

Document No:	SS012
Issue No.	17
Issue Date:	20-07-2022
Renewal Date:	20-07-2025
Originator:	Student Services
Responsibility:	Deputy Principal

STUDENT RISK ASSESSMENT (CRIMINAL CONVICTIONS) POLICY

A: INTRODUCTION TO THE POLICY

- 1 Leicester College actively promotes equality of opportunity for all and welcomes applications from a wide range of applicants including those with criminal records. Student Risk Assessment is an important part of the Admissions process for all prospective students at Leicester College. The purpose of Risk Assessment is to identify and assess any applicant whose known behaviour, or record of offences, indicate that they may 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 environment.
- 2 As part of the College's student application and Risk Assessment procedures, students are required to declare if they have an 'unspent' criminal record, ***are under investigation**, or if they are charged with a criminal offence, either at application stage, or during their course. Students applying for courses that involve DBS Checks for work placements with vulnerable groups, are also required to disclose 'spent' and 'unspent' convictions, and cautions which would not be 'filtered' in line with current guidance. Refer to Section 3 for further information on filtering.

**There may an occasion where a student is under investigation, and there may be bail restrictions that might affect attendance at college. There may be issues highlighted that require support, or, they may require an initial Risk Assessment meeting. Once the circumstances have been established, the Risk Assessment Team will liaise with Police, and monitor the investigation. The Risk Assessment Team is responsible for all the information, including contact with Police, and deciding what risk management is required as an interim measure, including any necessary disclosures to staff. If the outcome of investigation is 'no further action', the Risk Assessment Team will review, and adjust or remove any risk management in place. If the student is charged and later found guilty, a full Risk Assessment will follow.*

SAFEGUARDING POLICY UMBRELLA

- 3 Leicester College has a statutory and moral duty to ensure that the College functions with a view to safeguarding and promoting the welfare of children and vulnerable adults receiving education and training at the College. The Risk Assessment Policy and procedures sit within the College's Safeguarding framework and are subject to safeguarding requirements at all time.

LEGISLATION

Disclosure

- 4 Disclosure is one of the most important issues in the criminal justice system and the application of proper and fair disclosure is a vital component of a fair criminal justice system. To ensure that the College adheres to legislation, and to protect the rights of individuals, the Risk Assessment Team has a fair and robust process for obtaining formal disclosure, which also allows us to process that information in line with the GDPR, and ensure we are adhering to legislation when determining whether a student's conviction is 'spent'.

The General Rule

- 5 The **Rehabilitation of Offenders Act 1974** (ROA) allows most convictions to be considered 'spent' after a set period of time. Unless a person receives a prison sentence of over 4 years or has any type of 'Indefinite Order', their conviction will become 'spent' at some point. Once a conviction is 'spent', it entitles a person in basic terms, to portray themselves as someone who has never been convicted, i.e. it allows a person 'to legally lie' (*subject to the 'exceptions of the Act' a list of "exempt" posts, occupations and activities which are subject to DBS checks or security vetting checks, where both spent and unspent convictions and cautions need disclosing).

Rehabilitation periods Under the Rehabilitation of Offenders Act 1974 as amended 2013

- 6 The time it takes for an offence to become 'spent' depends entirely on the sentence given – not on the offence committed. For custodial and community sentences, the rehabilitation period will start from the end of the total sentence imposed by the court (including the licence period) – **not** from the time served in custody (i.e. the day of release).
- 7 The rehabilitation period includes an additional 'buffer period' that runs from the end of the sentence. This 'buffer period' is determined by the length of total sentence imposed. The 'buffer periods are halved for those aged under 18 at the date of conviction, except for custodial sentences of six months or less where the 'buffer period' will be 18 months. Those that have more than one conviction, will not become spent until the total buffer period for the most recent conviction is spent. This means that they would need to continue disclosing the original offence as well as the second until the second had become spent. If the first conviction was over 4 years custodial, neither convictions would ever be spent.

The rehabilitation periods for custodial sentences (including suspended prison sentences) and community sentences are shown in Table below

Sentence/disposal	'buffer period' for adults (aged 18 and over when convicted) from end of sentence including licence period	'buffer period' for young people (aged under 18 when convicted) from end of sentence including licence period
Community order or youth rehabilitation order*	1 year	6 months
Imprisonment or detention in a young offender institution for 6 months or less	2 years	18 months
Imprisonment or detention in a young offender institution for over 6 months and up to and including 30 months (2½ years)	4 years	2 years
Imprisonment or detention in a young offender institution for over 30 months (2½ years) and up to 48 months (4 years)	7 years	3½ years
Imprisonment or detention in a young offender institution for over 48 months (4 years) or a public protection sentence	Never 'spent'	Never 'spent'

Source: Nacro

*Table below contains the rehabilitation period for sentences which do not have 'buffer period's and for which the rehabilitation period starts from the date of conviction.

