

### **Criminal Convictions Policy within admissions**

#### **Summary**

This paper outlines the policy and procedure by which the University both collects, and assesses, information provided by applicants on the details of their criminal convictions.

One action required.

#### **Recommended action**

Senate is asked to **approve** this policy.

**Publication:** Open



# **University Admissions Policy and Procedure: Criminal Convictions**

**September 2018**

## City, University of London

### Policy and Procedure for applications from students with a criminal conviction

#### 1. Introduction

1.1 City, University of London wishes to ensure that higher education is available to all who will benefit from it, irrespective of their background. In this context, having a criminal record will not necessarily mean that an applicant cannot be admitted to their chosen course. This policy and procedure is dedicated to the fair treatment of all applicants and students and is dedicated to the values enshrined in the *Rehabilitation of Offenders Act 1974*.

1.2 The University also has to take into account the demands of various professional bodies and requirements under the law to protect special categories of people, e.g., children or vulnerable adults. Some of our courses that lead to professional careers are exempt from the *Rehabilitation of Offenders Act*. These courses may have particular requirements relating to the disclosure of warnings, reprimands, cautions and criminal convictions which are dealt with on a specific course basis and require applicants to agree to submit to criminal record checks by the Disclosure and Barring Service (DBS).

#### 2. Statement on the admission of applicants with criminal convictions

2.1 In general a criminal record is not regarded as an obstacle to studying at this University. The University will not take into account, when selecting applicants for admission or dealing with existing students, criminal convictions which are deemed 'spent' under the terms of the *Rehabilitation of Offenders Act 1974*. **Section 3** below outlines courses of study in the School of Health Sciences where there are exceptions. If 'spent' offences are required to be disclosed this will always be indicated.

2.2 Under the terms of this Act sentences of 48 months imprisonment or more are never spent while those of lesser duration do not have to be declared once spent. The [Ministry of Justice website](#) can be consulted for a definition of 'spent' and 'unspent' convictions and details of rehabilitation periods. If an applicant is uncertain as to whether the conviction is 'spent', independent advice should be sought.

2.3 Applicants who receive an offer for course outside of those courses listed in Section 3 will be requested to disclose all unspent convictions. For the purposes of this policy, the University considers the following as relevant unspent criminal convictions which must be declared:

- violence or threatening behaviour; offences concerning the intention to harm or offences which resulted in actual bodily harm;
- offences listed in the Sex Offences Act 2003 or any previous or future equivalents of this Act;
- the unlawful supply of controlled drugs or substances;
- offences involving firearms, and other weapons;
- offences involving arson;
- offences listed in the Terrorism Act 2006 or any previous or future equivalents of this Act;
- offences under Protection from Harassment legislation;
- offences involving dishonesty.

- 2.4 The test the University will use is whether the unspent criminal record of an applicant/student gives reasonable grounds for considering that the admission/continuation of studies of the individual: (a) poses a real threat to the safety or property of staff, students, visitors, those coming into contact with the applicant during their studies or others involved in University business; or (b) would be contrary to the law or to the requirements/guidance of any relevant professional or other regulatory body.
- 2.5 Overall, the University must balance its responsibilities to provide a safe and secure environment and community for its staff, students, visitors and others. Therefore, where necessary, City may amend or withdraw an applicant's offer to study or terminate a student's registration and/or withdraw services or facilities (such as placements) at any time if it determines that an applicant or student has made any misleading, false or fraudulent application, or has failed to disclose (or to disclose at the appropriate time) relevant information to City, or has produced falsified documents whether in the course of the application or whilst on the course. Students are expected to declare all unspent criminal convictions gained after admission to the University.
- 2.6 Where the applicant or student is registered on a professional course, it may also be necessary for the matter to be referred to the relevant professional or regulatory body or bodies.
- 2.7 City may take the necessary action against an applicant or student by using its [Admissions Policy](#), [Fitness to Study Policy](#), [Fitness to Practise Policy](#) and [Student Disciplinary Regulations](#) and or other relevant policy or procedure.

