

# **Criminal Convictions, Probation Conditions or Community Treatment Order Policy and Procedure**

## **Introduction**

1. Birkbeck, University of London (hereafter abbreviated to 'the College') fully supports the rehabilitation of offenders and recognises that higher education can positively support an individual's personal and professional rehabilitation. The College also recognises that it needs to balance the rights of all members of the College community, including the right to study safely.
2. In most cases, a prior criminal conviction will not be relevant to study at the College, and we only ask what information is relevant to a student's studies. In all cases the College can advise students in confidence on the likely impact of a conviction on study and future career plans.
3. The College does need to ascertain that probation conditions and legal restrictions will not be an obstacle to studying at the College or participating in extra-curricular activities. In most cases this will not be an issue and where there are conditions that might restrict study (for example curfew restrictions that conflict with class attendance) we can help liaise with the probation service to get those conditions amended. But there may be circumstances where the nature of some legal restrictions would make it difficult, or impossible to follow a programme of study (for example a ban on computer or internet access).
4. Where a student is under probation conditions or a community treatment order, the College will need to liaise with the student or applicant's Statutory Services provider or care team, to identify any perceived risk and to assess whether the College can manage that risk.
5. Where the College assesses that there is a risk posed that it cannot manage, it reserves the right to decline an enrolment. In all cases the College must balance the needs of the individual student against the needs of the wider student body and make decisions considering the need to ensure that its resources (including human and learning resources) are optimally deployed. All circumstances will be reviewed on a case-by-case basis.

6. As part of the College commitment to equality, it is important to ensure that students with a criminal conviction or community treatment order are not substantially disadvantaged compared to other students. . This may mean that students in the two categories need to be treated differently in order to meet their needs.
7. This policy is relevant to applicants, offer holders and enrolled students. The College requires all students to disclose, as a condition of enrolment, any probation conditions or community treatment orders.
8. There may be a small number of programmes of study where a Disclosure and Barring Service (DBS) check is required either as a requirement of a governing body, or because the nature of the study (for example where the study involves contact with children or vulnerable adults). Where this is required, it would be publicised in the course publicity, or with research projects, this would be made clear by the ethics committee.
9. If you would like to discuss any of the above, you are encouraged to make contact in the strictest confidence with our [Safeguarding Officers](#). Further information can be obtained from [www.unlock.org.uk](http://www.unlock.org.uk) and the [Registry Services webpages](#). You can view the Safeguarding, Admissions and Appeals Policies here and additional information can be found in the [Safeguarding Policy and Procedure](#).
10. If the offer holder is applying for study where the Safeguarding Team feels that the circumstances surrounding a prior conviction or community treatment order raises a safeguarding issue, the Director of Education and Student Experience (or their nominee), on behalf of the Vice-Chancellor, will convene a safeguarding panel, which will consider any action that may be necessary for the applicant to enrol and any appropriate advice or support they may need in relation to their programme of study. Risk assessments will consider contextual information. The Director of Education and Student Experience (or their nominee) may write to the applicant or student to request further information, to help inform the safeguarding discussion and risk assessment. The risk assessment will consider the risks to the individual with a relevant criminal conviction, as well as that of the wider College community.
11. The Safeguarding Panel may feel that disclosure of an offence to the wider College community could make a student's continued studies difficult or even place them in

danger. Under such circumstances, the College may need to discuss a plan with the applicant or student, as to how they would wish the College to manage the situation should their previous conviction become widely known within the College community. If details of a conviction are in the public domain, consideration will be given to developing a plan to support the student to manage this. It is anticipated that the Safeguarding Panel will consider the following topics below, as part of any risk assessment (the impact and likelihood of each will also be considered):

- a. Are there any legal restrictions placed on the applicant that would prevent or seriously disadvantage study? E.g., restrictions on the use of the internet.
- b. Can the faculty/school practically support the intended programme of study?
- c. Does the offer holder/student face an unacceptable level of risk to their own well-being?
- d. Does the offer holder/student pose an unacceptable level of risk to staff, students or visitors to the College?
- e. Has the offer holder/student been advised on study and career options?
- f. Are there any known local situations that the programme team need to be mindful of e.g. course content or staff, students or visitors who have been the victims of crime?
- g. Is the conviction a matter of public knowledge e.g. can the student and situation be identified by a web search?
- h. Timescales involved, e.g. period of time after release without re-offending.