Relevant order****	When order ceases to have effect	When order ceases to have effect
Reparation order	Spent' immediately	Spent' immediately
Disqualifications	When order ceases to have effect	When order ceases to have effect
Endorsements	5 years	2½ years

*Source: Nacro

GENERAL DATA PROTECTION REGULATION

- 8 In order to collect personal data relating to criminal convictions, an organisation must have both a lawful basis under Article 6 and either a legal authority, or official authority for the processing of criminal data under Article 10. In summary:
- You can process this type of data if you have official authority to do so because you are processing the data in an official capacity
 - You cannot keep a comprehensive register of criminal convictions, unless you do so in an official capacity
 - You must determine your condition for lawful processing of offence data, or identify your official authority for the processing before you begin the processing, and you should document this.
- 9 Leicester College collects and processes the data in the official capacity of the College's Admissions, Risk Assessment and DBS Policies and processes, which is necessary for College safeguarding and safe operation of students attending work placements with vulnerable groups. We adhere to all relevant legislation for the processing of criminal conviction data. For further information on our lawful basis for collecting this data, refer to the Risk Assessment Privacy Notice Appendix A of this Policy.

B: RISK ASSESSMENT PROCEDURE

1. Purpose

- 1.1 The Policy aims to be equitable to all applicants and to meet the legal obligations of the GDPR, Rehabilitation of Offenders Act (ROA) 1974 as amended 2013, and the ROA (Exceptions) Order, and where required the Police Act 1997(criminal records), and Protection of Freedom Act 2012' Filtering rules.

1.2 Leicester 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; student Risk Assessment is an important part of this. The Risk Assessment ethos balances a person's right to learn, versus any risk posed. Students with **(1.22) unspent** convictions are required to declare at the point of application. Students enrolling straight on to courses are required to declare when they enrol.

(1.22) The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and the Police Act 1997(criminal records), details that there are certain 'exempted' positions where both 'spent' and 'unspent' convictions and cautions need to be disclosed that are not "protected" as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2013).

Students on certain courses that have mandatory work placements with vulnerable groups may meet The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, and the Police Act 1997(criminal records), for requesting an Enhanced DBS Disclosure Check, and in some cases with barred list checks; the highest level of check restricted to those working closely and unsupervised with children. These students are required to disclose any 'Spent' or 'unspent' convictions and cautions which would be not "protected" as defined as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2013).

1.3 The purpose of Risk Assessments is to identify and assess any applicant/student whose declared record of offences and behaviour indicates they may be a risk to themselves, other students, staff, visitors or the College environment. The process also covers support needs and makes referrals to other support teams. As well as ensuring we comply with legislation for processing criminal conviction information, we work to make the process a fair, appropriate, objective and supportive process.

1.4 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 assess the following groups of students who are asked to declare at the application and enrolment stages, or are referred by agencies, or staff at the College, or who come forward at any point during the year.

For students declaring a previous conviction, or who are under police investigation:

- full-time students
- ***part-time** students that will be studying on site and in outreach sites
- All higher education students who have disclosed a previous conviction
- 14-16 students attending on school programmes
- All individual referrals external agencies, including Secure Hospitals, People on Probation (POPs), Young people on Orders, leaving YOI's, or are subject to HSB, or CUAB arrangements.
- Any student who is referred by staff who has a valid basis for suspecting an unspent conviction
- Students who have received a positive Enhanced DBS Disclosure. For more details on the DBS process, refer to the DBS Policy PP10, and section 3 of this Policy

- Where a student presents with a history of mental health difficulties and has a conviction
- Any student where a safeguarding concern related to a criminal record is raised
- Any student where a specific safeguarding concern is raised which increases risk/ potential to commit an offence
- Any student who is under Police investigation and / or subject to Bail arrangements
- Any student returning to college after being excluded through the Stage 3 Panel.

****This generally applies to courses longer than 10 weeks as the process is not immediate. For City Skills courses see Section 4 of this Policy. If someone has been previously flagged and refused entry, and enrolls on any short-course the Risk Assessment process will be actioned immediately.***

- 1.5. Students applying to the College who have an unspent criminal record have a mandatory requirement to indicate this on the College's application form. There is an opportunity at enrolment for students coming straight to enrol but declaring so late could delay starting on a course. The intention is where possible, students go through the Risk Assessment process before starting on a course. This will depend on when the student applies/enrolls, how complex the case is, and whether they are under Police investigation.
- 1.6. When a student declares an unspent criminal record, The Risk Assessment Team contacts the student to obtain formal disclosure using the Declaration of Previous Convictions form. Obtaining formal disclosure is paramount to Risk Assessments and ensures our GDPR compliance. It also gives the College the specific consent to act on, and process conviction information.
- 1.7 Student Information sheets are made available to all students going through the process. They are given details on how to access our Privacy Notice either by way of a link to the documents, or are emailed a copy, or sent a copy in the post.
- 1.8 Where applicable, we will obtain a Multi-Agency Risk Reference from agencies that are working with the student, such as the Children and Young People's Justice Service (CYPJS), the Probation Service, the Management of Sexual Offenders and Violent Offenders (MOSOVO), the Public Protection Team (PPT), Integrated Offender Management, (IOM) Children's Social Care, Secure Units etc.
- 1.10 As well as monitoring when convictions become 'Spent', previous students who are known to the team are tracked. If required, the team can temporarily remove a student pending a new Risk Assessment. This also applies if a student has enrolled on to course, and it is later found out they have a conviction they have not declared. The Risk Assessment Team can also withdraw students on the grounds of non-response to our correspondence, non-attendance at Risk Assessments, and if refused.
- 1.11 Students are generally given a maximum of two chances to respond to requests to complete a Declaration Form, to return a 'Have you Reoffended' slip, or to attend a Risk Assessment. Failure to comply with our requests for information, or to attend a Risk Assessment will result in an application being withdrawn, and in some circumstances when a student is enrolled. We always make every effort not to withdraw an enrolled student unless they have failed a Risk Assessment on the grounds of 'risk'. In these cases, the refusal is for the whole

academic year, and relates to all courses and sites. The student can re-apply for the following academic year but would be subject to a new Risk Assessment.

