

## APPENDIX 4

### CRIMINAL RECORDS CONSIDERATION

#### PROCEDURE FOR REGISTERED STUDENTS

##### ***General Provisions***

1. All criminal records for registered students (including criminal charges and related criminal matters<sup>1</sup>) are assessed by the Convictions Consideration Panel (CCP), using the CCP Form for Assessing Criminal Records (Appendix 1: Form CCP1) and the Criminal Record Consideration Criteria (Appendix 2).
2. The CCP may have criminal charges/a criminal record/related criminal matters pertaining to a registered student referred to it for assessment in the following circumstances:
  - either prior to, or as part of, procedures under the [Support Through Studies policy](#);
  - either prior to, or as part of, procedures under the [Emergency Powers of Exclusion and Suspension](#);
  - either prior to, or as part of, procedures under [the Non-Academic Misconduct Policy and Procedures](#);
  - either prior to, or as part of, procedures under the [Student Complaints Procedure](#);
  - either prior to, or as part of, procedures under the [Policy on Harassment, Sexual Misconduct and Related Behaviours](#)
  - either prior to, or as part of, procedures under the school School's [Safeguarding policy](#)
3. In undertaking its assessment, the CCP will complete all relevant parts of Form CCP1. Not all parts of the form will necessarily be completed for every assessment by the CCP. In all circumstances, the CCP will complete Part A (Applicant/Student Details and Initial Assessment), and Part E (Final Decision). Please see the ***Guidance notes to the criminal records assessment form*** in Appendix 1 for further information.
4. Where a registered student makes a voluntary disclosure of a criminal record to the School, the CCP will undertake the assessment in order to identify whether any additional support is needed, and may refer the student into other School procedures (such as Support Through Studies) as is deemed appropriate by the CCP.
5. Where the CCP has a criminal record/charges referred to it for assessment as part of the procedures under the [Non-Academic Misconduct Policy](#) and Procedures, the CCP will normally complete Part D 'Risk Assessment' of the assessment procedure (Appendix 1) before its final decision. However, consideration under the Non-Academic Misconduct procedures will only take account of whether, on the balance of probabilities, there is *prima facie* evidence that either major or minor misconduct may have occurred on the part of a

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<sup>1</sup> See Section A of the Criminal Records policy for information on Related Criminal Matters.

registered student in light of the events leading to such a criminal offence or charges. The role of the CCP in this instance is to best support the management of the student case by facilitating such consideration and identifying any support/other necessary measures that the School may need to take.

### **Consideration Procedure**

4. CCP has criminal charges or a criminal record pertaining to a registered student referred to for consideration. This may be:
  - prior to instigating procedures under the [Non-Academic Misconduct Policy and Procedures](#), or
  - as part of the initial investigation process into whether the School should instigate formal misconduct proceedings, or
  - as part of formal misconduct proceedings (evidence-gathering)
5. The disclosure of such criminal charges/criminal record may be as a result of:
  - self-disclosure on the part of a student, or
  - a disclosure that comes to light either as a result of a disclosure by a third party, or via a DBS check result
6. Following receipt of a referral, CCP undertakes Initial Assessment using the Criminal Record Consideration Criteria (**Appendix 2**), and determines whether a Disclosure Discussion (Part B) is needed with the applicant:
  - a) Where a Disclosure Discussion is needed, the CCP will progress to Part B and follow the procedure through all subsequent stages up to and including Part E 'Final Decision'.
  - b) Where no Disclosure Discussion is needed, the CCP will normally move straight to a Final Decision (Part E), bypassing the other sections of the consideration procedure, unless it deems that a Risk Assessment (Part D) is necessary to inform its decision.
7. On completion of the Initial Assessment, the student will be informed in writing of the outcome, normally within 7 days of the decision being made, as follows:
  - a) Where the Initial Assessment has resulted in the CCP needing to progress through the full Criminal Records Consideration Procedure, the student will be notified in writing that the Initial Assessment has been undertaken and invited to a CCP Disclosure Discussion (Part B of the Procedure). The student will normally be given at least 7 days' notice of the Disclosure Discussion. The date and time of the Disclosure Discussion will normally be confirmed in this written notification, or as soon as possible thereafter.
  - b) Where the Initial Assessment has resulted in a Final Decision (Part E of the Procedure) being made, any substantiating reasons underpinning the decision will be articulated in the Final Decision letter. The Final Decision Letter will normally be sent within 7 days of the Final Decision being made and signed off.