## **Support in applying and studying**

### **Offer holders with legal restrictions or community treatment orders**

12. All applications are assessed on academic grounds.
13. Enrolment will be paused if legal restrictions or community treatment orders are disclosed whilst the context and implications of the background to the legal restriction or community treatment order, are assessed by the Safeguarding Team. The College may also require further information to help inform the consideration.
14. Those considering the disclosure will not contact a third party without specific written consent, as information about criminal convictions or mental health history is considered sensitive personal data and as such, its use is subject to the greater protection of the [General Data Protection Regulations \(GDPR\)](#). In the absence of a

response or consent being given, the College reserves the right to withdraw the offer.

15. Applicants to courses that require a Disclosure and Barring Service (DBS) check are required to disclose all convictions, whether spent, or unspent, including cautions, reprimands, warnings and bind-overs and will be required to obtain a satisfactory disclosure from the DBS. The relevant forms and notes will be sent to the applicant with their initial offer. Please review the list of affected courses posted on the College website.
16. A criminal conviction may impact the possible career choices for students. The College can support students with a criminal conviction and signpost them to information regarding the implications of a criminal record, to make informed choices about their chosen path of study.
17. The College will endeavour to highlight to applicants and students in the programme specification and other relevant programme documentation, where a criminal conviction for a specific offence/group of offences would either bar them from studying that specific subject or would restrict what options were available to them.
18. Where a student has a prior conviction that they are not required to disclose to the College as a condition of enrolment, the College can still advise the student about the implications of their conviction to their future career plans. Any information that the student wishes to disclose for this purpose will be treated in confidence.

### **Students on professional programmes**

19. When a student is studying on a programme which leads to a qualification that entitles them to work in a profession that is exempt from the Rehabilitation of Offenders Act 1974 and when the determination of Fitness to Practice is part of this programme, or when the student is undertaking while at College, other work with children or vulnerable adults, either as part of their course or independently for which criminal record disclosure is appropriate, they will be advised of the additional checks necessary. These checks may require the disclosure not only of relevant unspent convictions but of spent convictions, cautions and other warnings etc., as specified at the relevant time and of other relevant personal circumstances. The Rehabilitation of Offenders Act 1974 (Exceptions Order 1975 (Amendment)) (England and Wales) Order 2003, now provides that certain spent convictions and cautions are 'protected' and

are not subject to disclosure. Guidance and criteria on the filtering of protected cautions and convictions can be found on the [Disclosure and Barring Service website](#).

20. Please note that some convictions are never filtered out. Further information can be obtained from [www.unlock.org.uk](http://www.unlock.org.uk).

### **Students under supervision of the Police, Probation Service or Community Treatment Order**

21. Where students or offer holders are under the supervision of Statutory Services (Police or Probation Service), the College will liaise with the service and other relevant authorities to clarify whether or not it would be possible for the student to study at the College, without breaching their conditions of release and where the conditions conflict with the needs of study, whether the conditions can be amended to enable study. We will also seek to establish if it is possible for the student to study at the College in line with any legal restrictions imposed, of which cannot be amended.
22. Where the student or offer holder is under a Community Treatment Order, the College will need to liaise with their care team to conduct a risk assessment. Students may be asked to meet with the College's Consultant Psychiatrist to help establish a support plan where possible. If the student is unwilling to consent to their care team sharing information with the College, the College will be unable to conduct a risk assessment and may need to decline an application.
23. Where students under supervision are enrolled, a safeguarding officer will act as a point of contact to agree with the student who in the College might need to know details of their past record, what the College is obliged to report back to Statutory Services and to identify any support or advice needs of the student. Safeguarding contacts are detailed in the [Safeguarding Policy and Procedure](#).

### **Confidentiality**

24. Details of criminal convictions or Community Treatment Orders should normally remain confidential to those members of staff involved in the administration of the admissions process, in relation to convictions or treatment orders and those staff required to engage with Statutory Services and the student, where there are ongoing legal restrictions on the student (the Director of Education and Student Experience (or

their nominee) and named Safeguarding Officers). Relevant academic staff will also be informed as necessary.

