whether they are spent or not, and which are subsequently disclosed via a Disclosure check, then any offer of employment may be withdrawn.

Any matter revealed in a DBS check will be discussed and assessed with the person seeking the position before withdrawing a conditional offer of employment.

### **5.3 Confidentiality and Security**

The contents of a disclosure will be kept in strictest confidence and made known only to relevant managers and Human Resources staff where appropriate.

The disclosure reference number and date of issue will be entered onto the Colleges single central record and the certificate will be stored, retained and disposed of, in accordance with the [DBS Code of Practice](#).

## **6. Communication**

The policy will be made available to potential applicants via the College Website.

Details of the policy will be included in recruitment and selection guidance made available to college managers.

Reference to the policy will be included in recruitment and selection training, ensuring that Managers receive appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders, e.g. the Rehabilitation of Offenders Act 1974.

## **7. Reviews and monitoring**

This policy will be reviewed in three years or in the event of any legislative change if sooner.

## **Appendix A – Assessing the post for risk**

### Questions to be considered

1. Will the nature of the post present any realistic opportunities for the applicant to re-offend at work? Nb. It is illegal to employ certain ex-offenders
2. To what extent is the post bound by legal constraints? For example, those with motoring convictions applying for positions involving frequent driving.
3. Does the position involve any direct responsibility for finance or items of value? For example, those with convictions for theft employed looking after items of high value such as computer equipment.
4. Would the offence create unacceptable risks for other employees, learners or customers of the college? For example, those with convictions for assault or sexual offences employed to work on a one-to-one basis.
5. What could happen at work and how serious would that be? Consider the factors that might increase or decrease the risk, such as the level and closeness of supervision.

## **Appendix B – Assessing the applicant and the offences**

### Questions to be considered

1. Is the offence or other matter revealed is relevant to the position?
2. How serious is the offence or any other matter revealed?
3. Is the offence relevant to the safety of other employees, learners and other customers of the College?
4. What is the length of time since the offence or other matter occurred?
5. Was the offence a one-off, or part of a history of offending?
6. Have the applicant's circumstances changed since the offence was committed, making re-offending less likely (for example, improved personal circumstances)?
7. Consider the country in which the offence was committed (for example some activities are offences in the UK but not in other countries and vice versa)
8. What were the circumstances surrounding the offence and the explanation(s) of the circumstances which led to the offence being committed?
9. Has the offence since been decriminalised by parliament
10. What is the degree of remorse, or otherwise, expressed by the applicant and their motivation to change
11. If the conviction(s) are relevant to the post, consider (in consultation with the HR Manager):
  - a. withdrawal of the offer of employment
  - b. the introduction of safeguards
  - c. dismissal.

Review Cycle: 5 Years

Next Review Date: August 2022

Person Responsible: Head of HR

Approving Body: Senior Leadership Team

Impact Assessment: Renewed August 2017

Appendix C

Safer Recruitment DBS Risk Assessment Pro-forma: Employees and Volunteers

<p>This form is to be used when commencement of employment is being considered prior to a satisfactory DBS Disclosure being obtained. Or when a Caution or Conviction has been declared on application and consider making an offer. Record all follow up actions and comments and return to HR with the Authority to Appoint authorisation.</p>	
Recruiting Managers Name and Signature	Date
Applicant / Volunteer Name	
Department / Area	
<b>Pre-recruitment Checks</b>	<b>Notes or Action Taken</b>
I have checked the application form for gaps or anomalies and explored the reasons why	
I have seen two satisfactory references requested by HR	
A Copy of the DBS update service details are attached or I have attached a previous DBS disclosure which is less than 3 years old	
I have seen and attach a copy of photographic proof of ID (example Passport / Driving Licence)	
I have seen and attach a copy permission/right to work in UK. (example Passport / Driving Licence)	
Original qualifications copied and attached	
<b>Safeguarding Checks</b>	<b>Notes or Action Taken</b>
If employee has disclosed previous convictions/cautions please consider the following:	
Has the candidate made you aware of the nature of the conviction/caution, at Application/Interview or Offer? Do you feel this poses a risk to the safety of students? And what is your rationale?	Please state the rationale for your decision.
Does the conviction/caution automatically bar candidate from working in Education (check with HR)	

Review Cycle: 5 Years  
 Next Review Date: August 2022  
 Person Responsible: Head of HR  
 Approving Body: Senior Leadership Team  
 Impact Assessment: Renewed August 2017

