

Criminal Convictions Policy

2023.24

(Student/Staff Involvement Risk Assessment) Policy and Procedure Introduction to the Policy

1. Introduction to the Policy

- 1.1 The College has a duty of care to its staff and students and therefore needs to be informed of any alleged criminal activity and/or convictions by its students, staff member or any applicant to the College.
- 1.2 The policy and procedure exist to ensure that the College is compliant with its obligations as defined under the Rehabilitation of Offenders Act 1974, ensuring fairness and transparency with respect to its admissions policy and pretexts those within its learning community.
- 1.3 The College has a legal obligation known as 'Duty of Care' to do everything reasonable to provide a safe and secure environment for all its students, staff and visitors; the student Risk Assessment Process is an important part of this. Students with *unspent convictions are obliged to declare at the point of enrolment and this forms part of these Risk Assessment Procedures and as part of our Admissions Policy and Procedures.

2. Safeguarding Policy Umbrella

- 2.1 The College has a statutory and moral duty to ensure that the College functions with a view to safeguarding and in the promotion of the welfare of children and vulnerable adults receiving education, learning and skills training at the College. This policy and procedure sit within the College's Safeguarding Framework and Policy Handbook and are subject to statutory safeguarding requirements at all times.
- 2.2 The College is required to balance its responsibilities to provide a safe and secure community environment for its staff, its students, visitors and others engaged on business on the campus, with the need to comply with the relevant legislation. The College reserves the right to refuse admission to applicants whose criminal record (specifically unspent convictions) makes it inappropriate for them to be admitted.

3. *Unspent Criminal Offences.

- 3.1 Unspent criminal offences include convictions, cautions, admonitions, reprimands, and final warnings, bind over orders or similar.
- 3.2 Please note that students need to declare all unspent convictions at time of enrolment.
- 3.3 If a student, member of staff or contractor working on the college premises were involved in an offence, but was made by a court outside of Great Britain and that conviction would not be considered as spent under the Rehabilitation of Offenders Act 1974, they should declare it as they would any other unspent conviction.

3.4 Warnings, penalty notices for disorder (PNDs), anti-social behaviour orders (ASBOs) or violent offender orders (VOOs) are not classed as convictions for the purpose of this section, unless the student has contested a PND or breached the terms of an ASBO or VOO and this has resulted in a criminal conviction.

4. Current Enrolled Students

4.1 All students are required to declare any unspent criminal convictions at the point of enrolment on the student enrolment form.

4.2 If at any time during their course of study a student is arrested by the police and charged with a criminal offence, the student is required to report this immediately to the Designated Safeguarding Lead/Deputy. The College must also be kept informed at all stages either by the student or by their legal representative. If the student is convicted, then this must also be reported along with details of any sentence imposed

4.3 Conduct which may constitute a criminal offence may also amount to misconduct under the Student Disciplinary Policy and Procedure. Therefore, in addition to any criminal process, the student may be subject to disciplinary action by the college. The college has the right to suspend the student indefinitely until the criminal/legal process is completed and they will then be subject to the Student Disciplinary Policy and Procedure. A student may be immediately suspended if the college is made aware of any current students who are the victim(s) and/or witnesses to a criminal offence allegedly committed by the student under investigation. Appendix 3 of this policy deals specifically with instances of alleged student misconduct which may constitute a criminal offence.

4.4 If at any time during a student's enrolment on a course of study at the College it is made known that the student has an unspent criminal conviction that they failed to disclose at the point of enrolment or notify the College of in a timely manner, then they will be subject to the Student Disciplinary Policy and Procedure.

4.5 If a student fails to respond to requests for information regarding disclosed convictions or pending charges they may be suspended, and therefore would be unable to resume their studies until the information is received and considered by the College.

4.6 For the avoidance of doubt, it is deemed a disciplinary offence not to have disclosed any unspent conviction(s) at the point of enrolment or at any point during their studies, regardless of whether the conviction is subsequently spent at the time of actual disclosure or when such information is made known to the college.

4.7 If the course you are enrolling is exempt from the rehabilitation of Offenders Act because it could involve access to persons who are disabled, addicted to drugs, alcohol or under 18 or over 65 years of age, you must disclose details of all convictions, spent or otherwise. Courses requiring a full disclosure are also subject to a Disclosure and Barring Service (DBS) check. Disclosure of convictions does not automatically affect your admission to the course/programme, but allows the college to undertake a risk assessment to assess student's suitability for the course and provide support as appropriate. You will be asked to provide further details of spent and unspent convictions if the course requires a Disclosure and Barring Service (DBS) check.

