

DEGREE STUDIES AT WEST SUFFOLK COLLEGE

CRIMINAL CONVICTIONS POLICY

Purpose To ensure that applicants and current students who have relevant criminal convictions to declare are treated consistently and equitably. To provide a supportive and positive environment for learning and teaching and ensure that the rights of individuals are respected and that each person is treated with dignity, respect and courtesy at all times. Degree Studies at West Suffolk College is committed to equality of opportunity including the rehabilitation of offenders who can demonstrate academic potential.

Scope This policy applies to all applicants to and students of Degree Studies at West Suffolk College unless they are covered by the policy of their awarding institution. Students are treated 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.

Principles :

1. Whilst promoting equality of opportunity, the institution has a responsibility to reduce the risk of harm or injury, caused by criminal behaviour, to its students, visitors, staff and the vulnerable people to whom some students have access because of the nature of their course and their studies being based in the College environment. For this reason, all applicants to courses will be required to declare any relevant criminal convictions prior to admission and all students will be asked to complete a self-declaration as part of the annual online enrolment process.
2. 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 students will not automatically have their enrolment terminated.
3. It is the responsibility of the Executive Dean HE to periodically monitor and review the procedures to ensure they are fully effective and consistently applied across the Degree Studies at West Suffolk College and to update the Safeguarding Officer.

Relevant Criminal Convictions

4. 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
 - 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
5. The relevance of other criminal convictions depends upon the nature of the course to which entry is sought.
6. Applicants or students seeking advice on whether their convictions are spent or relevant are advised to contact Unlock (www.unlock.org.uk) who can provide specific advice in relation to HE applications and criminal convictions.

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Disclosing convictions – applicants

Professional courses and courses involving work with children or vulnerable adults

7. Applicants to professional courses (which includes teaching, health and social work) and courses involving work with children or vulnerable adults are informed via the Prospectus, UCAS, the website and other programme related information that they are required to declare any criminal convictions. This includes 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.

8. For these courses, 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 or request for placement on a course with access to vulnerable people.

9. 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, Degree Studies at West Suffolk College requires to have sight of the applicant's original copy of the DBS disclosure.

10. Where placement is compulsory, or highly likely to be the option of choice for most students, but does not happen in the first year of the course, the Degree Studies at West Suffolk College will request applicants to self-disclose criminal conviction information that would appear on an enhanced disclosure at the point of admission to the course, but not request the actual disclosure until the point at which the placement is to be undertaken.

11. Where it is known that a course will require a DBS check, the Degree Studies at West Suffolk College requires applicants to disclose their criminal record during the admissions process and will usually ask applicants reaching the interview stage, as part of the interview response online process, to complete a confidential Self Disclosure Form. The contents of this form will only be viewed by trained staff if, as a result of interview, the institution is considering making the applicant an offer. This declaration early in the admissions process allows Degree Studies at West Suffolk a greater amount of time to consider an individual's situation.

All other courses

12. For all other courses applicants are asked to declare on Degree Studies at West Suffolk College or UCAS application form whether they have a relevant criminal conviction that is not spent.

13. Convictions for other offences and convictions that are spent or filtered (as defined by the Rehabilitation of Offenders Act 1974 and the Protection of Freedoms Act 2012) are not considered to be relevant and should not be revealed.

'Late'/Clearing applicants with criminal convictions

14. All applications made either directly to Degree Studies at West Suffolk College or through UCAS are checked by trained staff for disclosure of a criminal conviction prior to any offer being made. No firm commitment will be made to any applicant until their criminal conviction issue is fully investigated.

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15. The time available during the summer or prior to a February/Spring intake may not be sufficient 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 Dean HE if applicable.

EU and international applicants

16. EU and international applicants to courses requiring a DBS check will be expected to undergo a criminal records check in their home country and supply the University with a Certificate of Good Conduct or equivalent. Degree Studies at West Suffolk College will also seek a DBS check for any time spent in the UK and will also run a formal DBS check soon after the student has commenced the course. If formal police or criminal records checks cannot be obtained, the Degree Studies at West Suffolk College will seek advice from the relevant Professional, Statutory or Regulatory Body (PSRB) where applicable.

Applicants with disclosed criminal convictions

17. If an applicant indicates on their application/self-disclosure 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.

