

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 excepting applicants 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. Criminal Convictions obtained by existing students are dealt with under the University Student Disciplinary Regulations.

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 conviction.
- 3.2 Applicants who declare unspent relevant criminal convictions in accordance with this policy will not automatically have their offer withdrawn. We ask applicants 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 and Nacro <https://www.nacro.org.uk/>. The charity Unlock maintains an online tool 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 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. As required by law, the University has an Appropriate Policy Document.
- 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 all individuals to inform the University of any unspent, relevant, criminal convictions.
- 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. Whilst an applicant may disclose criminal convictions at any time during the admissions process, the University will not request details of relevant criminal convictions until after an offer has been made in compliance with Data Protection legislation. All students will be asked to declare if they have a relevant unspent conviction during the enrolment process.
- 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 Where an applicant notifies the University of a previous, relevant, criminal conviction prior to enrolment, 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 . Where an applicant 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.
- 4.6 Where an applicant fails to provide further details, or has provided insufficient detail to allow the University to properly assess any risk, they may be prevented from enrolling until the information is received and has been duly

considered by the University and may risk their contract being terminated if ultimately they fail to provide the further details requested.

- 4.7 The University may amend or withdraw an offer of a place or terminate the student's contract if the student has already enrolled 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's suitability to enter/remain in education, including an assessment of the risk of re-offending). Applicants 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'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. 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 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 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:
- 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 or terminate the contract.
- 6.8 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.

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.