5. Applicants

5.1 Applicants to the College are not required to declare any unspent Criminal Convictions at the point to application. Declarations must be made at the point of enrolment on the student enrolment form.

5.2 If at any point, the College is made aware of an applicant with an unspent criminal conviction before the point of enrolment, the College will take the applicant through the Criminal Convictions Procedure.

6. Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012

- 6.1 On 1 May 2012, the Legal Aid, Sentencing and Punishment of Offenders Bill, 2012 received Royal Assent and became an Act of Law. The Act contains a number of new measures to protect the public and reduce re-offending it introduces a wide range of reforms to the Justice system.
- 6.2 The Government tabled a new clause to the Bill to reform the 1974 Rehabilitation of Offenders Act in two key ways. The first key change is extending the scope of the Act to cover custodial sentences of up to 48 months, and the second was to change the length of some of the rehabilitation periods (in most cases by reducing them). This is now referred to as Section 139 of the 2012 Act. Most of the new rehabilitation periods start from the date on which the sentence is completed.
- 6.3 The new rehabilitation periods will apply retrospectively to cover those who have already been convicted and cautioned, although no convictions that are already 'spent' will become 'unspent' under the new arrangements.
- 6.4 The measures are:
- Reforming the Rehabilitation of Offenders Act to help ex-offenders reintegrate in to society after their sentences
 - Creating a new youth remand and sentencing structure, which gives more flexibility to courts to decide on appropriate disposals
 - Giving prosecutors the right to appeal against bail decisions when they think the defendant could be dangerous and may flee the country
 - Creating a tough new sentencing regime to replace the inconsistent use of Imprisonment for Public Protection (IPP) sentence
 - Doubling to 30 years the starting point for sentenced for murders motivated by hate on grounds of disability or transgender – in line with other hate crimes.

7. The Offender Rehabilitation Bill 2012

- 7.1 On the 9 May 2012, the Offender Rehabilitation Bill was introduced to the House of Lords; The Bill will transform the way that offenders are managed in the community. The Bill looks to address a reduction in the rates of offending, whilst keeping public safety paramount. A new public sector National Probation Service will be created, working to protect the public and building upon expertise and professionalism, which are already in place.
- 7.2 The key aspects are:
- For the first time in history, every offender released from custody will receive statutory supervision and rehabilitation – currently those sentenced to less than 12 months in custody do not receive supervision.
 - The Bill increases support and supervision upon release for those serving a sentence of less than two years, and give greater flexibility in the delivery of community orders, and suspended sentence orders
 - The Bill also expands the potential use of post-release conditions to combat drug misuse, to include; drug appointments requirement, expanding the scope of drug testing after release to include Class B drugs.

8. Protection of Freedoms Act 2012

- 8.1 The Protection of Freedoms Bill is now an Act of Law and came in to force on the 1 May 2012. The Act is broken down in to 7 parts. Part 5 of the Act relates to the changes with the Criminal Records Bureau (DBS) and Independent Safeguarding Authority (ISA).

- 8.2 The Vetting and Barring scheme was set up in 2009 to monitor those wanting to work with children or vulnerable adults. However, it has been criticised for being too bureaucratic and too restrictive.
- 8.3 Under the new Act the DBS and ISA merged to form the **Disclosure and Barring Service**; providing a more streamlined checking service, scaling back checks to the 4.5million people who work '**closely and regularly**' with children and vulnerable adults, the vetting of teachers will continue but those who do occasional, supervised volunteer work will not need checks. The definition of Regulated Activity changed as did the categories of people who now fall within the definition of Regulated Activity – Adults, and Children.

Section 139 of the 2012 LASPO Rehabilitation of Offenders (Exceptions) Order 1974

When is a conviction considered spent?

This Act enables criminal convictions to become '**spent**' or ignored after a '**rehabilitation period**'. The length of the rehabilitation period depends on the **sentence given – not the offence** committed. The grid below is a guide for assessing whether any conviction should be considered '**spent**'.

Applicants should be advised to contact the Nacro (National Association for the Care and Resettlement of Offenders) Helpline on 0800 0181 259.

Appendix 1

Rehabilitation Periods

(Source GOV.UK - <https://www.gov.uk/guidance/rehabilitation-periods>)

The rehabilitation periods depend on:

- the sentence given or disposal administered as a result of a conviction
- the age of the individual on the date they are convicted

The table below shows the rehabilitation periods for the most common sentences and disposals.

