

# Criminal Convictions Policy

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## **Criminal Convictions Policy**

### **1. Purpose**

- 1.1 Teesside University actively promotes equality of opportunity. The purpose of this policy is to give effect to the University's Admissions Policy and Equal Opportunities Policy by ensuring transparent, consistent and equitable treatment of applicants and students who have relevant unspent criminal convictions to declare and ensuring that the University is compliant with its obligations under the Rehabilitation of Offenders Act 1974 (as amended by the Legal Aid, Sentencing and Punishment of Offenders Act 2012), the Human Rights Act 1998 and the Protection of Freedoms Act 2012 as well as to enable the University to fulfil its safeguarding obligations towards the University's students and staff.

### **2. Scope**

- 2.1 This policy applies to all applicants who have been offered a place on all Teesside University courses and students already registered on all Teesside University courses excepting applicants and students registered on courses leading to professions or occupations exempt from the Rehabilitation of Offenders Act 1974 ('Regulated Courses'). These courses are clearly identified via the University's prospectus, course information pages and UCAS.

### **3. General Policy Statements**

- 3.1 The University is required to balance promotion of equality of opportunity with its responsibilities to provide a safe and secure environment for its students, staff and visitors. For this reason, applicants to all courses who are offered a place at the University will be required to declare any unspent relevant criminal convictions prior to admission and all students will be asked to complete a self-declaration as part of the annual online re-enrolment process.
- 3.2 Applicants who declare unspent relevant criminal convictions in accordance with this policy will not automatically be excluded from the application process and current students will not automatically have their enrolment terminated. We ask applicants and students for this information to allow the University to adequately identify, assess and manage any potential risks.

- 3.3. A relevant criminal conviction is one which may have implications for the University's duty of care towards the safety of its students, staff and visitors. Relevant criminal offences include one or more of the following offences:
- 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 2003.
  - The unlawful supply of controlled drugs or substances where the conviction concerns commercial drug dealing or trafficking.
  - Offences involving firearms.
  - Offences involving arson.
  - Offences involving terrorism.
- 3.4 Convictions for other offences and convictions that are spent or filtered (as defined by the Rehabilitation of Offenders Act 1974 and the Protections of Freedoms Act 2012) are not considered to be relevant and do not need to be disclosed.
- 3.5 Applicants or students unsure as to whether their convictions are relevant or spent are recommended to seek advice. Information can be obtained from the charities Unlock [www.unlock.org.uk](http://www.unlock.org.uk) and Nacro <https://www.nacro.org.uk/>. The charity Unlock maintains an online tool [www.disclosurecalculator.org.uk](http://www.disclosurecalculator.org.uk) to assist with determining whether a conviction made in England and Wales is spent. The University cannot however, guarantee the tool's accuracy or completeness and does not assume responsibility nor accept liability for any damage or loss which may arise as a result of reliance upon such.
- 3.6 Information relating to criminal convictions is a separate category of data under Article 10 of the General Data Protection Regulation ('GDPR'). All data pertaining to an applicant's or student's criminal convictions will be collected for the purposes outlined above, processed in accordance with the GDPR and the Data Protection Act 2018 (together 'Data Protection Laws') on the lawful grounds of being necessary for the performance of a contract (Article 6(1)(b)) or in the public interest (Article 6(1)(e)) and stored, protected and retained in accordance with Data Protection Laws and the University's Information Governance policies.
- 3.7 Information provided to the University by an individual relating to criminal convictions will be restricted to only those who are involved with the processes detailed in this Policy. On occasion, it may however, be necessary to disclose information related to an admitted student's criminal convictions to other individuals within the University for a specified purpose, e.g. to support the student, to ensure that any conditions around their acceptance are met or to protect members of the University community. Such disclosure must be authorised by the University's Data Protection Officer and notification of the reasons for the disclosure must be provided to the student in advance of disclosure.
- 3.8 Admission of an applicant with an unspent relevant conviction to a course of study at the University does not guarantee that the applicant will be able to

progress to their chosen profession upon graduating. It is the applicant's sole responsibility to seek advice and clarify their position with any relevant professional or statutory body.

- 3.9 The University will wherever possible seek to adhere to the time limits outlined in these Regulations. However, there may be special circumstances where this is not possible e.g. due to the Christmas closure period of the University and statutory bank holidays.