- 1.12 In deciding whether a prospective student poses a risk, the Risk Assessment Team will consider each applicant's circumstances in a fair and objective way.
- 1.13 The College reserves the right to refuse a place to a student without a Risk Assessment where the level of risk identified in information provided by an agency is deemed so high that it cannot be accommodated within the College environment, or if there is a particular risk to a cohort of students, or Institutional risk that cannot be mitigated through risk management. Sometimes there are specific conditions attached to convictions that would prevent a person from attending an FE College with 14-16's, and vulnerable students.
- 1.14 All students seen through the Risk Assessment process will be assessed in terms of their level of risk. There are 4 levels of risk.
LOW - Current evidence does not indicate likelihood of causing serious harm.
MEDIUM - There are identifiable indicators of risk of harm. The offender has the potential to cause serious harm but is unlikely to do so unless there is a change in circumstances, for example, failure to take medication, loss of accommodation, relationship breakdown, drug, or alcohol use.
HIGH - There are identifiable indicators of risk of serious harm. The potential event could happen at any time and the impact would be serious
VERY HIGH - There is an imminent risk of serious harm. The potential event is more likely than not to happen imminently and the impact would be serious.
- 1.15 Students excluded through the College's Disciplinary process will be subject to a Behaviour Risk Assessment if they wanted to return after an exclusion. Refer to the student behaviour policy for further details.

2. STUDENT RISK ASSESSMENT INTERVIEW PROCEDURES

- 2.1 Students who need a Risk Assessment are sent an appointment this will include any current College Covid-19 safety measures that they are required to follow. If they are under 18, they may bring one person for support, this could be a parent or guardian, their CYPJS worker, or Support Worker.
Due to confidentiality it is not permitted to bring a member of college staff into the assessment, and it would not be suitable to bring a legal representative.
- 2.2 With Looked After Children students, we liaise with the LAC Co-ordinator for the College and share information as appropriate.
- 2.3 Students are given a maximum of two Risk Assessment appointments. Failure to attend without re-arranging an appointment, will result in an application being withdrawn, or if they are enrolled, they could be withdrawn from their course. We always try to leave withdrawing an enrolled student as the last option, but we ultimately need to balance potential risk to our student cohort and the individual, against the person's right to education. If a student is persistently ignoring us, and we have been unable to establish 'risk', we would pursue in withdrawing that student.

- 2.4 It is important to note that a student may be cleared to attend college, but might not be able to study on their chosen course, or campus (applies to certain offences that could affect courses with work placements with vulnerable groups that require a DBS Check). If it is the case that the student cannot do the course, the student would normally be informed at the Risk Assessment interview, and a careers appointment would be booked to look at alternative options. We liaise with relevant staff and every effort is always made to place a student on a more suitable course.
- 2.5 The types of information which would normally be required to make a fair assessment of the applicant's suitability to attend a course are:
- A multi-agency Risk Reference – if applicable
 - A description of the previous offences
 - Whether there are any licence or Order conditions
 - Whether they are a particular risk to a specific cohort
 - The person's age at the time, and how long ago the offence/s were
 - Was it an isolated incident, or part of a pattern of offending or behaviour
 - If appropriate, what offence focused work they have been doing with the supervising agency
 - Background of the student, including family support, education, peers, are they LAC/YAC
 - The applicant's current behaviour and conduct since the offence/s or exclusion
 - What they are currently doing i.e. work, voluntary work, training, looking for work
 - The type of environmental factors which might exacerbate the condition or behaviour
 - Involvement with other agencies
 - Previous education history, any exclusions, suspensions, support
 - EHCP/ disabilities, support needs, are CAMHS or Turning Point involved
 - An assessment of the likelihood of the behaviour occurring, circumstances, desistance factors, at risk group
 - What else is known of the person's conduct before or since the offence
 - Are there Child protection issues that need to be considered, Child Exploitation, at risk of radicalisation (Prevent), possible risk to or involved with county lines, child sexual exploitation, forced marriage
 - For those that are current cases of an agency, or are currently detained under the Mental Health Act, we contact the relevant agency to complete a Multi-Agency Risk Reference form
 - Requirements of the course i.e. full time/ part time, location of the course, size of classes, type of provision, other students i.e. disabilities, work placement, level of course, are they returning students – were there any issues previously
 - Relevance of conviction to the requirements above
 - Support network
 - Whether support teams are working with the individual, and make referrals to support teams i.e. Learning Mentor, Counselling, Mental Health, Inclusion and Disability
 - Specific disclosure required for support or risk management
 - Conditions of a place at College may be given.
- 2.6 The student Declaration Form also acts as the form of consent to contact agencies to complete a Multi-Agency Risk Reference, and share information relating to convictions and

risk. The Multi-Agency Risk Reference is an important part of the information gathering process and to the overall Risk Assessment.

2.7 Following the Risk Assessment, the Student Services Coordinator completes a report and submits it to the Director of Student Services and Marketing.

