

Policy and Procedures for Applicants and Students Declaring a Criminal Conviction



BATH SPA
UNIVERSITY

1. Introduction/Purpose

- 1.1 The University seeks to attract and retain students of high calibre and potential from a broad and diverse community. This includes those who have varying experiences of education and who may have followed non-traditional paths to Higher Education and wish to benefit from the positive experience offered by the University. The University is committed to the promotion of equal opportunities for all including those who may have criminal convictions. In this context, a criminal record will not automatically prevent admission to the University.
- 1.2 If a criminal conviction is declared, then the details will be considered on a case-by-case basis. Information on spent convictions will only be sought if the course involves contact with children or adults at risk, which is in line with the Rehabilitation of Offenders Act 1974. In considering previous convictions we will be conscious of the need to balance the desire of the applicant to study with our safeguarding responsibilities to the wider university community.
- 1.3 To ensure that no applicant is unfairly disadvantaged, applicants will not be asked to declare any previous criminal conviction until registration. At this point all applicants will be contacted to disclose any relevant and unspent convictions and declare an undertaking to promptly notify the University of the details of any relevant criminal arrests, charges, cautions and/or convictions they are subject to, including pending convictions, (whether connected to the University or not), and of any bail conditions imposed upon them between the date they accept an offer for admission to one of the University's programmes until their graduation / withdrawal from the University. A failure to do so may be deemed to breach the University's Terms and Conditions of study. A criminal record will not automatically prohibit admission to the University. The specific details of each case will be considered on an individual basis.

2. Scope/definitions

2.1 Rehabilitation of Offenders Act 1974

The Rehabilitation of Offenders Act 1974 aims to help those convicted of certain criminal offences to 'put their past behind them'. People who have not re-offended since their conviction, and people with few or minor convictions, will therefore be treated as everyone else with regard to study, employment and equal opportunity.

2.2 Relevant Criminal offences

Relevant criminal offences include convictions, pending convictions, cautions, admonitions, reprimands, final warnings, bind over orders or similar involving one or more relevant areas. The word 'convictions' is used to represent all these offences for the purposes of this policy. Warnings, penalty notices for disorder

(PNDs), anti-social behaviour orders (ASBOs) or violent offender orders (VOOs) are not classed as convictions, unless you have contested a PND or breached the terms of an ASBO or VOO and this has resulted in a criminal conviction.

Based on the Rehabilitation of Offenders Act 1974, Bath Spa University considers offences committed in the following categories to be considered 'relevant', as they have implications for the University's duty of care towards the safety of their students, staff and visitors. Any convictions, cautions, warnings or reprimands that fall outside of these categories do not need to be declared:

- violence or threatening behaviour; offences concerning the intention to harm or offences which resulted in actual bodily harm;
- offences listed in the Sex Offences Act 2003 or any previous or future equivalents of this Act;
- the unlawful supply or use of controlled drugs or substances;
- offences involving firearms, and other weapons;
- offences involving arson;
- offences listed in the Terrorism Act 2006 or any previous or future equivalents of this Act;
- offences under Protection from Harassment Act 1997

2.3 Unspent / Spent Convictions

Applicants to study at Bath Spa University will be asked, on registering to study, whether they have any 'Unspent and Relevant Criminal Convictions'. Unless an applicant is applying for a course that is exempt from the Rehabilitation of Offenders Act 1974, such as a PGCE which involves regulated activity, 'spent' convictions, as defined by the Rehabilitation of Offenders Act 1974, are not 'relevant' and do not need to be disclosed. 'Spent' convictions are considered 'forgotten' after a certain period of time, depending on the offence. Independent advice on whether a conviction is spent can be found through organisations such as Unlock - <http://www.unlock.org.uk/> who also have a [Disclosure Calculator - Unlock](#)

3 Declaration of Relevant Unspent Convictions – Process

- 3.1 Consideration of any relevant and unspent conviction will be kept separate from the academic selection used for offering a place on our courses. Only once applicants have firmly accepted an offer of a place will they be asked if they have any unspent and relevant convictions.
- 3.2 Applicants and current students who declare unspent and relevant convictions will be asked to complete a questionnaire setting out the circumstances of the conviction, the sentence and any conditions of release/licence and sign a declaration confirming the information provided is complete and correct, acknowledging that the University may withdraw the offer of a place, or

registration if false information is provided or relevant details are withheld. The questionnaire should be supported by information from the probation services, officially confirming the offence and sentence.

