

Document Title		
Policy and Procedures: Applicants with Criminal Convictions		
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<p>Minor revision 2013 to reflect changes in structure at the University.</p> <p>Awaiting revision of Criminal Conviction Policy and now, Disclosure and Baring Policy, as a result of 2012 review.</p>		



## **POLICY AND PROCEDURES: APPLICANTS WITH CRIMINAL CONVICTIONS**

### **1. Aim**

The aim of the recruitment and selection process is to select students who have the ability and motivation to benefit from the programmes they wish to follow and who will make a positive contribution to the life of the University.

The aim of this process is to ensure that no prospective student will receive less favourable treatment than any other on grounds which are not relevant to academic ability and attainment.

It is, however, important that this aim is pursued without prejudice to the safety and well being of other members of the University community, and indeed there may be occasions where this priority has to be placed ahead of all other considerations. These procedures are intended as a mechanism to ensure that decisions regarding the admission of an applicant with criminal convictions are taken only after the implications have been fully explored.

### **2. Scope of Guidelines**

These guidelines will be followed in relation to applications from any student declaring (or discovered to have) a criminal conviction which has not been spent under the terms of the Rehabilitation of Offenders Act<sup>1</sup>.

These guidelines apply to all applications to The University of Winchester for places on all courses and programmes of study

The term “Criminal Offences” is used to cover all criminal offences, excluding motoring offences for which a fine and/or up to three penalty points were imposed.

Offences committed outside the United Kingdom are included in the definition.

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<sup>1</sup> Under the terms of this act, sentences of 30 months imprisonment or more are never spent while those of lesser duration do not have to be declared once spent. In practice this means that the more serious offences must always be declared.

### **3. Policy**

The University has a duty to ensure the safety of the general University population. To this end it will seek information on any declared criminal offences by applicants that will then be considered.

The University will consider the applicants' suitability to join the institution in light of any criminal conviction separately to their academic ability to join the course.

All information pertaining to the conviction will be collected, stored and divulged to relevant parties according to the Data Protection Act 1998. All documentation will be held on separate secure file. Documentation relating to unsuccessful applicants will be retained for a period of twelve months. Documentation relating to successful applicants will be retained for the duration of his/her study at the University plus a further period of six years.

The applicant will have the opportunity to appeal regarding any decision to exclude them from the institution on the basis of their criminal record.

### **4. Action to Be Taken Upon Receipt of an Application Which Includes a Declaration of Criminal Convictions**

For all applications, the completion of the criminal conviction question is mandatory. UCAS requires relevant convictions to be declared. Relevant criminal convictions are those convictions for offences against the person, whether of a violent or sexual nature, and convictions for offences involving unlawfully supplying controlled drugs or substances where the conviction concerns commercial drug dealing or trafficking. Convictions that are spent (as defined by the Rehabilitation of Offenders Act 1974) are not considered to be relevant. (Please see Appendix C).

Initially, the application will be assessed on academic and motivational merit alone. If there are no academic grounds for making an offer to the applicant, the application can be rejected in the normal way.

If from an academic viewpoint the applicant is felt to merit the recommendation of an offer of a place, the Admissions team will obtain as much information as possible about the nature of the offence concerned. In the case of full time undergraduate applicants, further information may also be available from the UCAS Verification Unit which will be approached through the UCAS correspondent.

The applicant will be sent a letter, Appendix A, and form, Appendix B, by the Admissions team outlining the requirements and how the information will be used, how it will be stored and who will have access to it. A copy of the University's Policy and Procedures on Applicants with Criminal Convictions will also be included.

The proforma should be completed and returned to the University within 14 days and the information provided will include:

- (i) the circumstances and nature of the offence
- (ii) the disposal of the court, including the exact sentence handed down
- (iii) a mature reflection by the applicant upon their actions and subsequent rehabilitation

Upon receipt the information will be passed to the Dean of Admissions and the Director of Student Services who will consider the nature of the offence in relation to the programme of study and decide that either:

a) there is no objection on the basis of the criminal conviction and to allow the application to proceed; or

b) the conviction needs to be further considered by a Criminal Convictions Panel

Where there is no objection on the basis of the criminal conviction the application shall be processed following the usual process.

Where there is need for further consideration when appropriate, a Criminal Convictions Panel will be selected, including the Dean of Faculty or their line manager, in which the programme is located, a representative from a different faculty and a representative of the service departments, (normally CCS) together with at least one of the initial panel (ie the Director of Student Recruitment and Dean of Admissions or the Director of Student Services).

The case will then be considered by the Panel which will decide whether or not an offer should be made.

The Panel will take into account:

- whether the criminal record has any bearing on the applicant's suitability to become a member of the student body (e.g. violent or sexual crimes, drug related crimes etc.)
- the length of time since the offence(s) was/were committed
- whether the applicant has re-offended and, if so, whether there is a pattern to the re-offence(s)
- whether the applicant's circumstances have changed since the time of the offence(s)

Where there is no objection on the basis of the declared criminal conviction the application shall be processed following the usual process. All documentation relating to the conviction will be held in a secure file and will be retained in line with the policy on retention of student files i.e. for the duration of the applicant's study at the University plus a further period six years.

