

## **Criminal Convictions Policy**

### **Policy**

1. This policy applies to all applicants to, and trainees of, BEC Teacher Training (BECTT).

### **Introduction**

2. BECTT aims to provide a supportive and positive environment for learning and teaching. It is committed to ensuring that the rights of individuals are respected and that each person is treated with dignity, respect and courtesy at all times.
3. BECTT is committed to equality of opportunity including the rehabilitation of offenders who can demonstrate academic potential. The purpose of this policy is to ensure that applicants and current trainees who have relevant criminal convictions to declare are treated consistently and equitably and in accordance with the Rehabilitation of Offenders Act 1974, the Human Rights Act 1998 and the Protection of Freedoms Act 2012. This process follows the SPA (Supporting Professionalism in Admissions) Criminal Convictions: Statement of Good Practice.
4. Whilst promoting equality of opportunity, BECTT has a responsibility to reduce the risk of harm or injury, caused by criminal behaviour, to its trainees, visitors, staff and the vulnerable people to whom some trainees have access because of the nature of this course. For this reason, all applicants to courses will be required to declare any relevant criminal convictions prior to admission.
5. Applicants who declare a conviction(s) in accordance with the provisions of this policy will not be automatically excluded from the application process and current trainees will not automatically have their enrolment terminated.
6. It is the responsibility of the Executive Director to periodically monitor and review the procedures to ensure they are fully effective and consistently applied across BECTT and to update the Central Register.

### **Relevant Criminal Convictions**

7. For all courses, relevant criminal convictions are those convictions for one or more of the following offences:
  - against the person, whether of a violent or sexual nature or child related
  - involving unlawfully supplying controlled drugs or substances where the conviction concerns commercial drug dealing or trafficking
  - involving firearms
  - involving arson
  - listed in the Terrorism Act 2006
8. The relevance of other criminal convictions will be considered.

## **Disclosing convictions – applicants**

### **Professional courses and courses involving work with children or vulnerable adults**

9. Applicants to courses provided by BECTT (which includes teaching and working with vulnerable adults) are informed via the Prospectus, DfE website, BECTT website and other programme related information that they are required to declare any criminal convictions, including spent convictions and cautions (including verbal cautions) and bind-over orders that will not be filtered under DBS guidelines in addition to any relevant unspent convictions.
10. An 'enhanced disclosure document' including a barred list check from the Disclosure & Barring Service (DBS) or the Scottish Criminal Record Disclosure Service is required. To be valid, a DBS disclosure must be less than three months old at the time of application to the course.
11. If an applicant is already employed in a post which gives direct access to children and vulnerable adults and is being supported in undertaking the course by his/her employer, BECTT requires the school to confirm in writing that they have undertaken a DBS check and that the applicant is suitable to work with children.
12. BECTT requires applicants to disclose their criminal record during the admissions process and will ask applicants reaching the interview stage to disclose details in writing. The contents of this written disclosure will only be viewed by the admissions staff if, as a result of interview, BECTT is considering making the applicant an offer. This declaration early in the admissions process allows BECTT a greater amount of time to consider an individual's situation.
13. No firm commitment will be made to any applicant until their criminal conviction issue is fully investigated.
14. There may be insufficient time for the full procedures described below to be implemented, particularly where consideration by the Criminal Convictions Panel is required. In such cases it may be necessary to ask the applicant to defer their application for a year to ensure that their criminal record can be fully investigated. However, a decision on this will only be taken after discussion with the Executive Director and Accounting Officer.

### **EU and international applicants**

15. EU and international applicants to courses will be expected to undergo a criminal records check in their home country and supply BECTT with a Certificate of Good Conduct or equivalent. BECTT will also seek a DBS check for any time spent in the UK and will also run a formal DBS check soon after the trainee has commenced the course. If formal police or criminal records checks cannot be obtained, the matter will be referred to the Accounting Officer.

### **Applicants with disclosed criminal convictions**

16. If an applicant indicates on their application form that they have a relevant criminal conviction, the application will first be considered by the person responsible for making a decision on the application according to the normal stated entrance requirements. If the application is unsuccessful, no further action is taken in connection with the criminal conviction issue and the decision is processed in the usual way.

17. If the applicant meets the academic requirements and following successful interview the panel wishes to make an offer, the matter will be referred to the Executive Director to follow the procedure for consideration of disclosed criminal convictions outlined in paragraphs 21 to 38 below. An offer will not be processed until the outcome of this procedure.
18. If an applicant receives a relevant criminal conviction after applying to BECTT but prior to enrolling as a trainee, they should contact the SCITT office to notify them of their change of status. The conviction will then be considered following the procedure outlined in paragraphs 21 to 36 below.

