Disclosure of Criminal Convictions (Students) Policy

Approved by
SLT

Approved on
16 February 2022

New College Durham is committed to safeguarding and promoting the welfare of children and young people, as well as vulnerable adults, and expects all staff and volunteers to share this commitment.

Policy Title	**Disclosure of Criminal Convictions (Students) Policy**
Document Owner	**Academic Registrar**

Directorates and Departments affected by this Policy	**All staff**
Policy Effective From	**February 2022**
Next Review Date	**February 2027**

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If you require this document in an alternative format and/or language, please contact records@newdur.ac.uk

We review our policies regularly to update them and to ensure that they are accessible and fair to all. All policies are subject to equality impact assessments which are carried out to determine whether the policy has, or is likely to have, a different impact on those with protected characteristics. We are always keen to hear from anyone who wants to contribute to these impact assessments and we welcome suggestions for improving the accessibility of fairness of this and all College policies.

To make suggestions or to see further information please contact:

Suzy Taylor
Academic Registrar
records@newdur.ac.uk

Equality Impact Assessed: 7 February 2022

Accessibility Check: 8 February 2022

Contents

1. Scope 4
2. Responsibilities 4
3. Policy Statements 4
4. Policy Review 7
Appendix 1: Information on Spent Convictions 8

Disclosure of Criminal Convictions (Students) Policy

1. Scope

This policy will cover the collection and further processing of criminal conviction data from students and will facilitate compliance with the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, the Disclosure and Barring Service (DBS) Code of Practice[1] and the Data Protection Act 2018.

2. Responsibilities

The Senior Leadership Team are responsible for ensuring the College has a policy concerning the collection and further processing of criminal conviction data for students.

Programme Leaders are responsible for identifying clearly where a programme requires that a DBS check be carried out prior to a student being enrolled and identifying which types of conviction would prevent entry to a programme.

The Designated Safeguarding Lead and Deputies are responsible for ensuring risk assessed decisions are made on allowing students to attend the College campus.

The Head of Advice Support and Careers (ASC) is responsible for ensuring criminal conviction declaration data is processed appropriately.

3. Policy Statements

a) Provision of information

The College will make this policy and the DBS Code of Practice available to all applicants for all programmes and courses. It will also be available when a student enrols.

The College guarantees that any criminal conviction information disclosed will only be seen by those who need to see it as part of the admissions decision.

New College Durham ensures that those staff that are involved in the admissions process have been suitably trained to identify and assess the relevance and circumstances of offences. We also ensure that they have received appropriate guidance and training in the relevant legislation, e.g. the Rehabilitation of Offenders Act 1974, Data Protection Act 2018.

[1] code of practice (https://www.gov.uk/government/publications/dbs-code-of-practice

b) Fair processing

The College is committed to the fair treatment of its students and undertakes not to discriminate unfairly against any individual who discloses a conviction directly to us, or via a DBS check. The College actively promotes equality of opportunity for allwith the right mix of talent, skills and potential and welcome applications from a wide range of candidates, including those with criminal records.

We will only ask an applicant to provide details of convictions and cautions that New College Durham are legally entitled to know about. Where a DBS certificate at either standard or enhanced level can legally be requested (where the position is one that is included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended, and where appropriate Police Act Regulations as amended) we will only ask an individual about convictions and cautions that are not protected.[2]

When a potential student discloses a criminal conviction the College will ensure they are aware of any restrictions on their ability to participate fully in the study programme, practice in the field or find work in that profession and advise on how they might maximise the value of the proposed programme/course.

At interview, or in a later discussion, we ensure that an open and measured discussion takes place on the subject of any offences or other matter that might be relevant to the position.

c) Programmes requiring a DBS

For those programmes where a DBS check is an entry requirement for a programme the rationale will be found in the programmes' handbook. If required, students will be asked to complete a DBS application at enrolment. The declarations at enrolment are regarding criminal offences in accordance with the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 noting that some convictions are deemed as 'protected' under current legislation.

Any failure to disclose relevant convictions/cautions in line with the above legislative requirements could result in disciplinary action by the College and may result in the student leaving their programme of study.

Students on some programmes will need to affirm on an annual basis their status in terms of relevant convictions/cautions which may have been acquired whilst studying at the College, and failure to make a full accurate annual disclosure could result in disciplinary action by the College and may result in the student leaving their programme of study.