There are four possible outcomes from a Risk Assessment which include:

- Acceptance (this could also include transferring to another course)
- Acceptance with risk management / referrals for support
- Refusal - the student/applicant is withdrawn on the grounds of failed Risk Assessment
- Deferred- (the case is deferred usually if a student has left or not enrolled)

The Director of Student Services and Marketing reviews the report. Once a final decision is made, the student is written to with the outcome, the record is updated on the database, support referrals are made, any required risk management implemented, and if needed, specific information is shared with relevant staff.

2.8 For some cases, a Risk Assessment will need to be escalated to a Risk Assessment Panel consisting of the Deputy Principal, Finance & Corporate Services, and two other senior managers in Student Services. The case is heard by the Panel who review the report and whether we can accept the applicant. In some cases, it is necessary to escalate it further to the Principal who will review the recommendation of the Panel and make a final decision.

2.9 It is important to note, that during a course of study, an individual's circumstances may change. The College reserves the right to conduct a further Risk Assessment at any time, and can exclude any student if it is found the student has previous or current unspent convictions they have knowingly failed to disclose, or if their risk level has changed and we are now unable to manage the risk.

2.10 The flowchart overleaf gives a brief summary of the Risk Assessment process, not including where a student's risk is deemed too high and the application or enrolment is withdrawn with immediate effect.

College Application Form is completed / referral from agency or staff / previously known to the team/ previous exclusion / Behaviour Risk Assessment



A Declaration of Previous Convictions form is sent to the student (U18 parents/guardians), Information sheet and Privacy Notice enclosed



Declaration form received: If required, the student has a Risk Assessment interview a result of:



Declaring previous unspent convictions/ Re-offended/ Positive DBS Check /under Police investigation/ non-disclosure of an offence/s in a previous Risk Assessment, or, concerns about previous history including convictions linked to drugs, alcohol, mental health/ is under a 37/41 Of the Mental Health Act, behaviour leading to possible safeguarding concerns



Risk Assessment team gathers relevant information / Interviews student/ obtains multi-agency references as appropriate



Student Services Coordinator completes a report with recommendation, can include support / Conditions / safeguarding/ refusal/ transferring the student to another course



Director of Student Services and Marketing agrees recommendation/ requests further information/ escalates to Panel



Cleared / Refused

If refused student can appeal to Deputy Principal, Finance & Corporate Services.



If Conditions applied, student is monitored/ referred for support.



Team tracks future applications/enrolments / adds any pop-ups to track or RAT is contacted if the student re-applies

3. LINKS BETWEEN RISK ASSESSMENT AND DISCLOSURE AND BARRING SERVICE CHECKS

- 3.1 The Disclosure and Barring Service (DBS) carries out criminal records checks for specific positions, professions, employment, offices, works and licences covered in the [Rehabilitation of Offenders Act 1974 \(Exceptions\) Order 1975 \(as amended 2013\)](#), and those prescribed in the Police Act 1997 (criminal records) regulation. Positions that are not 'supervised' and are covered in both the Rehabilitation of Offenders Act 1974 (Exceptions) Order, **and** the Police Act 1997, are known as 'Regulated Activity'. Regulated Activity is defined in Schedule 4 of the Safeguarding Vulnerable Groups Act (2006), as amended by the Protection of Freedoms Act (2012). It relates to activities for, towards, and/or on behalf of anyone who at that time may be considered 'vulnerable'. Regulated Activity is different depending on whether it is for a child or a vulnerable adult. It covers activities like personal care, healthcare, child-minding, even if done just once for a vulnerable adult. In addition, for children, Regulated Activity includes regular contact i.e. once a week, or more, or 4 times or more in a 30-day period, or overnight 2-6am once or more, and covers roles in Schools, Children's homes and centres, nursery and childcare premises.
- 3.2 DBS now remove certain specified old and minor offences from DBS certificates in line with legislation introduced in May 2013.
There is an Annex list of Positions, Professions, Employment, Offices and Works available on the DBS website; '*A guide to eligibility for criminal records checks*'.
- 3.3 Prospective students will be informed through the College's course information and Admissions process if the course they are applying for requires a DBS Disclosure. These are courses such as childcare, health and social care, sports.
- 3.4 Students on a course that requires a DBS Check, are required to declare on the main application form, both '**Spent**' and '**unspent**' convictions and Cautions which do not qualify for 'filtering' in line with current guidance. If they aren't sure, and disclose matters that are 'filtered' the team will notify the student of this.
- 3.5 'Filtering' is the term that the DBS is using to describe the process which will identify and remove from disclosure certificates, convictions and cautions which should no longer be disclosed due to changes to legislation.
It doesn't mean the conviction or caution will be 'removed' or 'wiped'. They will remain on the PNC but will not be present on a DBS certificate. More than one conviction or caution will exclude them from filtering.

There are over 1,000 offences which can qualify, this is a list of the top 9 that can qualify for filtering:

1. THEFT – SHOPLIFTING
2. DRIVING A MOTOR VEHICLE WITH EXCESS ALCOHOL
3. COMMON ASSAULT
4. DESTROY OR DAMAGE PROPERTY (VALUE OF DAMAGE #5000 OR LESS – OFFENCE AGAINST CRIMINAL DAMAGE ACT 1971 ONLY)
5. THEFT
6. BEING DRUNK AND DISORDERLY

7. POSSESSING CONTROLLED DRUG – CLASS B – CANNABIS
8. USE DISORDERLY BEHAVIOUR OR THREATENING/ABUSIVE/INSULTING WORDS LIKELY TO CAUSE HARASSMENT ALARM OR DISTRESS
9. CRIMINAL DAMAGE

The table shows how long a caution or conviction that qualifies takes depending on age.

