

## **POLICY STATEMENT ON THE RECRUITMENT, PLACEMENT AND ENGAGEMENT IN OTHER ACTIVITIES OF STUDENTS WITH CRIMINAL CONVICTIONS**

### **Introduction**

- 1 This policy and the related procedures aim to ensure that the University fulfils its responsibilities and obligations for the safety of the University community and the safeguarding of children, young people and adults with whom students are in contact as part of their studies and work, and also for the assurance of the individual, external agencies and the University itself.
- 2 The University is committed to the fair treatment of its students, potential students and users of its services, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, and physical/mental disability. Having a criminal record will not necessarily prevent an individual from working or studying at the University. That depends on the nature of the programme of study or other activity, the outcome of any Disclosure and Barring Service (DBS) check, and the nature and circumstances of the offence(s).
- 3 UWE actively promotes equality of opportunity for all applicants with the potential to succeed in the programmes for which they are applying and welcomes applications from a wide range of candidates. We select candidates based on criteria including skills, qualifications and experience. The relevance of a criminal record will be considered independently of the outcome of that selection process.
- 4 It is a requirement of the Disclosure and Barring Services (DBS) that all Registered Bodies have a written policy on the recruitment of those with criminal convictions, a copy of which can be made available to disclosure applicants at the outset of the recruitment process. This policy is aimed at students and should be read alongside the University's [Admissions Policy](#). A separate policy that covers casual and permanent staff is available from Human Resources.
- 5 In implementing this policy the University is mindful of the requirements of the Rehabilitation of Offenders Act 1974 and the Rehabilitation of Offenders Act 1974 (Exceptions Order 1975) as amended in 2013.
- 6 The University will only ask about 'unspent' convictions<sup>1</sup> when the nature of the programme of study or other activity is likely to bring the student into contact with children or vulnerable adults in 'regulated activity'<sup>2</sup>, in which case the University will also seek a disclosure through the DBS. It is a criminal offence for a barred individual to undertake regulated activity and the University has an obligation not to permit this to occur.

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<sup>1</sup> Depending on the nature of the offence, once a rehabilitation period has expired and no further offending has taken place, a conviction may be considered 'spent'. For further guidance see:

<https://www.gov.uk/government/collections/dbs-filtering-guidance>

<sup>2</sup> 'Regulated activity' relates to safeguarding vulnerable groups and the work that a barred person must not do. The scope of regulated activity was redefined in the Protection of Freedoms Act 2012 and other secondary legislation, and guidance is available on the DBS website: <https://www.gov.uk/government/publications/dbs-check-eligible-positions-guidance>

## **Applicants for and students on programmes requiring regulated activity with children or adults**

- 7 As an organisation using the Disclosure and Barring Service (DBS) to assess applicants' suitability for places on University programmes requiring regulated activity, UWE seeks to comply fully with the DBS Code of Practice (<https://www.gov.uk/government/publications/dbs-code-of-practice>) and undertakes to treat all applicants fairly. It undertakes not to discriminate unfairly against any subject of a criminal records check on the basis of a conviction or other information revealed.
- 8 This policy document and the related procedure document are made available to all disclosure applicants at the outset of the application process. All applicants will be made aware of the DBS Code of Practice.
- 9 Where the programme requires working/volunteering in regulated activity with children and/or adults, the course information on our website (<http://www1.uwe.ac.uk/whatcanistudy/courses>) will contain a statement that a DBS check will be part of the selection criteria.
- 10 Changes made in May 2013 to the Rehabilitation of Offenders Acts 1974 (Exceptions) Order 1975 provide that certain specified old and minor offences are 'protected' and are not subject to disclosure and cannot be taken into account. Where an application to the DBS for a criminal records check is a necessary part of the recruitment process because the programme involves regulated activity (refer to DBS Eligibility Guidance: <https://www.gov.uk/government/publications/dbs-check-eligible-positions-guidance>), applicants will be asked whether they have any convictions, cautions, reprimands or final warnings that are not 'protected' as defined under the above legislation as amended in 2013. This includes spent convictions that are not 'protected'. Applicants may be asked to complete a self-declaration of any such criminal record at an early stage in the application process. Guidance and criteria on what constitutes 'protected' cautions and convictions can be found on the DBS website (<https://www.gov.uk/government/collections/dbs-filtering-guidance>).
- 11 UWE will ensure that those who are involved in the recruitment process have been suitably trained to identify and assess the relevance and significance of offences and their circumstances. The University will also ensure that they have received appropriate guidance and training in the relevant legislation relating to recruitment of ex-offenders, e.g. the Rehabilitation of Offenders Act 1974 and Rehabilitation of Offenders Act 1974 (Exceptions Order 1975) and the 2013 amendments, and the University's procedures.
- 12 For candidates with convictions who otherwise meet the criteria for an offer of a place, their application will be considered under the Procedures for Consideration of Disclosed Criminal Records (<http://www1.uwe.ac.uk/aboutus/policies>). UWE will ensure that those procedures are operated in an open and measured manner with respect to any offences or other matter that might be relevant to the course applied for.
- 13 The offer of a place on these programmes will always be subject to the University checking the individual's DBS certificate. It is the applicant's/student's responsibility to submit their certificate to the University for checking. Students will not be permitted to undertake any placement or other work involving regulated activity until they have submitted their certificate for checking and the University has deemed it satisfactory. All information in a DBS disclosure will be used to assess the individual's suitability for entry onto the particular programme of study. UWE will usually discuss any matter