#### **Disclosing convictions – trainees**

19. It is the responsibility of the trainee to inform BECTT of any relevant unspent criminal convictions acquired during their time as trainees.
20. If a trainee indicates that they have been convicted of a relevant criminal offence since their interview, this may mean that their enrolment is halted. In such instances, the trainee will be asked to provide a written report with instructions to return this to the SCITT office.

#### **Procedure for consideration of disclosed criminal convictions**

21. Applicants/trainees who declare a conviction will be asked to provide further information to inform the decision making process. The SCITT office shall indicate to the applicant/trainee any implications if their response to requests for information is delayed.
22. Applicants/trainees will be given ten working days to provide documentation concerning their conviction.
23. Failure on the part of an applicant to provide the documentation within the specified period will result in a rejection of their application. The reject decision will be through the channel the applicant applied. Failure on the part of the trainee to provide the required documentation within the specified period will result in the trainee being required to attend a meeting with the Executive Director. If the required documentation is not provided within an agreed timescale after this meeting, or if the trainee fails to attend the meeting, this is likely to result in the trainee's withdrawal from the course.
24. Depending on the nature of the offence, it may also be appropriate to inform the applicant/trainee that a DBS check is required in order to confirm the details of the offence(s). BECTT may seek the applicant/trainee's consent to write to a Probation Officer or other appropriate independent person/body asking for: any other relevant factors including any probation arrangements; and a statement on the applicant/trainee's suitability to train to teach as a trainee of BECTT, including an assessment of the risk of further offending. Any personal data provided by individuals and authorities will be treated in accordance with the provisions of the Data Protection Act 1998.
25. If the applicant/trainee confirms that the 'criminal convictions' question had been ticked in error and the applicant/trainee does not, in fact, have a relevant conviction, the SCITT office will seek the applicant/trainee's assurance of this in writing/by email and make the appropriate note on the trainee's file. An applicant will also be advised to contact the channel they used to apply for a place.
26. The decision whether or not to accept an applicant or trainee with a relevant criminal conviction will be made objectively, based on the evidence available.

27. For cases which are deemed serious, ambiguous or complex, the Executive Director will pass the matter to the Criminal Convictions Panel for consideration.

### **The Criminal Convictions Panel**

28. The applicant/trainee will be notified that a Criminal Convictions Panel (the Panel) will be convened to consider their non-academic suitability for a place on the course/continued registration in respect of a current trainee. The applicant/trainee will also be sent a copy of this policy.
29. The SCITT office will be responsible for making the arrangements for the Panel, who will receive the original application/self-written report plus additional information provided by the applicant/trainee.
30. The Panel shall comprise the Executive Director, Course Director and members of the Strategic and Finance Board. For some cases it may also be appropriate for the Safeguarding Officer to be on the panel. The views of the school mentor will also be sought, as may the views of any relevant professional or assessment body.
31. The Panel will meet virtually or in person as soon as practically possible after the information is received from the applicant/trainee.
32. The function of the Panel is to take a reasonable view of the risk the applicant/trainee poses to the institution, its members and visitors or any relevant external stakeholders (such as mentors), and assess whether the applicant/trainee poses an unacceptable risk. In addition, where the Panel is considering a previously undisclosed conviction, the Panel shall consider whether the information would have been relevant for the purpose of deciding whether an applicant would have been offered admission at the time at which the original decision to offer a place or admit the trainee was taken.
33. The Panel will consider all the evidence available to assess the applicant's non-academic suitability for a place on the course or the trainee's continued registration, and undertake a risk assessment taking into account:
  - the relevance of the offence(s) to the course of study;
  - the seriousness of the offence(s);
  - the length of time since the offence(s);
  - whether there is a pattern of offending;
  - whether the applicant/trainee's situation has changed since the offence(s) was/were committed;
  - the circumstances surrounding the offence(s);
  - the applicant/trainee's explanation for the offence(s); and
  - evidence submitted of their good character.
34. The Panel may decide:
  - that the offer be processed as normal or enrolment be allowed to continue;
  - to make a new offer with new conditions attached or to specify conditions for continued enrolment on the course; or
  - not to make an offer, to withdraw an offer or to make a recommendation to the Accounting Officer that the trainee's enrolment be terminated (where appropriate).