#### **4. Informing the University**

- 4.1 The University's Student Terms & Conditions requires that all students inform the University of any unspent, relevant, criminal convictions when applying to the University. All students are required to submit an annual declaration during the re-enrolment process.
- 4.2 Declaring a relevant criminal conviction will not affect the University's assessment of a student's ability to meet academic requirements for admission to courses, and whilst early disclosure is encouraged, the University will not request details of relevant criminal convictions until after an offer has been made.
- 4.3 Should it become known, after commencement of studies, that a student has failed to disclose details of a relevant unspent criminal conviction at the appropriate time, they may face Student Disciplinary proceedings or have their contract terminated. Where the student is sponsored by the University under Tier 4 of the UK Immigration Points Based System, notification will be made to the Home Office in accordance with the University's Tier 4 sponsor duties.
- 4.4 If a student is arrested during the course of their studies in relation to the alleged commission of a criminal offence, this should be reported immediately to the School Registrar. The University may suspend such students pending conclusion of the criminal investigation, in accordance with the suspension process within the Student Disciplinary Regulations. In relation to serious offences, further action by the University is normally suspended until conclusion of any criminal investigations including any associated court proceedings.
- 4.5 If a student withdraws from the University with an uninvestigated criminal conviction, the conviction will be investigated if they later apply to return to study.
- 4.6 Where a student voluntarily notifies the University of a previous, relevant, criminal conviction, they will be required to provide sufficient information relating to the conviction to allow it to be considered under this Policy. Details should be sent to the Criminal Convictions Administrator at the following email address [cc@tees.ac.uk](mailto:cc@tees.ac.uk) . Where a student makes a declaration as part of the online enrolment process, they will be required to provide details in an online form which will automatically be emailed to the above address. The email address will be kept secure with access strictly limited to the Criminal Convictions Administration team. The Criminal Convictions Administration team will be responsible for convening the Panel (referred to below) and for the pseudonymisation of any information provided to the Panel for consideration.

- 4.7 Where a student fails to provide further details, or has provided insufficient detail to allow the University to properly assess any risk, they may be suspended from their studies or have their enrolment or re-enrolment halted until the information is received and has been duly considered by the University.
- 4.8 The University may amend or withdraw an offer of a place or terminate the student's enrolment at any time if it determines that an applicant/student has made any misleading, false or fraudulent application or statement to the University or has produced falsified documents regarding any unspent relevant criminal convictions, whether as part of his/her application or whilst on his/her course of study.

## **5. Third parties**

- 5.1 It may be necessary to obtain information from third parties (e.g. from a Probation Officer or other appropriate independent person/body asking for any other relevant factors including probation arrangements or a statement on the applicant/student's suitability to enter/remain in education, including an assessment of the risk of re-offending). Applicants/students should be aware that delays in third party provision of information are outside of the University's control.

## **6. Criminal Convictions Panel**

- 6.1 A Criminal Convictions Panel ('The Panel') will be convened by the Criminal Convictions Administrator in order to identify, assess and manage any risks associated with an applicant/student's declaration of relevant criminal convictions.
- 6.2 The Panel shall comprise the:
- Executive Director of Legal & Governance Services or nominee (Chair);
  - Director of Student & Library Services or nominee;
  - School Dean or nominee.
- 6.3 The Panel will meet virtually or in person as soon as is practically possible following receipt of information relating to any particular applicant/student. All information considered by the Panel will be pseudonymised prior to being distributed so that the identity of any individual being considered will not be known by the Panel.
- 6.4 The purpose of the Panel is to take a reasonable view based on all of the available evidence whether or not the applicant/student poses an unacceptable risk to the University, its staff, students, visitors and any relevant external stakeholders (e.g. placement providers) which would justify either the University imposing conditions on their study or, in extreme cases, withdrawing an offer or terminating a student's contract.
- 6.5 The decision whether or not to admit an applicant or allow continued registration of a student with a relevant criminal conviction will be made objectively taking into account any, or all, of the following:

- relevance of the offence(s) to the course of study;
- nature and severity of the offence(s) and any sentence(s) imposed;
- length of time since the offence(s) was/were committed;
- whether the offence(s) show a pattern of behaviour which appears to be recurrent and ongoing;
- the circumstances surrounding the offence(s);
- whether the offence(s) involve(s) violence, threats of violence or were of a sexual nature;
- whether or not the offence(s) involve(s) attacks on a minor or vulnerable individuals;
- whether or not the applicant/student is subject to licence conditions which would be difficult for the University to accommodate;
- whether or not the applicant/student has breached any licence conditions and the date of any breaches;
- whether the applicant/student's circumstances have changed since the commission of the offence(s);
- the applicant's/student's explanation for the offence;
- mitigating and aggravating circumstances;
- the recommendation of any referees;
- Any comments about re-offending noted in the pre-sentencing report of other official documentation; and
- Rehabilitation of Offenders Act 1974 together with supporting guidance.