Where the decision is to offer a place subject to conditions, (e.g. that the applicant may not live in

or visit the halls of residence) then such conditions will be made explicit in the offer letter. The applicant will be required to confirm in writing their acceptance of the conditions stipulated.

At this stage consideration will also be given to the need to alert other parties (e.g. Student Housing Services, the Student Union, Faculty office(s), placement providers, Security and Safety Officer) to the circumstances prior to the applicant's enrolment as a student and/or during his/her period of study, and/or if the applicant is eligible to be considered to apply for a place in University owned accommodation. This information will be provided on a strict need to know basis.

Where there is an objection on the basis of a declared criminal conviction, applicants will be informed that, from the information provided, the University is unable to pursue their application for entry and that it will be rejected. The reason for rejection will be provided, along with details of the Appeals Procedure.

#### **4.2 Applications Which Involve an Interview**

In the case of programmes where interviews are required for all applicants the consideration of the conviction by applicants who have declared such convictions will take place before the formal interview process takes place.

Where there is no objection on the basis of the criminal conviction the interview process will be followed.

#### **4.3. At Enrolment**

At enrolment all students will be required to complete the enrolment form and confirm that the information they have provided on their application form with regard to criminal convictions is complete and up to date.

Those who provide a negative response to the criminal conviction question will be allowed to enrol provisionally subject to an investigation of the conviction.

The University will write to the individuals concerned requesting details of the conviction. The University will consider the information provided and a decision about whether or not to allow the student to continue with their studies will be made or the case referred to a panel.

### **5. Appeals**

Applicants who declare criminal convictions and are subsequently withdrawn from the admissions process for not responding to request(s) for information, or rejected on the basis of their conviction will have an opportunity, should they so wish, to appeal against that decision to an Appeal Panel.

Applicants may appeal against the initial decision up to 14 days after notification.

An Appeal Panel will comprise appropriate senior members of staff not previously involved with the original consideration except for the Dean of Admissions or Director of Student Services who will represent the considerations of the original decision.

The Appeal Panel will then either:

- (i) confirm the original decision
- (ii) overturn the original decision and confirm the applicant is eligible to be offered a place (subject to usual academic processes) and/or is eligible to apply or not for a place in University owned accommodation.
- (iii) where further information is required, extend to the applicant the opportunity of a hearing, where further information can be solicited prior to confirming a decision as outlined in (i) and (ii) above.

Where the Appeal Panel agrees to offer the applicant a hearing pending a final decision, the applicant will be given notice of not less than 14 days of the hearing. Such notice will be sent recorded delivery to the last known address as notified to the University.

If applicants fail to attend appeal hearing other than for a reason acceptable to the Panel, notified in advance, the proceedings shall not be invalidated by such non attendance. Applicants unable to attend a hearing for good reason may seek a postponement of the hearing by contacting the Chair of the Appeal Panel. Evidence as to why they are unable to attend the hearing will need to be provided, e.g. medical note.

If an applicant wishes to place documentary evidence before the Panel, the Secretary of the Appeal Panel or their representative must receive such evidence at least seven days before the hearing.

The applicant shall give evidence on their own behalf and may be accompanied by a friend/ representative, the status of the representative should be notified to the Chair of the Appeal Panel not less than 7 days prior to the hearing.

The Appeal Panel will not admit new information unless it is satisfied that this had become available since the initial request for information, and that there were good reasons why the evidence could not be presented at that time.

The findings of an appeal hearing will be notified to the applicant in writing within seven working days by recorded delivery to his or her last known address. The decision of the Appeal Panel shall be final.

## **6. Action to Be Taken Where There is Reason to Suspect That an Applicant Has Un-spent Criminal Convictions That Have Not Been Declared**

When this occurs eg where a Referee refers to criminal convictions within a confidential reference, the University will adopt the following procedures;

In the case of full time undergraduate applications the UCAS correspondent will seek the advice of the UCAS Verification Unit. The Verification Unit will be able to ascertain whether or not the correct information has been passed to the University. In the event of an applicant having failed to disclose a very serious conviction, UCAS may decide to cancel the application. If the application is not cancelled, the procedures detailed in section 4 will be followed. The permission of the Referee will be sought before discussing with an applicant any information for which the sole source is a confidential reference. Any cases considered will include reference to the applicant's failure to declare the conviction concerned.

Should information concerning criminal convictions come to light after an offer has been made, the above procedures will still be followed. The procedures of UCAS and of the institution procedures make provision for an offer to be withdrawn if it is subsequently felt to be inappropriate in the light of information not available when it was first made.

If information on criminal convictions of a serious nature come to light after enrolment, the matter will be referred to the Director of Registry and Director of Student Services to be dealt with within appropriate procedures, including Student Disciplinary Code and Procedures, if deemed appropriate.

## **7. Recording Information Relating to Criminal Convictions**

All correspondence relating to the declaration of criminal convictions by an applicant will be held under separate file. All correspondence relating to an applicant who was refused admission will be held in the University for a period of twelve months and then destroyed.

At all stages the University will ensure that procedures are in place to restrict access to correspondence relating to an applicant's or student's criminal record to a "need to know basis".

## **8. Monitoring and Review**

The implementation of this Policy and Procedures will be monitored in the light of experiences and changes in legislation.

The review will also include an analysis of the cases dealt with and their outcome (in confidential form) to assist the monitoring process and inform further development of the Policy if required.

The review will be submitted to the Vice-Chancellor.

## Appendix A

### Draft Letter to Applicants Who Have Ticked “Yes” in Relation to Criminal Convictions

Date

PERSONAL

Dear [Applicant]

Thank you for your application to the University of Winchester to study [programme of study]. On your application form you have declared that you have a criminal conviction. In order to consider your application further, we have to consider details of the nature of your offence/s and your conviction/s. I therefore enclose a copy of the University’s Policy and Procedures on Applicants with Criminal Convictions.

Under the Rehabilitation of Offenders Act 1974, certain convictions became spent (see Appendix D within the attached Policy and Procedures). You are not required to provide information on spent convictions except where successful completion of the programme gives the right to practise a profession exempted by the Act, namely:

- a) medical practitioners, barristers, solicitors, accountants, dentists, veterinary, surgeons, nurses, midwives, opticians, pharmacists, osteopaths and chiropractors, social workers, teachers;
- b) those connected with administration of justice (including the police and the probation service), and those involved in contact with young people, the elderly, disabled and the seriously ill;
- c) unit trust managers, managers of nursing homes.

If your programme of study gives you the right to practise one of these professions, you need to provide information on **all** convictions.

I should be grateful therefore if you could provide details of the nature of your offence/s and your conviction/s in accordance with the information above and return them by [date].

You may be assured that this information will be kept in the strictest confidence, and will be passed only to University staff who are directly involved in determining the outcome of your application. All information pertaining to the conviction will be collected, stored and divulged to relevant parties according to the Data Protection Act 1998. Documentation relating to unsuccessful applicants will be retained for a period of twelve months. Documentation relating to successful applicants will be retained for the duration of his/her study at the University plus a period of six years.

Yours sincerely

**Appendix B**

**CRIMINAL DECLARATION BY APPLICANTS**

Name:

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Address:

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Course:

Students ref no. or UCAS no:

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- 1 List all un-spent criminal convictions, as defined in the attached letter, along with details of the sentence imposed, sentence served, together with the name and address of the court where you were tried.

Type of conviction	Sentence imposed	Date sentence imposed	Name and address of court handing down sentence
1.			
2.			
3.			
4.			
5			

Continue on a separate sheet if required (clearly write your name and application reference on any additional sheets)



- 5 Declaration: I hereby certify that the information given on this form is correct and complete.

I further consent to the intended use of the information contained in this form, together with any other information about unspent criminal convictions which I may give to the University, by the University in accordance with the precepts set out in the University's Applicants with Criminal Convictions policy.

Signature:

Date:

\_\_\_\_\_

**Please return this completed form, together with any other supporting documentation to:**

**The Dean of Admissions  
The University Of Winchester  
Sparkford Road  
Winchester  
Hampshire  
SO22 4NR**

## **Appendix C                    Table of time-scales of Spent Convictions**

Custody of between 6 and 30 months: 10 years

Custody of up to 6 months; fines: 5 years

Probation: 5 years

Conditional discharge; bind over 1 year from conviction or end of bound over period, whichever is the later.

Absolute discharge: 6 months

Most of these timescales are halved for young offenders.

## **Appendix D**

### **CRIMINAL CONVICTIONS PANEL**

#### **1. COMPOSITION**

The Panel shall consist of:

- Dean of Faculty or their Line Manager
- Representative from a different Faculty
- Representative from a Service Department (normally CCS)
- Director of Student Services or Dean of Admissions

#### **2. DUTIES, POWERS AND TERMS OF REFERENCE**

2.1 to consider appropriate applications for admission to the University which report criminal convictions;

2.2 to accept or reject such applications on the grounds related to their criminal record only taking into account, where appropriate, the need to alert parties (e.g. Faculty Office, placement provider, Student Union etc, Housing Services) to the circumstances prior to the applicants enrolment as a student, or during his/her course, should an offer be extended;

2.3 any other business deemed appropriate by the Chair.

#### **3. QUORUM**

At least three members of the Panel.

#### **4. FREQUENCY OF MEETINGS**

The Panel must meet within 10 days of submission if details required in Appendix B.

#### **5. SERVICING OFFICER**

Admissions Manager