

BRUNEL UNIVERSITY LONDON

DISCLOSURE POLICY - CRIMINAL CONVICTIONS AND RELATED INFORMATION

Section A: General

1. Introduction

- 1.1 The University selects candidates for interview and invites individuals to take up places at the University on merit, based on their skills, qualifications and experience and not on their background or personal circumstances.
- 1.2 The University is committed to the fair treatment of all its applicants and students and to providing them so far as is practicable with equitable experiences regardless of race, gender, religion or belief, sexual orientation, gender reassignment, pregnancy, maternity, responsibilities for dependants, age or offending background. It is also committed to ensuring equality for applicants and students with disabilities and to making reasonable adjustments for such individuals. The University actively promotes equality of opportunity for all applicants and students and welcomes applications from a wide range of candidates including those with criminal records.
- 1.3 Having a criminal record will not necessarily prevent someone from studying at the University. However, in managing its student community, the University is mindful of discharging its legal obligations (including its duty of care) to students and to staff and, in appropriate circumstances, to the wider community. In order to assist it in discharging these obligations, and to take reasonable steps to identify and manage any risks which may arise which could adversely affect the University community or the discharge of the University's functions or its reputation, the University requires individuals on application, as a condition of registration, at re-enrolment and on a continuing basis, to disclose certain criminal convictions and related information as described in this Policy.
- 1.4 The University will consider whether criminal convictions or related information disclosed or otherwise provided to it is compatible with individuals being offered a place on a course, taking up their places at the University or continuing on their course. For further information on the University's criminal offences process please refer to the Admissions Policy, see <http://www.brunel.ac.uk/study/admissions/policy>
- 1.5 This Policy explains what disclosures applicants and students may be required to make and when and how the University deals with criminal convictions and related information (both at the application stage and at and following registration). It also describes the actions the University may take in respect of a failure by an individual to comply with the University's disclosure requirements.
- 1.6 The University may amend or withdraw the offer of a place, terminate a student's registration and/or withdraw services or facilities (such as placements or accommodation) at any time if it determines that an applicant or student has made any misleading, false or fraudulent

application or statement to the University, or has failed to disclose (or to disclose at the appropriate time) relevant information to the University, or has produced falsified documents whether in the course of his/her application or whilst on his/her course. Where the student is registered on a professional course, it may also be necessary for the matter to be referred to the relevant professional or regulatory body or bodies.

1.7 The University will treat all information disclosed or otherwise provided to it under this Policy with respect and in accordance with its legal obligations for the fair and lawful processing of information.

1.8 For the purposes of this Policy, a **relevant** criminal conviction is defined as convictions, cautions, admonitions, reprimands, final warnings, bind over orders or similar involving one or more of the following:

- 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.
- Offences listed in the Sex Offences Act 2003.
- The unlawful supply of controlled drugs or substances.
- Offences involving firearms or other weapons.
- Offences involving arson.
- Offences listed in the Terrorism Act 2006.
- Offences involving dishonesty.

2. Risk assessments

2.1 The University will consider convictions and other criminal related information disclosed or otherwise provided to it on a case by case basis. The process that the University will use to consider such information, and to reach decisions in relation to it, will depend on the nature of the information disclosed and the time at which it is disclosed (e.g. before or after admission). For example:

- Information disclosed on application as part of the admissions process will normally be considered and determined in accordance with the University' admissions processes (see section 19)
- Information disclosed on registration, on re-enrolment or on an on-going basis will normally be considered and determined in accordance with the University's disciplinary processes or Professional Suitability processes set out in **Senate Regulation 6** (see section 6)

2.2 In the course of considering and determining cases, the University will (as relevant and appropriate in the circumstances of each case) seek to identify whether any risks arise to the individual applicant/student or any members of the University community (for example, in respect of their health, safety or welfare) or to the discharge of the University's functions and/or to its reputation. Where any such risks are identified, the University will consider what steps it may reasonably put in place to manage those risks in practice.

2.3 Whilst the University will consider each matter on a case-by-case basis, the following aspects are examples of the type of issue that the University may consider as relevant to take into account as part of its consideration and determination:

- the nature and circumstances of the offence or alleged criminal activity
- the date of the commission of the offence or alleged criminal activity
- any penalty imposed
- whether the criminal or alleged criminal activity was a one-off incident or repeated
- the age of the individual at the relevant time
- whether the individual has engaged in any subsequent offending or alleged criminal activity and (if so) of what nature
- whether there is a likelihood of repeat offending
- the individual's current circumstances
- the particular environment(s) that the individual would be placed in if s/he were to take up a place on a course (e.g. whether s/he would undertake placements) or take up a place in University accommodation.

2.4 In dealing with individual cases, the University may seek to involve (as is relevant and appropriate in the circumstances) third parties such as probation officers, medical practitioners, professional bodies and character referees. Applicants may also be asked to provide a character reference.

Section B: Criminal convictions and other criminal related information

3. Disclosure of criminal convictions and criminal related information

3.1 **Unspent convictions:** The University requires all individuals to disclose on application, as a condition of registration, at re-enrolment and on a continuing basis, any **relevant unspent** criminal convictions.

