

Criminal Convictions Policy and Procedure

This policy is informed by the expectation and indicators of Chapter B2: Recruitment, selection and admission to higher education of the UK Quality Code for Higher Education. These chapters can be found at the following location and contains further guidelines, references and resources relevant to assessing learning.

<http://www.qaa.ac.uk/en/Publications/Documents/quality-code-B2.pdf>

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1. Purpose

To ensure the safety and protection of students and staff at the Academy, the following procedures should be followed in relation to applications from any student declaring a criminal conviction which is not spent under the terms of the Rehabilitation of Offences Act 1974. Under the terms of the act, sentences of thirty months imprisonment or more are never spent, while those of less duration do not have to be declared once spent; Please see **Appendix A** for details.

2. Declaration of Criminal Convictions at Application

2.1 Applications to academic programmes*

*academic programmes refers to; Fine Art Diploma; Contemporary Portraiture Diploma; Sculpture Diploma; Foundation Course; Certificate Course.

All applications require declaration of relevant criminal convictions.

Those applying to the Academy who have a relevant criminal conviction or who are serving a prison sentence for a relevant criminal conviction must tick the box on the application form to indicate this. Relevant criminal convictions are considered as below. Applicants should declare details of any convictions in the personal statement section of their application or through the Criminal Conviction Disclosure Form (see **Appendix B** of this document).

A relevant criminal conviction includes “convictions, cautions, admonitions, reprimands, final warnings, bind over orders or similar involving one or more of the following:

- Any kind of violence including (but not limited to) threatening behaviour, offences concerning the intention to harm or offences which resulted in actual body harm.
- Offences listed in the Sex Offences Act 2003.
- The unlawful supply of controlled drugs or substances where the conviction concerns commercial drug dealing or trafficking.
- Offences involving firearms.
- Offences involving arson.
- Offences listed in the Terrorism Act 2006”

If the conviction involved an offence similar to those set out above, 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, this should be declared.

Convictions that are spent (as defined by the Rehabilitation of Offenders Act 1974) are not considered to be relevant.

Applicants are required to provide information relating to convictions on their application form.

If an applicant is convicted of a criminal offence after they have applied, they must inform the Academy.

The Academic Quality and Admissions Coordinator will highlight on the application from those applicants who have declared a relevant criminal conviction. If the relevant question is not answered the Academic Quality and Admissions Coordinator will contact the applicant and request the information. It is the responsibility of the Academy to check the personal statement/ references for any indication of convictions, which might necessitate the following procedures.

2.2 Applications to public courses*

*public courses refers to; Evening classes, Weekend classes, Short courses (Easter and Summer) and any day classes that do not form part of an assessed module of an academic programme.

When booking a public course potential students are required to confirm whether or not they have a criminal record at the point of purchase. A tick box is provided on the booking form. Where potential 'public' students do declare a criminal record, further details will be requested by the Public Programmes Manager and passed to the Academic Quality and Programme Manager. The application and potential risk associated with the individual attending as a student at the Academy will be judged against the same criteria as described in this document, following the same process as outlined in section 3 below.

3. Action to be taken on receipt of an application which includes a declaration of criminal convictions

The Academic Quality and Admissions Coordinator processes the application form on academic merit alone in the first instance to ensure that the application meets the entry requirements. If there are no academic grounds for making an offer then the application should be rejected in the normal way.

If the entry requirements have been met and further information is required of the declared conviction a letter will be sent by the Academic Quality and Admissions Coordinator asking as such, explaining that the application cannot progress until the required information is received. A deadline for the receipt of the information will be included and an explanation of the outcome if there is no response by that date. Should no response be received then the application will be withdrawn.

Only once the Academy has all the information needed will the application be processed. This information will be given to the interviewers but will be treated confidentially.

If it is decided to make an offer according to the normal stated entry requirements the application should be returned to the Academic Quality and Programme Manager, who will review the application.

3.1 Minor Offence

If the application received states that the applicant had an unspent minor offence (convictions that do not carry a custodial sentence) then the decision to admit the applicant can be taken by the Academic Quality and Programme Manager and the offer can be processed in the normal way.

3.2 Major Offence

However, if the conviction resulted from a major offence this should be placed before a Criminal Convictions Panel. Once the panel has met and the decision made, the applicant is to be notified in the normal way.

4. Action to be taken for an undeclared criminal conviction that is identified at interview.

If the declaration is made at interview the information must be taken at interview in as much detail as possible. This information should then be passed onto the Academic Quality and Programme Manager, who will review the application.

4.1 Minor Offence declared at interview

If the application received states that the applicant had an unspent minor offence (convictions that do not carry a custodial sentence) then the decision to admit the applicant can be taken by the Academic Quality and Programme Manager and the offer can be processed in the normal way.