Sentence or Disposal	Rehabilitation period if aged 18 or over when convicted or disposal administered	Rehabilitation period if aged under 18 when convicted or disposal administered
Sentence of imprisonment for life	These sentences are excluded from rehabilitation and so will always be disclosed	These sentences are excluded from rehabilitation and so will always be disclosed
Sentence of imprisonment, youth custody, detention in a young offender institution or corrective training of over four years		
Sentence of preventive detention		
Sentence of detention at Her Majesty's Pleasure		
Sentence of custody for life		
Public protection sentences* (imprisonment for public protection, detention for public protection, extended sentences of imprisonment or detention for public protection and extended determinate sentences for dangerous offenders)		
*A public protection sentence (the provisions for which are set out in Part 12 of the Criminal Justice Act 2003 and Part 8 of the Armed Forces Act 2006 means a sentence of imprisonment or detention, as details above, imposed for specified sexual and violent offences		
A custodial sentence of over 2 years 6 months but not exceeding 4 years	7 years from the date on which the sentence (including any licence period) is completed	3 years 6 months from the date on which the sentence (including any licence period) is completed
A custodial sentence of over 6 months but not exceeding 2 years 6 months*	4 years from the date on which the sentence (including any licence period) is completed	2 years from the date on which the sentence (including any licence period) is completed
A custodial sentence of up to 6 months*	2 years from the date on which the sentence (including any licence period) is completed	1 year 6 months from the date on which the sentence (including any licence period) is completed
A sentence of service detention	1 year from the date on which the sentence was completed	6 months from the date on which the sentence was completed
Dismissal from Her Majesty's Service	1 year from the date of conviction	6 months from the date of the conviction
Fine	1 year from the date of conviction in respect of which the fine was imposed	6 months from the date of conviction in respect of which the fine was imposed
Community order or youth rehabilitation order	1 year from the last day on which the order has effect	6 months from the last day on which the order has effect
Driving endorsements	5 years from the date of conviction	2 years 6 months from the date of conviction

Driving disqualification	When the period or the disqualification has passed	When the period of the disqualification has passed
Simple caution, youth caution	Spent immediately	Spent immediately
Conditional caution, youth conditional caution	3 months or when caution ceases to have effect if earlier	3 months or when caution ceases to have effect if earlier
Compensation order	On discharge or the order (i.e. when it is paid in full). Proof of payment will be required	On discharge of the order (i.e. when it is paid in full). Proof of payment will be required
Absolute discharge	Spent immediately	Spent immediately
Relevant orders** (orders that impose a disqualification, disability, prohibition or other penalty)	The end date given by the order or, if no date given, 2 years from the date of conviction – unless the order states ‘unlimited’, ‘indefinitely’ or ‘until further order’ as in these cases it will remain unspent	The end date given by the order or, if no date given, 2 years from the date of conviction – unless the order states ‘unlimited’, ‘indefinitely’ or ‘until further order’ as in these cases it will remain unspent

*Suspended custodial sentences are treated the same as custodial sentences for this purpose. It will be the length of the sentence imposed by the court, not the period it is suspended for that dictates when it will become spent.

**Relevant orders include conditional discharge orders, restraining orders, hospital orders, bind over orders, referral orders, care orders and any order imposing a disqualification, disability, prohibition or other penalty not mentioned in the table.

Appendix 2

Student Risk Assessment Procedure

Purpose

The purpose of Risk Assessment is to identify and assess any applicant whose declared record of offences indicates they could be a risk to themselves, other students, staff, visitors or the College environment. Student Risk Assessment is one way in which the College works to provide a safe and inclusive learning and skills community and environment for all people within the College.

In order to undertake best endeavours to meet these duties, it is necessary to require potential students to disclose any unspent criminal convictions. This will enable the college to make a judgement in relation to any potential risks related to their enrolment and to assess the support needs of the potential learner.

Having a conviction will not necessarily bar anyone from a place at college. However, it will help us to ensure that they enrol on an appropriate course and that any potential risks to other college users or the student themselves are minimised.

Guidance on whether or not a conviction is deemed to be spent (as defined by the Rehabilitation of Offenders Act 1974) is included within the Criminal Convictions Policy. It is the responsibility of the applicant/enrollee to determine their own circumstances in relation to spent convictions. If they are in any doubt as to their situation they should be advised to contact the Nacro (National Association for the Care and Resettlement of Offenders) Helpline on 0800 0181 259.

The College has a very large student population and it is not practical to risk assess all students. However, in terms of managing potential risk, it is appropriate to risk assess the following groups of students who are asked to declare at the enrolment stage.

