

# Academic Policy and Procedures



## Higher Education

### Applicants with Criminal Convictions and the Disclosure and Barring Service (DBS) Procedure



## Document Control

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## **1. Aim**

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 wellbeing of other members of the University Centre South Devon (UCSD) community, and indeed, there may be occasions where this priority must 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 Centre South Devon for places on all 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.

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

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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. 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. 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.

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. 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.

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

- 1) the circumstances and nature of the offence
- 2) the disposal of the court, including the exact sentence handed down
- 3) a mature reflection by the applicant upon their actions and subsequent rehabilitation

Upon receipt, the information will be passed to the Head of Higher Education and Head of Section who will consider the nature of the offence in relation to the programme of study and decide that either:

- 1) there is no objection on the basis of the criminal conviction and to allow the application to proceed; or
- 2) 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 Assistant Principal, in which the programme is located, a representative of the Positive Interventions team together with at least one of the initial panel (ie the Head of Higher Education or the Head of Section).

The case will then be considered by the Panel, which will decide whether 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, 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.

Where there is an objection on the basis of a declared criminal conviction, applicants will be informed that, from the information provided, the College 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. 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.

#### **5. At Enrolment**

At enrolment all students will be required to complete the enrolment form and confirm that 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 College will write to the individuals concerned requesting details of the conviction. The College 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.

#### **6. DBS Procedure**

The Disclosure and Barring Service (DBS), an executive non-departmental public body of the Home Office, provides access to criminal record information through its Disclosure service.

This service enables organisations to make safer recruitment decisions by identifying applicants who may be unsuitable for certain work, especially that which involves children or vulnerable adults. The College complies fully with the DBS Code of Practice and undertakes to treat all applicants fairly<sup>2</sup>.

Applicants and/or students who will be regularly caring for, supervising, training, or being in sole charge of children or supporting vulnerable adults, will be required to apply to the DBS via the University Centre South Devon for Enhanced Disclosure with a Barred List Check. This will include applicants and/or students on programmes from Health Professions and Nursing, Education and Initial Teacher Education. It will also include certain other groups of students who, as part of their programme, will be required to work with children or vulnerable adults to gain work experience, undertake a placement or complete extended independent study, or conduct research.

The Disclosure and Barring Service determines the cost of the enhanced check for regulated activity, the standard check and the Update Service. Prospective and/or current students on programmes for which a DBS is required are expected to meet the cost of this service and additional administration costs as appropriate.

## **7. Annual Declaration**

Before the start of each Academic Year, continuing students, who undertook a DBS check at the commencement of their studies, will be required to sign a declaration verifying that there has been no change to the information previously supplied in their DBS application. Students will also sign to confirm their understanding that failure to disclose all relevant information could result in exclusion from the College. The form will advise that any change of status throughout a programme of study must be reported to the Head of Higher Education. (See Appendix C). In line with section 12 of the Student Code of Conduct and Disciplinary Procedure, students who are the subject of an investigation by the Police or other agency in relation to an alleged criminal offence, must report this to the Higher Education Faculty Office at the earliest opportunity.

Once completed the HE Office will record on a spreadsheet the student's name, number, and programme and the date the declaration was signed. Where a student declares that they have received a conviction since initial enrolment on the programme of study, the Head of Higher Education will be notified and the student will be interviewed by the relevant Curriculum Section Head, or nominee, who will make a decision as to whether the Student Code of Conduct or Fitness to Practise Procedures should be invoked.

## **8. Update Service**

Applicants are advised they should subscribe to the DBS Update Service<sup>3</sup> as part of their

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<sup>2</sup> [www.gov.uk/government/publications/dbs-code-of-practice](http://www.gov.uk/government/publications/dbs-code-of-practice)

<sup>3</sup> [www.gov.uk/dbs-update-service](http://www.gov.uk/dbs-update-service)

application for a DBS check (applicants will need to register for the Update Service within 30 days from the date that their DBS Certificate is issued). This will allow the College and other organisations (with the permission of the student) to check whether there have been any changes to an applicant's DBS certificate since it was issued. The applicant must provide their permission in writing to the College to use their certificate number, name and date of birth to access the applicant's online record.

## **9. 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 Head of School who will represent the considerations of the original decision.

The Appeal Panel will then either:

- 1) confirm the original decision
- 2) 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.
- 3) 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 College.

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.

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

#### **10. 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 College 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".



## 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 Centre South Devon 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 Applicants with Criminal Convictions and the Disclosure and Barring Service (DBS) Procedure.

Under the Rehabilitation of Offenders Act 1974, certain convictions became spent. You are not required to provide information on spent convictions except where successful completion of the programme gives the right to practice 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 practice 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 College 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. 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 College 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)

- 2 Please explain the circumstances of each offence below, including any mitigating circumstances considered by the court (use the same reference above when explaining the circumstances of each offence e.g. 1.1) A letter describing the circumstances is also welcomed if appropriate.


- 3 Use the space below to provide a reflection on your actions, which led to the convictions listed overleaf. Include details of your rehabilitation.


4 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:  
HE Faculty Office, University Centre South Devon, Long Road, Paignton, TQ4 7EJ

## ANNUAL DECLARATION: CRIMINAL CONVICTIONS

The Disclosure and Barring Service requires us to seek written confirmation annually from continuing students about whether or not there have been changes to their Enhanced DBS Certificate.

Please complete the details below before dating and signing the form. Please note that completion of this form is mandatory for all re-enrolling students on the Health Professions and Nursing programmes, and other programmes, which involve regularly caring for, supervising, training, or being in sole charge of children or vulnerable adults relating to volunteering and community research.

Full Name (Please Print):

Programme:

Student Number:

Year of Study 1 / 2 / 3

(please delete as appropriate)

Have you (a) conviction(s) for (a) criminal offence(s) committed since completing the application for Enhanced Disclosure from the Disclosure and Barring Service? Yes / No

Are there one or more cases pending against you in respect of the alleged commission of a criminal offence? Yes / No

Are you under report for consideration of possible prosecution of alleged commission of a criminal offence? Yes / No

As indicated when you first sought clearance, having a criminal record will not necessarily bar you from your programme of study but this will depend on the circumstances and background of the offence(s). So if you answer 'Yes' to any of the questions above, you will be required to meet with the Curriculum Section Head and the Head of Higher Education (or their nominees) to discuss your situation.

### DECLARATION

I declare that the information given above is complete and accurate to the best of my knowledge and I agree to inform the Head of Higher Education immediately should there be any change in the information given in the above declaration.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_