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1. Overview

The Consideration of Criminal Convictions and the University's Duty of Care

The University of Birmingham seeks to admit the widest range of students who may benefit from our programmes of study based on an assessment of prior achievements and potential and this will include students with criminal convictions. The University seeks to balance fairly its obligations towards applicants, including those with criminal convictions, with its obligations to the entire student and staff community as well as those visiting the University.

The University has a duty of care to students, staff, and visitors which is both moral – a general responsibility to promote the welfare of our students and staff – and legal, in the form of a duty to take appropriate steps to protect students, staff, and visitors. In the area of criminal convictions, the University takes the view that it should consider all available information about whether an applicant who accepts an offer of study has a relevant unspent criminal conviction as part of a holistic assessment of an individual, their suitability to study the course of their choice or to stay in university accommodation, and the impact upon the wider university community.

The requirement for applicants to disclose unspent, relevant criminal convictions

The University therefore requires all applicants who accept an offer of a place to study to disclose to the University any unspent, relevant criminal convictions within fourteen days of accepting their offer. Such disclosure will not result in an automatic cancellation of an offer or exclusion from the University. Rather the nature of the offence and all relevant information pertaining to the conviction will then only be considered in order to determine whether the University considers there to be any unacceptable risk of harm to the wider University community involved in allowing admission to the University and/or University accommodation.

Exclusions from this requirement

Some courses which are closely linked to particular professions have their own strict requirements, governed by professional, statutory, and regulatory bodies (PSRBs) with regard to the background of the students admitted, and in these cases, the University is required to ascertain whether any applicant has 'relevant' criminal convictions, including some which are 'spent'. For these programmes a satisfactory Disclosure and Barring Service (DBS) check will be required as a condition of offer. Applicants accepting an offer including a DBS check as a condition are not required to make self-disclosure as set out in this policy. Any relevant, adverse information disclosed by the DBS will

be considered in accordance with the requirements and policy for the programme for which the DBS check is required and as such this policy is not applicable in those circumstances.

2. Relevant Convictions

A 'relevant' criminal conviction is one which may have implications for the University's duty of care towards the safety of our students, staff, and visitors. This includes, but is not limited to convictions concerning:

- 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 (drug offences only involving possession are not relevant offences).
- Offences involving firearms.
- Offences involving arson.
- Offences involving terrorism.

This list is not definitive but seeks to outline the sorts of offences for which a conviction will be considered relevant by the University.

3. Unspent Convictions

There is no requirement for an applicant to disclose a conviction which is 'spent'. An applicant who is unsure whether their conviction is 'unspent' and therefore needs to be disclosed can seek advice from the charities NACRO <https://www.nacro.org.uk/> or Unlock <http://www.unlock.org.uk/>

4. The Process for Assessment of Criminal Convictions

In requiring the disclosure of any unspent, relevant criminal conviction the University is not seeking to make moral judgements concerning the past actions of an applicant. The purpose of assessing an applicant's criminal conviction(s) is to seek to determine whether, based on evidence, an applicant poses an unacceptable risk to the safety of the University community.

The disclosure of any unspent, relevant criminal conviction will not result in automatic exclusion or the cancellation of an offer. All relevant information will be considered and a risk-based approach is taken to whether there are reasonable grounds to exclude the applicant from admission to the University or to place any specific conditions on admission, for example exclusion from University accommodation.

The process for the consideration and assessment of risk will be as follows:

a. Initial Disclosure

The means for providing an initial disclosure will be published in the relevant online Offer Guide. An applicant will only initially be required to disclose the title of the offence for which they were convicted. This is to allow confirmation that the offence is relevant for the purposes of admission to the University, in that it may have implications for the University's duty of care towards the safety of our students, staff, and visitors.

b. Assessment of Relevance

The assessment of relevance will be undertaken by the Director of Admissions.

If in the assessment of the Director of Admissions the offence is not deemed relevant the applicant will be informed of this and the record of the disclosure deleted. The information will not be retained by the University.

If upon consideration of the information provided by the applicant, the Director of Admissions considers the offence to be relevant further information will be requested from the applicant and from their probation officer where applicable.

The initial disclosure and all subsequent information received or produced in respect of the disclosed conviction will be securely stored in an Applicant Criminal Conviction Disclosure File. Access to this file will be strictly restricted to such University members of staff as are required to manage the process and undertake the risk assessment.

The information provided will then be subject to an Initial Assessment.

c. Initial Assessment

An Initial Assessment based on the available information will be made by the Director of Admissions who may seek advice from the Director of Legal Services.

Should the offence indicate a low level of risk of reoffending and therefore a low risk of harm to the University community, the Director of Admissions may determine that no further action is required. This will be notified in writing to the applicant with information provided about how long the information relating to the conviction will be retained by the University.

