

Criminal Convictions Policy and Procedure for Undergraduate and Postgraduate Admissions

Definitions

Relevant criminal conviction

Relevant criminal convictions, as defined by UCAS, are convictions for:

- Offences involving any kind of violence including (but not limited to) threatening behaviour, the intention to harm or actual bodily harm
- Offences listed in the Sex Offenders Act 2003
- The unlawful supply of controlled drugs or substances where the conviction concerns commercial drug dealing or trafficking
- Offences involving firearms
- Offences involving arson
- Offences listed in the Terrorism Act 2006

Convictions that are ‘spent’ are not ‘relevant’¹.

Spent convictions

The Rehabilitation of Offenders Act 1974 as amended enables some criminal convictions to become ‘spent’ after a ‘rehabilitation period’. The rehabilitation period varies depending on the sentence imposed by the court. Custodial sentences of more than four years can never become ‘spent’.

Scope

1. This policy applies to applications for all undergraduate and postgraduate provision at the University (including Newcastle University London) with the exception of courses in teaching and health and courses involving work with children or vulnerable adults. These courses have particular requirements relating to the disclosure of warnings, reprimands, cautions and criminal convictions which are dealt with on a course by course basis and require applicants to agree to submit to criminal record checks by the Disclosure and Barring Service².
2. For the purposes of this policy, criminal convictions are only relevant criminal convictions as defined above and, for the avoidance of doubt, do not include ‘spent’ convictions. There are some programmes where Disclosure and Barring Service checks may not be required, but where professional requirements demand disclosure of criminal offences which do not come

¹ The charity “Unlock” offers helpful guidance on when convictions are spent (www.unlock.org.uk)

² The Disclosure and Barring Service is a Government organisation which carries out criminal record checks for specific positions, professions and employment included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. These include, for example, teaching, medicine, dentistry and other professions involving work with children or vulnerable adults.

under the definition of ‘relevant criminal conviction’ above. Applicants for such programmes may be required to provide additional information of convictions beyond that required under this policy, and such additional information may prevent an applicant from entering a programme³. Students on some degree programmes may not need to provide such information during the application process, but will need to provide additional information on convictions at the point that they seek to join a professional body during or at the end of their degree⁴.

3. Failure to disclose relevant and where appropriate additional convictions for particular programmes may have serious consequences including termination of studies and students are reminded that it is their duty to disclose all information in relation to these matters at the earliest opportunity.

Principles

4. The University has a reputation for excellence in all aspects of its operations. In defence of this reputation, the University seeks to discharge the duty to protect, as far as it is within its power, the personal security of all members of the University (staff and students), visitors and members of the wider community within which the University operates from the risk of loss, harm or injury caused by the criminal behaviour of any students. For this purpose, all offers are conditional upon satisfying the policy on relevant and any additional convictions.
5. The application process requires applicants to disclose relevant unspent convictions. All applicants who declare relevant criminal convictions should be treated with respect and fairness, regardless of the type of conviction they disclose. No applicant shall be automatically excluded from the application process on the grounds that a relevant criminal conviction has been declared.
6. In every case where an applicant discloses a relevant criminal conviction during the application process, the University will rigorously seek to apply the procedure described. However, it is recognised that the scale of applications is such that, exceptionally, the issue of relevant convictions may be initially overlooked, or a relevant conviction may occur and therefore be disclosed after the offer is made. In such a case, when the issue is identified after an offer is made and before enrolment, the procedure described below will be applied from the time that the issue is subsequently identified.
7. An applicant may be rejected on the grounds of a relevant criminal conviction, regardless of academic merit, if the outcome of the procedure described below is that rejection is judged necessary to discharge the University’s duty set out in paragraph 4, above, and thus protect the University’s reputation.
8. Undergraduate and Postgraduate admissions selectors are required to comply with any decision made under this policy and procedure, whatever their academic decision in a particular case.
9. Since all offers of admission to study at the University are conditional as described in 4 above, the University may withdraw an offer to study or exclude from the University any student where either there is a failure by an applicant to disclose a relevant criminal conviction during the application process or an offer has been made or a place taken up despite disclosure but

³ This applies to the degree of BA Hons Business Accounting and Finance

⁴ This includes, for example, Law students applying to join a Legal Practice Course, and students applying for registration with the Institute of Chartered Accountants in England and Wales or the Chartered Institute of Management Accountants

when the procedure described below has not been applied to the issue of relevant or additional convictions.