[2] Appendix 1 provides more information on Protected convictions

Applicants for programmes requiring a DBS will be informed at application stage and this detail will also form part of the programme handbook that is available on the College website.

d) All Programmes - Application

Applicants for a course which requires a DBS will be presented with the link to the DBS Code of Practice, this policy and the following information on the College's application form:

> The course you are applying for requires a DBS check to ensure you will be able to take up any related work placement and meet the fitness to practise requirements of relevant Professional Bodies. If a relevant conviction is found you may not be able to join the study programme.
>
> We ask that you please indicate here if you have any spent or unspent convictions or other punishments which are not protected by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2013).
>
> For information on what 'spent or unspent conviction' means please click here [link]
>
> Please tick here to indicate if you have an unspent or unprotected spent conviction [checkbox]
>
> If you wish to disclose further details or speak to our ASC team, please tick here and we will contact you to discuss [checkbox]

All other applicants will be presented with the following question on the application form:

> The College is committed to Safeguarding and promoting the welfare of all vulnerable groups (children and adults) and therefore we ask that you please indicate here if you have any unspent convictions or other punishments which are not protected by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2013).
>
> For information on what 'unspent conviction' means please click here [link]
>
> Please tick here to indicate if you have an unspent or unprotected spent conviction [checkbox]
>
> If you wish to disclose further details or speak to our ASC team, please tick here and we will contact you to discuss [checkbox]

e) All Programmes – Enrolment

At enrolment, applicants should be presented with the following statement

> When you applied to study with us you were asked to disclose any relevant criminal convictions. The information you provided is shown below. If you didn't complete our application form please could you complete the information requested.

Then the applicant should be presented with the question from section d above with information already provided by the applicant pre-filled so amendments can be made.

f) Considerations

Having a criminal record will not necessarily bar an individual from studying at the College. The following will be taken into consideration by the Programme Leader and the Designated Safeguarding Lead (DSL) and Deputies when making a decision on whether the applicant can be made an offer or enrol onto the programme including, for example:

- the nature and subject of the programme of study;
- risk to other students at the college
- the nature of the offence (s);
- the number and pattern of the offences (if there is more than one);
- the circumstances and background of the offence(s);
- how long ago the offence(s) occurred and the age of the offender when the offence(s) occurred; and
- whether the individual has accepted responsibility for their actions.

If the applicant is found by the DSL and Deputies to have made a declaration in error then the Head of ASC will expunge the data ensuring no record is held.

The Head of ASC will maintain a record of the outcome of any decision making process.

4. Policy Review

The effectiveness of this Policy will be monitored annually and reviewedevery five years in light of experience, guidance from the Department forEducation, the Disclosure and Barring Service, changes in legislation andbest practice. This mechanism recognises that changes to legislation may prompt a review of the Policy before the five years stipulated.

Appendix 1: Information on Spent Convictions

The table below shows when convictions are spent.

Sentence/disposal	Buffer period for adults (18 and over at the time of conviction or the time the disposal is administered). This applies from the end date of the sentence (including the licence period).	Buffer period for young people (under 18 at the time of conviction or the time the disposal is administered). This applies from the end date of the sentence (including the licence period).
Custodial sentence of over 4 years, or a public protection sentence	Never spent	Never spent
Custodial sentence of over 30 months (2 ½ years) and up to and including 48 months (4 years)	7 years	3½ years
Custodial sentence of over 6 months and up to and including 30 months (2 ½ years)	4 years	2 years
Custodial sentence of 6 months or less	2 years	18 months
Community order or youth rehabilitation order	1 year	6 months

A conviction is protected and does not need to be disclosed if **all** of the following apply:

- it is not for a 'listed offence' (see List of offences that will never be filtered from a DBS certificate - GOV.UK (www.gov.uk)
- you did not receive a custodial sentence and
- more than 11 years have passed since the date of conviction (or more than five years and six months have passed if you were under the age of 18 when convicted)

Unlock Criminal Record Disclosure Calculator - to help students if they're not sure if their conviction is (or can be) spent.

Unspent Convictions.pdf (dbsdirect.co.uk) - guide to when convictions become spent (or if they never are)