35. The Panel shall make a formal record of the reasons for their decision to be retained by the SCITT office.
36. The SCITT office shall advise the applicant/trainee of the Panel's decision as soon as possible, and no longer than five working days after the decision is made. If the Panel has decided not to make a formal offer of a place, to set conditions or recommend an individual's enrolment be terminated, the applicant/trainee shall also be informed by the SCITT office (see paragraphs 47-75).
37. If an applicant is successful in receiving an offer for a place on a course, the Admissions team will make clear to the applicant any non-academic conditions attached to their offer. This will include a satisfactory DBS check in paragraph 10. The SCITT office are responsible for administering this process. By completing the DBS application process, the applicant is consenting that the original disclosure will be provided to the SCITT office. All DBS documentation should be received by the point of induction at BECTT.
38. Upon receipt of the DBS disclosure, the SCITT office and Executive Director shall review the disclosure and highlight to the Criminal Convictions Panel where new or different information is revealed on the DBS disclosure. The Panel will review the original decision in light of this new or different information to determine the suitability of the applicant to commence the course, as outlined in paragraphs 24-31.

**After acceptance/enrolment on professional courses and courses giving access to vulnerable people where DBS checks are required**

39. It is possible that an applicant/trainee for a course where there is access to vulnerable people may acquire a criminal record in the period between making a declaration on criminal record status and enrolment, or after commencing the course. For this reason, all applicants to/trainees on such courses must complete a self-declaration form at the point of enrolment at the start of the academic year stating whether or not they have acquired any criminal convictions or pending criminal convictions since their original application.
40. When a self-declaration form or DBS disclosure is returned showing a criminal conviction has been acquired since enrolment, the procedure outlined in paragraphs 21-36 will be followed. The same will be the case if, at any point during their course, a trainee declares that they have received a criminal conviction or caution subsequent to enrolment.
41. If the DBS reveals that a trainee has a criminal conviction or caution that was not declared before enrolment or if there is any material discrepancy between the trainee's self-declaration and the DBS disclosure, the trainee will be required to attend an exploratory meeting with the Executive Director to discuss the non-disclosure or discrepancy. Following this exploratory meeting, the procedure outlined in paragraphs 28-36 will be followed.
42. Further to the Panel meeting, the Executive Director will decide whether the matter should also be referred to the Fitness to Practise Policy or Trainee Discipline Policy as appropriate. This decision will be communicated to the trainee in writing. Consideration of whether the situation warrants suspension of the trainee will be given and implemented under those procedures.

### **Criminal charges pending after enrolment**

43. Occasionally a trainee may be arrested on criminal charges, pending an investigation by the police. This matter should be referred immediately to the Executive Director. Depending on the seriousness of the criminal offence that is charged, the trainee may be suspended from BECTT pending further investigation, in line with the suspension procedure within the Trainee Discipline Policy.
44. Normally any further action will be suspended until the conclusion of the police investigation and any court proceedings. If a trainee is convicted, the procedure given in paragraph 21-36 will be followed. If a trainee is acquitted or charges dropped and they have been suspended, support will be offered to enable them to return to their studies.

### **False declarations**

45. BECTT may amend or withdraw the offer of a place or terminate a trainee's enrolment at any time if it determines that an applicant or trainee has made any misleading, false or fraudulent application or statement to the institution, or has produced falsified documents, regarding any relevant criminal convictions, whether as part of his/her application or whilst on his/her course.

### **Undeclared criminal convictions/failure to disclose**

46. Should it become known that an enrolled trainee has not declared a relevant criminal conviction which they had received prior to enrolment or during their studies, or has failed to disclose (or to disclose at the appropriate time) relevant information to the institution, the person who discovers this information should notify the Executive Director for referral to the Trainee Disciplinary Policy. In addition, the procedure outlined in paragraphs 21-36 will be followed for consideration of the information by the Criminal Convictions Panel.

### **Criminal Conviction Appeals Process**

#### **Grounds for Appeal**

47. An applicant/trainee may appeal against a decision of the Criminal Convictions Panel on one or more of the following grounds:
  - procedural irregularity, where it is alleged that BECTT did not adhere to its procedures;
  - prejudice or bias, where it is alleged that members of the Panel involved in making the decision acted unfairly towards the applicant/trainee;
  - extenuating circumstances, where there are facts which might lessen or reduce the seriousness of the criminal record which were not known to the Panel at the time it made its decision and which could not reasonably have been made known at that time.

