**Employing People with Criminal Convictions**

**Purpose**

1. The purpose of this annex is to provide guidance for recruiting and retaining people with a criminal record based upon a full assessment of the risks involved and within the framework of the law.
2. In line with the Equality, Diversity and Inclusion policy, the College aims to promote equality of opportunity for everyone with the right talent, skills and potential. Criminal records will therefore only be taken into consideration when the conviction is relevant. The College undertakes not to discriminate unfairly against any subject of a criminal record check on the basis of a conviction or other information revealed.

**Legislation**

1. In accordance with the Rehabilitation of Offenders (ROA) 1974 (Exceptions) Order 1975 and the Police Act (Part V) 1997, the College has a duty to obtain criminal record information about prospective employees and volunteers from the Disclosure and Barring Service (DBS).
2. In obtaining such information, the College will endeavour to ensure that safer recruitment decisions are made by enabling appointing officers to make more informed decisions about those seeking to work in positions of trust including roles that will require the post holder to work with children or vulnerable adults.
3. For the purpose of ROA 1974 (Exceptions) Order 1975 the definition of ‘working with children’ includes working in a further education institution where normal duties of that work involve regular contact with persons aged under eighteen.
4. The College will also require some post holders to work with ‘vulnerable adults’. The definition of vulnerable adults within the College will be those students aged eighteen or over who have a condition of the following type: a learning or physical disability; a physical or mental illness, chronic or otherwise, including an addiction to alcohol or drugs; a reduction in physical or mental capacity.
5. Applicants are required to declare any pending criminal prosecutions they may have as well as any spent criminal convictions, cautions, reprimands and final warnings as defined under the ROA 1974 (Exceptions) Order 1975. Applicants should note they do not need to disclose any ‘protected’ cautions or convictions as defined by the ROA 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013. For example, a caution is protected under English and Welsh law if: more than six years have passed since the caution was received (or more than two years have passed if under the age of 18 at the time of the caution) and it is not for a 'listed offence'). Further guidance for applicants on protected cautions and convictions can be found on the DBS website. Guidance about whether a conviction or caution should be disclosed can be found on the Ministry of Justice website.
6. An unspent conviction will not necessarily bar applicants from employment at the college as this will be dependent upon the circumstances and background to the offence. The college is, however, fully committed to ensuring that it does not employ anyone who has a criminal conviction or caution that could present a risk to the safety and well-being of its learners and staff.
7. The majority of applicants offered employment at the college will be subject to a criminal record check from the DBS.

**What is a criminal record?**

1. A criminal record arises from a conviction in a court of law. There may also be occasions when cautions, reprimands and warnings are issued by the Police as an alternative to prosecution. These are usually for less serious offences and after an offence is admitted. It should be noted that criminal records do not normally include speeding and other minor driving or traffic offences.

**Disclosure and Barring Service (DBS)/E-Safeguarding Portal**

1. The DBS provides employers access to criminal records information from a centralised source. The DBS is responsible for providing four levels of criminal records checks. These are:
   * a basic check, which shows unspent convictions and conditional cautions
   * a standard check, which shows spent and unspent convictions, cautions, reprimands and final warnings
   * an enhanced check, which shows the same as a standard check plus any information held by local police that’s considered relevant to the role
   * an enhanced check with barred lists, which shows the same as an enhanced check plus whether the applicant is on the list of people barred from doing the role
2. It should be noted that the college currently contracts E-Safeguarding to process all DBS applications and verify all appropriate criminal record vetting checks in line with DBS guidelines. E-Safeguarding is a web based portal which enables all criminal record checks to be processed and completed in a safe and timely manner.
3. Throughout the DBS process all information received will be used fairly and in confidence. All information will be handled and stored appropriately if applicable.

**Recruitment and offers of employment**

1. The college ensures that all hiring managers who are involved in the recruitment process have been suitably trained in Safer Recruitment. All vacancies advertised will state that the successful applicant will be required to undertake a disclosure check from the DBS.
2. Only the successful candidate at interview will be required to undertake this check. Once an offer of employment has been made, the candidate will be provided with details on how to apply for the disclosure check. This will usually entail the college forwarding the link to an electronic DBS application form on the ESafeguarding Portal direct to the candidate.
3. The candidate will then be responsible for completing the relevant sections within the form and to submit this before arranging a suitable time to attend the People & Organisational Development (P&OD) department with the relevant identification and documentation to support their DBS application. This must take place prior to commencing employment at the College.
4. The P&OD department are responsible for checking and verifying the documentation and/or identification before submitting this to the DBS via the E-Safeguarding Portal.
5. The DBS does charge a fee for each disclosure application, for which the College will pay.
6. It should be noted that there might be occasions where existing employees may be required to apply for a disclosure check. Such instances will only arise if the duties of the employee’s post change to such an extent where a disclosure check would normally be required in the appointment of an external candidate.

**Assessment of criminal records**

1. E-Safeguarding are responsible for notifying the college if any disclosures have been made on the DBS check. Where disclosures have been made, the college will contact the candidate to request sight of the DBS check.
2. Having a criminal conviction will not necessarily bar someone from employment at the College. The College will only take a criminal record into account if the nature of the offence is relevant to the vacant post.
3. As only the successful candidate at interview is required to apply for a disclosure check, applicants should be assured that having a criminal conviction will not be a part of the initial recruitment and selection process.
4. In cases where a criminal conviction is disclosed, the appropriate member of the P&OD department will assess the relevance of the record and the suitability of the person to carry out the post. In reaching a decision, the applicants’ interests must be weighed against the interests of the clients, employees and the public, including the College’s responsibilities towards these groups.
5. Each case will be considered on its own merits but will take into account:
   * relevance of the offence in relation to the post in question
   * the nature of the offence
   * the seriousness of the offence
   * the length of time since the offence was committed
   * whether the person had a history of re-offending
   * individual circumstances
6. Before a final recruitment decision is made, the individual will be given the opportunity to discuss the information with the appropriate member of the P&OD department. This will give the individual the opportunity to present a case or provide further information. Applicants also have the right to appeal to the DBS if they believe that a mistake has been made on their identity or if the information provided to the College is incorrect.

**Appeals**

1. Applicants who wish to make a complaint about the information provided by the DBS should contact the DBS directly. Contact details can be found on the website.
2. Applicants who wish to appeal against a recruitment decision made by the college should initially raise their concerns in writing to the Director of People and Organisational Development.