10. Information relating to the criminal convictions of an applicant is to be treated confidentially and only released to staff on a need to know basis. Where it is decided that staff other than those referred to in this procedure need to be given information about an applicant's criminal conviction, the applicant must be informed that information is being passed on and to whom.

Information Supplied by a Third Party

11. If the University receives information that an applicant has a relevant conviction which the applicant has not declared, the information will be investigated.
12. If the information is found to be incorrect, no further action will be taken.
13. If the information is found to be correct, the applicant will be asked to explain why the conviction was not declared.
 - a) If the omission of a declaration is considered by the Senior Undergraduate Admissions Manager or Senior Postgraduate Admissions Manager (hereafter referred to as the 'Admissions Officer') to have been a genuine error, the application will be dealt with in the usual way under this procedure.
 - b) If the Admissions Officer believes that the applicant deliberately sought to mislead the University, the application will be rejected as fraudulent and UCAS will be informed if the application came through that route.

Procedure

14. Applications declaring relevant criminal convictions shall be forwarded to admissions selectors in the usual way for an academic decision, with a request not to make contact with the applicant at this stage and a reminder that the conviction is to have no bearing on the admissions selector's academic decision.
15. If an admissions selector decides to reject an applicant on academic grounds, no further action in respect of the criminal conviction shall be taken and the reject decision shall be processed in the usual way.
16. If an admissions selector decides that an offer should be made on academic grounds or wishes to interview an applicant in order to make the academic decision, the following steps will be taken:
 - a) A member of staff in the Admissions Office shall write to the applicant asking for details of the conviction including the date and penalty imposed. The applicant shall be invited to include in the response a letter from a Probation Officer or other relevant person;
 - b) The Admissions Officer shall forward the applicant's response to the Head of School (or nominee) to which the applicant has applied and invite comment;

- c) The response from the applicant and any comments received from the Head of School (or nominee) shall be considered by a Panel convened by the Admissions Officer. The Panel will consist of the Academic Registrar, an academic member of staff and a representative from the Professional Services (the latter two being drawn from the University's Admissions Committee on each occasion that a Panel is needed). In cases where special professional issues are at stake, the Panel may be extended to include a member of staff with specialist professional knowledge, nominated by the Dean of Undergraduate/Postgraduate Studies in the relevant Faculty. Notes of the Panel's discussion will be taken by a member of staff chosen by the Academic Registrar.
- d) The Panel may:
 - i) decide that there is no reason to stop the offer being made to the applicant or an academic interview from going ahead (or that there is no reason to withdraw an offer already made) or
 - ii) decide that the offer may be made to the applicant but subject to the satisfaction of conditions, for example concerning scope of access to facilities, accommodation or support or
 - iii) decide that the applicant should not be made an offer for the course applied for because of professional constraints but may be considered for other courses at the institution or
 - iv) decide that the applicant should be rejected (or that an offer already made should be withdrawn) on the ground of the criminal conviction.

In reaching a decision, the Panel may request further information and/or interview the applicant if it is felt appropriate. Criteria that might be used to determine the decision are set out in the appendix.

- e) The Panel shall inform the Admissions Officer in writing of the decision and reason(s) for the decision. The notification shall be kept securely by the Admissions Officer, for one year after the end of the current academic year in the case of an unsuccessful application and for six years after the end of the student relationship with the University in the case of successful applications. The Admissions Officer will put a note on the applicant's electronic record to explain where documents relating to the criminal conviction are being kept.
- f) If the outcome is that the offer to the applicant or an academic interview should go ahead, the application shall be processed in the usual way. If the Panel wishes to attach any non-academic conditions to the offer, the Admissions Officer shall explain these in writing to the applicant. If the outcome is that the applicant should be rejected on the ground of the criminal conviction, the Admissions Officer shall write to the applicant to inform him or her of the decision and to give a brief explanation of the reason(s) for it.
- g) The Admissions Officer shall inform the relevant admissions selector and Head of School of the outcome. If the applicant is to be made an offer, the Head of School will be asked to decide whether anyone else within the School needs to be informed about the conviction. The Admissions Officer will let the applicant know who else is to be informed.