4.2 Major Offence declared at interview

However, if the conviction resulted from a major offence this should be placed before a Criminal Convictions Panel. Once the panel has met and the decision made, the applicant is to be notified in the normal way.

5. Action to be taken if the declaration of a conviction takes place after the interview or registration on the programme

All convictions are required to be declared by students to ensure that appropriate risk assessments can be carried out and to ensure that the Academy is not being 'brought into disrepute'

If a student declares a new criminal conviction as detailed in Section 2, the tutor or member of the Academic Team must take down as much information as possible and ensure that a thorough risk assessment is carried out based on the information received.

The nature of the offence and the risk assessment must then be forwarded to the Academic Quality and Programme Manager, who will make a decision based on this information as to the students' continuation on the programme in consultation with the Operations Manager. Depending on the seriousness of the conviction this could be referred to the Criminal Conviction Panel.

It should be noted that should a student not declare a criminal conviction yet one be brought to the attention of the Academy this will result in disciplinary procedures and possible withdrawal from the programme. If the Academy is informed of an undeclared criminal conviction after a student had completed their studies, any award may be rescinded.

6. Recording information relating to Criminal Convictions

Correspondence relating to the declaration of criminal convictions by an applicant will be held confidentially on the applicant's or student's file.

At all stages, staff should ensure that procedures are in place to restrict access to correspondence relating to an applicant's or student's criminal record to a strictly need to know basis.

7. Criminal Convictions Panel

The panel consists of:

- Academic Quality and Programme Manager (Chair)
- Academic Programme Coordinator
- Operations Manager
- Academic Admissions Administrator will act as Secretary.

7.1 Panel Procedure

Applicants and students will be given the opportunity to provide written representation to the panel. In reaching its judgement, the Panel shall take the following into consideration:

- Whether the offence constitutes a risk to the safety and/ or wellbeing of other members of the Academy community that is inconsistent with the Academy's duty of care.
- The nature of the offence and its relevance to the programme.
- The circumstances that influenced the offence and which may no longer apply (eg personal or social factors).
- When the offence was committed.
- Any factors that minimise the impact of the offence.
- Evidence submitted by the applicant or student.
- Whatsoever advice it considers appropriate.

The panel will complete the Risk Assessment for Student Criminal Convictions, using the information available to them. The panel must reach a decision based on the balance of probabilities, based on all the facts available at the time. In all cases the Chair of the Panel will take into account the reasonable interests of all concerned.

7.2 The Panel can make the following decisions:

Applicants:

- To permit an offer to be made with no further conditions. In this case the offer is transmitted in the normal way.
- To permit an offer to be made but with particular conditions, for example support for the applicant, restrictions to certain external projects, deferral of entry.
- To require further information, from the applicant or other sources (eg a probation officer).
- To reject the application. In this case the applicant will be contacted in the normal way to be informed of the decision.

Students:

- To confirm the student's continuation on the programme.
- To recommend that the student is referred to other Academy procedures such as the Student Disciplinary or Fitness to Study Policy.
- To recommend to the Principal that the student be suspended from the programme for a defined period
- To recommend to the Principal that the student be withdrawn from the programme.

7.3 Notifications of the Panel's decision to the applicant/ student

The applicant or student should be notified in writing of the Panel's decision within five working days of the outcome of the Panel meeting. The applicant or student should be notified of the right to appeal and of their right to guidance.

7.4 Request to review the Panel's decision

If the applicant or student is dissatisfied with the Panel's decision and considered that the decision of the Panel is unreasonable or the procedures have not been followed, they may request a review of the procedure.

Disagreement with the decision of the Panel is not itself sufficient reason to request a review.

Grounds for review will only be considered for:

- The penalty imposed by the Panel was not commensurate with the seriousness of the conviction.
- The findings of fact in support of the decision were manifestly perverse.
- The Panel was not conducted in accordance with the procedures.
- New evidence has been made available that could not be available at the time of the Panel and which could have been expected to have materially affected the decision of the Panel.

The request must be made in writing to the Academic Quality and Programme Manager **within ten working days of the decision of the Panel**. A full statement detailing the grounds for the review and supporting evidence must be provided. The Academic Quality and Programme Manager must reject any request that has not been made in accordance with the grounds and time set out above. The Academic Quality and Programme Manager will write to the applicant or student within ten working days giving the decision and reasons for it.

If the request for review meets the requirements above, the Academic Quality and Programme Manager will refer the review to the Panel. The Panel will consider all further information submitted by the applicant or student.

The Panel may decide to:

- Dismiss the request for a review; or
- reconsider the original decision

The Panel's decision will be final.