#### **Submitting a Criminal Convictions Appeal**

48. If an applicant/trainee wishes to appeal against a decision of the Panel, he/she must submit the Criminal Convictions Appeal Form to the SCITT office within ten working days of receipt of the Panel's decision. Support is available to applicants and enrolled trainees from the SCITT office.

## **Supporting Evidence**

49. The applicant/trainee (the appellant) should ensure they submit all appropriate evidence to support the stated grounds for their appeal. The Executive Director or nominee has the right to request further clarification and/or additional written evidence from the appellant and/or staff.

## **Consideration of Criminal Conviction Appeals**

50. The receipt of the appeal will be acknowledged by the SCITT office and an initial assessment will be undertaken by the Executive Director or nominee to check that the appeal meets at least one of the grounds in para 51 above and that the form is fully completed and submitted within the required timeframe.
51. Where additional evidence and/or clarification is requested from the appellant, this should be submitted to the SCITT office by the given deadline. Should it not be received by this date, the appeal will be assessed on the evidence provided with the original submission.
52. As part of the initial assessment, the Executive Director or nominee shall ask the SCITT office for the decision of the original Panel and the evidence and reasons on which the decision was based.
53. Following the initial assessment, the Executive Director or nominee will determine whether the appeal should be reconsidered by the Criminal Convictions Panel, be rejected, or proceed to an appeal hearing.

## **Reconsideration by the Criminal Convictions Panel**

54. If the Executive Director or nominee determines that the case should be reconsidered by the Criminal Convictions Panel, for example if new information has been provided, a panel will be convened in accordance with paragraphs 28-35.
55. The Panel will inform the Executive Director or nominee of the outcome of their reconsideration.
56. If the Panel has revised its original decision, the Executive Director or nominee, via the SCITT office, will inform the appellant of this decision in writing through the issue of a Completion of Procedures letter, normally no longer than five working days after the Panel has met.
57. If there is no change to the original decision, the Academic Registrar or nominee will consult with a senior representative of the awarding institution to determine whether the appeal should be rejected or proceed to an appeals hearing.

## **Rejection of Criminal Conviction Appeal**

58. If the Executive Director or nominee determines that the appeal should be rejected, the matter shall be referred to a senior representative of the awarding institution for consideration. If the senior representative agrees that the appeal should be rejected, the Executive Director or nominee, via the SCITT office, shall inform the appellant of the decision in writing through the issue of a Completion of Procedures letter, normally within ten working days of receipt of their appeal.

59. This decision is final and there is no further right of appeal within BECTT. Trainees may be able to seek a review by the Office of the Independent Adjudicator (OIA) (see paragraph 76). Applicants have no right of appeal to the OIA.

### **Criminal Conviction Appeal Hearing**

60. If the Executive Director or nominee decides that the appeal should proceed to a hearing, he/she will appoint an Appeals Secretary from the SCITT office and determine the membership of the Appeals Hearing. Membership will be of mixed gender where possible and consist of three senior academic staff which will include a senior representative who will act as Chair. If the appellant is a current trainee, none of the senior academic staff will be from the trainee's academic department.

### **Arrangements for Summoning the Appeals Hearing**

61. At least ten working days prior to the date set for the Appeals Hearing, the Appeals Secretary shall give written notice to the appellant and the representative of the Criminal Convictions Panel concerned in the appeal. The representative will normally be the Head of Department (or equivalent post holder).
62. The appellant and the representative of the Panel shall also receive an invitation to be present at the Appeals Hearing and be informed that they may make written statements to the Appeals Hearing by lodging them with the Appeals Secretary no later than midday five working days prior to the meeting. Such written statements shall be made available by the Appeals Secretary to each party concerned in addition to members of the Appeals Hearing.
63. The appellant shall be informed by the Appeals Secretary of his/her right to be accompanied at the Appeals Hearing by a friend. A friend is defined as a member of staff of BECTT, a registered trainee of the institution, or a member of staff or sabbatical officer of a teachers' union. The role of the friend is to act as an observer, give moral support and to assist the appellant to make their case. In addition, where reasonable adjustments are required, an appellant may be accompanied by a supporter e.g. a sign language communicator or a note-taker, and an appellant with difficulty in understanding English may be accompanied by an interpreter. The Appeals Secretary shall also inform the appellant that advice is available from the SCITT office and a teachers' union. Parents or guardians of an appellant who is under eighteen years of age shall be entitled to attend the Appeals Hearing but only in the same capacity as a friend accompanying the appellant.
64. The appellant and representative of the Panel shall also be informed by the Appeals Secretary that should they wish to call witnesses, their names and contact details must be supplied to the Appeals Secretary as soon as possible and not later than five working days prior to the date of the Appeals Hearing. The Chair of the Appeals Hearing will decide which witnesses to be called and this decision shall be final. In reaching a decision about witnesses to be called, the Chair will take into account their number and relevance to the matter in hand. The Appeals Secretary shall inform witnesses of the date, time and venue of the Appeals Hearing but is not responsible for ensuring their attendance. The unavailability of witnesses shall not restrict or delay the Appeals Hearing unless the Chair determines that their evidence may be material to the decision at the Appeals Hearing. Unavailable witnesses may submit a written statement to the Appeals Secretary for consideration at the Appeals Hearing.

