

## **Unspent Criminal Convictions Policy (2020 - 2023)**

<b>Issue</b>	<b>July 2020</b>
<b>Review Date</b>	<b>July 2023</b>
<b>Originator</b>	<b>Anne Pitman, Learner Safeguarding and Welfare Manager</b>
<b>Location of Policy</b>	<b>BIZ-Sharepoint/Intranet/Policies &amp; Procedures/Learner Services &amp; Support</b>
<b>Policy Approved by:</b>	<b>College Management Team 24 September 2020</b>

If you, or someone you know, would like this document in large print, audio, electronically or in Welsh, please contact:

Learner Safeguarding and Welfare Manager: Anne Pitman  
Email: [anne.pitman@gowercollegeswansea.ac.uk](mailto:anne.pitman@gowercollegeswansea.ac.uk)

## **1. Context**

Gower College Swansea policy on enrolment of students with criminal convictions is designed to provide prospective learners the opportunity to apply for an appropriate course at Gower College Swansea, while taking into consideration the safety of the College Community.

The college is committed to the promotion of an environment that is safe to work and learn and has a duty to protect its students, staff and visitors. On this basis, applicants enrolling to college will be asked to declare criminal convictions.

The policy has been completed in consultation with: Police Public Protection Unit (Swansea), Youth Offending Service (Swansea), Probation Service (Swansea).

## **2. Scope**

The policy will apply to all full and part time learners and apprentices with unspent convictions (as defined by the Rehabilitation of Offenders Act (1974) and the Exceptions Order (1979) and with learners and apprentices with spent convictions, where the learner or apprentice is required to complete a Disclosure and Barring Scheme (DBS) in order to attend work placement as part of their course.

The policy ensures all applicants are asked to disclose if they have any unspent convictions or spent conviction where the learner or apprentice is required to complete a Disclosure and Barring Scheme (DBS) in order to attend work placement as part of their course, apprenticeship, those that disclose are asked to complete a Criminal Convictions Disclosure form, which details the dates of the convictions and the type of conviction.

Young people involved in the Bureau process who receive 'non-criminal disposals' do not need to disclose their involvement with the Youth Offending Service (YOS). Non-criminal disposals are only given for very minor offences of a non-violent / non-sexual nature.

Following the criminal convictions disclosure, the applicant will be required to complete a risk assessment with a panel of representatives from Gower College Swansea and any appropriate external agencies (i.e.) the applicant's Probation Officer or Youth Offending Supervisor.

### 3. Statement of Purpose

The purpose of the policy is to ensure that any prospective student with an unspent criminal record or a spent conviction when the learner will be required to complete a Disclosure and Barring Scheme (DBS), in order to attend work placement as part of their course is given every opportunity to apply for an appropriate course in Gower College Swansea. The college will work with the individual and any support agencies, (Youth Offending Supervisor, Probation Officer etc), to ensure the chosen course is appropriate and safe for the prospective learner and the college community. All areas will be looked at when considering the appropriateness of the course including level of supervision available to the applicant on the course they wish to join (if applicable) in addition to any support available to assist the applicant in being successful on the course. (Refer to Risk Assessment in appendix).

All efforts will be made to signpost an alternative learning pathway if the original course selected is deemed unsafe for the applicant or the college community, *irrespective of the nature of the offence*.

### 4. Body of Policy

A criminal record arises from a conviction. Under the Rehabilitation of Offenders Act (1974) and the Exceptions Order (1979) any convictions for a criminal offence can be regarded as spent provided:

- The conviction did not carry a sentence excluded from the Act, such as custodial sentence of over two and half years.
- No further convictions occurred within a rehabilitation period.

Once the conviction is spent, the rehabilitated person does not need to reveal its existence in most circumstances, **unless** involved in certain occupations or work experience:

- Working with young people under the age of 18 and vulnerable adults
- Social Services
- Administration of Justice
- Professions with legal protection, e.g. nurses, lawyers
- National security
- Some Leisure based courses

This list is not exhaustive.

## 5. Assessment Process

All applicants, full-time, part-time and apprentices are required to indicate whether they have an unspent conviction, full-time students and apprentices declare on the application form, part-time students declare on the enrolment form. Applicants that declare they have an unspent conviction on a full-time application form, will be asked to complete a Criminal Record Disclosure form. Applicants will be reminded once, to supply information relating to their criminal conviction on the form, applicants that fail to respond will be informed in writing of the college's intention to withdraw their application.

Applicants that declare they have an unspent conviction on the part-time enrolment form at enrolment will be temporarily enrolled onto their chosen course. A copy of the enrolment form will be given to the Learner Safeguarding and Welfare Manager, who will write to the student to request they complete a Criminal Record Disclosure form, which will be enclosed with the letter. The letter will note the importance of them completing this procedure prior to attending their first class. Failure to complete this process will result in the student being asked to leave the college.