Please note that **all** students are expected to complete the college enrolment form before commencing their studies:

- Full-time and part-time students
- All higher education students who have disclosed a previous conviction on the UCAS form
- Students on School Links programmes
- All courses delivered for jobseekers on college delivered Job Centre Plus courses
- All individual referrals from the National Probation Service, Youth Offending, MAPPA (Multi Agency Public Protection Arrangement) or MAPPOM (Multi Agency Prolific and other Priority Offender Management), Secure facilities, Prison's and Looked After Children Services
- Any student who is referred by staff known or suspected to have convictions • Students who have had a positive Enhanced DBS Disclosure.
- Where a student presents with identified mental health needs, or where a student has a history of mental health difficulties and convictions, the Additional Needs Adviser may be involved in the Risk Assessment procedure
- Assessing behavioural difficulties is not part of the Risk Assessment process, but where significant behavioural difficulties have contributed to a criminal record, this will be assessed as part of the risk assessment.

Students applying to the College are required to declare on the College's enrolment form if they have an unspent criminal conviction. The intention is that, where possible, students go through the Risk Assessment procedure before starting on a course.

Procedure

Dealing with general enquiries about the need for disclosure:

Offering the Applicant, a place at the college:

1. All applicants are considered on merit, to determine the suitability of the applicant from an academic perspective.
2. If the Curriculum area deems the application unsuccessful from an academic perspective, there will be no further action taken regarding the conviction.
3. If the Curriculum area recommends making an offer of a place based on academic grounds only, then the enrolment will continue.

The Applicant must be fully informed of the process (by the member staff overseeing the enrolment)

4. Explain to the applicant/enrollee why the college is required to ask for this information.
5. Explain that we only need to know about unspent convictions (except for those courses requiring DBS checks).
6. Be reassuring and avoid any response which may sound judgemental. Explain the College's confidentiality policy and the fact that their disclosure will not necessarily prevent them from enrolling.
7. Make it clear that they do not need to tell staff details of the conviction, but that they will be contacted by the Safeguarding Team who will discuss their application with them on an individual and confidential basis.
8. If they are uncertain about the status of their conviction they should be advised to contact Nacro. The helpline number is given on the guidance notes for applicants

Referral to the Safeguarding Team:

9. If an applicant declares an unspent conviction the Safeguarding Team will be notified via the daily Criminal Conviction report.
10. The Safeguarding Team writes to the student using letter CC1, form CC2, and self-addressed envelope, the letter explains the process.
11. The Safeguarding Team will assess the unspent conviction based upon the information received from the completed CC2. If convictions are spent CC3 will be sent to learner stating that no further action is required.
12. The College will have the right to reject any enrolment or later terminate any registration from an individual who fails to supply the information requested by the Safeguarding Team.

Interview Panel:

13. If the CC2 is returned giving details of an unspent conviction(s). An interview will be arranged to discuss the conviction and form CC4 will be sent to the student explaining why the interview is required and giving details.
14. The panel interview will include the Designated Safeguarding Lead/Deputy, and/or Safeguarding Officer with responsibility for Criminal Convictions. The interview panel will complete the Interview Record form (CC5) and the Risk Assessment form (CC6) will be completed and discussed by the panel.

15. The risk assessment meeting have the discretion to make a decision to proceed with the enrolment or to recommend that the enrolment is not allowed to progress. The applicant will be notified of the decision.
16. If after this meeting the panel still feels that it does not have all the necessary information to make a decision, it may go back to the applicant to request further clarification. It may also request the applicant's permission to contact their probation officer to liaise with them about the case.
17. If the enrolment is allowed to progress, the head of the course area will be informed of the conviction; the applicant will be told that this will happen. No details other than the applicant has a disclosed criminal conviction will be made known.
18. If the enrolment is not allowed to progress, a Disclosure Panel will meet to include the Vice Principal, Head of Centre, Safeguarding Lead/Deputy, Health and Safety Manager and the relevant Curriculum Manager. The panel will meet to discuss the exact nature of the conviction and the results of the risk assessment.
19. The full outcome of this Disclosure Panel meeting will be placed in writing, including any conditions attached to an offer of a place (if applicable).
20. The Safeguarding Team will share the outcome of any risk assessment and the details of the conviction where an applicant is admitted to the college, with relevant key staff members when deemed necessary, in order for appropriate measures and duty of care obligations to be put in place.
21. The Safeguarding Team will be responsible for recording decisions relating to criminal convictions confidentially and keep a file of all correspondence and documentation relating to the decision. This file will be kept for the duration of the student time at the College.
22. Should the applicant not accept an offer, or not enrol, and choose to reapply to the College again in the future, they should follow the criminal conviction declaration procedure again from the beginning.
23. If the applicant is dissatisfied with the panel's decision, they may request a review of the procedure. A review may only be requested on the grounds that there has been a procedural irregularity in the processing of their application.