### **3. Admissions Process for courses in the School of Health Sciences requiring a Disclosure and Barring Service (DBS) check**

- 3.1 All pre-registration courses in the School of Health Sciences are exempt from the *Rehabilitation of Offenders Act* 1974, under the provisions of the Exceptions Order 1975. This means that applicants for the following programmes are obliged to declare all previous criminal convictions, cautions and reprimands as a condition of admission:

*Programmes to be specified*

- 3.2 Admissions for these courses are managed through the School of Health Sciences, through a separate Policy on the Recruitment of ex-Offenders. Applicants should visit <https://www.city.ac.uk/health/courses/selection-process/dbs>

### **4. Admissions Process for all other courses, not requiring a Disclosure and Barring Service (DBS) check**

- 4.1 Schools will assess the application against the standard entry requirements of the course and decide whether a place can be offered. Criminal history will **not** be taken into account at this stage of the admissions process. Information on the specific entry requirements and the selection process (where appropriate) can be found on the University website. If there are no academic grounds for making an offer to the applicant, the application will be rejected in the normal way.
- 4.2 An applicant can choose to disclose a relevant criminal conviction at any point, but all offer holders will be requested to disclose all unspent convictions. Only those

unspent convictions considered by the University to be relevant will be followed up. If an unspent criminal conviction is disclosed by a third party to the University, and the University wishes to make or has made the applicant an offer, a member of admissions staff will seek written consent from the applicant and investigate.

4.3 In either case, the appropriate member of admissions staff will assess the declaration of a criminal conviction independently of the decision to offer a place. The applicant's written consent will be sought and the applicant will be given the opportunity to provide a written statement setting out any information considered relevant for the purposes of the assessment, including any extenuating circumstances. In accordance with the University's responsibilities to provide a safe and secure environment for its staff, students, visitors and others, we will request information only about relevant, unspent criminal convictions, so that appropriate steps can be taken to facilitate effective support and/or assess whether an applicant poses an unacceptable risk within the University community.

4.4 The assessment will seek to understand and clarify the circumstances surrounding the conviction, together with any extenuating circumstances, and, where relevant, character references. In addition to the details disclosed by the applicant, this may also include references from his/her Probation Officer and/or prison authorities, if relevant and subject to the applicant's consent. If the University requires additional information from the applicant to consider the matter properly, and the applicant fails to provide this by the specified date, the application will not be processed and the offer will be withdrawn.

## **5. Criminal Convictions Admissions Review Panel (CCARP)**

5.1 On completion of the assessment, in the case of a serious unspent conviction (e.g. a conviction which may impact upon the University community) the Head of Admissions will convene a Criminal Convictions Admissions Review Panel (CCARP), comprising the Director of Student & Academic Services or nominee (chair), Senior Nurse Advisor (University Safeguarding Lead), Director of Health & Safety, and the Head of Academic Services (of the relevant School). The Group may also include, where relevant, others such as the admissions tutor or equivalent from the relevant School. A Panel will only be convened for those courses covered by **Section 4** of this policy.

5.2 Any case forwarded to the Panel for consideration will be anonymised and therefore all documents received will be redacted to remove any personal detail so that applicants cannot be identified. After each Panel, all documentation will be permanently destroyed by Panel members. Relevant information will be kept securely in line with data protection requirements and the University policy on record keeping set out below in **Section 8**.

5.3 In making a decision, the Panel will consider whether the criminal record of an applicant ultimately gives reasonable grounds for considering that the admission of the individual poses a real threat to the safety or property of staff, students, visitors or others involved in University business. The following factors to be taken into account will include:

- The nature and circumstances of the offence(s);
- An assessment of risk to members of City's community and others with whom the applicant will have contact whilst studying at City;
- How long ago the offence(s) took place;

- Likelihood of repeat reoffending;
- Applicant's current circumstances;
- In the event of more than one offence, whether each was a single occurrence or part of a series of similar occurrences
- Evidence of the efforts that have been made to elicit extra information from the applicant and from other bodies, such as the Probation Service, and the applicant's co-operation with this process

5.4 The Panel will consider convictions and matters related to other criminal disclosures on a case by case basis. The Panel will reach a decision based on the balance of probabilities, based on all of the facts available at the time. The Panel will also consider and agree any specific conditions that may be required to be attached to any offer.

5.5 The Panel will make a decision with a rationale, based on the evidence. The Panel need not be unanimous in its decision, but should base its recommendation on the majority view. Where there is not a majority view, the Chair will have the casting vote.

5.6 The Panel on behalf of the University reserves the right to refuse to admit an applicant where it believes that their criminal record makes it inappropriate for them to be admitted. If the case is heard by a Panel the applicant will have the right to receive feedback and a rationale based on its deliberations. The applicant will be notified in writing of the Panel's decision within five working days of the outcome of the Panel meeting.

