

Disclosure and Barring Service Policy Document on the Recruitment of ex-offenders

Equality and Diversity Statement

City, University of London is committed to promoting equality, diversity and inclusion in all its activities, processes, and culture, under its Public Sector Equality Duties and the Equality Act 2010. This includes promoting equality and diversity for all, irrespective of any protected characteristic, working pattern, family circumstance, socio-economic background, political belief or other irrelevant distinction.

Where relevant to the policy, decision making panels will ensure a reasonable gender balance (with at least one man and one woman) and will actively consider representation of other protected characteristics.

To be read in conjunction with

The Policy should be used in conjunction with the relevant PSRB code and fitness to practise standards and requirements, the University Senate Assessment Regulations 19,

University Disciplinary Policy, Cause for Concern Process, Disclosure and Barring Service Process, and any other relevant policies and procedures as deemed necessary.

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1. Introduction

1.1 As a public body that serves the wider community from which we recruit, City, University of London, School of Health Sciences (hereby after referred to as “The School”) is fully committed to the equal and accessible experience of higher education to all members of the wider community. In adopting this position of inclusion, The School appreciates that it will be inviting applications to programmes of study from members of the community that may have a previous criminal record.

1.2 The fact that an individual has a previous criminal record should not necessarily prohibit the individual from undertaking their desired choice of programme in higher education. However, as an institute of higher education it is necessary for The School to be respectful of our duty of care to the public. Thus, certain pieces of legislation have direct relevance to the recruitment of ex-offenders and the type of programme we may allow them to study.

1.3 This policy document sets out the exact process that is adopted in the selection, recruitment and interview of an individual who has a record of previous criminal activity. Through doing so, it demonstrates our commitment to both obtaining and maintaining an inclusive and representative student body and the legislation that effects the recruitment of ex-offenders.

2.1 The aim of this document is to produce a robust written explanation and guide to the process behind the decisions staff and employees of The School will make in the recruitment of ex-offenders.

2.2 This document will become the one point of reference for the decision-making process and will enable those making the decisions to be confident that The School is being both fair and just in its selection of applicants.

2.3 Furthermore it will ensure that current legislation on the recruitment of ex-offenders is respected and that within the context of information revealed to The School regarding an individual’s previous criminal activity, any decision made on the suitability to train, will be dealt with according to a set of prescribed and reasonable conditions.

2.4 This document is written with respect to certain guiding pieces of legislation and reference will be made to their relevance where appropriate. Furthermore, it is written with respect to the DBS Code of Practice – which in itself is published under section 122 of the *Police Act 1997*. It is The School’s policy to ensure that a copy of the DBS Code of Practice is made available on request to any disclosure applicant.

2. Aims

2.1 The aim of this document is to produce a robust written explanation and guide to the process behind the decisions staff and employees of The School will make in the recruitment of ex-offenders, in collaboration with practice learning partners.

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3. Policy Statement

3.1 The Rehabilitation of Offenders Act 1974

City, University of London is permitted to ask exempt questions under the Exceptions Order to the *Rehabilitation of Offenders Act 1974*, in order to ascertain the suitability of applicants applying to our programmes.

3.2 Consequently, students are required to declare in full any previous **convictions, cautions, reprimands or final warnings.**

3.3 Further to the requirement to declare all relevant information it is the policy of City, University of London, to employ the service of the Disclosure and Barring Service in order to obtain information that will enable us to make an informed decision about an applicant's suitability for admission on to a health care programme.

3.4 Please note that failure to declare any information that may be revealed in a subsequent Disclosure and Barring Service (DBS) Disclosure could result in the withdrawal of the conditional/unconditional offer of instruction at City, University of London.

3.5 Our policy is:

- As an organisation using the Disclosure and Barring Service (DBS) Disclosure service to assess applicant's suitability for positions of trust, City, University of London's School of Health Sciences complies fully with the DBS Code of Practice and undertakes to treat all applicants for positions fairly. It undertakes not to discriminate unfairly against any subject of a Disclosure on the basis of conviction or other information revealed.
- City, University of London's School of Health Sciences, is committed to the fair treatment of its students, potential students or users of its services, regardless of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation or offending background.
- City, University of London have a written policy on the recruitment of ex-offenders, which is made available to all Disclosure applicants at the outset of the recruitment process and is downloadable from the University website.