Disposal	Under 18	18 or over
Caution	2 years	6 years
Conviction	5.5 years	11 years

Source: Unlock

- 3.6 If a student has a caution or conviction that **does** qualify for filtering but is still on a DBS Certificate, they should be advised that they can apply for it to be removed, and then pay for a new DBS Disclosure Check – unless they have signed up to the Update Service.
- 3.7 Students who have been identified through the DBS process who have not disclosed their criminal record will be written to and required to attend a Risk Assessment. In some cases, it is necessary to remove someone from their course whilst investigations take place. If a student has serious conviction that failed to disclose, they could be excluded from the College.
- 3.8 The DBS Policy and Procedures PP110 is available on the Intranet, or through the DBS team. For details on the full DBS referral process, refer to the DBS and Disciplinary Team Share point site, or contact the team dbs_team@lec.ac.uk.

4. CITY SKILLS CENTRE/ LAUNCHPAD

- 4.1 Students applying for a Re-Engagement programme that require a Risk Assessment cannot start the programme without either clearance, or provisional clearance from The Risk Assessment Team.
- 4.2 Applicants for City Skills Centre who have an unspent conviction/s, are required to complete a Declaration form with their application form. The City Skills team adds the application form to EBS, and sends the Risk Assessment Team the Declaration form, who provide either provisional clearance that the applicant can continue on the programme pending the Risk Assessment, or advise the applicant will need risk assessing before continuing. Due to the short timescales with both areas, these cases are treated as priorities, but it is not always possible to complete a Risk Assessment in time, especially if we are waiting for information from agencies, so we may look at moving the student to a later start date.
- 4.3 Students can also be referred to the CSC by the Probation Service, or one of their unpaid work partners. In these instances, they refer to the Risk Assessment team directly with the necessary risk assessment information.

5. 14-16 PROGRAMMES

- 5.1 Pre-16's attending college on Curriculum Programmes are required to disclose unspent convictions on the application form, or through their provider. The same process will apply with provisions of liaison with the school and parents/ guardians must complete the Declaration Form and must attend the Risk Assessment.

6. DMU FRANCHISE COURSES (HE)

- 6.1 For DMU validated courses, these are courses where the student studies at Leicester College, but can also access services at DMU and is enrolled with both institutions, Leicester College initiates the Risk Assessment process for both institutions. We liaise with the College's HE Co-ordinator, and with DMU regarding students applying to the College on DMU validated courses. We will now only share information for students applying for courses that are exempt from the Rehabilitation of Offenders Act– for example, those that involve work with children and vulnerable adults, such as medicine, teaching, or social work. UCAS no longer requests general conviction information on the grounds that in accordance with the GDPR, they do not have a legal basis to request this. Whilst we recognise each University will have its own policies and procedures about how they manage criminal record disclosures, we will only share the relevant information on this group of applicants. Students applying for a DMU validated course, will need clearance through both institutions.
- 6.2 For these eligible courses we share the Declaration of Previous Convictions form which we email password protected to our DMU contact, the applicants name, course applied for, and status of application.
- 6.3 Leicester College is responsible for co-ordinating the Declaration paperwork within 2 weeks. Once the paperwork has been received, the College will email the Declaration Form to DMU, who follow up their own process and conduct their own Risk Assessment. The College conducts its own assessment. If a student is cleared by one institution, but not the other, the student cannot continue with their application or enrolment. In these instances, the student would be referred for careers advice and withdrawn from the course.
- 6.4 In cases where a student declares at enrolment, or receives a conviction whilst on course, where deemed necessary, the applicant will be removed from the course pending the Risk Assessment process. Both institutions will liaise separately with the student to complete their assessments.
- If it is found that a student received a conviction which had not been declared at application stage, they will be immediately removed from the course, pending further investigations. Where a student has received a recent conviction, and declared at the earliest opportunity, they may be removed from course pending completion of the Risk Assessment process. In cases where a student is taken off course mid-year, it is aimed that within two weeks the both institutions will have conducted initial checks, and be able to provide an initial answer pending complete assessments.

7. CONFIDENTIALITY - DATA PROTECTION

- 7.1 A significant amount of collaborative work is done with external agencies to support people applying to college, and who subsequently attend college, who have criminal records.

- 7.2 Due to the requirements of the GDPR in relation to the requesting of and processing Criminal Conviction information, Risk Assessments are kept separate from all other college records, and no information is shared with staff, unless it is needed to manage risk, or in cases where a student will be attending from a secure hospital. Every effort is made to ensure complete confidentiality with each aspect of Risk Assessments. All information collected as part of this process is kept securely away from general College information. Only staff involved directly with Risk Assessments are allowed to routinely access this. If information needs to be shared to mitigate and manage risk, or as part of support needs, it is only shared on a need to know basis, as decided by the Student Services Coordinator or Director of Student Services and Marketing.
- 7.3 It is essential that all matters involving criminal convictions, or where someone is suspected of having a criminal conviction are referred to the Risk Assessment Team. A GDPR breach in the handling and processing of conviction information may lead to civil litigation and even criminal charges. It will also seriously impact our working links with agencies who work with us on the basis that the information they share is secure and meets GDPR legislation for processing criminal conviction information.
- 7.5 Risk Assessment information is stored securely at all times in a locked room, in non-portable locked cabinets with restricted access in accordance with the GDPR, the Rehabilitation of Offenders (Exceptions) Order 1974, and College data retention requirements. Electronic folders are kept on a secure network with limited access to only the Risk Assessment team. For further information on how the College processes Risk Assessments, refer to the Appendix A Privacy Notice.

