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**Article 12.3 Disclosing a Criminal Conviction**

**Guidance for Applicants**

# **Statement of Purpose**

The objective of protecting the public is paramount for BACP as is retaining the confidence of the public in the Association and the counselling professions. Accordingly, BACP seeks to ensure, as far as it is reasonably possible, that potential members will be safe to work with clients and will be accountable to BACP for their actions and conduct therefore ensuring these objectives can be met.

By virtue of Article 12.3 of the Articles of Association, where an applicant makes a relevant disclosure, BACP may assess the disclosure to ensure that an applicant is suitable for membership and can work in accordance with the Ethical Framework for the Counselling Professions.

An Article 12.3 Panel may decline an application for membership, where the information disclosed raises questions about an applicant’s suitability for membership. An application for membership may be refused where the information provided is such that:

* 1. If a member of the public was accurately informed of the disclosure and the applicant was admitted to membership it is likely to:
* bring the reputation of the counselling professions into disrepute, or
* undermine the public’s trust in and/or the reputation of the Association, or
* undermine public confidence in the Association’s regulatory function
	1. There is good reason to believe that the applicant’s conduct could have constituted a serious breach of professional standards, having regard to BACP’s Ethical Framework for the Counselling Professions and/or the Professional Conduct Procedure, had the applicant been a member of BACP at the time it occurred
	2. There is good reason to believe that, if admitted to membership, the applicant is unlikely to work within professional standards, having regard to BACP’s Ethical Framework for the Counselling Professions and/or the Professional Conduct Procedure.
	3. There is good reason to believe that, if admitted to membership, the applicant would be a risk to the public.

Any applicant applying for membership of BACP must disclose any convictions which are not ‘spent’ under the Rehabilitation of Offenders Act 1974 (as amended). BACP will rely on the applicant to make full disclosure, but if information comes to light later, that should have been disclosed at the time but wasn’t, action may be taken against the applicant under the Professional Conduct Procedure and membership could be withdrawn.

Not every disclosure will cause an application to be rejected and each application will be considered on its merits. However, to ensure consistency in its decision making and to ensure the proper protection of the public, BACP has drawn up criteria for considering applications under the Article 12.3 procedure, which are set out below.

# **Criteria**

If any of the following apply to you, an Article 12.3 Panel **may refuse** your application for membership, unless the Article 12.3 Panel considers there are **exceptional circumstances:**

* You have an unspent conviction for which you were given a custodial (or a suspended custodial) sentence of more than four years
* You have an unspent conviction of more than four years which is listed in Schedule 18 of the Sentencing Act 2020
* You have an unspent conviction for which you have received a sentence of preventive detention;
* You have an unspent conviction for which you have received a sentence of detention during His Majesty’s Pleasure or for life;
* You have an unspent conviction for which you have received a sentence of custody for life;
* You have an unspent conviction for which you have received a public protection sentence/s (imprisonment for public protection, detention for public protection, extended sentences of imprisonment or detention for public protection and extended determinate sentences for dangerous offenders).
* You have an unspent conviction for which you have been sentenced to imprisonment, youth custody, detention in a young offender institution or corrective training of over four years;
* You are subject to a Restriction Order under S.41 of the Mental Health Act 1983, whether this was imposed after a conviction or under any other circumstances.
* You have an unspent conviction which resulted in you being placed on the Sex Offenders’ Register and /or are subject to the notification requirements under S.80, S.81 and S.82 of the Sexual Offences Act 2003, or any subsequent act.
* You are subject of an ongoing Hospital Order or guardianship order under S.37 of the Mental Health Act 1983, whether this was imposed after a conviction or under any other circumstances.
* You have received a custodial (or a suspended custodial) sentence of more than one year and up to, or consisting of, four years

If any of the above applies to you, your application is likely to be placed before an Article 12.3 Panel for consideration. You’ll be invited to provide a full statement regarding the disclosure and how any risk to the public or the reputation of the Association and/or reputation of the counselling professions may be mitigated.

The Panel will consider the seriousness of the disclosure, together with any information available from you in making its decision and will balance your interests with that of the public interest in deciding whether you are suitable for membership.

Any conviction which is not spent under the Rehabilitation of Offenders Act, must be disclosed to BACP and may be referred to an Article 12.3 Panel for consideration. The above information is for guidance only. If you’re unsure as to whether you should disclose a previous conviction, you can contact NACRO or UNLOCK or you may wish to consider taking legal advice.

 ***Reviewed 6 March 2024***