- We actively promote equality of opportunity for all with the right mix of talent, skills and potential and welcome applications from a wide range of candidates, including those with criminal records. Except for specific offences outlined under the *Protection of Children Act 1999* and *Criminal Justice and Court Services Act 2000* which would exclude and prohibit the candidate applying for such a position.
- A DBS Disclosure is to form part of the recruitment process, as such, we encourage all applicants to provide details of their criminal record at an early stage in the application process. We request that this information is sent under separate, confidential cover, to a designated person within City, University of London's School of Health Sciences and we guarantee that this information is only seen by those who need to see it as part of the recruitment process.
- We ensure that all those in City, University of London's School of Health Sciences who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences. We also ensure that they have received appropriate guidance and training in the relevant legislation relating to the employment of ex- offenders, e.g. *Rehabilitation of Offenders Act 1974*.
- At an interview we ensure that an open and measured discussion takes place on the subject of any offence(s) or other matter that might be relevant to the position.
- We make every subject of a DBS Disclosure aware of the existence of the DBS Code of Practice and make a copy available on request.
- We undertake to discuss any matter revealed in a Disclosure with the person seeking the position before withdrawing a conditional/unconditional offer of study at City University, Institute of Health Sciences.

3.6 Having a criminal record will not necessarily bar you from studying with us. This will depend on a variety of criteria that you will be asked about in an interview and would focus on the level of risk that you pose to the public, fellow students and members of staff you would come in to contact with whilst on practice placement. Relevant circumstances surrounding the offence(s) would be taken into consideration and a decision will be taken on these grounds.

3.7 City, University of London's School of Health Sciences, operates a strict policy of an absolute decision as regards the outcome of an interview. Consequently, there would exist **no right of appeal** on any decision made at a previous offences interview, as failure to meet the admissions criteria does not permit the student the rights afforded to an enrolled student.

3.8 An applicant's usual rights of appeal to the DBS regarding the information revealed are not affected.

4. Application Stage

4.1 Under the Exemptions Order 1975 to *Rehabilitation of Offenders Act 1974* (ROA 1974) it is permissible for The School to ask exempt questions about an applicant's previous criminal history when applying for Health Care programmes that are in themselves considered to be exempt from the *Rehabilitation of Offenders Act 1974* (ROA 1974). This information will include previous criminal convictions, cautions, reprimands or final warnings.

4.2 In order to obtain this information, The School employs the service of Atlantic Data Ltd to undertake electronic Disclosure applications that are sent directly to the Disclosure and Barring Service (DBS) and does so via the process of obtaining an Enhanced Disclosure with barring list checks for the relevant workforce(s). This will document information in the form of a criminal record certificate as described under either section 113 or section 115 of the *Police Act 1997*. Access is controlled by a login process, with all information provided through a secure website and all personal data transmitted using encryption.

4.3 City, University of London welcomes applications to programmes from all members of the community but **cannot** consider applications for specific healthcare programmes from those individuals who have committed offences under the provisions of the *Protection of Children Act 1999* and the *Criminal Justice and Court Services Act 2000*. It should also be noted that this prohibition also extends to individuals who have had their name included on the Protection of Vulnerable Adults (POVA) List, Protection of Children Act (PoCA) List as held by the Department of Health and List 99 as held by the Department of Education, Skills and Employment.

To do so would be a criminal offence under the aforementioned acts. Furthermore, in receiving an application from any such individual, The School is obliged to inform the Police that an application from a prohibited individual has been received (see appendix 2).

4.4 In order to make informed decisions about an individual's suitability to train, they will be invited to submit a DBS application before further advancement of the individual's application to study. The covering document will explain that in observance of the *Rehabilitation of Offenders Act 1974* (ROA 1974), The School is inviting the applicant to submit a DBS form so that the relevant staff can make an informed decision about the suitability of an individual to train. If necessary, an interview would be held to allow the individual to put the information revealed in a Disclosure into context.