- 3.3 The Student Registry Compliance and Safeguarding Manager will conduct an initial assessment of the offence. If it is for a minor criminal offence (e.g. an offence which would have little impact upon the University's staff and students) then the application may be allowed to proceed. However, if the conviction is of a more serious nature, the programme of study is exempt from the Rehabilitation of Offenders Act 1974, or the applicant / student did not make a full and candid disclosure, the case will be escalated to the University's Criminal Conviction Panel. Applicants are not permitted to attend the campus or course sessions until the assessment of their case has been concluded. Current students may be suspended from their course for the duration of this process.
- 3.4 The Criminal Conviction Panel (CCP) consists of the University Secretary and Registrar or nominee, the Head of the relevant school of study or nominee (covering the course applied for or currently being studied), or representative from the relevant educational partnership, the Associate Pro Vice-Chancellor (Educational Partnerships) and the Head of Student Wellbeing Services. The CCP will be supported by the Student Registry Compliance and Safeguarding Manager. Membership of this panel may vary depending on staff availability.
- 3.5 The CCP will consider the information provided (including a formal risk assessment) to assess any risks to students, staff and visitors the applicant may come into contact with. The CCP will consider:
 - The type of conviction and whether it is relevant to the course;
 - The age of the conviction and whether there are any conditions or restrictions placed upon the applicant;
 - The period of time that has passed since the conviction and whether there has been any re-offending;
 - Any mitigating circumstances and the views of any referees;
 - Any professional standards relevant to the course; and
 - The University's Safeguarding Policy and Procedure
- 3.6 Having considered, the CCP will decide a relevant course of action. Decisions will be delivered to the applicant / student in writing and will normally be one of the following:
 - The existing offer or programme registration will be unaffected and no further non-academic conditions will be attached. The applicant will be free to join the course, if any outstanding conditions are met, enrolled students may continue or return to their programme of study;
 - The applicant's academic offer or current student's programme registration will be unaffected but additional non-academic conditions will be attached (e.g. a student contract specifying any limitations to be imposed);
 - Withdrawal of offer or change of course for applicants - if the conviction

is not compatible with the course originally applied for - or termination of registration for currently enrolled students.

- 3.7 If the CCP has reason to believe that an applicant / student has deliberately failed to disclose relevant and unspent criminal convictions or has failed to provide an accurate or candid representation of the conviction, this will be considered under Section 15 of the Admissions Policy for dealing with Fraudulent, Inaccurate or Plagiarised Applications, or section 3.4 and 13 of the Student Terms and Conditions. Accurately declaring relevant and unspent criminal convictions is a condition of registration. Failure to comply with this requirement may result in an offer to study being withdrawn or a student's registration being terminated.
- 3.8 The applicant has the right to appeal against the decision of the CCP, as long as the appeal falls within the scope of the University's Appeals Procedure for Applicants or the Student Complaints Policy and Procedure for current students.

4 Disclosure and Barring Service (DBS)

- 4.1 Certain courses, such as a PGCE programme, are exempt from the Rehabilitation of Offenders Act 1974, and applicants must declare any convictions, cautions, warning and reprimands, even if they are spent. As part of the admissions process all applicants for Teacher Training courses will be expected to complete an enhanced criminal records check with children's barred list check via the DBS.
- 4.2 Certain placement modules on a number of courses also require students to complete an enhanced criminal records check prior to beginning the placement. The relevant placements are usually with institutions where the student would come into contact with children or vulnerable adults.
- 4.3 If the DBS enhanced check disclosure shows a criminal conviction or caution, the applicant/student's case would be referred to the University's Criminal Conviction Panel for consideration (see Section 3).
- 4.4 An applicant for Teacher Training will not be able to enrol for the programme requiring a DBS until the process has been completed. Applicants may be allowed to begin the course of study with 'provisional' status but will not be allowed to begin a placement until the enhanced check has been completed. If, during the provisional enrolment information comes to light of a criminal conviction, the University reserves the right to require the student to withdraw.

