

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

Introduction

1. Birkbeck, University of London 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 the circumstances surrounding a particular conviction places a duty of care to the wider College community.
2. In most cases, a prior criminal conviction will not be relevant to study at Birkbeck and we only ask what information is relevant to a student's studies. In all cases Birkbeck 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 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 probation conditions 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 probation officer 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 in light of 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 treated differently from other students unless there is a specific and compelling reason to do so.
7. This policy is relevant to applicants to the College and enrolled students. The College requires all applying and enrolled students to disclose on application, as a condition of enrolment, to declare any probation conditions or community treatment orders.

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.

If you would like to discuss any of the above, you are encouraged to make contact in the strictest confidence to our Safeguarding Officers: via email at safeguarding@bkk.ac.uk or via telephone at 020 7631 6316 (ask for the Head or Deputy Head of Student Services).

Further information can be obtained from www.unlock.org.uk and <https://www.bbk.ac.uk/professional-services/registry-services> where you can view the Safeguarding, Admissions and Appeals Policies. Additional phone contacts and information can be found in the [Safeguarding Policy & Procedure](#).

Safeguarding

8. If the applicant is applying for study where the College feels that the circumstances surrounding a prior conviction or community treatment order raises safeguarding issue, the Academic Registrar (or nominee), on behalf of the Master 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 Academic Registrar (or 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. For more information on Safeguarding, please refer to the College [Safeguarding Policy & Procedure](#).
9. 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 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:
 - Are there any statutory restrictions placed the applicant that would prevent or seriously disadvantage study? E.g. Court orders on the use of the internet.
 - Can the Department/School practically support the intended programme of study?
 - Does the applicant/student face an unacceptable level of risk to their own well-being?
 - Does the applicant/student pose an unacceptable level of risk to staff, students or visitors to the College?

- Has the applicant/student been advised on study and career options?
- Are there any known local situations that the Programme team need to be mindful of e.g. staff, students or visitors who have been the victims of crime or course content?
- Is the conviction a matter of public knowledge e.g. can the student and situation be identified by a web search?

Support in applying and studying

Applicants with probation restrictions or community treatment orders

10. Any applicant who declares a probation condition or community treatment order as a part of the admissions process will firstly have their application assessed on academic grounds.
11. If the relevant Admissions Tutor (or delegated nominee) determines that the applicant is eligible for an offer of a place at the College, their application will be paused whilst the context and implications of the background to the probation condition or community treatment order are assessed by the Safeguarding Panel. The College commits to processing any application or enrolment in a timely manner. The College may also write to the applicant requiring further information to help inform the consideration.
12. Those considering the application will not contact a third party without specific written consent from the applicant in advance, 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 by an applicant, the College reserves the right to decline to continue consideration of the application.
13. 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.
14. A criminal conviction is may to impact on the possible career choices for applicants and students. Birkbeck can support applicants and students with a criminal conviction and signpost them to information with regard to the implications of a criminal record to make informed choices about their chosen path of study.
15. 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.

16. 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

17. 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 Practise 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 also 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:

<https://www.gov.uk/government/organisations/disclosure-and-barring-service/about>

18. Please note that some convictions are never filtered out. Further information can be obtained from www.unlock.org.uk.

Students under supervision of the probationary service or community treatment order

19. Where students or applicants are under the supervision of the probation service or equivalent, the College will liaise with the probation 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.

Where the student or applicant is under a community treatment order, the College will seek the student's consent to liaise with their care team in order to conduct a risk assessment and to help establish a support plan with the student. 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.

20. Where students under supervision are enrolled, a safeguarding officer will meet with them regularly (usually once a term) 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 the probation service, and to identify any support or advice needs of the student. Safeguarding contacts are detailed in the [Safeguarding Policy and Procedure](#).

Confidentiality

21. 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 probation services and the student where there are ongoing probation restrictions on the student (the Academic Registrar and named Safeguarding Officers).
22. All information relating to criminal or mental health records is sensitive personal data and will be stored securely, in keeping with data protection legislation. Applicants' information will be kept for the cycle in which they have applied plus one year. For enrolled students the information will become part of the student record and that information will be kept in line with the College records retention schedule. Details about a student's criminal conviction will be stored securely and separately from the student record.
23. 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 Academic Registrar will make a decision as to the necessity of disclosure.
24. A student following such a course of study or such an additional activity is required to cooperate fully with the appropriate instructions given concerning disclosure. Becoming a student has 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](#).
25. 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 Panel.

Notes:

Further information can be obtained from www.unlock.org.uk and <https://www.bbk.ac.uk/professional-services/registry-services> where you can view the Safeguarding, Admissions and Appeals Policies.

APPLICANT'S NAME:

BIRKBECK REFERENCE NUMBER/UCAS PERSONAL ID:

PROGRAMME OF STUDY:

Please give full particulars below of any previous convictions for criminal offences for which you currently have probation conditions imposed. **You are required to inform the College if you are currently on probationary license, or subject to a Community Treatment Order under any of the following sections 35; 36; 37; 38; 37/41; 47 or 48 of the Mental Health Act.**

1. Details of Conviction

State below details of the conviction relating to your probation conditions.

The conviction and date of the offence Name of court, date of conviction & sentence/fine imposed

2. Probation Conditions

Please state below the details of any probation conditions which currently apply to you in relation to the above convictions.

3. Community treatment orders

Please give details of any community treatment order that you are currently under together with dates.

4. Further information about the nature of the offence or the circumstances around a treatment order and what you believe has changed since that time.

It is helpful for the institution to have any understanding of the circumstances of either an offence or around the imposition of a treatment order, how circumstances might now be different, and how the College might best support your studies.

5. Contact Details

Probation officer, care co-ordinator or social worker details: please give their name, contact details and your agreement that we may contact them to seek information on your offences or your treatment order and on their opinion of you.

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, Registry Services
Birkbeck, University of London
Malet Street, London WC1E 7HX
safeguarding@bbk.ac.uk