4.5 **The School makes every reasonable effort to inform an applicant of their individual responsibility under the provisions of the Exemptions Order 1975 to the *Rehabilitation of Offenders Act 1974* (ROA 1974) and expects applicants to act accordingly.**

5. Review of DBS with convictions by practice learning partners

5.1 A proportion of each of our healthcare professional programmes consists of placements in clinical, social care or educational settings and The School has a responsibility to work

collaboratively with practice learning partners to safeguard the public and healthcare staff who may come in contact with our students during their practice placements.

5.2 Practice learning partners regularly make decisions about the suitability of applicants for employment in healthcare positions in their organisations and will apply the same criteria to students who may be undertaking placements in the organisation.

5.3 The School will share *anonymised details* of any applicant's DBS that holds a conviction with the practice learning partners where a student may be placed during the programme. Based on the anonymised DBS details, the practice learning partner can inform the School on whether the student would be eligible to be placed in that organisation to gain practical experience. If a student on one of our healthcare professional programmes is likely to be placed in several different clinical, social care or educational settings within organisations for example on rotation, a representative organisation will be sent the anonymised details following prior agreement that the representative organisation can act as proxy for all other relevant practice learning partners.

5.4 If practice learning partners are able to make a clear decision that the conviction on the DBS will not affect whether the student would be eligible to be placed in that organisation to undertake the placement elements of the programme of study on the basis of the anonymised DBS details, and relevant academic staff in The School agree with this assessment, the student will be cleared to attend placements without the need for further action.

5.5 If practice learning partners or academic staff from the School *are not able* to make a clear decision that the conviction on the DBS will not affect the student's suitability to undertake the placement elements of the programme of study on the basis of the anonymised DBS details, the student will be invited to an interview to discuss the conviction and the context of their conviction.

5.6 The student may not attend placement prior to the interview if this step is required.

6. Interviewing and Applicant

6.1 The School is aware of the limitations of information obtained through the DBS Disclosure process. In order to put the information revealed in a Disclosure into context, it would become necessary to interview the applicant. If it becomes apparent that information revealed necessitates an interview, The School will seek to interview the applicants as soon as is reasonably possible.

6.2 The School will make every reasonable effort to interview prior to the planned commencement of clinical placement.

6.3 The interview itself is an opportunity for the applicant to express their reasons why they should be considered as suitable to train. It offers the applicant a forum to put the offence into context and allows them the facility to explain any other relevant information they might wish to submit. This could include parole officer notes, etc.

6.4 From the point of view of The School, the interview allows those responsible for the applicant's successful instruction to determine the level of risk that they might pose to staff, fellow students and the public they will come into contact with as part of their instruction.

6.5 Those present at interview will be the minimum number of persons needed to make an informed decision about an applicant's suitability to train.

6.6 The following will be present at all interviews:

6.6.1 Designated Professional Staff member (who has undertaken appropriate training):

(a) Responsible for ensuring that the applicant is in agreement with the information that is revealed in the Disclosure as being accurate and pertains to them

(b) Responsible for ensuring the information used in the interview is that which is revealed in the Disclosure and that no other extra information outside of relevant conviction related information (e.g. parole officer notes) is used in the context of the interview

(c) To make notes throughout the interview that will then be used in the decision on suitability of the applicant

(d) To help guide the academic staff on the procedures involved and our obligations under certain aspects of legislation

(e) To inform the applicant about the procedures involved

(f) To answer any questions about the storage, retention and destruction of Disclosure information.

6.6.2 Minimum of one senior academic staff member in the capacity of a registered healthcare professional will Chair the Panel:

(a) Responsible for making the decision on whether an applicant is suitable to undertake the chosen programme of study

(b) To conduct the interview process and be the medium by which all discussion is channelled

6.6.3 Minimum of one senior practice learning partner representative in the capacity of a registered healthcare professional and prospective employer:

(a) Responsible for making the decision on whether an applicant is suitable to undertake placements in a healthcare environment

(b) To represent their own employing organisation but also the views of other practice learning partners that may host the applicant (by prior agreement).

6.6.4 Applicant:

To divulge truthfully and willingly any or all information that pertains to the relevance of the interview when requested to do so. This can be in the form of parole officer notes, references or extra information that supports the applicant's lack of potential in re-offending. The information shared will be treated confidentially as part of the DBS process.

