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(MQA Approved)**

Regulations for the consideration of applicants and students with a criminal conviction

Responsibility of:	Institute Discipline Master /
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1 Introduction

- 1.1 These regulations are designed to ensure that the Institute provides a safe environment for all its staff and students. It has a legal obligation with regard to Health and Safety to exercise this duty of care. As part of this, the Institute will ensure that students do not have a criminal conviction that may pose a risk to others.
- 1.2 The Institute will consider all information relating to criminal convictions in a sensitive and confidential manner in accordance with the Institute's Data Protection Policy.

2 Scope of the regulations

- 2.1 These regulations are to enable the Institute to consider applications and from those who have declared relevant unspent convictions (including cautions, reprimands or warnings) as part of the application process or as part of their ongoing enrolment.
- 2.2 Students who are convicted of a criminal offence following their admission to the Institute may also be considered under the Student Disciplinary Regulations once the review of their criminal conviction has been completed.
- 2.3 Applicants to courses which lead to professional registration are required to apply for an enhanced disclosure with the Disclosure and Barring Service and any convictions will be considered under the DBS Screening Regulations. Such applicants are required to declare all convictions including cautions etc., and those that are spent.

3 Policy statement on the enrolment of students with criminal convictions

- 3.1 The Institute wishes to ensure that education is available to all who will benefit from it. In this context, having a criminal record will not necessarily mean that an applicant cannot be admitted to their chosen course or a student continue on a course following a conviction. All criminal convictions (including cautions, reprimands or warnings) are considered in the context of the Rehabilitation of Offenders Act and the Institute will only consider relevant convictions.
- 3.2 For students on courses leading to professional registration, the Institute must consider all convictions. However, for those on other courses, the Institute will only require disclosure of relevant unspent convictions which may pose a risk to the health and safety of other students and staff. In this context, relevant unspent convictions, whether received in Mauritius or elsewhere are related to:
 - 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.

- Sexual offences, including those listed in the Sexual Offences Act.
- The unlawful supply of controlled drugs or substances where the conviction concerns commercial drug dealing or trafficking (drug offences only involving possession are not relevant offences).
- Offences involving firearms.
- Offences involving arson.
- Offences involving terrorism.

- 3.3 The Institute must balance fairness to the individual with its duty of care to provide a safe and secure environment for its staff, its students, visitors and others. Where an applicant has applied for a course leading to professional registration, account must also be taken of the requirements of the professional bodies.
- 3.4 In considering whether to allow initial or continued enrolment, account will be taken of the applicant's/students qualifications, experience, and overall profile. The Institute will also consider whether the criminal record gives reasonable grounds for considering that the individual poses a real threat to the safety of staff, students, visitors or others involved in Institute business. The Institute reserves the right to refuse to admit or to cease the enrolment of individuals where it believes that their criminal record makes it inappropriate for them to be admitted to the Institute or to continue to be enrolled.
- 3.5 The Institute reserves the right to decline to admit an applicant to a course or to end the enrolment of a student if it discovers, at any time, that their application/enrolment was based on, or contained, false, incomplete, or misleading information relating to criminal convictions.

4 Relationship to DBS Screening Regulations

- 4.1 Applicants to the courses which lead to professional registration are required to undergo a DBS check prior to confirmation of their offer.
- 4.2 Applicants will be informed via the Prospectus, website and other course related information that these courses are not exempted under the Rehabilitation of Offenders Act .This means that all convictions (including cautions, reprimands or warnings), whether spent or not, must be disclosed.
- 4.3 Applicants will be asked to disclose all information regarding criminal offences during their application. These applications will be considered under the DBS Screening Regulations.

5 Courses which provide the foundation for future professional registration

- 5.1 Courses such as Law are the foundation for professional registration after further study. The Institute will not undertake any additional checks for these courses. However, these professions will not necessarily be exempt from the Rehabilitation of Offenders Act and therefore those with a criminal conviction may not be able to qualify. Applicants to these course should seek further advice from the appropriate professional body.

6 Requirement for disclosure at during the admissions/enrolment process

- 6.1 Once an offer has been made to a student, they will be asked to confirm that they do not have any relevant criminal convictions.
- 6.2 Disclosure will also be required as part of the initial and subsequent enrolment process.

7 Offer holders who declare a conviction

- 7.1 Where an offer holder has declared a relevant conviction, he/she will be asked for the details surrounding the conviction, together with any mitigating circumstances. The applicant will also be asked to supply two character references including, where relevant, that of a probation officer.
- 7.2 If the applicant fails to respond by the specified date, the offer will be withdrawn. This date will be set taking into account any relevant deadlines for applications
- 7.3 If at any stage, by any means, information subsequently reveals a relevant criminal conviction that has not been previously declared, the offer may also be withdrawn.
- 7.4 On receipt of the further information, the Admissions Office shall refer all information, including the Application Form where relevant, any accompanying documentation and details of the nature of the offence(s) and conviction(s), to the Institute admission officer who will convene a panel as set out below.

8 Current students who declare a conviction

- 8.1 Students who declare a relevant conviction during enrolment either through online enrolment or another process such as mitigation, or where it otherwise comes to light that they have a conviction, will be referred to the Criminal Convictions Panel as set out below.
- 8.2 Students will be asked to supply further information for the details surrounding the conviction, together with any mitigating circumstances. The applicant will also be asked to supply two character references including, where relevant, that of a probation officer.
- 8.3 Following consideration by the Criminal Convictions Panel, the student may be subject to disciplinary proceedings under the Student Disciplinary Regulations.