If a learner is on a course that requires a Disclosure and Barring Scheme (DBS) check due to them having to attend work placement, the applicant will be asked to disclose at course interview, if the DBS shows they have an unspent or spent criminal conviction which they haven't disclosed at course interview, the learner will be informed that they will be required to complete a Criminal Record Disclosure form (GCS1 form). The learner will be informed that failure to comply with this process will result in them being withdrawn from the course.

Applicants that enrol on the first day or evening of a part-time class and declare they have a conviction will be eligible to attend the class of enrolment. A copy of the enrolment form will be given to the Learner Safeguarding and Welfare Manager, who will write to the applicant to request they complete a Criminal Record Disclosure form (GCS1 form), which will be enclosed with the letter. The letter will note the importance of them completing this procedure prior to attending their next class. Failure to complete this process will result in the student being asked to leave the college.

A reference will be requested in writing from the applicant's Probation Officer, Youth Offending Supervisor, or other appropriate official supporting agency in the absence of a Probation Officer or Youth Offending Supervisor. (YOS/PROB1 form)

A risk assessment will be carried out using the standard risk assessment pro-forma (GCS2 form) by a panel which will consist of:

- the Learner Safeguarding and Welfare Manager and;
- The Learning Area Manager or Assistant Learning Area Manager or Work Based Learning Manager and;
- The Applicant and the Applicant's Probation Officer or Youth Offending Supervisor or other appropriate official supporting agency for the applicant

**Please note:** The applicant will be invited to attend the panel meeting, however, they will be asked to leave while the decision is being made. The applicant will be informed in writing of the outcome of the panel.

In some cases (with permission of the applicant) details of the conviction will also be discussed with Police Public Protection Unit, Social Services or any other external partnership supporting rehabilitation in support of the Child Protection Policy. On some occasions the conviction may also be discussed with the Health and Safety Manager or any other manager as appropriate.

Once the risk assessment is complete, the applicant will be informed of the outcome. The outcome will consist of:

- Conditions to be adhered to in order to admit the applicant as a student
- The decision that it is not appropriate to admit the applicant to attend the course of choice, should this be the case, all efforts will be made to look at suitable coursing and careers guidance for the applicant. In addition any Course Fees incurred during enrolment would in normal circumstances be refunded

The college will be objective when assessing the risk of enrolling students with criminal convictions. The assessment will:

- Focus on the student's abilities, skills, qualifications and experience
- Consider the nature of the conviction and the relevance to the course chosen and the college environment
- Identify the risk to staff, students and visitors
- Recognise that having a criminal conviction does not mean an inability to learn or achieve

The assessment of risk may involve an introduction to certain safeguards, such as:

- Supervision
- Progress Reviews
- Working in partnership with external agencies

Students and apprentices making a disclosure need to feel confident that their convictions will remain confidential unless there is a specific need to inform anyone else, in which case this will be on a strictly need to know basis. Records will be kept of who has been informed of the criminal record, with reasons why, this information will be shared with the applicant.

## **6. Record Keeping**

All records, which will include the Criminal Record Disclosure Form (GCS1 form), the Criminal Conviction Risk Assessment Form (GCS2), the Reference from Probation, Youth Offending or other appropriate Support Worker and any future Progress Reports relating to conditions of being admitted to college will be retained securely in a locked filing cabinet in the Learner Services Manager's office. These records will be destroyed when the student completes their course or leaves the college, whichever is the earliest. Or at the end of the academic year that their conviction becomes spent.

## **7. Appeals Procedure**

The applicant has the right to appeal against the criteria implemented, the applicant will need to follow Gower College Swansea Appeals Procedure available in the Student and apprentice Handbook, the college intranet or upon request.

It is quite feasible that some student's may not disclose their criminal convictions, in these cases, where convictions later come to light, a risk assessment will be carried out, if the risk assessment determines that the student may pose a threat to the college community, the student will be asked to leave the college.

All applicants applying to Gower College Swansea are made aware of the need to disclose all unspent offences. In the case the applicant does not disclose, all agencies will have a duty of care to notify the college with any offence which causes a concern for the environment they will be based in, the offences include:

- Sexual related offences
- Offences of violence
- Arson
- Substance misuse

This list is not exhaustive

## **8. Management process / Lines of Accountability**

The College Learner Safeguarding and Welfare Manager is accountable for any information (verbal or written reports) disclosed to a third party by college staff. Any requests for a member of the college staff to attend court proceedings or external meetings should be directed through the Learner Safeguarding and Welfare Manager. Similarly any requests for written reports or verbal updates should follow this process. Written reports will be gate kept by the Learning Safeguarding and Welfare Manager for quality control purposes.