8. KEEPING OF DATA

- 8.1 We keep this in accordance with our document retention policy of up to 7 years. Retention periods are in line with the length of time we need to keep personal information, to manage and administer student's education and training, and to handle any future information issues. They also take into account our need to meet any legal, statutory and regulatory obligations. These reasons can vary from one to the next. In all cases, our need to use personal information will be reviewed on a regular basis, in accordance with legislative parameters and information which is no longer required will be disposed of.

9. APPEALS

- 9.1 Applicants who have been refused a place at college as a result of a Risk Assessment may appeal against this decision by writing within 14 days from the date on the letter to the Deputy Principal, Finance & Corporate Services. The Deputy Principal, Finance & Corporate Services will consider each individual case and confirm his decision to the applicant in writing.

For more information contact:

Student Services Coordinator – Risk Assessments: Sophie Strevens- Robinson. Ext. 2225 or direct line 0116 224 2225

Risk Assessment Administrator: James Bircher. Ext. 2138 or direct line 0116 224 2138

Director of Student Services and Marketing: Zoe Butler. Ext. 2226 or direct line 0116 224 2226

Deputy Principal: Shabir Ismail (Appeals)

PRIVACY NOTICE RISK ASSESSMENTS

1. WHAT INFORMATION DO WE HOLD ABOUT YOU?

Information we collect from you

1.1. Personal details submitted on your application or enrolment form, such as name,



address, date of birth, contact information, next of kin/parents/carers for under 18's, disability/learning difficulty, any medical or support needs, previous school, your ethnicity and if you have declared an unspent criminal conviction or are under Police investigation.

Other Information- Purpose of Collecting Data

- 1.2. When you declare you have an unspent conviction, or when you are referred to the Risk Assessment Team, it starts a process of finding out whether you have an unspent conviction/s, the circumstances of the conviction, details of your supervision and progress, risks related to your conviction/s, whether these could impact you attending College, how we can mitigate and manage those risks, and whether you have any support needs. If you are involved in a police investigation, we also collect information on the alleged pending matter, which, could involve an interim Risk Assessment. We may need to contact the police or other agencies that are involved with the investigation, and we may need to add temporary safeguarding measures. All information collected as part of this process is kept securely away from general College information. Only staff involved directly with Risk Assessments can routinely access this; please refer to the Student Risk Assessment Policy. If information needs to be shared to mitigate and manage risk, or as part of support needs, it is only shared on a strict 'need to know' basis, as decided by the Risk Assessment Manager or Director of Student Services. For full details on how Risk Assessments are administered, you can either request a copy of our Policy, or access a copy of the Risk Assessment (students) Policy and Procedures from the Risk Assessment Team, or www.leicestercollege.ac.uk
- 1.3. If you are on a course where a work placement with young and or vulnerable adults is a mandatory requirement, we also collect 'spent' conviction information that isn't 'protected' in line with the [Rehabilitation of Offenders Act 1974 \(Exceptions\) Order 1975 \(as amended in 2013\)](#) and the Protection of Freedoms Act 2012 'filtering' rules. If you are on a DMU awarded course where DBS checks are required, and you study at Leicester College, we share your Declaration form with DMU who will complete their own Risk Assessment under the Universities procedures.
- 1.4. The information Leicester College may collect as part of the Risk Assessment process is:
 - An electronic or paper Declaration of Previous Convictions form; a description of the previous and current offences, the name and contact of your Youth Justice worker, Probation Offender Manager, or Police Case Officer, and your signed consent for us to contact agencies and process the information

- A Multiagency Risk Reference from any agency that you have been involved with, such as the Children and Young People's Justice Service (formally the Youth Offending Service) /the Probation Service, or other agencies such as the Police, Leicestershire Cares, Secure Units, or Prisons. The reference is completed by the agency, and generally includes information on your unspent offences and sentences, mental health, serious risk of harm substance misuse issues. If known, Information pertaining to the risk of re-offending, risk of harm and safety, wellbeing of individual, levels of risk, support needs, previous education, details of the supervision and progression, including Information which is relevant to the assessment and management of risks of young and vulnerable people within an education environment and finally any known pending matters / pending court proceedings.
- If we need to meet with you for a Risk Assessment interview, we will send you an invite letter or email with your appointment date and time, and Information sheets which explain the process in more detail
- During your Risk Assessment, the Risk Assessment Administrator will be documenting the conversation on our Student Risk Assessment form. This is because we need to have a written record of what was discussed. At the end of the Risk Assessment, you will be given the Risk Assessment record to read to check it's correct, and you will also need to read and sign the Student Declaration Confirmation which tells you how we handle your data, and confirms that all required information has been disclosed to us.
- You may have been referred to us by our Additional Learning Support Team who provide us with a copy of your EHCP, or if you have declared and have an EHCP, we will keep this in your file as part of your Risk Assessment as there is information in your EHCP that is relevant to your Risk Assessment and, or support needs.
- Information about your course, if relevant your attendance and progress record. We may refer you to other teams for support, and we will keep all details and subsequent conversations about referrals we receive. We keep information on any Disciplinary/exclusions or incidents you may be involved in, or have been involved in at School, as they may impact the Risk Assessment, and we keep details of any emails or conversations with your previous school.
- We may also have safeguarding information, either from your old school, an agency, or if there is current safeguarding information that may impact your Risk Assessment.
- If you have been referred by a member of staff, we will have any information relating to the referral in your file.
- If you have disclosed that you are under investigation by the Police, or if we have been contacted by the Police, we will have all correspondence with the Police, letters, emails, telephone conversations, records from meeting/s, and if required a copy of your interim Risk Assessment. If you are coming to us from a Secure Unit, we will have details of the referral from the Unit, notes from meetings, your Care Plan, your Risk Management Plan, and any other documents related to your care and risk management that is relevant to your college application. We are usually involved in Information Sharing meetings with the Secure Unit for the duration of your course, and will have copies of updated Care Plans, risk assessment reviews and details of any conditions related to your attendance. If you are involved with the Children Using Abusive Behaviour (CUAB) or the Harmful Sexual Behaviour (HSB) processes, we will attend those meetings and have minutes and notes of