25. All information relating to criminal or mental health records is sensitive personal data and will be stored securely, in keeping with data protection legislation. Details about a student's criminal conviction will be stored securely and separately from the student record.
26. There may be reasons why the conviction or Community Treatment Order will need to be disclosed to other members of staff, such as to ensure that the College is able to comply with probation restrictions. Such broader disclosure will be discussed with the student, unless there is a specific emergency that requires immediate action, in which case the Safeguarding Officers and the Director of Education and Student Experience (or their nominee) will decide as to the necessity of disclosure.
27. A student following a course of study or an additional activity, is required to cooperate fully with the appropriate instructions given concerning disclosure. Becoming a student comes with both rights and obligations, on both the applicant/student and the College. At the heart of this relationship is trust and respect of mutual obligations. Any information provided will be treated confidentially and in accordance with the [Data Protection Policy](#).
28. The College will produce an annual anonymised report for Academic Board and Equalities Committee, on the number of applicants and students who declare a relevant conviction. The report will also note the number of referrals to a Safeguarding Team.

## Notes

Further information can be obtained from [www.unlock.org.uk](http://www.unlock.org.uk) and the [Registry Services webpages](#), where you can view the Safeguarding, Admissions and Appeals Policies.

## Policy Review

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|----------------------|--------------------------------------|
| Created:             | June 2017                            |
| Latest update:       | July 2023                            |
| Date of next review: | 2027-28 academic year                |
| Owner:               | Head of Student Wellbeing Services   |
| SLT owner:           | DVC Education and Student Experience |

Committee oversight: Education and Student Experience Committee for Academic Board

**Conviction disclosure form****Applicant's name-** \_\_\_\_\_**College reference number/UCAS personal id-** \_\_\_\_\_**Programme of study-** \_\_\_\_\_

Why we are asking you:

- a. Certain sentences and certain probation arrangements involve conditions; for example, relating to association or to the use of the internet, that may restrict a student's engagement with their course. We want to be sure that you can engage with your course as fully as possible and finding out about any [relevant convictions](#) allows us to identify potential difficulties and, where possible, implement solutions and support.
- b. If you are subject to any of the following sections of the Mental Health Act 35, 36, 37, 38, 37/41, 47 or 48 or on a court order for any other treatment, we will need to know, so we are able to make a safe assessment of your ability to study.
- c. The College has a duty of care to all its students and staff. Finding out about relevant convictions also means we can identify any risks posed either to the student or to other students or staff and, where possible, implement measures to mitigate them.

For more information and guidance regarding your criminal conviction, please visit [Applying to university- Unlock](#).

For most courses, the College will only ask about 'relevant' convictions that are unspent as defined in the [Rehabilitation of Offenders Act 1974](#). However, we have a few courses which are exempt from the Rehabilitation of Offenders Act 1974 and Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, which will require a Disclosure and Barring Service (DBS) check. View our criminal convictions programmes list (under policies) on the [Registry Services web pages](#).

**Please give full particulars below of any previous convictions for criminal offences that are *not spent* under the Rehabilitation of Offenders Act 1974** (for these purposes a criminal offence excludes motoring offences, for which a fine and/or up to three penalty points were imposed); **or if you are under any current legal restrictions that would impact your ability to study** (e.g. internet access, association, movements),



**as well as any conditions related to a pending case** (e.g., bail conditions)-

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**Unspent convictions-**

State below in respect of each offence for which you have been convicted:

| The nature and date of the offence | Name of court, date of conviction and sentence/fine imposed<br>(please provide this where possible) |
|------------------------------------|-----------------------------------------------------------------------------------------------------|
|------------------------------------|-----------------------------------------------------------------------------------------------------|

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**Cases pending (or for which you are under possible prosecution)-**

State below:

| The nature of alleged offence with date(s) | Expected date and place of trial (cases pending only) |
|--------------------------------------------|-------------------------------------------------------|
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**Restrictions-**

State below:

| Current legal restrictions | Expected end date (if applicable) |
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**Self-disclosure-**

Please provide a separate letter or statement at the bottom of this form, known as a disclosure letter. For advice and guidance on how to complete a disclosure letter, please visit [Self-disclosure statements \(often referred to as a disclosure letter\)](#).

In your disclosure letter, please include whether you are supervised by Statutory Services and indicate if this is the Police, Probation Service or both.

We will need to obtain further information from another source, such as your probation officer or social worker, so please include their name and contact details (not everyone will have this supervision, due to the age of a conviction but may still have restrictions; please state if this is the case in your situation).

**Declaration**

**I confirm that the information given on this form is true, complete and accurate and that no information requested, or other material information, has been omitted.**

**Applicant's signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

Return completed form to: [safeguarding@bbk.ac.uk](mailto:safeguarding@bbk.ac.uk)

Safeguarding, Registry Services,  
Birkbeck, University of London,  
Malet Street,  
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For further information, please visit the [Registry Services web pages](#).