

Open College of the Arts

Criminal Convictions Policy 2023-24

Version no.	Status	Owner	Approved by	Date approved	Next review Date:
Receiving a criminal conviction whilst studying policy	Approved	Craig Dewis	OMG	15/02/2018	
1	Approved	Craig Dewis	OMG - Chair's Action	24/11/2021	June 2023
2	Approved	Craig Dewis	CQC – Chair's Action	18/07/2023	June 2024

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1. The purpose of this policy

- 1.1. This policy sets out the requirements to study at the Open College of the Arts (OCA) whilst in receipt of an unspent criminal conviction, considerations that

OCA make whilst determining whether to accept an enrolment, and outlining any restrictions that may be put in place, and the process by which that is determined. New enrolments will not be accepted during the 2023/24 academic year (please see paragraph 4.1).

2. Scope

- 2.1. This policy applies to all enquirers, applicants, and students at OCA on short courses, foundation courses, undergraduate degrees, and postgraduate degrees for the 2023/24 academic year (running 1st August 2023 to 31st July 2024). Certain sections and clauses within this policy may only be applicable to certain students.

3. Linked and other policies and legislation

- 3.1. This policy is subject to [OCA's Terms and Conditions](#).
- 3.2. This policy should be read in conjunction with OCA policies including the [Admissions Policy](#), [Safeguarding Policy](#), and the [Student Code of Conduct](#).
- 3.3. Disclosing details of criminal convictions is classified as special category data under the [General Data Protection Regulations](#) and [Data Protection Act 2018](#). This data is processed under the [Data Protection Act 2018](#), Schedule 1, Part 3, paragraphs 29 & 30 (or equivalent act for outside of the United Kingdom).
- 3.4. This policy references the [Rehabilitation of Offenders Act 1974](#), the [Sex Offences Act 2003](#), the [Terrorism Act 2006](#) or equivalent act for outside of the United Kingdom), and the [Children Act 2004](#).

4. Applicants and newly enrolled students

- 4.1. Throughout the 2023/24 academic year, which runs 1st August 2023 to 31st July 2024, OCA is not accepting applications or enrolments from applicants and students with a relevant unspent criminal conviction who are not registered on a Programme of Study with OCA as of 31st July 2023.
- 4.2. From 1st June 2024 OCA will open applications from students with a relevant unspent criminal conviction to enrol in the 2024/25 academic year.

5. Existing OCA Students

5.1. General Principles

- 5.1.1. OCA is an open access provider of courses. Having a relevant unspent criminal conviction will not normally exclude a student from an OCA course.
- 5.1.2. Decisions regarding continued study of students with relevant unspent convictions, are taken with due consideration for the safeguarding and wellbeing of the student themselves, and of the OCA student body as a whole. In addition we will also consider OCA's ability to fully support any student. OCA reserves the right to refuse enrolment to a unit or to rescind access to study if there are identified risks to OCA and the community that cannot be mitigated against.

- 5.1.3. OCA reserves the right to impose any reasonable restrictions to services, inclusive of curriculum changes and provision of services, to safeguard the OCA community.
- 5.1.4. Students who disclose a relevant unspent criminal conviction, charge, or conditional discharge will be treated with dignity and respect.
- 5.1.5. Information regarding the disclosure of a relevant unspent criminal conviction, charge, or conditional discharge will be treated as confidential, and disclosed to OCA/OU staff on a need to know basis.

5.2. *Disclosing convictions*

- 5.2.1. Students are required to disclose relevant unspent criminal convictions. A conviction becomes spent after successful completion of a rehabilitation period under the [Rehabilitation of Offenders Act 1974](#) (or equivalent act for outside of the United Kingdom).
- 5.2.2. Students must disclose a relevant unspent criminal conviction at the point of enrolment to a new unit, or as soon as practicable thereafter. This is done through self-declaration on the relevant OCA enrolment form; to request a paper copy of the enrolment form please contact enquiries@oca.ac.uk.
- 5.2.3. If you receive a relevant unspent criminal conviction whilst studying with OCA you must inform us immediately. OCA will request from you information relevant to your criminal conviction to assist us with supporting your access to study and safeguarding the OCA community. Students who receive a relevant unspent criminal conviction whilst studying with OCA should contact learnersupport@oca.ac.uk as soon as possible to discuss.
- 5.2.4. If you are unsure as to whether you should disclose information regarding a conviction you should first seek advice, for example from the [Disclosure Barring Service](#).
- 5.2.5. When a relevant unspent criminal conviction is declared either during enrolment, or at any point thereafter the case will be passed to the Learner Support team to review and access the enrolment/case as set out in section 6.
- 5.2.6. Relevant unspent criminal convictions include, but are not limited to:
 - 5.2.6.1. Offences listed in the [Sex Offences Act 2003](#) (in the United Kingdom; or equivalent Act outside of the United Kingdom);
 - 5.2.6.2. Any kind of violence including (but not limited to) threatening behaviour, offences concerning the intention to harm, or offences which resulted in actual bodily harm;
 - 5.2.6.3. Offences listed in the [Terrorism Act 2006](#) (in the United Kingdom; or equivalent Act for outside of the United Kingdom);
 - 5.2.6.4. The unlawful supply of controlled drugs or substances where the conviction concerns commercial drug dealing or trafficking;
 - 5.2.6.5. Offences involving firearms, weapons, crossbows, and knives;
 - 5.2.6.6. Offences involving arson;

- 5.2.6.7. Fraud;
- 5.2.6.8. Offences of human trafficking, slavery, and forced labour;
- 5.2.6.9. Offences related to any person under 18 considered a child under English law see [Children Act 2004](#).