Anyone failing to disclose a conviction which we later become aware of will be subject to disciplinary action which could result in their place at college being withdrawn.

Further Guidance: Spent and Unspent convictions

Useful information about how and when convictions become 'spent' on the Websites provided by Unlock (www.unlock.org.uk) and Nacro (www.nacro.org.uk)

Appendix 3

Dealing with Alleged Student Misconduct which may constitute a Criminal Offence

Background

The College has a statutory and moral duty to ensure that the College functions with a view to safeguarding and the promotion of the welfare of children and vulnerable adults receiving education, learning and skills training at the College.

The College is required to balance its responsibilities to provide a safe and secure community environment for its staff, its students, visitors and others engaged on business on the campus, with the need to comply with relevant legislation in regards to child protection and safeguarding.

For the purposes of this policy, a child is anyone under the age of 18.

- This policy relates to how the college will handle the most complex and sensitive incidents and may learn about the circumstances from the following:
- Receives an allegation from the victim or witness of an alleged criminal offence that names the accused student.
- Receives a self-declaration from the accused student who has been arrested/charged or under investigation for an offence.
- The college receives a notification or information from the Police that the accused student has been arrested/charged or is under investigation in relation to an alleged criminal offence.
- The college receives information that a student may have committed a criminal offence from another source.

Conduct which may constitute a criminal offence may also amount to misconduct under the Student Disciplinary Policy and Procedure. Therefore, in addition to any criminal process, the accused student may be subject to disciplinary action by the college. The college has the right to suspend the accused student indefinitely until the criminal and/or legal process is completed and they will then be subject to the Student Disciplinary Policy and Procedure.

This policy will deal with the following types of alleged offences:

- Murder, attempted murder and/or manslaughter
- Sexual offences including sexual violence and/or sexual harassment
- Crime involving corrosive substances (acid attacks)
- Physical assault including the offences of Common Assault, Actual Bodily Harm (ABH) and Grievous Bodily Harm (GBH)
- Gun and knife crime
- Robbery
- Wounding
- Terrorism offences

Please note that the above list is not exhaustive.

The college has the right to suspend any student immediately until the college has gathered the full facts around the accused student.

The college disciplinary regulations extend to alleged misconduct occurring off or on college premises (including via social media) and where the victim is a student (or their family), a member of staff (or their family) and/or a member of the public or member of the community.

The college has the right to take disciplinary action whilst other investigations by the Police and/or children's social care are ongoing. The fact that another body is investigating or has investigated an incident does not in itself prevent the college coming to its own conclusion, on the balance of probabilities about what happened, and imposing a penalty accordingly.

The college should consider if, by taking any action, it would prejudice an investigation and/or any subsequent prosecution.

Student(s) who make an allegation against another student(s)

When one student has made an allegation against another student, the college will treat the reporting student and the accused student fairly and not make any presumptions about either of them.

As part of the support role, the college should assist the reporting student to understand the various options available to him/her and provide the reporting student with support in order for them to decide about the way forward which may include:

- **Make a report to the Police** – for students aged under 18, this statutory report will be made by the college with or without the full consent of the child. For adult students, this may be necessary without their consent to protect the adult student (or others) from harm or to prevent a further crime taking place.
- **Take some time to consider the options** - in terms of an adult who has been sexually assaulted but does not want to involve the police, they will be referred to the nearest sexual assault centre in order that forensic evidence to be collected whilst a decision is made about whether or not to make a report to the police.
- **Not report the matter to the Police but request that the college consider the case to be dealt as a disciplinary issue.** The college will make it clear that the reporting student is aware of the difference between criminal investigations/proceedings and the college disciplinary investigations and proceedings. The limitations of not involving the Police will be made clear.
- **Take no further action.**

Precautionary Action

The college will consider the precautionary actions as outlined below on a case by case basis. These measures are not a penalty or sanction and does not indicate that the college has concluded that the accused student has committed a criminal offence.

The grounds for taking any such action will be based on a risk assessment to deem if they are necessary:

- To ensure that a full and proper investigation can be carried out and/or
- To protect the reporting student(s) or others whilst the allegation is being dealt with as part of a criminal process or disciplinary process.