3.2 **Spent criminal convictions and other criminal-related information:** The Rehabilitation of Offenders Act 1974 treats some criminal convictions as having become 'spent' after a 'rehabilitation period'. The rehabilitation period varies depending on the sentence imposed by the court. Some convictions will never become spent. Individuals do not normally have to disclose spent convictions. However, an individual will have to disclose spent (and **relevant unspent**) convictions if s/he applies for work in certain areas specified by the Rehabilitation of Offenders legislation such as work with children or vulnerable adults. As such, students seeking to register or to continue on professional teaching, health or social work courses, in addition to disclosing **relevant unspent** criminal convictions, must also disclose spent convictions and undergo Disclosing and Barring Service (DBS) and other checks in order to take up their place or to continue on their course. The *Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013* now provides that certain spent convictions and cautions are 'protected' and are not subject to disclosure. Guidance and criteria on the filtering of protected cautions and convictions can be found on the Disclosure and Barring Service website. Please note that the following are never filtered out:

- Cautions given less than 6 years ago (where individual over 18 at the time of caution)
- Cautions given less than 2 years ago (where individual under 18 at the time of caution)
- Cautions and convictions relating to an offence from a prescribed list
<https://www.gov.uk/government/publications/dbs-list-of-offences-that-will-never-be-filtered-from-a-criminal-record-check>
- Where the individual has more than one conviction offence, all convictions will be included on the certificate (no conviction will be filtered)
- Convictions that resulted in a custodial sentence (regardless of whether served)
- Convictions given less than 11 years ago (where individual over 18 at the time of conviction)
- Convictions given less than 5.5 years ago (where individual under 18 at the time of conviction)

3.3 For further information regarding the Rehabilitation of Offenders legislation, spent and unspent convictions or related information, the filtering of protected cautions and convictions, DBS checks and disclosure, please refer to the following websites:

<https://www.gov.uk/government/organisations/disclosure-and-barring-service/about>

<http://www.nacro.org.uk/>

<http://www.unlock.org.uk/>

Individuals should take independent legal advice if they are in any doubt as to whether they should be disclosing convictions or other criminal related information.

4. Process for disclosure: on application

- 4.1 As part of the admissions process, the University requires all applicants to declare on their application form any unspent **relevant** criminal convictions, cautions, reprimands or warnings.
- 4.2 Applicants for places on professional teaching, health and social work courses must declare any spent convictions, cautions, reprimands or warnings that will not be filtered under current DBS guidelines in addition to any **relevant** unspent convictions.
- 4.3 Cases concerning applicants who have disclosed convictions or other criminal related information or in respect of whom the University has been provided with such information may have their cases considered and determined by a panel. For professional courses, the panel will comprise appropriate members of staff from the relevant School and, where appropriate, a professional practitioner. For non-professional courses, the panel will comprise the Vice Deans of Education, Associate Director of Recruitment and Admissions, Admissions Policy and Quality Manager, DBS and Scholarships Manager, or nominees. Further information on the processes followed is available in sections of the Admissions Policy, which can be found at:

<https://www.brunel.ac.uk/study/admissions/policy>

- 4.4 In addition to the above, applicants to professional courses in health, teaching and social work will be required to undergo an enhanced Disclosure and Barring Service (DBS) check once they have met the academic conditions of their offer. Their entry to the University will be conditional upon completion of a satisfactory DBS check. More information on this procedure can be found at

<http://www.brunel.ac.uk/study/admissions/professional-course-requirements/home>

5. Process for disclosure: on registration, re-enrolment and on an on-going basis

- 5.1 As part of the Registration process, all students are required to declare any unspent **relevant** criminal convictions that have not already been declared to the University. This requirement is in addition to, and distinct from, any disclosure that an individual may make to UCAS that they have a criminal conviction. Students should note that the type of unspent conviction that the University requires to be disclosed (that is, any unspent conviction save for minor motoring offences) is far wider than the definition of a “relevant criminal conviction” used by UCAS in the UCAS application process. **For the definition of a relevant conviction for the purposes of this Policy, please see the definition in section 1.8 above.**
- 5.2 In addition, students on professional teaching, health and social work courses must declare any convictions, cautions, reprimands or warnings that will not be filtered under current DBS guidelines including those which are spent **and** any offences for which they have been charged but not yet convicted].
- 5.3 Once registered, students are required to declare any new **relevant** criminal convictions, and for those on a professional course any offences for which they have been charged which fall within the definition in section 1.8 above, at re-enrolment each year, and also on an on-going basis, to the Student Complaints and Conduct Officer (Investigating.officer@brunel.ac.uk).
- 5.4 In appropriate cases, conviction of a criminal offence may result in action being taken by the University against a student under relevant University procedure(s) e.g. student disciplinary procedure specified in Senate Regulation 6 where a concern arises that the University’s rules of discipline have been breached, see:

<http://www.brunel.ac.uk/life/supporting-you/student-complaints-conduct-and-appeals/academic-appeals>

or the-Admissions policy:

<http://www.brunel.ac.uk/study/admissions/policy>

depending on the circumstances of the case.

Section C: Further information

6. University policies and procedures referred to in this Policy

- 6.1 University Admissions Policy

http://www.brunel.ac.uk/courses/ug/admissions_office/admissions

6.2 Senate Regulation 6: University Academic Appeals and Disciplinary Matters

<http://www.brunel.ac.uk/about/administration/governance-and-university-committees/senate-regulations>

6.3 For general information about this Policy, please refer to the Admissions Policy and Quality Manager via the Admissions Office email address: admissions@brunel.ac.uk