Criminal convictions policy within admissions

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

Recommended action

Educational Quality Committee is asked to: Approve this policy.
University Admissions Policy: Criminal Convictions

September 2018
Procedure and Guidance 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. In this context, having a criminal record will not necessarily mean that an applicant cannot be admitted to their chosen course. This 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. Overall, however, the University must also balance its responsibilities to provide a safe and secure environment and community for its staff, students, visitors and others.

1.2 In addition, the University 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 dealing with existing students and selecting applicants for admission, criminal convictions which are deemed ‘spent’ under the terms of the Rehabilitation of Offenders Act 1974 unless such convictions are deemed as “exceptions” under the terms of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, and set out below in Section 3. If ‘spent’ offences are required to be disclosed this will always be indicated.

2.2 The test the University will use is whether the 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.

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.

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

3.3 The University will provide the opportunity for undergraduate applicants within the School of Health Sciences to self-disclose any unspent criminal convictions using their application via UCAS.
3.4 The University will provide the opportunity for postgraduate applicants within the School of Health Sciences to self-disclose any unspent criminal convictions using their application via the University’s online postgraduate application system.

3.5 With reference to 3.3 and 3.4, outside of the School of Health Sciences, the University will not provide the opportunity for applicants to use the application form to self-disclose any details on unspent criminal convictions.

4. The University will only ask about relevant, ‘unspent’ criminal convictions.

4.1 'Relevant' convictions are:

- 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;
- offences listed in the Sex 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; and
- offences listed in the Terrorism Act 2006.

Convictions that are 'spent' (as defined by the Rehabilitation of Offenders Act 1974) or will be 'spent' at the point of starting the course of study will not be considered for courses that fall outside Section 3 of this Procedure. 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.

4.2 This member of admissions staff will conduct the investigation independently of the decision to offer a place and the investigation will involve writing to the applicant for a statement that sets out any information s/he considers relevant to the decision. 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.

4.3 The investigation will seek to understand and clarify the circumstances surrounding the conviction, together with any extenuating circumstances, and, where relevant, character references. If the applicant fails to respond by the specified date, the application will not be processed and withdrawn.

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

5.1 Schools will assess the application against the standard entry requirements of the course and decide whether a place can be offered. 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.

5.2 If a criminal conviction is disclosed by the applicant or through 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 investigate. All applicants can choose to self-disclose the details of any relevant unspent criminal convictions by sending all relevant information through to admissions@city.ac.uk

6. Criminal Convictions Admissions Review Panel (CCARP)

6.1 On completion of the investigation, in the case of a serious 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, 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.

6.2 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 and only relevant information is kept securely in line with data protection requirements and the University policy on record keeping set out below in Section 8.

6.3 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 of the offence(s)
- An assessment of risk to members of the university community
- How long ago the offence(s) took place
- In the event of more than one offence, whether each was a single occurrence or part of a series of similar occurrences
- The potential impact on fellow students, staff and others with whom the applicant will have contact
- 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

6.4 The Panel must reach a decision based on the balance of probabilities, based on all of the facts available at the time. The Group should also consider any specific conditions that may be required to be attached to any offer.

6.5 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.

6.6 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.
7. Right of Appeal and Procedure

7.1 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 these procedures;
(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.

7.2 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.

7.3 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.

7.4 The Deputy President & Provost will then review the findings of the Panel to ensure that they are reasonable and that there was no error in the findings or the procedure. Where 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.

7.5 The Panel will consider all further information submitted by the applicant. Following the completion of the Panel Meeting, the Panel may decide:

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

7.6 The Deputy President & Provost will decide upon the appeal and his/her decision will be final. Decisions on the appeal will be final.

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 Non-disclosure of a criminal conviction

8.1 Applicants within the School of Health Sciences self-disclose the details of any relevant unspent criminal convictions at the point of application. Where an applicant has failed to disclose this information, this will become available as part of the mandatory requirement for all practicing health students to complete a Disclosure of Barring Service on registration. The details for this process can be found here.

8.2 Outside of the School of Health Sciences, applicants are under no legal obligation to disclose details of any relevant unspent criminal convictions. Therefore, non-disclosure is irrelevant in these cases.

8.3 Post admission to the University, students are expected to adhere to certain standards of individual behavior, as outlined in The Student Charter. All students have a continuing obligation to notify the University should they subsequent receive a criminal charge.

9 Record keeping and data protection

9.1 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.

9.2 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.

9.3 If a criminal conviction is declared 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, on who, if anyone, within the University should be provided with further details of a conviction.

9.4 If a criminal conviction is declared and the application is unsuccessful, all paper documents will be securely destroyed. The Head of Admissions will keep a copy of the information relating to the conviction and this will be securely stored for a period of one year after the admissions cycle has ended, at which point all electronic and paper files will be deleted.

9.5 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 the 12th September 2018
Update completed by Head of Admissions.
Update approved by Senate on xxx.