18. If the applicant meets the academic requirements for their chosen programme and/or following successful interview the Admissions tutor wishes to make an offer, the matter will be referred to the Degree Studies Office to follow the procedure for consideration of disclosed criminal convictions outlined in paragraphs 22 to 40 below. An offer will not be processed until the outcome of this procedure.

19. If an applicant receives a relevant criminal conviction after applying to the Degree Studies at West Suffolk College but prior to enrolling as a student they should contact the Degree Studies Office to notify them of their change of status. The conviction will then be considered following the procedure outlined in paragraphs 22 to 29 below.

Student disclosure of convictions

20. It is the responsibility of the student to inform Degree Studies at West Suffolk College of any relevant unspent criminal convictions acquired during their time as students. All students are reminded of these requirements during the annual reenrolment/induction process.

21. If a student indicates via enrolment that they have been convicted of a relevant criminal offence since their last enrolment, this may mean that their re-enrolment is halted. In such instances, the student will be referred to a self-disclosure form with instructions to return this to the Degree Studies Office.

Procedure for consideration of disclosed criminal convictions

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22. Applicants/students who declare a conviction will be asked to provide further information to inform the decision-making process. The Degree Studies Office shall indicate to the applicant/student any implications if their response to requests for information is delayed.

23. Applicants/students will be given ten working days to provide documentation concerning their conviction. In respect of applicants, if the request for further information is within Clearing or prior to a February/Spring intake, five working days will be given to provide the documentation. This is due to the tight timescales during these periods.

24. Failure on the part of an applicant to provide the documentation within the specified period will result in a rejection of their application. For undergraduate applications, the reject decision will be through UCAS. Failure on the part of the student to provide the required documentation within the specified period will result in the student being required to attend a meeting with the Associate Dean Student Experience or nominee. If the required documentation is not provided within an agreed timescale after this meeting, or if the student fails to attend the meeting, this is likely to result in the student's withdrawal from the programme.

25. Depending on the nature of the offence, it may also be appropriate to inform the applicant/student that a DBS check is required in order to confirm the details of the offence(s). Degree Studies at West Suffolk College may seek the applicant/student'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/student's suitability to enter education/remain registered as a student of Degree Studies at West Suffolk College, 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.

26. If the applicant/student confirms that the 'criminal convictions' question had been ticked in error and the applicant/student does not, in fact, have a relevant conviction, the Degree Studies Office will seek the applicant/student's assurance of this in writing/by email and make the appropriate note on the Student Records System. An applicant will also be advised to contact UCAS.

27. The decision whether or not to accept an applicant or student with a relevant criminal conviction will be made objectively, based on the evidence available.

28. For courses which do not require a DBS clearance, the Associate Dean Student Experience is permitted to make decisions on minor offences and permit the offer to be made/allow the student to continue on course.

29. For courses which require DBS clearance and all cases which are deemed serious, ambiguous or complex, the Associate Dean Student Experience will pass the matter to the Criminal Convictions Panel for consideration.

The Criminal Convictions Panel

30. The applicant/student 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 student. The applicant/student will also be sent a copy of this policy.

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31. The Partnerships and Quality Manager will be responsible for making the arrangements for the Panel, who will receive the original application/self-disclosure plus additional information provided by the applicant/student.

32. The Panel shall comprise the relevant Executive Director or nominee and the Associate Dean Student Experience. For some cases it may also be appropriate for the Safeguarding Officer to be on the panel. For courses where a placement is an integral part of the course, the views of the placement provider or a body representing the views of a group of placement providers will also be sought, as may the views of any relevant professional or assessment body.

33. The Panel will meet virtually or in person as soon as practically possible after the information is received from the applicant/student.

34. The function of the Panel is to take a reasonable view of the risk the applicant/student poses to the institution, its members and visitors or any relevant external stakeholders (such as placement providers) and assess whether the applicant/student 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 student was taken.

35. The Panel will consider all the evidence available to assess the applicant's non-academic suitability for a place on the course or the student'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/student's situation has changed since the offence(s) was/were committed;
- the circumstances surrounding the offence(s);
- the applicant/student's explanation for the offence(s); and
- evidence submitted of their good character.

36. 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;
- to suggest an alternative course; or
- not to make an offer, to withdraw an offer or to make a recommendation to the Vice Principal that the student's enrolment be terminated (where appropriate).