those meetings, and any relevant information relating to the case which we keep in your file and use to make any required adjustments to your risk management, or support. In some cases, we may need to re-assess your attendance at college, if your risk has changed.

- We may be invited to multi-agency CYPJS Risk Management Reviews that you may be involved in. We will have details of any notes, or documents shared at the meeting, which may include minutes from the last meeting or updated interventions.
- We hold both electronic and paper records of your details, including name, date of birth, age, course, dates of interviews, type of offence, agencies involved, risk, risk management, support referrals, summary of contact which is kept on a secure area with access limited to the Risk Assessment Team. In line with the Rehabilitation of Offenders Act as amended, we keep your information until the end of the academic year in which it became Spent, and then delete both the electronic file and confidentially shred the paper file. If your conviction is never spent, we keep it for up to 7 years (current academic year plus 6 years) and then confidentially dispose of your paper file, and we delete the electronic file.
- We will also keep in the files the Declaration Form and Multi-Agency Risk Reference if applicable. The file will have copies of all the letters, forms, meetings, telephone conversations, secure emails, emails, agency references, and if you have one, the Risk Assessment Interview form and report, where applicable, Conditions, Condition meetings, termly reviews, any correspondence or paperwork that has been provided, or completed as part of your Risk assessment will also be kept in your file. In line with the Rehabilitation of Offenders Act as amended, we keep your information until the end of the academic year in which it became Spent, and then delete it. If your conviction is never spent, we keep it for the maximum 7 years (current academic year plus 6 years) and then confidentially dispose of your paper file, and we delete the electronic file.
- If you have a positive DBS Disclosure Certificate, and have not declared the offences, we will need to conduct a Risk Assessment, we will have your signed Declaration Form and a Risk Assessment interview form, we may also have a Multi-Agency Reference and any other information as detailed above. As offences covered by the Exceptions Order of the Rehabilitation of Offenders Act, mean that convictions not covered by the Filtering rules, do not become Spent, we will keep until you leave the College.

2. WHY DO WE COLLECT THIS INFORMATION?

- 2.1. We collect this information to ensure we comply with our legal obligation of 'Duty of Care' as a Public Body to provide a safe and inclusive environment for all students, staff and visitors of the College. Leicester College has a statutory and moral duty to ensure that the College functions with a view to safeguarding, and promoting the welfare of children, and vulnerable adults receiving education and training at the College. The Risk Assessment Policy and procedures sit within the College's Safeguarding framework and Policy and are subject to safeguarding requirements at all time.

3. WHO MIGHT WE SHARE YOUR INFORMATION WITH?

- 3.1 We keep information about your offences confidential and separate from general College information. In some instances, it may be necessary to share **certain** Risk Assessment information with other staff. For example, if support needs have been raised as part of the process, or if it is necessary to share certain information to mitigate and manage known or potential risk, to keep you and others safe.
- 3.2. In these circumstances, information is only shared on a strict 'need to know' basis and we always ensure staff are aware of the confidentiality of the data. There may also be the need to share certain information such as your progress and attendance on course, and any disciplinarys or incidences with external partners such as the Children and Youth Justice Service, the Probation Service, the Public Protection Team, or secure Hospital. In these circumstances, with any request we have either obtained your consent to share this information, or we have a Data Sharing Agreement in place. In some circumstances, we may be approached by the Police to provide information on a student as part of an ongoing police investigation. In these cases, we obtain a Request for Personal Data from the Police, which is signed by the Police officer requesting the information. It explains the information, which is sought, and the reason; usually being for the prevention, detection, and prosecution of crime. In these cases, they will state what data they need, and the College will decide the lawful basis for releasing that data. Similarly, if the Police share any information with us, on the grounds that it is deemed to be of importance for the protection of self or others, they would have obtained the necessary consent from you, and we are obliged to adhere to the confidentiality and safekeeping of that information and use it only as outlined within this Notice.

4. WHAT DO WE DO WITH YOUR INFORMATION?

- 4.1. We collect this information in order to complete the Risk Assessment process of identifying, assessing, mitigating and managing risk and to identify, implement support needs, and as part of any ongoing support and risk management, to safeguard you, other students, the college environment, its visitors and staff.
- 4.2. The information is held by the Risk Assessment Team on a confidential secure database, along with confidential hard-copy files and secure electronic files. Paper files are in a non-portable locked cabinet and in a secured drive. At the end of each academic year we provide activity reports by collating data from Risk Assessments on the activity of the team. This information is anonymous, i.e. no names are used, and is used to contribute to overall College and student performance, and risk management. We will use the information to analyse and improve our processes, systems, and overall experience of going through the process.