If the Director of Admissions determines that there may be a risk to the University community involved, either in admitting the applicant or doing so without additional specified conditions, a Criminal Convictions Panel will be convened to assess that risk. An applicant will not normally be excluded from admission to the University at the sole discretion of the Director to Admissions.

d. Criminal Conviction Panel

The Panel will normally be chaired by a representative of the appropriate school/institute or college to which the applicant has applied and consist of a further two representatives from the following departments:

- Admissions Office
- Legal Services
- Student Services
- Hospitality and Accommodation Services
- The relevant College
- The relevant School/Institute

The Panel will consider whether there are unacceptable risks to the University community associated with admitting the applicant or admitting the applicant without specific conditions, such as exclusion from University accommodation. The following risk factors will be considered by the Panel:

- The nature of the offence and any particular relevance to the programme applied for
- Any pattern of offending
- The recommendations of any referees
- The recommendations and other comments from a Probation Officer
- Any mitigating circumstances
- Any aggravating circumstances
- Any comments about the risk of re-offending in the pre-sentencing report or other official documentation

The risk assessment will be guided by the Guidance for Criminal Convictions Panel Members. In considering the factors above the Panel will reach a conclusion as to whether the admission of the applicant poses an unacceptable risk to the safety of the University's students, staff and visitors.

The panel may reach one of three conclusions:

The level of risk is determined to be unacceptable such that the applicant may not be admitted to the University.

The applicant will be notified in writing including a brief description of the reasons for the decision. The applicant will be informed of the period for which the information relating to their conviction will be retained.

The level of risk may be managed by the imposition of specific conditions, such as exclusion from University accommodation.

The applicant will be notified in writing including a full explanation of the conditions applied and brief description of the reasons for the decision. The applicant will be informed of the period for which the information relating to their conviction will be retained.

The level of risk is determined to be acceptable and the applicant may be admitted without any specific conditions.

The applicant will be notified in writing including information about the period for which the information relating to their conviction will be retained.

5. Voluntary Disclosure prior to accepting an offer

If an applicant with a criminal conviction wishes to seek an indication, prior to accepting an offer, of the likely implications of their conviction they may do so by following the self-disclosure process. Assessment of relevance will be undertaken as above and in accordance with this policy. If relevant, the applicant may be invited to submit further information for assessment to be made as to whether a Panel would be required. It is not anticipated that a Panel would be convened unless an offer has been accepted and it is necessary to do so in line with this policy.

6. Third Party Disclosure of an unspent, relevant conviction

Should the University receive disclosure from an organisation such as, but not limited to, the Police or Probation Service, in respect of an applicant;

If the applicant has accepted the offer without self-disclosure by the relevant deadline (normally 14 days from acceptance of offer) their application may be treated as being fraudulent on the basis of relevant information being withheld and in keeping with the University's Code of Practice on the Admission of Students. In such circumstances, the University reserves the right to cancel the offer and acceptance, or to instigate disciplinary proceedings in line with Section 8 of University Regulations and/or to withdraw the student from their programme and from the University as appropriate.

If the applicant has not yet received an offer, or the deadline for submission of self-disclosure has not yet passed, the applicant will be contacted to make them aware that the information has been disclosed to the University and inform them that they will need to make a self-disclosure by the relevant deadline should they accept the offer. Such information as the applicant discloses will then be assessed as above and in accordance with this policy.

7. Review of Panel's Decision

If it is decided by the Panel not to allow admission, or to allow admission with specific conditions on the basis of the conviction(s) disclosed, then the applicant may seek a review of the Panel's decision.

Such a review will only be permitted on the grounds that additional information or evidence has come to light which may indicate that the Panel would have arrived at a different decision had this information been considered, or in the case of a procedural irregularity. The University will not review a decision to cancel an offer of admission, or to impose specific conditions, where the grounds for requesting a review are simply that the applicant disagrees with the outcome and/or where there is no evidence that the correct procedures have not been followed.

If an applicant believes that they have any grounds to request a review of the Panel's decision in line with this Policy they should contact the Pro-Vice-Chancellor (Education) in writing with full details of the grounds for review and any accompanying documents within 10 days of the Panel's decision. The applicant will be asked to contact the Pro-Vice-Chancellor by emailing confidential-admissions@contacts.bham.ac.uk, with the message marked 'FAO Pro-Vice-Chancellor (Education)'.

Upon receipt of a request for review all documentation and information contained in the applicant's Criminal Convictions Disclosure File will be provided to the Pro-Vice-Chancellor or their nominee for review.

This request for review will be considered, with a view to providing a response within 20 working days of the written request reaching the Pro-Vice-Chancellor. Where a response is not possible in that timeframe, the Pro-Vice-Chancellor will write to inform the applicant, giving reasons for the delay and setting out a revised timeframe.

The outcome of the review will be sent in writing to the applicant at the correspondence address which has been provided. If an address is not provided with the written request, the address provided with the original application will be used.

If the Pro-Vice Chancellor upholds the Panel's decision, the applicant will be informed in writing.

In the circumstance that the Pro-Vice Chancellor upholds the request for review they will consider any subsequent documents submitted by the applicant and all information and documentation contained in the applicant's Criminal Conviction Disclosure File to determine whether:

- The level of risk is determined to be unacceptable such that the applicant may not be admitted to the University.
- The level of risk may be managed by the imposition of specific conditions, such as exclusion from University accommodation.
- The level of risk is determined to be acceptable and the applicant may be admitted without any specific conditions.

In either case, the decision of the Pro-Vice-Chancellor shall be final.