revealed in a DBS disclosure with the applicant before deciding whether or not to withdraw any offer it may have made.

- 14 Failure by an applicant to reveal information that is directly relevant to the course being undertaken could lead to withdrawal of the offer of a place.
- 15 Students accepted onto programmes requiring regulated activity will be required to complete an annual self-declaration to confirm that they have not received any police reprimands, warnings, convictions or cautions that are not protected since the last DBS check or declaration. Any matters declared will be reported to the Student Policy Manager and considered under the University's Professional Suitability and Professional Conduct Policy.
- 16 Students accepted onto programmes requiring regulated activity who subsequently receive a reprimand, warning, conviction or caution, must complete a self-declaration form which must be submitted to the Student Policy Manager, and advise the Programme Leader immediately. The matter will be considered under the University's Professional Suitability and Professional Conduct Policy.
- 17 Students who fail to complete the annual self-declaration within established timescales will be prevented from accessing placement information and will not be allowed to attend any placement until they have completed a satisfactory declaration.
- 18 A false or misleading declaration or failure to make a declaration when appropriate will be taken as grounds for consideration under the University's [Professional Suitability and Professional Conduct Policy](#), which in turn could lead to requirement to withdraw from the relevant programme.
- 19 Individuals who temporarily withdraw from a programme requiring regulated activity will be required to complete a self-declaration on return. Where the period of temporary withdrawal has been for a year or more a full DBS check will be required.

### **Applicants for and students on programmes not requiring regulated activity with children or adults**

- 20 Applicants for programmes not requiring regulated activity who declare a 'relevant' criminal conviction<sup>3</sup> on their application form will be asked to provide additional details so that a risk assessment can be undertaken and the matter considered under the Procedure for Consideration of Disclosed Criminal Records.
- 21 The principles set out above will apply in those circumstances.
- 22 This policy will also apply where students on other programmes are engaged in situations and activities which involve regulated activity with children or adults within or organised or overseen by the University. Specifically, but not limited to:
  - Students on programmes not covered in the section above who, as part of their studies, undertake work experience or placements involving regulated activity with children or vulnerable adults. The level of the check will be determined by

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<sup>3</sup> As defined by UCAS: Relevant criminal offences include convictions, cautions, reprimands or similar involving, for instance: any kind of violence; offences listed in the Sex Offences Act 2003; unlawful supply of controlled drugs or substances involving commercial drug dealing or trafficking; offences involving firearms; offences involving arson; offences listed in the Terrorism Act 2006. See UCAS guidance for further information.

the appropriate manager in Employer Partnership Services, and depend on the nature of the activity in line with DBS guidance.

- Students undertaking research as part of their programme of study and research students, whose work involves regulated activity with children or vulnerable adults. The level of the check will usually be determined by the supervisor and depend on the nature of the activity.
- Student Ambassadors, Mentors, Tutors, volunteers and students participating in other activities which require regulated activity. The level of the check will be determined by the head of department responsible for the activity, but will usually be enhanced. Where students are involved only in activities such as guiding tours around the University a check is not normally required, though a limited risk assessment of the activity should be undertaken.

A DBS certificate must normally be checked by the University or the organisation in which the student is working before a student commences the regulated activity. It is the student's responsibility to submit the disclosure certificate for checking.

- 23 These checks will not usually be repeated during a single programme of study, unless a student breaks their studies for a year or more. However, returning students who are continuing the activity will be required to confirm at the start of each year that their criminal record has not changed. They are also obliged to inform the University immediately of any change in their criminal record that might affect their participation in regulated activity. This applies to students in all the above categories.