5. HOW DO WE PROTECT YOUR DATA?

- 5.1. We take the security of your data seriously and have internal policies and controls in place to try to ensure that your data is not lost, accidentally destroyed, misused, or disclosed inappropriately.

5.2. Where we engage third parties to process personal data on our behalf, we do so on the basis of written instructions, are under a duty of confidentiality and are obliged to implement appropriate technical and organisational measures to ensure the security of data.

6. HOW LONG DO WE KEEP THIS INFORMATION ABOUT YOU?

6.1. We keep this in accordance with our document retention policy of up to 7 years. Retention periods are in line with the length of time we need to keep your personal information, in order to manage and administer your education and training, and to handle any future information issues. They also consider our need to meet any legal, statutory and regulatory obligations. These reasons can vary from one piece to the next. In all cases our need to use your personal information will be readdressed on a regular basis, in accordance with legislative parameters and information which is no longer required will be disposed of.

7. HOW CAN I ACCESS THE INFORMATION YOU HOLD ABOUT ME?

7.1. Subject access requests

The Data Protection Act 2018 grants you the right to access particular personal data that we hold about you. This is referred to as a subject access request. We will respond within one month from the point of receiving the request and all necessary information from you. Our formal response will include details of the personal data we hold about you, including the following:

- Sources from which we acquired the information
- The purposes for processing the information, and
- Persons or entities with whom we are sharing the information

7.2. You can make a subject access request by completing the request form or by emailing it to dpo@leicestercollege.ac.uk.

8. WHAT ARE MY RIGHTS?

8.1. Subject access requests

The Data Protection Act 2018 grants you the right to access particular personal data that we hold about you.

Right to rectification

8.2. You have the right to obtain from us, without undue delay, the rectification of inaccurate personal data we hold concerning you. Taking into account the purposes of the processing, you have the right to have incomplete personal data completed. Including by means of providing a supplementary statement.

Right to erasure

8.3. You have the right to obtain from us the erasure of personal data concerning you without undue delay.

Right to restriction of processing

8.4. Subject to exemptions, you have the right to obtain from us restriction of processing where one of the following applies:

- The accuracy of the personal data is contested by you and is restricted until the accuracy of the data has been verified;
- The processing is unlawful and you oppose the erasure of the personal data and instead request the restriction in its use;
- We no longer need the personal data for the purposes of processing, but it is required by you for the establishment, exercise or defence of legal claims;
- You have objected to processing of your personal data pending the verification of whether there are legitimate grounds for us to override these objections.

Notification obligation regarding rectification or erasure of personal data or restriction of processing

8.5. We shall communicate any rectification or erasure of personal data or restriction of processing as described above to each recipient to whom the personal data has been disclosed, unless this proves impossible or involves disproportionate effect. We shall provide you with information about those recipients if you request it.

Right to data portability

8.6. You have the right to receive your personal data, which you have provided to us, in a structured, commonly used and machine-readable format and have the right to transmit this data to another controller, without hindrance from us.

Right to object

8.7. You have the right to object, on grounds relating to your particular situation, at any time to the processing of personal data concerning you, including any personal profiling; unless this relates to processing that is necessary for the performance of a task carried out in the public interest or an exercise of official authority vested in us. We shall no longer process the personal data unless we can demonstrate compelling legitimate grounds for the processing, which override the interests, rights and freedoms of you or for the establishment exercise or defence of legal claims.

Right to not be subject to decisions based solely on automated processing

8.8. We do not carry out any automated processing, which may lead to an automated decision based on your personal data.

Accuracy of information

8.9. In order to provide the highest level of customer service possible, we need to keep accurate personal data about you. We take responsible steps to ensure that accuracy of any personal data or sensitive information we obtain. We ensure that the source of any personal data or sensitive information is clear, and we carefully consider any challenges to the accuracy of the information. We also consider when it is necessary to update the information, such as name or address changes and you can help us by informing us of these changes when they occur.

9. WHO CAN I CONTACT IF I HAVE ANY QUESTIONS OR CONCERNS?

9.1. If you have any concerns or queries which are not answered by this Privacy Policy, or have any potential concerns about how we may use the personal data we hold, please write to the Data Protection Officer at Leicester College, Freeman's Park Campus, Welford Road, Leicester, LE2 7LW or email dpo@leicestercollege.ac.uk

9.2. If your complaint is not resolved to your satisfaction and you wish to make a formal complaint to the Information Commissioner's Office (ICO), you can contact them on 01625 545745 or 0303 123 1113. You also have the right to judicial remedy against legally binding decision of the ICO where you consider that your rights under this regulation have been infringed as a result of the processing of your personal data. You have the right to appoint a third party to lodge the complaint on your behalf and exercise your right to seek compensation.

10. PRIVACY NOTICE CHANGES

10.1. This Privacy Policy is regularly reviewed. This is to make sure that we continue to meet the highest standards and to protect your privacy. We reserve the right at all times, to update, modify or amend this Policy. We suggest that you review this Privacy Policy from time to time to ensure you are aware of any changes we may have made, however, we will not significantly change how we use information you have already given to us without your prior agreement. The latest version of this Policy can be found on the College's website.

June 2022