9 Panel to consider criminal convictions

- 9.1 The Panel shall consist of three senior members of staff including the Academic officer or nominee, the Head of Student Services if any or Nominee and a senior academic. The panel will be arranged and supported by the Compliance Team.
- 9.2 The Panel's duty is to make recommendations, based on the evidence, to the

Assistant Manager .

10 The Panel meeting

10.1 The Panel will meet within 21 days of receipt of the information referred to in Section 5 (above).

10.2 In arriving at a decision the panel will review:

- Application form/academic record
- Statement if submitted
- Character references
- Any other supporting information submitted

10.3 The panel will make a decision taking into account the following overarching principles to judge whether the offence(s):

- Constitute, or not constitute, a risk to the safety and/or wellbeing of other members of the Institute community that is inconsistent with the Institute 's duty of care.

10.4 In reaching its judgement, the Panel shall take into account the following:

- Whether the criminal record has any bearing on the individual's suitability to be a member of the student body;
- The length of time since the offence(s) was committed;
- Whether the individual has re-offended and, if so, whether there is a pattern to the re-offending;
- The circumstances surrounding the offence;
- Whether the individual's circumstances have changed in any significant way since the time of the offence(s);
- The individual's explanation of the offence;
- Evidence submitted by the individual, or referees, of good character.

10.5 The Panel must reach a decision based on the balance of probabilities, based on all of the facts available at the time.

11 Panel recommendations

11.1 The panel may make the following recommendations:

- a) To allow an applicant to enrol on the course subject to other entry criteria being met;
- b) To place specific conditions on an applicant's enrolment;
- c) To request further information from the applicant/student regarding the offence;
- d) To withdraw the offer;
- e) To allow a current student to continue with the course;
- f) To allow a current student to continue with the course subject to specific

conditions;

- g) To withdraw a student from their course;
- h) To refer the student to a Student Disciplinary Panel.

- 11.2 In all cases the panel will take into account the reasonable interests of all concerned and the proportionality of any decision.
- 11.3 The Panel need not be unanimous in its decision, but should base its decision on the majority view. Where there is not a majority view, the Chair will have the casting vote.
- 11.4 The Panel shall communicate its judgement, with reasons, to the Institute Officer and Assistant Manager, who will be consider the recommendations, in conjunction with the Manager's Executive where appropriate.
- 11.5 The Compliance Office will keep a record of the panel decision.

12 Procedures if an applicant/student does not submit a statement.

- 12.1 If the applicant/student does not submit a statement and/or supporting information to the panel and does not communicate the reason for their non-submission, the Chair of the Panel will consider whether sufficient effort was made to contact the applicant and request the required information and so whether the Panel should:
 - proceed in the absence of the statement **or**
 - adjourn the panel to give the applicant one further opportunity to submit further information.

13 Suspension of a current student

- 13.1 Where a student is considered an immediate risk to the Institute community, they may be suspended in accordance with the provisions in the Student Disciplinary Regulations.
- 13.2 A student may also be suspended if they fail to provide information about the conviction for consideration by the Criminal Conviction Panel.

14 Notification of the panel's decision to the applicant

- 14.1 The applicant/students will be notified in writing of the Panel's decision within five working days of the outcome of the Panel meeting.

15 The Right of Appeal

- 15.1 An Applicant/student has a right of appeal against the decision of the Panel. Appeals against the decisions of the Panel will only be considered on the following grounds:
 - the decision to not admit the applicant was not commensurate with the

- seriousness of the conviction;
- the findings of fact in support of the decision were manifestly perverse;
- the Panel was not conducted in accordance with these procedures;
- new evidence has been made available that could not be available at the time of the Panel and which could have been expected to have materially affected the decision of the Panel.

16 Procedure for the appeal

- 16.1 Current students should use the Appeals procedure as set out in the Regulations.
- 16.2 Applicant's wishing to appeal against the decision of the Panel should make the appeal in writing to the Institute Discipline Master/Supervisor stating in full the grounds for the appeal and must be submitted within 20 working days after receipt of the letter informing the student of the decision of the Panel.
- 16.3 The Institute Secretary will reject any appeal against the decision of the Panel that has not been lodged in accordance with the time period set out in 13.1 above or which does not demonstrate one of the grounds for appeal set out in 11 above. In that event, the Institute Discipline Master/Supervisor will send a letter to the appellant as soon as possible giving his or her decision and the reasons for it.
- 16.4 The Institute Discipline Master/Supervisor will then review the findings of the Panel to ensure that they are reasonable and that there was no error in the findings or the procedure. Where there is new evidence this will be referred back to the Panel for consideration who will review it in line with the procedures set out in 7 above.
- 16.5 The Panel will consider all further information submitted by the applicant.
- 16.6 Following the completion of the Panel Meeting, the Panel may decide:
- To reconsider the original decision; or
 - To recommend that the original decision should stand.
- 16.7 The Institute Discipline Master/Supervisor will decide upon the appeal and his/her decision will be final. Decisions on the appeal will be final.

17 Secure storage, handling, use, retention and disposal of disclosures and disclosure information

- 17.1. The Institute is committed to ensuring that all information provided about an individual's criminal convictions, including any information released in disclosures, is used fairly and is stored and handled appropriately and in accordance with the provisions of data protection legislation. Disclosure information will only be shared with those who are authorised to receive it in the course of their duties.
- 17.2 Disclosure data on criminal convictions must be treated as special category data the General Data Protection Regulations and the Data Protection Act .

- 17.3 A brief summary of the offence and the decision of the Panel will be retained by the Institute in accordance with the Student Privacy Notice. All other information will be destroyed.