In order to ascertain the type and extent of any precautionary measures, the college will carry out a risk assessment.

Any bail conditions that have been imposed on the accused student will be considered and may affect the decision about whether or not any precautionary action is required.

From April 2017, the use of police bail has been dramatically reduced and will only be used when deemed necessary and proportionate in exceptional circumstances.

Consideration will be given to less invasive options to safeguard victims and witnesses and the administration of justice. Therefore, it is less likely that a child attending college will be on police bail with conditions attached if there are alternative measures to mitigate any risk. Where required, advice from the police should be sought in order to help the college manage their safeguarding responsibilities.

The term 'Released Under Investigation' or 'RUI' will replace those previously on bail for offences in circumstances that do not warrant the application of bail to either re-attend on a particular date or to include conditions preventing activity or in some cases ensuring compliance with an administrative process. Where bail is deemed proportionate and necessary, the college will work with children's social care and the police to manage any implications and safeguard their children. Precautionary action must be reasonable and proportionate and may include:

- 1. Imposing conditions on the accused student** (for example, requiring the accused student not to contact the reporting student and/or certain witnesses and/or requiring the accused student to move campus/banning them from certain areas of the college and/or the college will make alternations to their timetable to avoid any contact with the reporting student).
- 2. Suspending the accused student from his/her studies on an indefinite basis.**

The College reserves the right to suspend the education of any student on an indefinite basis if the allegation makes it inappropriate for them to continue with their course(s) of study.

The college understand that any decision to suspend a student can have serious consequences as it is highly likely to disrupt and/or interrupt the student's course of study. However, the victims of crimes including those that are sexual in nature will find the experience stressful and distressing. This will, in all likelihood adversely affect their educational attainment and will be exacerbated if the alleged perpetrator(s) attends the same college.

An indefinite suspension will only be taken where the risk level is high and where there are no alternative measures that could be put in place to mitigate that risk.

An indefinite suspension can be triggered at any time during a student's course of study. A student may be immediately suspended if the college is made aware of a criminal offence allegedly committed by the student.

- 3. Removing the accused student from college provision permanently.**

The college has the right to take disciplinary action including excluding or removing a student (for their own and others safety) whilst other investigations by the Police and/or children's social care are ongoing. The fact that another body is investigating or has investigated an incident does not in itself prevent the college coming to its own conclusion, on the balance of probabilities about what happened, and imposing a penalty accordingly.

Risk Assessment

When there has been a report of an offence, the designated safeguarding lead (or a deputy) should make an immediate risk and needs assessment.

The risk and needs assessment should consider:

- The reporting student, especially their protection and support;
- Whether there may have been other victims;

- the accused student; and;
- all the other children (and, if appropriate, vulnerable adults, adult students and staff) at the school or college, especially any actions that are appropriate to protect them.

Risk assessments should be recorded (written or electronic) and should be kept under review. At all times, the college should be actively considering the risks posed to all students and putting adequate measures in place to protect them and keep them safe. The designated safeguarding lead (or a deputy) should ensure they are engaging with the Police, children's social care and specialist services as required. Where there has been a report of sexual violence, it is likely that professional risk assessments by social workers and or sexual violence specialists will be required.

The risk assessment carried out by the college is not intended to replace the detailed assessments of expert professionals. Any such professional assessments should be used to inform the college's approach to supporting and protecting students and updating the college risk assessment.

The risk assessment will consider:

The wishes of the reporting student in terms of how they want to proceed. This is especially important in the context of sexual violence and sexual harassment;

The reporting student(s) protection and support; including the potential for the accused student to intimidate them or a witness;

The rights of the accused student to an education and safeguarding support;

The nature of the alleged incident(s), including whether a crime may have been committed;

- whether there may have been other victims;
- the ages of those involved;
- the development stages of those involved;

Any power imbalance. For example, is the accused student significantly older, more mature or more confident?

Does the reporting student have a disability or learning difficulty;

If the alleged incident is a one-off or a sustained pattern of abuse;

Are there ongoing risks to the reporting student, other children, adult students or school or college staff; and

Other related issues and wider context including any links to child sexual exploitation and child criminal exploitation.

An important consideration will be to ensure that the reporting student can continue in their normal routine, including continuing to receive a suitable education.

Managing any delays in the criminal process

There may be delays in any case that is being progressed through the criminal justice system.

The designated safeguarding lead (or a deputy) will work closely with the police (and other agencies as required), to ensure any actions the school or college take do not jeopardise the police investigation.