***Final Decision following criminal record consideration***

8. Either following the Initial Assessment or having progressed through the procedure (as applicable), the CCP reaches a Final Decision (Part E of the Criminal Records Consideration Procedure).
9. The Final Decision for registered students may be one of the following:
- **No further action** needed in respect of the criminal record/charges/related matters
  - **Referral for consideration under the Non-Academic Misconduct Procedures** (in this case the CCP's record of consideration will be forwarded for consideration as part of the case documentation)
  - **Referral under another policy** (e.g. [Support Through Studies](#))
  - **Measures/safeguards necessary to put in place**
10. In all instances, except in cases where the School has reasonable grounds to suspect that a student may be at risk, the student will be notified in writing of the Final Decision and the reasons for the Final Decision, normally within 7 days of the Final Decision being signed.

***Outcome procedures******No Further Action***

11. Where the CCP's Final Decision is that no further action should be taken with regard to the criminal record, the Final Decision will be communicated as necessary to relevant staff. The details of the full completed Criminal Record Assessment form (Appendix 1), including the reasons for the Final Decision, will not be shared further with School staff, and will be securely held on file until six months after the student has completed their course of study with the School.

***Referring the matter into the [Non-Academic Misconduct Policy and Procedures](#)***

12. Where the CCP's Final Decision is to refer the matter into the School [Non-Academic Misconduct Policy and Procedures](#), the CCP will send its final decision including its supporting reasons for its finding, and the full completed Criminal Record Assessment form (Appendix 1), to the Preliminary Enquiry Officer for investigation in accordance with the Preliminary Enquiry stage of the [Non-Academic Misconduct Policy and Procedures](#).

***Criminal records that have been referred to the CCP under the [Non-Academic Misconduct Policy and Procedures](#)***

13. Where an officer of the School<sup>2</sup> investigating potential misconduct refers a criminal record to the CCP for assessment as part of the investigation of possible misconduct, in all cases, regardless of the Final Decision outcome, the CCP will send its final decision including its supporting reasons for its finding, and the full completed Criminal Record Assessment form (Appendix 1), to the officer who had referred the matter to the CCP.

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<sup>2</sup> 'Officer of the School' will be a designated member of staff of the School appointed in accordance with the procedures under the relevant policy.

Referring the matter under another School policy

14. Where the CCP refers the matter under another School policy, the CCP will send its Final Decision including its supporting reasons for its finding, to the relevant staff members involved in managing that policy's procedures in strict confidence, and on a need-to-know basis. Details of the full assessment will not normally be disclosed unless the CCP is satisfied that there is an essential specific need to do so, and only with the permission of the student concerned.
15. Where the CCP is satisfied there is an essential specific need, it will contact the student concerned to obtain consent before sharing any details of the assessment beyond the Final Decision and its supporting reasons.
16. All information relating to the student's criminal record will be treated in the strictest confidence, in accordance with the Data Protection Act 2018 and the General Data Protection Regulations 2018 (GDPR).

**17. Right of Appeal against a Final Decision**

- a) Where the CCP's Final Decision is to refer the matter into the Non-Academic Misconduct procedures, the student's right of appeal in relation to this matter will be in accordance with the [Non-Academic Misconduct Policy and Procedures](#). The according Grounds of Appeal are located in the [Non-Academic Misconduct Policy and Procedures](#).
- b) Where the CCP's Final Decision (including where the CEO/Principal makes the Final Decision) is to refer the matter under another policy and the student wishes to appeal against this decision, the student has the right to complain under the Student Complaints Procedure.

***Disclosure by a registered student of a spent/not 'relevant' conviction***

18. Where it is determined that a student has disclosed a criminal record which is forwarded for assessment by the CCP but is then deemed by the CCP not to have warranted assessment, the criminal record will be disregarded and the information will be securely destroyed. The student will be notified in writing of this finding and action normally within 7 days of the finding by the CCP. However, the School may choose to offer a support meeting to the student, which may be under the Support Through Studies procedures, in order to open a dialogue with the student as to whether they require any additional support.