37. The Panel shall make a formal record of the reasons for their decision to be retained by the Degree Studies Office.

38. The Degree Studies Office shall advise the applicant/student 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 suggest an alternative course, to set conditions or recommend an individual's enrolment be terminated, the applicant/student shall also be informed by the Degree Studies Office of the Appeals Process (see paragraphs 50-78).

39. If an applicant is successful in receiving an offer for a place on a course, Degree Studies Office will make clear to the applicant any non-academic conditions attached to their offer. This

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will include a satisfactory DBS check for all professional courses as outlined in paragraph 10. By completing the DBS application process, the applicant is consenting that the original disclosure will be provided to the Allocations Team/partner college. All DBS documentation should be received by the point of induction at the University.

40. Upon receipt of the DBS disclosure, the Associate Dean Student Experience and Executive Dean Higher Education 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 30-36.

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

41. It is possible that an applicant/student 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/students on such courses must complete a self-declaration form at the point of enrolment/re-enrolment of each academic year and at the end of the final year of their studies stating whether or not they have acquired any criminal convictions or pending criminal convictions since their original application/enrolment. Students will be asked to meet with the Degree Studies Office as their self-declaration nears its expiry date.

42. Exceptionally, it may also be necessary to seek DBS disclosure for students who decide after applying or enrolling to request a placement where there will be access to vulnerable people as part of the course.

43. When a self-declaration form or DBS disclosure is returned showing a criminal conviction has been acquired since enrolment, the procedure outlined in paragraphs 22-36 will be followed. The same will be the case if, at any point during their course, a student declares that they have received a criminal conviction or caution subsequent to enrolment.

44. If the DBS reveals that a student has a criminal conviction or caution that was not declared before enrolment or if there is any material discrepancy between the student's self-declaration and the DBS disclosure, the student will be required to attend an exploratory meeting with the Associate Dean Student Experience to discuss the non-disclosure or discrepancy. Following this exploratory meeting, the procedure outlined in paragraphs 30-36 will be followed.

45. Further to the Panel meeting, the Associate Dean Student Experience will decide whether the matter should also be referred to the Fitness to Practise Procedure or Student Discipline Procedure as appropriate. This decision will be communicated to the student in writing. Consideration of whether the situation warrants suspension of the student will be given and implemented under those procedures.

Criminal charges pending after enrolment

46. Occasionally a student may be arrested on criminal charges, pending an investigation by the police. This matter should be referred immediately to the Executive Dean Higher Education. Depending on the seriousness of the criminal offence that is charged, the student may be suspended from the Degree Studies at West Suffolk College pending further investigation, in line with the suspension procedure within the Student Discipline Procedure.

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47. Normally any further action will be suspended until the conclusion of the police investigation and any court proceedings. If a student is convicted, the procedure given in paragraph 22-36 will be followed. If a student is acquitted or charges dropped and they have been suspended, support will be offered to enable them to return to their studies.

False declarations

48. The Degree Studies at West Suffolk College may amend or withdraw the offer of a place or terminate a student's enrolment at any time if it determines that an applicant or student 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 their application or whilst on their course. Where the student is enrolled on a professional course, it may also be necessary for the matter to be referred to the relevant PSRB.

Undeclared criminal convictions/failure to disclose

49. Should it become known that an enrolled student 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 Executive Dean Higher Education should be notified to apply the Student Disciplinary Procedure. In addition, the procedure outlined in paragraphs 22-36 will be followed for consideration of the information by the Criminal Convictions Panel.

Criminal Conviction Appeals Process

Grounds

50. An applicant/student 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 Degree Studies at West Suffolk College 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/student;
- 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

51. If an applicant/student wishes to appeal against a decision of the Panel, they must submit the Criminal Convictions Appeal Form to the Degree Studies Office within ten working days of receipt of the Panel's decision. Support is available to applicants and enrolled students from the HE Support Tutor, and the Students' Association is also available to support enrolled students.

52. The applicant/student (the appellant) should ensure they submit all appropriate evidence to support the stated grounds for their appeal. The Executive Dean Higher Education 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

53. The receipt of the appeal will be acknowledged by the Degree Studies Office and an initial assessment will be undertaken by the Executive Dean Higher Education or nominee to check that

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the appeal meets at least one of the grounds in para 50 above and that the form is fully completed and submitted within the required timeframe.