<b>Explanation of the circumstances</b> <b>Discuss:</b> <ul style="list-style-type: none"> <li>• College Values</li> <li>• Code of Conduct</li> <li>• Contractual obligation to disclose further convictions</li> <li>• Need for confidentiality</li> <li>• College reputation &amp; Professionalism</li> </ul>	
<b>In assessing the risk the following may be taken into account:</b> nature of the offence *explanation of circumstances of the offence * length of time elapsed since the offence * any pattern of offending * contact with learners * level of supervision * level of trust required in the role *access to and value of resources * contact with the public * any other relevant information  <b>Further notes:</b>          	
<b>For all employees please consider the following questions:</b>	
<b>Does the post require unsupervised access to students? (Age range)</b>	
<b>In the course of such duties can the employee observed or supervised by another who has been checked?</b>	
<b>Will the employee be providing personal care to students?</b>	
<b>Head of Department / Executive Director signature comments and recommendations</b>   	
<b>Countersigned by Executive Director of HR or Head of HR</b>   	
<b>Reported to Safeguarding committee (date):</b>   	

Review Cycle: 5 Years  
Next Review Date: August 2022  
Person Responsible: Head of HR  
Approving Body: Senior Leadership Team  
Impact Assessment: Renewed August 2017

## Appendix One: Screening Tool

### Public sector equality duty

The Public Sector Equality Duty requires College to have **due regard** for the need to:

- eliminate discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;
- advance equality of opportunity between people from different groups; this involves considering the need to:
- remove or minimise disadvantages suffered by people due to their protected characteristics;
- meet the needs of people with protected characteristics;
- encourage people with protected characteristics to participate in activities where their participation is low; and to
- foster good relations between people from different groups - this involves tackling prejudice and promoting understanding between people from different groups.

Consequently, we need to assure ourselves that our policies will not have an adverse differential impact on any particular group. This pre-screening section will enable you to identify whether your policy is likely to have an adverse differential impact.

Please use the following template to help determine whether an equality analysis is required

<b>Name of the policy</b>
Author(s): Teresa Johnston

<b>Author(s) of Equality Analysis:</b>
Name: Kathy Fisher
Job title: Head of HR and WD
Date: 1 August 2017
Signature: K L Fisher

Review Cycle: 5 Years  
Next Review Date: August 2022  
Person Responsible: Head of HR  
Approving Body: Senior Leadership Team  
Impact Assessment: Renewed August 2017

In order to decide whether the policy requires further action, please complete the following questions:

**1. What are the main aims, purpose and outcomes of the policy?**

The purpose of the policy is to outline the College procedure in relation to the recruitment of ex-offenders and how this links into College practice to ensure the College complies with its safeguarding responsibilities.

**2. Will these aims affect our duty to:**

	<b>Yes / No</b>	<b>How?</b>
<b>advance equality of opportunity?</b>	<b>No</b>	
<b>eliminate discrimination?</b>	<b>No</b>	
<b>eliminate harassment?</b>	<b>No</b>	
<b>foster good relations between people from different groups ?</b>	<b>Yes</b>	<b>By ensuring that all applicant details are handled in an appropriate, legally compliant manner</b>
<b>tackle prejudice and promote understanding between people from different groups?</b>	<b>Yes</b>	<b>To tackle prejudice against applicants who disclose a criminal record.</b>

**3. What aspects of the policy, including how it is delivered, or accessed, could contribute to inequality?**

The policy is made available to all recruitment panels. It is available in paper format in addition to on-line.

**4. Will the policy have an impact (positive or negative) upon the experience of people, including those who share a protected characteristic?**

**Please complete the following table:**

<b>Protected characteristic</b>	<b>Meet needs of people with this characteristic</b>	<b>Encourage participation (if under-represented)</b>	<b>Remove or minimise disadvantages</b>	<b>Possible negative impact</b>
Race	Yes			
Gender	Yes			
Disability	Yes			
Religion / belief	Yes			
Sexual orientation	Yes			
Gender reassignment	Yes			
Pregnancy /maternity	Yes			
Age	Yes			
Marriage / civil partnership*	Yes			

**Evidence:**

The policy focuses on the recruitment of ex-offenders and evidence obtained through Disclosure and Barring and Service checks. Decisions made through this policy will be based solely on the information provided as part of recruitment checks and protected characteristics will not form or influence any of the decision making. Recording of information will be undertaken in accordance with the data protection legislation current at the time of the review.

**6. What different needs, experiences or attitudes are particular communities or groups likely to have in relation to this policy?**

Not aware of any.

**Next steps**

If your answers to these questions have identified potential negative impacts, then you should consider further consultation or action to minimise the differential impact. Please contact the Assistant Principal: Inclusion & Partnerships for support.

If no further action is required, please sign the declaration below and include with all published copies of the policy.

**Declaration**

The policy does not have a significant impact upon equality issues and therefore does not require any further action.

<b>Author(s) of EA.</b>
Name: Kathy Fisher
Job title: Head of HR
Date: 1 August 2017
Signature: K L Fisher