### **Conduct of the Appeals Hearing**

65. The Appeals Hearing shall proceed only if a quorum of three members is present, one of



whom shall be the Chair.

66. The Appeals Hearing shall commence with a private meeting of its members.
67. At the appropriate time the Chair shall invite the appellant, their friend and the representative of the Panel to join the meeting. The appellant shall then be invited to put his/her case and call and examine witnesses. The representative of the Panel may, following the questioning of a witness by the appellant, ask questions of that witness or the appellant. Members of the Appeals Hearing may also question the appellant and witnesses at the invitation of the Chair.
68. At the end of the presentation of the appellant's case or of the questioning of his/her witnesses, the representative of the Panel shall be invited to put his/her case and call and examine witnesses. The appellant may, following the questioning of a witness by the representative of the Panel, ask questions of that witness or the representative of the Panel. Members of the Appeals Hearing may also question the representative of the Panel and witnesses at the invitation of the Chair.
69. Following the presentation of the case by the representative of the Panel, he/she may sum up the case for the Panel, without adding any new evidence. The appellant shall then sum up the appellant's case, without adding any new evidence.
70. The appellant and his/her friend and the representative of the Panel shall then withdraw from the meeting to enable members of the Appeals Hearing to deliberate in private.
71. Should the Appeals Hearing wish to clarify any matter with either party, both parties shall be asked to be present and then to retire.
72. The decision of the Appeals Hearing shall be on the balance of probability by a majority of votes cast. In the event of a tied vote, the Chair will have the casting vote.
73. The Appeals Hearing may overturn or modify the decision reached by the original Panel, specify conditions for acceptance or continuation on the desired course of study, suggest an alternative course or confirm the decision reached by original Panel. The Appeals Secretary shall record the reasons for the decision.
74. The decision of the Appeals Hearing shall be announced by the Chair to both parties at the conclusion of the deliberations. If, for practical reasons, this is not possible the Chair will advise both parties when the decision will be made known to them. The decision shall be confirmed in writing by the Appeals Secretary to both parties within five working days.
75. The decision of the Appeals Hearing shall be final and not subject to further appeal within BECTT. The notification of the decision to the appellant will be a Completion of Procedures letter.

#### **Further right to appeal**

76. Trainees who are dissatisfied with the outcome of their appeal, or whose appeal was rejected without a hearing, may be able to seek a review by the OIA should the case be eligible under the OIA's rules (see <http://www.oiahe.org.uk>). Details will be provided in the letter advising the trainee of the outcome. Applicants are not eligible to seek a review by the OIA.

### **Additional Information**

77. If a trainee withdraws from BECTT with an uninvestigated criminal conviction, the conviction will be investigated if they later apply to return to study.

### **Data Protection**

78. In a limited number of cases, after careful consideration, BECTT may decide that there are departments, services or individuals within the institution who have an important interest in this information on a need to know basis, possibly to offer support to the applicant/trainee or to protect other members of the BECTT community. The Executive Director will decide what information can be disclosed and to whom. The trainee will be notified when this is the case.

### **Storage and retention**

79. Where an applicant with a conviction is granted admission to BECTT, details of the non-academic considerations relating to the admission will be kept securely by the SCITT office for as long as the trainee in question is registered with the institution plus one year. After this point a record of the decision taken will be maintained but all other supporting documentation will be removed. Where an applicant with a conviction is not granted admission to BECTT, only a record of the decision taken will be maintained by the SCITT office for 6 years, and all other supporting documentation will be removed.

### **Monitoring and evaluation**

80. BECTT will monitor and evaluate the effectiveness of the Criminal Convictions Policy and reflect upon the outcomes for enhancement purposes. This will be reported annually through the Strategic and Finance Board.