The end of the criminal process

If a student is convicted or receives a caution for an offence, the college should update its risk assessment, ensure relevant protections are in place for all the children at the college and, if it has not already, consider any suitable action in regards to the college disciplinary policy and/or Criminal Convictions Policy.

If the perpetrator remains in the college as well as the victim, the college should be very clear as to their expectations regarding the perpetrator now they have been convicted or cautioned. This could include expectations regarding their behaviour and any restrictions the college thinks are reasonable and proportionate with regard to the perpetrator's timetable

Any conviction (even with legal anonymity reporting restrictions) is potentially going to generate interest among other students in college. It will be important that the college ensure both the victim and perpetrator remain protected, especially from any bullying or harassment (including online)

Where cases are classified as "no further action" by the police or Crown Prosecution Service, or where there is a not guilty verdict, the college should continue to offer support to the victim and the alleged perpetrator for as long as is necessary.

A not guilty verdict or a decision not to progress with their case will likely be traumatic for the victim. The fact that an allegation cannot be substantiated does not necessarily mean that it was unfounded. The college will discuss any decisions with the victim in this light and continue to offer support. The alleged perpetrator is also likely to require ongoing support for what will have likely been a difficult experience.

Unsubstantiated, unfounded, false or malicious reports

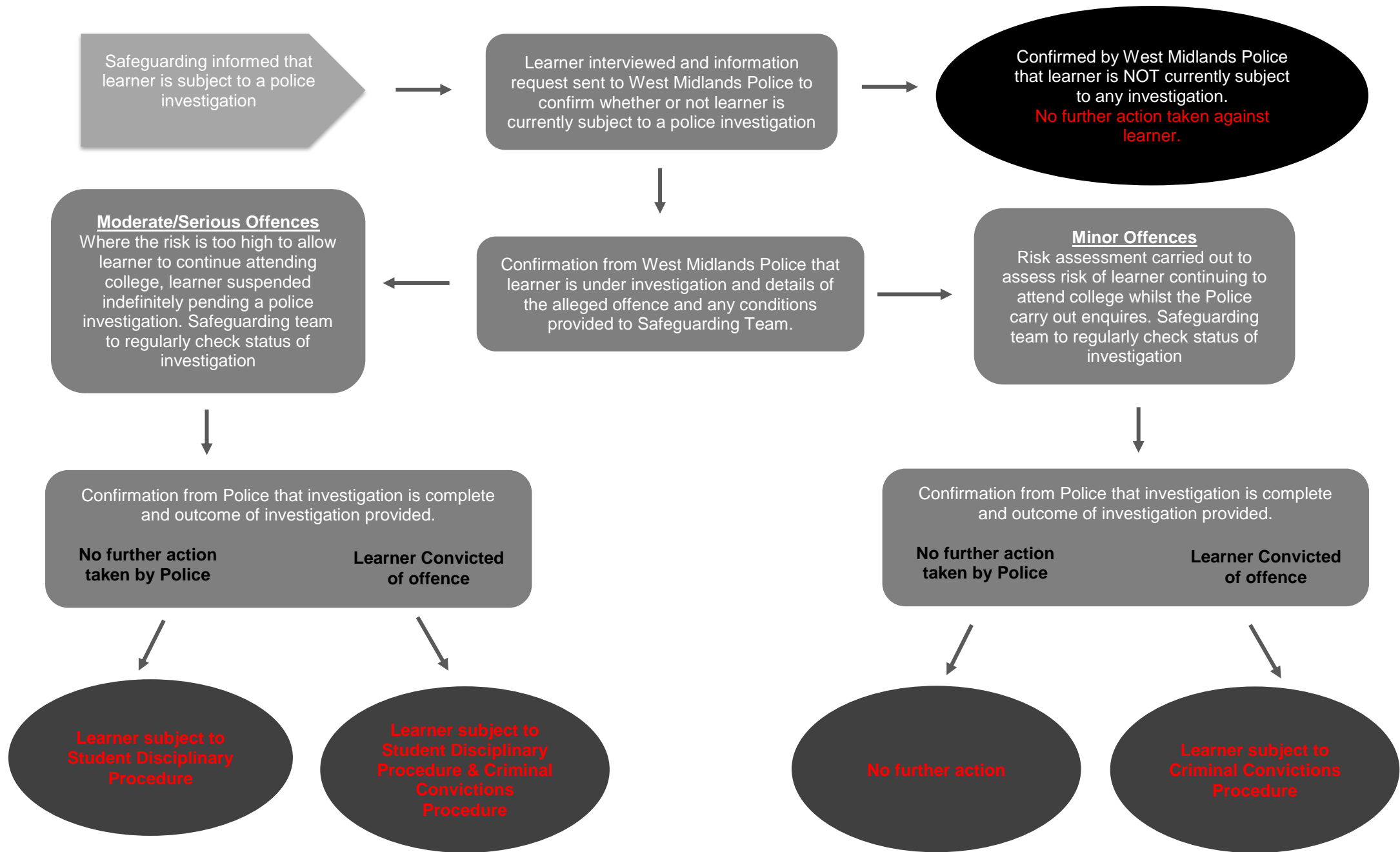
All concerns, discussions and decisions made, and the reasons for those decisions, should be recorded in writing. Records should be reviewed so that potential patterns of concerning, problematic or inappropriate behaviour can be identified, and addressed.