The decision and any recommendations or advice will be notified to the applicant or student by the Admissions Administrator.

Policies and documents that supplement and reference this document:

Admissions Policy
Safeguarding Policy
Disciplinary Policy and Procedure
Fitness to Study Policy and Procedure

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Awaiting Approval by the Board of Trustees.

Appendix A - Table of Sentences

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/299916/rehabilitation-of-offenders-guidance.pdf

The rehabilitation periods for sentences with additional “buffer periods” which run from the end date of the sentence are shown in the table below:

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 1/2 years) and up to and including 48 months (4 years)	7 years	3 1/2 years
Custodial sentence of over 6 months and up to and including 30 months (2 1/2 years)	4 years	2 years
Custodial sentence of 6 months or less	2 years	18 months
Community order or youth rehabilitation order**	1 year	

*Custodial sentence includes a sentence of imprisonment (both an immediate custodial sentence and a suspended sentence), a sentence of detention in a young offender institution, a sentence of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000, a detention and training order, a sentence of youth custody, a sentence of corrective training and a sentence of Borstal training.

**In relation to any community or youth rehabilitation order which has no specified end date, the rehabilitation period is 2 years from the date of conviction.

The following table sets out the rehabilitation period for sentences which do not have “buffer periods” and for which the rehabilitation period runs from the date of conviction:

Sentence/disposal	Rehabilitation period for adults (18 and over at the time of conviction or the time the disposal is administered).	Rehabilitation period for young people (under 18 at the time of conviction or the time the disposal is administered).
Fine	1 year	6 months
Conditional discharge,	Period of the order	Period of the order
Absolute discharge	None	None
Conditional caution and youth conditional caution	3 months or when the caution ceases to have effect if earlier	3 months
Simple caution, youth caution	Spent immediately	Spent immediately
Compensation order*	On the discharge of the order (i.e. when it is paid in full)	On the discharge of the order (i.e. when it is paid in full)
Binding over order	Period of the order	Period of the order
Attendance centre order	Period of the order	Period of the order
Hospital order (with or without a restriction order)	Period of the order	Period of the order
Referral order	Not available for adults	Period of the order

*Compensation Orders – it is important that individuals obtain proof of payment from the court and keep this document to prove that the compensation order has been paid in full.

Appendix B - Criminal Convictions Disclosure Form

ART ACADEMY LONDON

Criminal Conviction Disclosure Form: Confidential

Please complete this form if requested by the Academic Quality and Admissions Coordinator. If you are unsure about whether or not you need to declare a conviction please contact the Admissions Administrator in confidence. Copies of our Admissions policy, which details Criminal Conviction declarations are available on request, or on our website [link].

Applicant's full name	
Application/ student number	
Date of Birth	
Programme applied for	
Proposed year of entry	

Please complete either Section A or Section B as appropriate

Section A: Declaration made in error

I confirm that I do not hold any relevant criminal convictions, and that the positive declaration in my application form was made in error.

Section B: Further details of relevant convictions

Please give full particulars below of any relevant convictions or cautions (see covering letter for further guidance) or any cases pending (or where you have been reported for consideration of possible prosecution) concerning an alleged criminal offence. Please attach additional pages if required

Date of offence /alleged offence	Date of conviction	Age at time of offence	Country/court where convicted

Full details of the offence or alleged offence (e.g. theft, drink-driving, possession of drugs etc.)
Details of sentence/fine/other penalty or community order

Any extenuating or mitigating circumstances you wish to be considered
Any subsequent treatment or change in circumstances which you wish us to be aware of (you are advised to provide confirmation from a third party – see Section C)

Section C: Information from a third party

Where possible, particularly for convictions with custodial sentences, we advise **providing a formal letter of reference** from a probation officer, social worker or other suitable third party to advise on your suitability for the course. Providing this at this early stage will help avoid later delays. Please tick any that are provided and return with this form:

- Probation Officer
- HMP Official
- Social Worker
- Higher Education Institution
- School
- Employer
- Other:

Alternatively, please give their name, contact details and your agreement that we may contact them and seek information on your offences and on their opinion of you. Note that this is likely to add delays to your application. Please provide professional/work contact details wherever possible.

Name	
Company/Organisation	
Role/position/relationship to you	
Email address	
Tel	

Address	
Please tick to confirm that we can discuss in confidence with this individual: the content of this form, and their opinion of you.	

Section D: 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. I understand that failure to declare information about a conviction (where required) or the provision of untrue or inaccurate information about a conviction may lead the Academy to refuse admission.

Signed:

Date:

Please return this form as instructed in the covering letter, marked as 'Confidential'. You will receive an acknowledgment of receipt, and we will contact you if we require clarification of any of the information you have provided. We will notify you of our decision as soon as we can by email.