## 9.1 Gower College Swansea Criminal Record Disclosure Form (GCS1 form)

<b>Today's Date:</b>	
<b>Full Name</b>	
<b>Date of Birth</b>	
<b>Course Applied for</b>	

The details requested on this form will be treated sensitively and in the strictest of confidence.

The information on this form will initially be looked at by the Learner Services Manager or the Head of Learner Support Services, if it is considered that your criminal record has a relevance to either the course you have chosen or to you being on the college premises, then the Learner Services Manager and the Learner area manager/Senior Tutor responsible for the course you have chosen will undertake a risk assessment which will lead to one of the following decisions

- We are able to process your application
- We are able to consider your application providing you agree to certain conditions or support
- We are not able to consider your application at this present time

Please give details of all offences for which you have ever been convicted of, which includes dates and any prosecution which you are currently facing.

--

If you are applying for a course leading to work with children (under 18), vulnerable adults, social services, uniformed services or the health service, please also provide information on any spent convictions.

--

**If you are on probation at the moment, please provide us with permission to discuss your case with your: Probation Officer, Drugs Worker, YOS worker, RAP worker**

**Details of Person to Contact:**

**Based at:**

**Telephone number:**

**I give you permission to discuss my case with my Probation Officer, Drugs Worker, YOS Worker, as necessary. Y  N**

**I declare that to the best of my knowledge and belief, everything documented in this form is accurate and up-to-date. I also authorise Gower College Swansea to make an application to obtain all previous convictions.**

**Signed:**

**Date:**

## 9.2 Enrolment of Students with Criminal Convictions Risk Assessment Form (GCS2 form)

<b>Date:</b>		<b>Name:</b>		<b>YOS</b>	<b>Probation</b>
--------------	--	--------------	--	------------	------------------

Addressing issues relating to criminal convictions needs an objective, common sense approach, which takes account of the following issues.

Students with convictions of violent, sexual or child pornography offences are subject to stringent control. In these situations advice must be sought from appropriate agencies.

The college has a duty to protect students and staff and not place them at risk of harm. Control measures put in place as a result of the risk assessment could include:

- Supervision
- Progress Reviews
- Partnership with external agencies

<b>Issues to Consider</b>	<b>Evidence/Commentary</b>	<b>Control measures to put in place</b>
<b>The Nature of the crime</b> <ul style="list-style-type: none"> <li>➤ Exemption status under the Rehabilitation of Offenders Act, duties under the police and Children's Act regarding 1:1 contact with children, or vulnerable adults</li> </ul>	(Note: It is illegal to employ certain offenders in some occupations, which should be considered in appropriateness of course choice)	
<b>When was the crime committed?</b> <ul style="list-style-type: none"> <li>➤ The length of time since the crime was committed</li> </ul>		
<b>The circumstances involved</b> <ul style="list-style-type: none"> <li>➤ Improved personal circumstances making re-offending less likely?</li> <li>➤ Drug or alcohol addiction therapy?</li> </ul>		
<b>Patterns of offending</b> <ul style="list-style-type: none"> <li>➤ Was the offence a one off?</li> <li>➤ Was the offence part of a history of offending?</li> </ul>		
<b>Efforts to avoid re-offending</b> <ul style="list-style-type: none"> <li>➤ The involvement and co-operation with the Probation service</li> <li>➤ The degree of remorse shown</li> <li>➤ Support from family</li> </ul>		
<b>Safeguards against offending whilst at college</b> <ul style="list-style-type: none"> <li>➤ Supervision</li> <li>➤ Regular Progress Review</li> </ul>		

➤ Working in liaison with external partnerships		
---	--	--

<b>Is there a victim in the college?</b>		
<b>The possible reactions to staff, students, and parents/guardians of students to presence of ex offender being in college</b> ➤ Are they a high profile offender within the local community?		
<b>Will the nature of the course present any realistic opportunities for the student to re-offend?</b>		

<b>Overview of Control Measures in place</b>

- Control Measures sufficient to enrol student
- Control Measures insufficient to enrol student
- Applicants assured that information will be kept confidential
- Applicants informed of the specific need to disclose information and who the information has been disclosed to
- Applicant agreed to inform the Student Services Manager if they transfer courses

Student Name	Signature	Course Applied for
Tutor or LAM	Signature	Position
Learner Safeguarding & Welfare Manager		
External Agency	Signature	Position
Date:		

Referral to SSO: YES/NO

## 10. Welsh Language

Mae Coleg Gŵyr Abertawe yn ymrwymedig i hyrwyddo'r iaith Gymraeg, yn unol â Safonau'r Iaith Gymraeg a Mesur y Gymraeg (Cymru) 2011.

Gower College Swansea is committed to the promotion of the Welsh language, in accordance with the Welsh Language Standards and the Welsh Language (Wales) Measure 2011.