5.3. Conviction review

- 5.3.1. In the event that a relevant unspent criminal conviction is disclosed OCA will request the following information in order to formally review the disclosure:
 - 5.3.1.1. Written confirmation of the nature of the offence, date of offence, name of court, date of conviction, and sentence.
 - 5.3.1.2. Name and contact details of any Prison Officer, Probation Officer and/or Social Worker assigned to the case, and written consent for OCA to contact and discuss the circumstances of the conviction and for any information given to form part of the review.
 - 5.3.1.3. Any other information the student wishes to be taken into account, for example references from employers.
- 5.3.2. OCA will review the disclosure to ensure that:
 - 5.3.2.1. The student meets the requirements for the course of study where applicable (please see [Admissions Policy](#) for details).
 - 5.3.2.2. The student will be able to meet the requirements of the course within any constraints imposed by the conviction.
 - 5.3.2.3. The offer of a place on a course or the participation in a course will not in any way compromise the safety and wellbeing of the OCA student community.
 - 5.3.2.4. OCA can successfully support the student within their course with relevant restrictions in place.
- 5.3.3. The conviction review will be conducted by the Senior Learner Support Adviser in consultation with the Prison Officer, Probation Worker, and/or Social Worker assigned to the case, and the Programme Leader for the proposed unit. They will consider and decide whether an offer to continue to study should be made, and if any special conditions should be attached.
- 5.3.4. If a more extensive investigation into the nature of the offences or conviction is required, and/or there are any concerns that the person might put members of the OCA community at risk, the case would be referred to a group convened by the Head of Student Services, and including:
 - 5.3.4.1. The Programme Leader for the proposed course
 - 5.3.4.2. The Head of Technology Enhanced Learning (or their representative)
 - 5.3.4.3. The Head of Quality and Academic Support (or their representative)
- 5.3.5. The convened group may decide to request further information from the student, with the expectation of a reply and information forthcoming within two weeks of that request, unless there is good reason for a delay.

- 5.3.6. The convened group will decide whether to permit acceptance to study or continuation of study at OCA, and if any special conditions are made with respect to study.
- 5.3.7. All factors in consideration will be balanced against the students' right to be treated fairly.

5.4. *Special Conditions*

- 5.4.1. OCA may impose special conditions on the enrolment of a returning student or at any point of study once a disclosure has been made as outlined in paragraphs 5.3.3 and 5.3.6 of this policy.
- 5.4.2. These special conditions are to ensure that all members of the OCA community can study effectively with specific consideration for safeguarding, and may include but are not limited to:
 - 5.4.2.1. Restriction of forum access
 - 5.4.2.2. Restriction to specific courses
 - 5.4.2.3. Restriction of OCA-provided communication tools including email, video conferencing services and others
 - 5.4.2.4. Restriction of facilities within OCA's virtual learning environment
 - 5.4.2.5. Restriction of access to cloud-based storage facilities
 - 5.4.2.6. Restriction of access to study events
 - 5.4.2.7. Restriction of access to The Open University Library

5.5. *Failure to disclose*

- 5.5.1. Students who fail to disclose a relevant unspent criminal conviction, including withholding of information, will be considered under the [Student Code of Conduct](#).

5.6. *Appeals*

- 5.6.1. Students who have disclosed a relevant unspent criminal conviction do not have an automatic right of appeal against a decision as to whether or not they are allowed to continue on a course at OCA or in relation to any special conditions required. The exception to this is where they believe an administrative error has been made. Students may request an administrative appeal as set out in OCA's [Student Complaints & Non-Academic Appeals Procedure](#).

6. **Data Protection**

- 6.1. Information relating to a criminal conviction supplied by you, and/or by a Prison Officer, Probation Officer, and/or Social Worker connected to your case, will be retained by OCA for the duration of your enrolment with OCA plus one year; please see [OCA's Data Protection and Confidentiality Policy](#) for details.
- 6.2. This information, including completed risk assessments will be attached to your student record, and access restricted to appropriate staff members.

- 6.3. We use this information to assess whether there is a safeguarding risk to the OCA community, and if there is any action that we need to take to keep individuals safe.
- 6.4. The condition for processing special category data for this purpose would be that it is in the substantial public interest, for the purposes of protecting an individual from harm.

7. Support for the policy

- 7.1. Should you need any help with this policy whilst you are enrolling to an OCA course, you should contact our Information, Advice, and Guidance team at enquiries@oca.ac.uk, where they will be able to answer any queries you have.
- 7.2. For information on special conditions, or how to disclose a conviction as a current student, you should contact our Learner Support team at learnersupport@oca.ac.uk, where they will be able to answer any queries you have.

8. Reviewing the policy

- 8.1. OCA will work closely with OCASA to gather student feedback on the outline of the policy, its intentions, the administration of the policy, and a review of all these points in practice. These will then be fed into the next review point for the policy.
- 8.2. If you would like to raise any issues around this policy then you should contact enquiries@oca.ac.uk, or if you are a student, you might also wish to raise these with the appropriate OCASA representative.

9. Summary of Changes

- 9.1. Designation of specific sections for applicants and existing OCA students
- 9.2. Introduction of a pause on new OCA enrolments for the 2023/24 academic year
- 9.3. Clarification of terms in relation to conviction review, including to outline consultation with external parties
- 9.4. Inclusion of section 6 (Data Protection)