If a report is determined to be unsubstantiated, unfounded, false or malicious, the designated safeguarding lead should consider whether the child and/or the person who has made the allegation needs help or may have been abused by someone else and this is a cry for help. In such circumstances, a referral to children's social care may be appropriate.

If a report is shown to be deliberately invented or malicious, the college, should consider whether any disciplinary action is appropriate against the individual who made it as per the college disciplinary policy.

Record Keeping

The college will record and documenting all actions and decision making that are taken by the college from the day when the report of the incident is received up until any criminal and/or disciplinary proceeding have been concluded.



CRIMINAL INVESTIGATION / CONVICTION RISK ASSESSMENT

Surname:

First Name:

Date:

Course Applied For:

Question	Information	Comments/Assessment
Did the applicant disclose past convictions/cautions on the application form?		
What type of crime was it and what sentence was given?	In general, custodial sentences are more serious and the longer the sentence the more seriously the Courts viewed the crime at that time	
Are other legal/safeguarding constraints applicable? Can Probation Service, YOT, Solicitor confirm any court judgements or impositions that would affect joining the course?	The Disclosure and Barring Service maintains a list of people: <ul style="list-style-type: none"> • Who must not work with children. (This list will be checked as part of an Enhanced Disclosure for courses that involve work with children). • Who must not work with vulnerable adults. (This list will be checked as part of an Enhanced Disclosure for courses that involve work with vulnerable adults). • Motoring Convictions 	
Did the crime involve or affect any other member of the college community e.g. staff or student?		
Does the course involve direct responsibility for finance or items of value?	If yes, consider what could happen and the seriousness of that eventuality	
Does the course involve direct contact with members of the public?	If yes, consider what could happen and the seriousness of that eventuality	
How old was the individual at the time of the crime?	Rehabilitation periods are cut in half where the person was under 18 at the time of conviction	

Has the offence been decriminalised since the conviction?	Check – some drugs laws have changed, some become more serious	
Consider the country in which the offence was committed.	For example some activities are offences in other countries (including Scotland) but not in England	
Risk Level:	High	Medium Low
What was the sentence:	Custodial	Suspended Warning
Age of offence:	Past 3 Years	Between 3-10 More than 10

<p>What were the circumstances of the conviction?</p> <p>When did it occur?</p> <p>Was it a one-off or part of a history of offending?</p>	The applicant must provide details.	
<p>What evidence is there of:</p> <p>Remorse</p> <p>Motivation to change since the offence occurred?</p> <p>Successful rehabilitation?</p>	Supporting evidence may be available from specialist agencies e.g. YOT, Probation Service	
What is the applicant's attitude towards the offence?	Have the applicant's circumstances changed since the offence?	
Will the course offer an opportunity to re-offend?		
Consider whether the offence could create unacceptable risks for:	Consider in particular whether one-to one or	

Other employees Students Service users Suppliers The public at large Property The reputation of the college	unsupervised contact might occur	
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How does the nature of the crime relate to the course in question?		
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What factors might decrease or increase risk?	Consider supervision, equipment, contact with other learners, members of the public, location options.	
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Who else has been consulted and has this added any insight and knowledge that could support the student	Parental/other familial support, YOT, Probation Service, local support agencies, counselling agencies How do any additional references rate the applicant's suitability for attending	
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Decision:	Enrolment Approved:	Yes / No
Comments:		

<p>In considering this decision the college has taken into account:</p> <ul style="list-style-type: none"> • Minimising risk to the safety and well-being of staff, students, visitors and others using our services or facilities • Protecting the college's property • Protecting the college's reputation

Moderated:

Signed:

Date: