

Applicants with Criminal Convictions Policy

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UNIVERSITY OF
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Summary/ Description: This document defines the process for considering applicants to the University with criminal convictions.	

Applicants with Criminal Convictions Policy

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1. Introduction

We value the wealth of experience, skills and knowledge which students from diverse backgrounds bring to the experience of other students and staff of the University.

We aspire as a University to raise aspirations of students from groups currently under-represented in higher education and to break down barriers which might discourage people from taking up courses at the University. This includes welcoming applications from individuals who have previously been convicted of a criminal offence.

This policy sets out the process which will be followed by the University when considering applicants who hold a criminal conviction. It explains how this declaration should be made, and the process the University will follow if this information is not disclosed in a timely manner.

In addition to this policy, you are encouraged to view the information on www.winchester.ac.uk/criminalconvictions. If you have any questions about if/what/when/how you should declare, please contact us in the first instance.

2. The application process

The University assesses all applications based on academic attainment and potential to succeed, in accordance with the published entry requirements, to determine whether an offer of a place should be made.

If you do not meet the academic level required or potential to succeed, your application will be unsuccessful.

a. Courses that involve working with children and/or vulnerable adults

The courses which we will ask applicants to declare if they hold convictions include (but are not limited to), teacher training, healthcare (nursing, physiotherapy, etc.), social work, and those involving work with children or vulnerable adults, including the elderly or sick people. The courses are typically those subject to the requirements of a regulated or professional body.

If you demonstrate that you have the potential to succeed at University and you have declared a criminal conviction, you will be initially contacted by the University to provide more information. You will be asked to confirm that you have not declared that you hold a conviction in error and be required to complete the form in appendix 1 and return this to sensitive.admissions@winchester.ac.uk within 20 working days. If you do not contact us within this time, your application will be unsuccessful.

Upon receipt of the form in appendix 1 and any additional supporting documentation, we will review the information provided and advise you whether we are able to proceed to the next stage of the application process.

The information you provide will be reviewed in a number of stages.

Stage 1

By the Head of Admissions and Director of Student Services, or nominated designates, to determine that you would be able to be a student at the University.

If your conviction(s) is particularly serious or recent, we may contact you or external agencies, for example, but not limited to, the Police, for additional information.

Depending on the nature of any offence(s) disclosed, we may also need to liaise with the Senior Management Team, where the offence(s) are of a particularly serious nature before an offer is made.

If you have indicated that you wish to live in University Managed Housing, we may liaise with the Head of Housing & Security, or nominated designate, to discuss whether there would be restrictions on the type of accommodation that could be provided.

Stage 2

By an individual with knowledge of the Professional Body and course requirements to determine whether the offence(s) would restrict you from entering the profession or restrict your ability to complete mandatory elements of the course (e.g. work placements).

If we believe that you have the potential to succeed as a student of the University, but that we are unable to offer you a place on the course you originally applied for due to the nature of your conviction(s), we may contact you to discuss alternative study options at the University.

If you are offered a place to study at the University, we will inform you if there are any additional non-academic conditions attached to your offer to study.

Prior to enrolment you will be asked to undergo an Enhanced Disclosure and Barring Service (DBS) clearance check as per our Disclosure and Barring Service (DBS) Policy. The policy can be found at www.winchester.ac.uk/termsandconditions.

If the disclosure confirms the information you have previously provided, you will be able to enrol at the University, subject to meeting any other academic or non-academic requirements of the course.

If the disclosure identifies information that was not previously disclosed to the University, your place may be withdrawn, depending on the nature of the additional information.

b. Courses that do not involve working with children and/or vulnerable adults

If you wish to study on a course which does not bring you into contact with children and/or vulnerable adults, you are required to inform the University if you are bound by restrictions, have probation requirements to fulfil following a conviction, or have been convicted of a relevant offence (see appendix 2).

Please complete the form in appendix 1 and return this, together with any supporting information to sensitive.admissions@winchester.ac.uk as soon as possible and prior to commencing online registration.

The information you provide will be reviewed by the Head of Admissions and Director of Student Services, or nominated designates, to determine that you would be able to be a student at the University.

If your conviction(s) is particularly serious or recent, we may contact you or external agencies, for example, but not limited to, the Police, for additional information.

Depending on the nature of any offence(s) disclosed, we may also need to liaise with the Senior Management Team, where the offence(s) are of a particularly serious nature before an offer is made.

If you have indicated that you wish to live in University Managed Housing, we may liaise with the Head of Housing & Security, or nominated designate, to discuss whether there would be restrictions on the type of accommodation that could be provided.

Once we have reviewed the information you have provided, we will inform you if there are any additional non-academic conditions attached to your offer to study.

If the information provided is of a serious nature or particularly recent and we determine that we would be unable to enrol you on to a course at the University (e.g. due to safeguarding concerns), we will withdraw your application to the University.

3. Declarations made in error

If you declare that you hold a conviction in error (i.e. you ticked the box by mistake), you are required to confirm in writing that this is incorrect to sensitive.admissions@winchester.ac.uk, before your application can be considered further.

4. Failing to declare or not declaring fully

It is important to note that a failure to declare a criminal conviction or only partially declaring is taken very seriously and may result in your application being withdrawn.

If you have any questions about if/what/when/how you should declare, please contact us in the first instance.

If the University is only made aware of a conviction after enrolment, your continued enrolment as a student will be considered under the Conduct Policy for Students available at www.winchester.ac.uk/termsandconditions.

5. Changes to your status after applying

If you receive a criminal conviction after submitting your application to the University, please contact us in the first instance to discuss what impact this may have on your application.

6. Changes to your status after enrolling

If you receive a criminal conviction after enrolling at the University, your continued enrolment as a student will be considered under the Conduct Policy for Students available at www.winchester.ac.uk/termsandconditions.

7. Tier 4 nationals

If you require Tier 4 sponsorship to study in the UK you will be asked to declare whether you hold a criminal conviction when completing the 'CAS Request Form' and then complete the form in appendix 1.

The Home Office consider a number of specific criminal convictions as a general grounds for visa refusal under the Immigration Rules and we will therefore review all the information you provide in line with Home Office guidance. Your information will be considered following the steps outlined in section 2 and if appropriate, we may also seek advice from the Home Office to determine whether there is a high probability of your visa application being successful.

If we determine that the criminal conviction(s) you hold are likely to result in a visa refusal, your application to the University will be withdrawn.

If you fail to declare that you hold a conviction on the 'CAS Request Form' or at any other point, prior to a CAS being issued, and you are unsuccessful with a Tier 4 visa application, you would not be eligible to obtain a refund for any deposit paid to the University, in line with our Refund of tuition fee deposits policy. The policy can be found at www.winchester.ac.uk/termsandconditions.

8. Retention

If you are successful in your application to study at the University, the information you have provided will be kept securely in line with our Records Management Policy. This is normally the duration of your time as a student and for a specified number of years after.

If you are unsuccessful with your application, withdraw prior to enrolling or decline an offer of a place at the University, the information you have provided will be kept until the end of the application cycle, which is typically the October after your course start date. After this point, the information will be disposed of confidentially.

If you choose to re-apply to the University in a future academic year, you will be required to go through the process again, providing details of any conviction(s) you hold and additional supporting information.

9. Appeals

If we have been unable to offer you a place to study at the University and you feel that the decision has not been reached fairly, you are able to submit an appeal under our Appeal by student applicant's policy. The policy can be found at www.winchester.ac.uk/termsandconditions.

10. Complaints

We aim to provide a high standard and quality of service in the delivery of our academic programmes, services and facilities. We do recognise that occasionally things can go wrong. Our complaints policy for both applicants and current students can be found at www.winchester.ac.uk/termsandconditions.

11. Contact

If you have any questions about this policy, please feel free to contact us via email: sensitive.admissions@winchester.ac.uk.

Appendix 1

Criminal Convictions Declaration by Applicants

Please complete sections 1-6 and return this form, together with any supporting information to sensitive.admissions@winchester.ac.uk.

1 - Your personal details:

Name: _____

UCAS Personal ID number: _____
If you applied direct to the University, please put N/A.

Course(s) you have applied for: _____

—

2 - Please provide information about the conviction(s):

Type of conviction	Sentence imposed	Date of sentence	Name or court handing down sentence

If you have additional convictions or the information you wish to provide does not fit in the above table, please provide this to us on a separate sheet

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3 - Please explain the circumstances surrounding each of the offences listed in section 2 below, including your view of what happened.

If you have additional information you wish to provide and it does not fit in the above section, please provide this to us on a separate sheet.

4 - Please provide a reflection on your actions which led to the conviction(s) listed in section 2, including information about any formal rehabilitation that you have undertaken.

Feel free to use an additional sheet, if required.

5 - Are you intending on applying for University Managed Housing?

- Yes
- No, University Managed Housing is not required
- Unsure at this stage
- Other - please specify _____

6 - Declaration. I hereby certify that the information given on this form is correct and complete. In signing below I both:

(a) Acknowledge and understand 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; and

(b) Acknowledge and understand the sharing of both (as applicable for me) between the University of Winchester and relevant third parties/external organisations (including but not limited to for example hospitals) related to my respective professional course (in for example Nursing or Physiotherapy)

(i) my personal data - relating to the 'processing purpose' of the University sharing information provided under this policy with relevant third parties (external organisations) where the applicant has applied for a professional course (such as for example Nursing or Physiotherapy), the University of Winchester processes such 'personal data' under the lawful basis of 'public task' (as set out in the GDPR/General Data Protection Regulation); and where as a student I pay tuition fees to the University for my course, the University can also (if required) process such 'personal data' under the lawful basis of 'contract' ; and

(ii) my criminal offence (convictions') data (as applicable) - relating to the 'processing purpose' of the University sharing information provided under this policy with relevant third parties (external organisations) where the applicant has applied for a professional course (such as for example Nursing or Physiotherapy), the University of Winchester processes such personal data about criminal convictions or offences (in line with GDPR requirements) as it has both a 'lawful basis' under GDPR Article 6 (as noted above) and either legal authority or official authority for the processing under GDPR Article 10.

***N.B.** For any queries on the use (processing) of your above mentioned personal data here, please contact the University's Data Protection Officer via the University's email address for data protection and FOI (Freedom of Information) queries at email: foi@winchester.ac.uk*

Signature: _____ Date: _____

Please return this completed form, together with any other supporting documentation to sensitive.admissions@winchester.ac.uk

For information: Additional information for applicants regarding the sharing of personal data and Criminal offence/convictions' data:

- 'Personal data' - is basic data that relates to you as an individual such as your name, your address and your student number etc.

More guidance on what constitutes 'personal data' can be found on the website of the data protection regulator (the ICO) at:

<https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/key-definitions/what-is-personal-data/>

- 'Lawful basis' for sharing ('processing') personal data - as the GDPR (General Data Protection Regulation) makes clear *"You (organisations) must have a valid lawful basis in order to process personal data"*.

It you wish to know more on this, further information is available on the website of the data protection regulator (the ICO) at:

<https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/>

There are 6 'lawful bases' for sharing ('processing') personal data, and these include both (as mentioned above):

- 'public task' - as the University is a public authority in law - more information on this can be found (if needed) at: <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/public-task/>
- 'contract' - more information on this can be found (if needed) at: <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/contract/>
- 'Criminal offence (convictions)' data - the above mentioned GDPR makes clear that for such data *"to process personal data about criminal convictions or offences, you must have both a lawful basis under Article 6 (as the University does as noted above) and either legal authority or official authority for the processing under Article 10"*.

It you wish to know more on this, further information is available on the website of the data protection regulator (the ICO) at:

<https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/criminal-offence-data/>

More specifically, that ICO guidance also states at the same web link:

"This means (GDPR Article 10) you must either:

- *process the data in an official capacity; or*
- *meet a specific condition in Schedule 1 of the Data Protection Act 2018, and comply with the additional safeguards set out in that Act"*.

The University of Winchester here is processing such data "in an official capacity";

and also

for some courses of the University, the University is also processing such data meeting a specific condition in Schedule 1 of the Data Protection Act 2018. In

particular this is *under ‘PART 3 ADDITIONAL CONDITIONS RELATING TO CRIMINAL CONVICTIONS ETC’* and including specifically:

“Protecting individual’s vital interests

30 This condition is met if–

(a) the processing is necessary to protect the vital interests of an individual, and

(b) the data subject is physically or legally incapable of giving consent”.

N.B. In the present circumstances (as noted above), the ‘processing purpose’ relates to the University sharing information provided under this policy with third parties (external organisations), where the applicant has applied for a professional course (such as for example Nursing or Physiotherapy). This is for situations where the University can make a judgement as to their suitability to be a student, but is unable to advise whether there would be professional obstacles.

Finally, for more information on how the University processes personal data, please see the University’s privacy notice at:

<https://www.winchester.ac.uk/about-us/leadership-and-governance/privacy-and-cookie-policy/>.

Appendix 2

Relevant offences

- 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

If you were convicted outside the UK for an offence listed above, this is also considered a relevant offence.

For the purposes our policy, cautions, reprimands and final warnings are considered as convictions. Penalty notices for disorder (PNDs), anti-social behaviour orders (ASBOs) or other orders are not convictions, unless you have contested a PND or breached the terms of an ASBO or other order and this has resulted in a criminal conviction.

If you require a Tier 4 visa to study in the UK, you will need to provide information about any offences that resulted in a period of imprisonment or if you have been convicted of any immigration-related offences.