

Criminal Convictions Policy

From August 2024

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1. Policy Summary

- 1.1. This policy sets out the requirements to continue to study at the Open College of the Arts (OCA) whilst in receipt of a relevant unspent criminal conviction. There are considerations that OCA make whilst determining whether to accept an enrolment, and outline any restrictions that may be put in place, and the process by which that is determined.
- 1.2. New students (not currently studying with OCA) who are in receipt of a relevant unspent criminal conviction may only study OCA's Learners in Secure Environments Curriculum. This is a set curriculum designed to facilitate offline access. Please note this curriculum is currently closed to all applications and enrolments until the 2025/26 academic year.

2. Scope

2.1. What does this policy cover?

- 2.1.1. This policy applies to all enquirers, applicants, and students currently enrolled on a course at OCA, on short courses, foundation courses, undergraduate, and postgraduate degrees.

- 2.1.2. This policy covers what happens if you receive a criminal conviction whilst studying, the process for considering your studies, and how you can be supported.

2.2. What does this policy not cover?

- 2.2.1. Certain sections of this policy are specified for certain groups of students. There are limitations on the type of study that some students can engage with due to curriculum content and delivery.
- 2.2.2. This policy does not cover applications or enrolments from students new (not currently enrolled to an OCA course), as the appropriate curriculum is closed to new applications until the 2025/26 academic year.

3. General Principles

- 3.1. OCA is an open access provider of courses. Receiving a relevant unspent criminal conviction whilst studying with OCA will not normally exclude a student from an OCA course.
- 3.2. 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 and The Open University student body as a whole. In addition we will also consider OCA's ability to fully support any student. OCA may refuse enrolment to a new unit or to withdraw you from existing study if there are identified risks to OCA and the community that cannot be mitigated against.
- 3.3. OCA may impose any reasonable restrictions to services, inclusive of curriculum changes and provision of services, to safeguard the OCA community, and facilitate access to study to students with a relevant unspent criminal conviction.
- 3.4. Students who disclose a relevant unspent criminal conviction, charge, or conditional discharge will be treated with dignity and respect.
- 3.5. Information regarding the disclosure of a relevant unspent criminal conviction, charge, or conditional discharge will be treated as confidential, and disclosed to OCA and The Open University staff on a need to know basis.

4. Disclosing convictions

- 4.1. You are required to disclose relevant unspent criminal convictions to OCA. 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).

- 4.2. If you receive a relevant unspent criminal conviction whilst studying with OCA you must inform us immediately. OCA will require you to complete The Open University's Self Declaration form to assist us with assessing your access to study and safeguarding the OCA and The Open University community. The Self Declaration form is sent to you once you have disclosed you have a relevant unspent criminal conviction. Students who receive a relevant unspent criminal conviction whilst studying with OCA should contact learnersupport@oca.ac.uk as soon as possible to discuss.
- 4.3. If you receive a relevant unspent criminal conviction and are in between units you must the criminal conviction when you enrol a new unit. This is done through self-declaration on the OCA enrolment form; we will then send you The Open University Self Declaration form to complete.
- 4.4. 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](#).
- 4.5. When you declare a relevant unspent criminal conviction with OCA information is shared with The Open University, as outlined in the Self Declaration form, to review the conviction (see section 5, Conviction Review).
- 4.6. Relevant unspent criminal convictions include, but are not limited to:
 - 4.6.1. Offences listed in the [Sex Offences Act 2003](#) (in the United Kingdom; or equivalent Act outside of the United Kingdom);
 - 4.6.2. 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;
 - 4.6.3. Offences listed in the [Terrorism Act 2006](#) (in the United Kingdom; or equivalent Act for outside of the United Kingdom);
 - 4.6.4. The unlawful supply of controlled drugs or substances where the conviction concerns commercial drug dealing or trafficking;
 - 4.6.5. Offences involving firearms, weapons, crossbows, and knives;
 - 4.6.6. Offences involving arson;
 - 4.6.7. Fraud;
 - 4.6.8. Offences of human trafficking, slavery, and forced labour;
 - 4.6.9. Offences related to any person under 18 considered a child under English law see [Children Act 2004](#).
- 4.7. When you disclose a relevant unspent criminal conviction, OCA will limit your access to services and/or suspend you whilst an investigation takes place. If

you are suspended this will include removal of all access to OCA services. Suspension is not a disciplinary penalty. It is an urgent and necessary action whilst the investigation takes place.

5. Conviction review

- 5.1. In the event that a relevant unspent criminal conviction is disclosed OCA will require you to complete a Self-Declaration Information form which is to be returned to learnersupport@oca.ac.uk.
- 5.2. The Self-Declaration Information form will ask you to provide details of your conviction, and all relevant information, and to provide contact details and consent for OCA and The Open University to check information.
- 5.3. OCA and The Open University will review the disclosure to ensure that:
 - 5.3.1. You meet the requirements for the course of study where applicable (please see [Admissions Policy](#) for details).
 - 5.3.2. You will be able to meet the requirements of the course within any constraints imposed by the conviction.
 - 5.3.3. The continued participation in a course will not in any way compromise the safety and wellbeing of the OCA and The Open University student community.
 - 5.3.4. OCA can successfully support you within your course with relevant restrictions in place.
- 5.4. The conviction review will be conducted by OCA and The Open University in a panel review of OCA and The Open University staff.
- 5.5. The panel may decide to request further information from you, with the expectation of a reply and information forthcoming within 10 working days of that request, unless there is good reason for a delay.
- 5.6. The panel 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.

6. Special Conditions

- 6.1. OCA and The Open University 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.
- 6.2. Where the nature of your conviction and licence restrictions are such that there is risk to the OCA and The Open University community, you may be offered

continuation of study though fully offline access and adjusted material to facilitate study.

- 6.3. Where full offline access is not required, but there are still identified risks associated with study the panel may impose special conditions to ensure that all members of the OCA and The Open University community can study effectively with specific consideration for safeguarding, and may include but are not limited to:

- 6.3.1. Restriction of forum access
- 6.3.2. Restriction to specific courses
- 6.3.3. Restriction of OCA-provided communication tools including email, video conferencing services and others
- 6.3.4. Restriction of facilities within OCA's virtual learning environment
- 6.3.5. Restriction of access to cloud-based storage facilities
- 6.3.6. Restriction of access to study events
- 6.3.7. Restriction of access to The Open University Library

7. Failure to disclose

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

8. Appeals

- 8.1. 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](#).

9. Data Protection

- 9.1. Information relating to a relevant unspent 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 Policy](#) for details.
- 9.2. This information, including completed Self-Declaration Information Forms, risk assessments will be attached to your student record, and access restricted to appropriate staff members.

- 9.3. 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.
- 9.4. 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.
- 9.5. Any information you provide to OCA in relation to your relevant unspent criminal conviction will be shared with relevant staff at The Open University. This is to review your conviction, and assess availability of study for you, and for registration purposes.

10. If you need support

- 10.1. 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.
- 10.2. 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.

11. Linked and other policies and legislation

- 11.1. This policy is subject to [OCA's Terms and Conditions](#).
- 11.2. This policy should be read in conjunction with OCA policies including the [Admissions Policy](#), [Safeguarding Policy](#), and the [Student Code of Conduct](#).
- 11.3. 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).
- 11.4. 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](#).

12. Summary of Changes

- 12.1. Transfer to a new policy template and format.
- 12.2. Amendment to wording throughout for clarity and ease of reading.



- 12.3. Introduction of paragraph 1.2, detailing the Learner in Secure Environment curriculum.
- 12.4. Introduction of Scope section, in addition to what this policy covers, and what this policy does not cover.