## **6. Right of Appeal and Procedure**

6.1 The applicant has a right of appeal against the decision of the Panel. Appeals against the decisions of the Panel will only be considered on the following grounds:

- (a) the decision to not admit the applicant was not commensurate with the seriousness of the conviction;
- (b) the findings of fact in support of the decision were manifestly perverse;
- (c) that the Panel was not conducted in accordance with this policy and procedure;
- (d) new evidence has been made available that could not be available at the time of the Panel and which could have been expected to have materially affected the decision of the Panel.

6.2 An appeal against the decision of the Panel must be made in writing to the Deputy President & Provost stating in full the grounds for the appeal and must be submitted within 20 working days after receipt of the letter informing the student of the decision of the Panel.

6.3 The Deputy President & Provost will reject any appeal against the decision of the Panel that has not been lodged in accordance with the time period set out in 6.2 above or which does not demonstrate one of the grounds for appeal set out in 6.1 above. In that event, the Deputy President & Provost will send a letter to the appealing applicant as soon as possible giving his or her decision and the reasons for it.

6.4 Where the requirements for a valid appeal as set out in 6.1 and 6.2 above have been met:

- (a) if the appeal is made on the grounds that there is new evidence, this will be referred back to the Panel for consideration who will review it in line with the procedures set out in 5 above and 6.5 below;
- (b) otherwise, the Deputy President & Provost will review the documents considered by, and the findings of, the Panel to assess whether there were any errors in the findings or the procedure and whether the findings were reasonable. The Deputy President & Provost will decide upon the appeal and his/her decision will be final. .

6.5 If the appeal is referred back to the Panel under 6.4(a) above, the Panel will consider all further information submitted by the applicant. Following the completion of the Panel Meeting, the Panel may decide:

- (a) to reconsider the original decision; or
- (b) to recommend that the original decision should stand.

## **7 Criminal Convictions and Immigration (UKVI)**

- 7.1 If an applicant subsequently receives an offer to study and requires a visa or an extension to a visa, then the applicant will have to declare any criminal convictions (including minor offences) when applying to UK Visas and Immigration.
- 7.2 Applicants should be aware that there is a possibility that UK Visas and Immigration may reject a visa application on the grounds of a prior criminal conviction. [Immigration Rules](#) and [Guidance on Studying under Tier 4](#) should be consulted.
- 7.3 For more information regarding the declaration of criminal convictions and Tier 4 (General) visas, applicants can visit the UK Council for International Student Affairs (UKCISA) website.

## **8 Record keeping and data protection**

- 8.1 Applicants should be reassured that information declared regarding criminal conviction and all communication about their criminal conviction will be dealt with on a strictly confidential basis. Information relating to convictions is sensitive personal data under the terms of data protection legislation and staff will ensure that all such information is stored and protected in accordance with the University's data protection policies and Privacy Notice.
- 8.2 The Head of Admissions will keep a record of all cases dealt with in accordance with the University's legal data protection requirements and our published Privacy Notice. This record will ensure that any decision can be verified, to show that procedures have been correctly followed and to allow any feedback to the applicant if required. All records and correspondence relating to an applicant declaring a relevant criminal conviction will be securely stored in accordance with the University's legal data protection requirements and our published Privacy Notice.
- 8.3 If a criminal conviction is declared and the application is successful, all records and correspondence relating to the application and supporting materials will form part of the student's personal record and will be kept in the same way as all other student records. However, any information and correspondence relating to the applicant's conviction will be stored separately and securely. A decision will be made, based upon individual circumstances, and informed by the decision of the University's Criminal Convictions Admissions Review Panel and the University's data

protection policies, on who, if anyone, within the University should be provided with further details of a conviction.

8.4 If a criminal conviction is declared and the application is unsuccessful, all paper documents will be securely destroyed and all electronic files deleted.

8.5 Applicants attending a professional course (as stated in **Section 3**) should refer to the School of Health Sciences *Policy on the Secure Storage, Handling, Use, Retention and Disposal of Disclosures and Disclosure information*.

### **Version control**

This document was last updated on 28 September 2018

Update completed by Associate Director, Student Administration & Registry Services/ Head of Admissions

Update approved by Senate on xxx