54. Where additional evidence and/or clarification is requested from the appellant, this should be submitted to the Degree Studies 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.

55. As part of the initial assessment, the Executive Dean Higher Education or nominee shall ask the appropriate Degree Studies Officer for the decision of the original Panel and the evidence and reasons on which the decision was based.

56. Following the initial assessment, the Executive Dean Higher Education or nominee will determine whether to refer the appeal for reconsideration by the Criminal Convictions Panel, be rejected, or proceed to an appeal hearing.

Reconsideration by the Criminal Convictions Panel

57. If the Executive Dean Higher Education 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 30-36.

58. The Panel will inform the Executive Dean Higher Education or nominee of the outcome of their reconsideration.

59. If the Panel has revised its original decision, the Executive Dean Higher Education or nominee, via the Degree Studies 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.

60. If there is no change to the original decision, the Executive Dean Higher Education 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

61. If the Executive Dean Higher Education or nominee determines that the appeal should be rejected, the matter shall be referred to the Vice Principal for consideration. If the Vice Principal agrees that the appeal should be rejected, the Executive Dean Higher Education or nominee, via the Degree Studies 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.

62. This decision is final and there is no further right of appeal within the Degree Studies at West Suffolk College. Students may be able to seek a review by the Office of the Independent Adjudicator (OIA) (see paragraph 79). Applicants have no right of appeal to the OIA.

63. If the Executive Dean Higher Education or nominee, in consultation with the Vice Principal, decides that the appeal should proceed to a hearing, shall determine the membership of the Appeals Hearing. Membership will be of mixed gender where possible and consist of three senior academic staff. If the appellant is a current student, none of the senior academic staff will be from the student's academic department. A Secretary from the Degree Studies Office will records the meeting of the Appeals Hearing.

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Summoning the Appeals Hearing

64. At least ten working days prior to the date set for the Appeals Hearing, the 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 Associate Dean Student Experience.

65. 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 Secretary to each party concerned in addition to members of the Appeals Hearing.

66. The appellant shall be informed by the Secretary of their right to be accompanied at the Appeals Hearing by a friend. A friend is defined as a member of staff or a registered student of Degree Studies at West Suffolk College or a member of the Students' Association. 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, or an interpreter. The Secretary shall also inform the appellant that advice is available from the HE Support Tutor and the Students' Association. 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.

67. 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 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 Secretary for consideration at the Appeals Hearing.

Conduct of the Appeals Hearing

68. The Appeals Hearing shall proceed only if a quorum of three members is present, one of whom shall be the Chair.

69. The Appeals Hearing shall commence with a private meeting of its members.

70. 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.

71. At the end of the presentation of the appellant's case or of the questioning of their witnesses, the representative of the Panel shall be invited to put his/her case and call and examine

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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.

72. Following the presentation of the case by the representative of the Panel, they 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.

73. 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.

74. Should the Appeals Hearing wish to clarify any matter with either party, both parties shall be asked to be present and then to retire.

75. 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.

76. 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.

77. 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 Secretary will confirm the decision in writing to both parties within five working days.

78. The decision of the Appeals Hearing shall be final and not subject to further appeal within Degree Studies at West Suffolk College. The notification of the decision to the appellant will be a Completion of Procedures letter.

Further right to appeal

79. Students 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 student of the outcome. Applicants are not eligible to seek a review by the OIA.

Additional Information

80. If a student withdraws from Degree Studies at West Suffolk College with an un-investigated criminal conviction, the conviction will be investigated if they later apply to return to study.

Data Protection

81. In a limited number of cases, after careful consideration, Degree Studies at West Suffolk College may decide that there are 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/student or to protect other members of the College community. The Data Protection Officer will decide what information can be disclosed and to whom. The student will be notified when this is the case.

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Storage and retention

82. Where an applicant with a conviction is granted admission to Degree Studies at West Suffolk College, details of the non-academic considerations relating to the admission will be kept securely by the Degree Studies Office for as long as the student 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 Degree Studies at West Suffolk College, only a record of the decision taken will be maintained by the Degree Studies Office and all other supporting documentation will be removed.

Monitoring and evaluation

83. Degree Studies at West Suffolk College will monitor and evaluate the effectiveness of the Criminal Convictions Policy and reflect upon the outcomes for enhancement purposes. This will be reported annually to Standards and Excellence.

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