5 Processing and Storage of Information

- 5.1 Records and information relating to convictions will be processed in line with

the University's Data Protection Policy and associated privacy notices. The only information that will be attached to the student record is the initial declarations (yes/no) as detailed information related to a conviction and subsequent processing of such information is restricted to that which is necessary and proportionate for the completion of the relevant procedure outlined in part 3 of this document.

- 5.2 Storage of the records is dependent on the outcome of the CCP panel. Where an academic offer is issued or continued registration agreed, with or without conditions, the information relevant to the conviction and any applicable conditions of enrolment will be retained securely and separate to the student record on the University systems, and in line with the student record retention schedules, subject to restricted access by the authorised CCP and Student Registry Compliance and Safeguarding Manager. Should an academic offer or registration be withdrawn, the relevant data will be destroyed securely following either the appeal period for applicants, or the student record retention schedules for enrolled students and no information relating to the conviction will be retained. Under the terms of the relevant legislation, documentation relating to Disclosure and Barring Service certificates should be disposed of after six months.
- 5.3 Should an applicable third-party need to be contacted, such as the Probation Service or Offender Management Unit, this processing will only ever be undertaken with an applicant's / student's explicit consent. Applicants / students may elect someone to act on their behalf by completing a third-party consent form.

6 Convictions after Registration

- 6.1 Students have an ongoing obligation to notify the University of any relevant unspent Criminal Charges or convictions and will have made a declaration to do so when registering. If an enrolled student receives a relevant conviction during the course of their enrolment, they must inform the University by emailing registrycompliance@bathspa.ac.uk. This also applies to students who receive a conviction whilst on a study break. For students enrolled on courses exempt from the Rehabilitation of Offenders Act 1974, there is an ongoing obligation to declare any and all convictions, cautions, warnings and reprimands received during the course of their enrolment.
- 6.2 If that conviction is deemed of a serious nature, or the student is following a programme of study exempt from the Rehabilitation of Offenders Act 1974,

then it will be referred to the Criminal Conviction Panel for consideration. If referred to the CCP the possible outcomes are stated in section 3.6.

7 Further Information

- 7.1 If applicants or prospective students have any questions regarding this policy, they should contact the Student Registry Compliance and Safeguarding Manager via email using registrycompliance@bathspa.ac.uk
- 7.2 If an applicant wishes to appeal the decision of the Criminal Conviction Panel, they must lodge their appeal by emailing the Chair of the panel via registrycompliance@bathspa.ac.uk within ten working days from the date of notification of the Criminal Conviction Panel's decision. The grounds on which an applicant may appeal are:
- that there is new material evidence that the applicant or current student were unable, for valid reasons, to provide earlier in the process;
 - that there has been a material error adversely affecting the outcome of the process
- 7.3 Current students wishing to appeal a decision should follow the [Complaints Policy and Procedure](#)
- 7.4 Declaring a relevant and unspent criminal conviction is a condition of registration. Failure to comply with this requirement, or to attend and engage in learning and teaching activities and/or with the University's Student Attendance and Engagement processes over a sustained period or without prior notice or a timely and credible explanation, may ultimately result in a student's registration being terminated. [Academic Regulations](#)

Document Details

Responsible Office: Academic Registry

Responsible Officer: University Secretary and Registrar

Approving Authority: Academic Board

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Related Statutory Standards and Procedures: Disclosure and Barring Checks (DBS), Teachers' Standards

Related Policies and Procedures: Admissions Policy,

Fitness to Train to Teach Policy,

Fitness to Practise,

Student Disciplinary Policy,

Safeguarding Policy and Procedure,

ITT Safer Recruitment Policy,

Student Terms and Conditions,

Academic Regulations,

Complaints Policy and Procedure,

Appeals Procedure for Applicants

<https://www.bathspa.ac.uk/about-us/governance/policies/>

Supersedes: Policy and Procedures for Applicants and Students Declaring a Criminal Conviction V2

Next Review Date: Annual