This is not an exhaustive list and there may be other things which are taken into account which are considered to be relevant by the Panel.

- 6.6 The Panel shall make a formal record of the reasons for their decision which is to be kept confidential as between the Panel. Any documentation obtained, or produced as part of this process will only be kept for one month following conclusion of the process, including any appeal.
- 6.7 The Panel will notify an applicant of their decision providing reasons by letter or email as soon as possible, but in any event within 10 working days of the meeting. The Panel may decide in the case of an applicant:
- The offer be processed as normal (admit without conditions);
  - To make a new offer with conditions attached;
  - Suggest an alternative course of study; or
  - Not to make an offer/withdraw a current offer.
- 6.8 The Panel will notify an existing student of their decision providing reasons by letter or email within 10 working days of the meeting. The Panel may decide to:
- Take no further action and the student continues on the course of study;
  - Permit the student to continue on their course of study but impose conditions on his/her enrolment;
  - Recommend to the Vice-Chancellor (or nominee) that the student be suspended from the course of study for a defined period;
  - Recommend to the Vice-Chancellor (or nominee) that the student be withdrawn from the course of study and/or the University;
  - Recommend that the student is referred to other University policies including the Student Disciplinary Policy and Fitness to Practise Policy.

- 6.9 The University will use reasonable endeavours to ensure that this process is completed in a timely fashion. The University accepts no liability for any delay in considering and communicating a decision under this Policy to an applicant/student.

## 7. Appeal

- 7.1 Admissions are within the discretion of the University and there is no automatic right to appeal a decision made under this policy for applicants.
- 7.2 Any current student may appeal a decision within 14 days of being notified of any decision. Advisers in the Students' Union can provide students with advice independent of the University. Students based at Collaborative Partners should contact their own Students' Union support service or equivalent.
- 7.3 An appeal can only be brought on one or more of the following grounds:
- 7.3.1 A material procedural irregularity in the decision making process which has prejudiced the student's case; or
- 7.3.2 New evidence which the panel did not have before it which would reasonably have led to the panel reaching a different conclusion.
- 7.4 An appeal made on either of the above grounds should be submitted in writing together with any documents relied upon for the purposes of the appeal to the Office of Student Complaints, Appeals & Regulations (OSCAR) in the first instance, where OSCAR will acknowledge its receipt. If the ground(s) or relevant new evidence is not provided at the same time as the submission of the appeal, the appeal will automatically be rejected and the student will be issued with a 'Completion of Procedures' letter.
- 7.5 Students are advised to retain a copy of their appeal, and supporting documentation.
- 7.6 Only in exceptional circumstances will an appeal be accepted after the 14 day cut-off date. Late Appeals will normally be rejected as 'out of time'. If a student submits a late Appeal they must enclose, with their Appeal, a separate written explanation for the late submission.
- 7.7 The appeal will be determined by the Vice Chancellor on paper. Any decision reached by the Vice Chancellor will be communicated as soon as reasonably practicable with the student. The Vice Chancellor will make one of the following decisions to:
- 7.7.1 Dismiss the appeal; or
- 7.7.2 Uphold the appeal, and either remit the matter back to the Criminal Convictions Committee for further determination or reach an alternative conclusion.
- 7.8 The Vice-Chancellor will issue the student with a 'Completion of Procedures' letter which concludes the internal process of the University.

- 7.9 Any decision made under this policy falls outside of the Student Regulations and the appeal procedure in the Student Regulations or any other University policy or regulation is expressly excluded.

## **8. The OIA**

- 8.1 Under the Higher Education Act 2004, Teesside University subscribes to the independent scheme for review of student appeals. Once the University's internal procedures for review are exhausted, the University will issue the student with a completion of procedures letter to confirm that the University procedures are complete and to advise students that they may be able to seek a review by the Office for the Independent Adjudicator (OIA) should the case be eligible under the OIA's rules ([www.oiahe.org.uk](http://www.oiahe.org.uk)).
- 8.2 A completion of procedures letter will not be issued to applicants as complaints which concern admissions to a Higher Education Institution are not covered under the OIA scheme.