6.6.5 Applicant's representative:

The applicant may choose to be accompanied by one other person to support them at the interview (or more than one person at the Panel Chairs discretion). The representative can only attend in a supportive role, and will not be allowed represent the applicant unless prior consent has been sought from the Chair of the Panel.

6.7 It should be noted that the interview is not a means by which guilt for an offence may be discussed.

6.8 However, it is necessary to have a set of criteria by which an interview may be conducted, as an informed decision about an applicant's suitability to undertake the healthcare programme will rest on specific areas of importance.

6.8.1 The interview panel will consider these points in relevance to any specific offence:

- (a)** Would training involve one-to-one contact with children or other vulnerable groups?
- (b)** What level of supervision would the student receive?
- (c)** Would the student become directly involved with financial matters or come into contact with items of value?
- (d)** Would the applicant have any direct contact with the public?
- (e)** Would the nature of training present any opportunities for the student to re-offend in the course of successful appointment?
- (f)** Is the potential student likely to register as a professional after training? This decision may need to be sought from the official registered body that any successful applicant would go on to register with after training.

6.9 Furthermore, during the interview certain relevant points will be discussed with the applicant which will further facilitate the decision-making process.

6.9.1 The following issues will be taken into account:

- (a)** The seriousness of the offence and its relevance to the safety of staff, students and the public they come into contact with and/or property
- (b)** The length of time since the offence occurred
- (c)** If the students is still within any suspended sentence period, or if this has been completed
- (d)** Any relevant information offered by the applicant about the circumstances that lead to the offence being committed, for example, the influence of domestic or financial difficulties
- (e)** Whether the offence was a one-off or part of a history of offending
- (f)** Whether the applicant's circumstances have changed since the offence was committed, making re-offending less likely
- (g)** Whether the offence has been decriminalised by Parliament

- (h) The country in which the offence was committed. Some activities are offences in Scotland and not in England and Wales and vice versa
- (i) The degree of remorse, insight, understanding or otherwise, expressed by the applicant and their motivation to change

7 The Decision

7.1 After considering all the relevant documentation and statements into account for each offence, it will be for the interview panel to decide whether the applicant is suitable to undertake the programme of study.

7.2 A verbal decision may be given to the applicant followed by official confirmation in the form of a letter detailing the outcome of the decision. The Panel may decide to postpone to seek additional information.

7.3 The Panel need to inform the applicant at the interview that, although advice will be sought from the HCPC/NMC/GOC as appropriate, successful completion of a programme of study does not guarantee suitability to register. City, University of London is not responsible with regards to decisions made by the professional bodies or future employers. Regulatory bodies make independent decisions to assess the eligibility of applicants to their relevant professional register.

7.4 Only one of three decisions may be reached after the interview. These are:

- (a) Satisfactory to continue; cleared to attend placement
- (b) Postponement of decision pending receipt of additional relevant information
- (c) Case is referred to Fitness to Practise Panel for consideration.

7.5 The notes of the interview will be shared with the applicant.

7.6 It should be noted that any decision is absolute, and no right of appeal exists as the decision of suitability to instruct is made on the requirements of admissions criteria. However, the applicant may appeal to the DBS if the information used in making this decision does not portray an accurate representation of the individual's personal details or that of the individual's previous criminal activity.

7.7 The notes and information received through interview will be treated in the same manner as Disclosure and Barring Service Disclosure information. Therefore, the School policy on handling, storage and destruction of Disclosure and Barring Service Disclosure information would apply.

Contact details:

For further information please contact dbb@city.ac.uk

Appendix 1: List of types of offences

As prescribed by the *Criminal Justice and Court Services Act 2000*, Chapter III Part II schedule 4

Schedule 4 offences include:

- Murder
- Manslaughter
- Rape
- Kidnapping
- False imprisonment
- An offence under section 18 or 20 of the *Offences against the Person Act 1861*(wounding and causing grievous bodily harm)
- An offence under section 47 of the *Offences against the Person Act 1861* (assault occasioning actual bodily harm)
- Any other serious sexual offence that involved or pertains to the involvement of children
- Any other serious offence that involved or pertains to the involvement of children

NB: Any adult convicted of a schedule 4 offence and given a hospital or guardianship order or a custodial sentence of 12 months or more are banned from working with children.