### **Overseas Applicants**

- 24 Where an individual from overseas is applying for a programme of study which requires a DBS check, and particularly if they have not previously been resident in the UK, the University will follow DBS (<https://www.gov.uk/dbs-check-requests-guidance-for-employers#overseas-applicants>) and relevant professional and other guidance to reassure itself about any criminal record. Applicants who require a visa to study in the UK are required to declare any offences in their visa application, which are taken into account by the authorities in making a decision to grant a visa or not. The University may also require the applicant to provide information from their home country equivalent to a DBS certificate and/or a statement of good character.

### **Payment**

- 25 The University will pay the initial fee for DBS checks where these are required. Students who lose their DBS certificates and require a replacement will have to pay the fee for a new check.
- 26 Students will be encouraged to subscribe to the DBS Update Service but will be required to pay the annual fee themselves.

### **Review**

Next review of policy due summer 2017 or sooner in the event of further changes to legal requirements or DBS procedures.

## Appendix A

### Policy Statement on the Handling of DBS Disclosure Information

#### Relevant Policies and Procedures

This document draws on information provided elsewhere and should be read in conjunction with the following associated papers and links:

- Procedure for Consideration of Disclosed Criminal Records: <http://www1.uwe.ac.uk/aboutus/policies>
- Admissions Policy: <http://www1.uwe.ac.uk/aboutus/policies>
- DBS Code of Practice: <https://www.gov.uk/government/publications/dbs-code-of-practice>
- Professional Suitability and Professional Conduct Policy: <http://www1.uwe.ac.uk/aboutus/policies>
- Safeguarding Policy and Procedures: <http://www1.uwe.ac.uk/aboutus/policies>

#### Other useful links:

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

Safeguarding Vulnerable Groups Act 2006: <http://www.legislation.gov.uk/ukpga/2006/47/contents>

Rehabilitation of Offenders Act 1974: <http://www.legislation.gov.uk/ukpga/1974/53/contents>

Rehabilitation of Offenders (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013: <http://www.legislation.gov.uk/uksi/2013/1198/contents/made>

Protection of Freedoms Act 2012: <http://www.legislation.gov.uk/ukpga/2012/9/contents>



## **DBS DISCLOSURES**

### **Policy Statement on the Handling of DBS Disclosure Information**

The University of the West of England is a registered body of the Disclosure and Barring Service (DBS). It uses the Disclosure service to obtain information to help assess the suitability of applicants to positions of trust, including to particular programmes of study, for employment in roles involving particular types of activity and for certain volunteering and other opportunities within the University. The University is required to comply fully with the [DBS's Code of Practice](#), including having a written policy on the correct handling and storage of Disclosure information.

#### **General Principles**

The University complies fully with the DBS Code of Practice regarding correct handling, use, storage, retention and disposal of Disclosures and Disclosure information. It also complies fully with its obligations under the Data Protection Act 1998 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure information. This written policy is available on request to those who wish to see it.

#### **Storage and Access**

The University treats Disclosure information as sensitive information under the terms of the Data Protection Act. Disclosure information is not kept on an applicant's file and will be kept securely, in lockable, non-portable, storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties.

#### **Handling**

In accordance with section 124 of the Police Act 1997, Disclosure information is only passed to those who are authorised to receive it in the course of their duties. The University maintains a record of all those to whom Disclosures or Disclosure information has been revealed and it is recognised that it is a criminal offence to pass this information to anyone who is not entitled to receive it.

#### **Usage**

Disclosure information is used only for the specific purpose for which it has been requested and for which the applicant's full consent has been given.

#### **Retention**

Once a recruitment or other relevant decision has been made, the University does not keep Disclosure information for any longer than is necessary. This is usually for no longer than the period of six months required by the DBS, to allow for the consideration and resolution of any complaints or disputes. If, in very exceptional circumstances, it is considered necessary to keep Disclosure information for longer than six months, the University will consult with the DBS and will give full consideration to the data protection and human rights of the individual before doing so. Throughout this time, the usual conditions regarding safe storage and strictly controlled access will prevail.

## **Disposal**

Once the retention period has elapsed, the University will ensure that any Disclosure information is immediately destroyed by secure means, ie by shredding. While awaiting destruction, Disclosure information will not be kept in any insecure receptacle (eg waste bin or confidential waste sack). The University will not keep any photocopy or other image of the Disclosure or any copy or representation of the contents of a Disclosure. However, notwithstanding the above, the University may keep a record of the date of issue of a Disclosure, the name of the subject, the type of Disclosure requested, the programme or position for which the Disclosure was requested, the unique reference number of the Disclosure and the details of the decision taken.