Appeal

- 17. An appeal against the decision of a Panel may be made only on the following grounds:

- i) That the decision was perverse in that no reasonable person could have reached it on the available evidence
 - ii) Procedural irregularity under Paragraph 16
 - iii) Bias or prejudice on the part of the Panel.
18. Appeals shall be made in writing to the Admissions Officer within fifteen working days of the date of the letter informing the applicant of the decision.
 19. The Admissions Officer shall present the appeal to the Disciplinary Convenor who may dismiss an appeal which does not provide a *prima facie* case under the specified grounds. If the Disciplinary Convenor decides that there is a *prima facie* case, the appeal shall be considered by a Disciplinary Panel member, appointed by the Convenor in accordance with the Student Disciplinary Procedures.
 20. The Disciplinary Panel member may, in determining the appeal, confirm, vary or quash the original decision. On any variation, the same range of options available to the Panel (see 16(d) above) will be available to the Disciplinary Panel member.
 21. Where the Disciplinary Convenor dismisses an appeal or the nominated Disciplinary Panel member confirms the decision appealed against, there shall be no further appeal within the University. Where the Disciplinary Panel member quashes the original decision, the application shall be processed in the normal way.
 22. The Admissions Officer shall inform the appellant, the relevant Head of School and the relevant admissions selector of the outcome of a successful appeal.

Queries about Procedure

22. Any queries about this policy and procedure should be directed to either: the Senior Undergraduate Admissions Manager or the Senior Postgraduate Admissions Manager, Marketing and Student Recruitment Directorate, Newcastle University, King's Gate, Newcastle upon Tyne, NE1 7RU.

Lucy Backhurst, Head of Recruitment and Admissions

5

⁵ Amended by Undergraduate Recruitment and Admissions Monitoring Committee, January 2015
 Reviewed by Undergraduate Recruitment and Admissions Monitoring Committee, July 2014
 Amended by Undergraduate Recruitment and Admissions Monitoring Committee, January 2014
 Reviewed by Fair Access Committee of ULTSEC, June 2013
 Amended by Fair Access Committee of ULTSEC, November 2012
 Reviewed annually by Fair Access Committee of ULTSEC, June 2009 to June 2012
 Approved annually by Fair Access Working Group of UTLC, June 2006 to June 2008

CRITERIA FOR DETERMINING WHETHER AN APPLICANT'S CRIMINAL CONVICTION(S) SHOULD PREVENT ADMISSION TO THE UNIVERSITY

In coming to a decision about whether or not to reject an applicant on the grounds of the criminal conviction declared, a Panel may, amongst other things, consider:

- i) The Potential Risk of Harm to University members, visitors and the wider community
Is there a real risk of a repeat offence that would be so serious that the University ought not, for precautionary reasons, run that risk?

The likelihood of a repeat offence might be assessed by considering:

- how long ago was the offence committed?
- ignoring spent convictions, was the offence one of a number of a similar character committed over a period of time, or a one-off?
- is the applicant continuing on licence or under supervision?
- where applicable, what does the Probation Officer say about rehabilitation?
- how do the current circumstances of the applicant compare with those at the time of the offence?
- is the University environment likely to encourage the kind of offence the applicant has committed, or to discourage it?
- what are the reasons for the applicant entering Higher Education at this point?

- ii) The Potential Risk to the University's Reputation

The potential risk might be assessed by deciding:

- would the presence of the student be un-acceptable to the student community and thus to the University, or otherwise bring the University into disrepute (bearing in mind that the University's reputation is also affected by a supportive approach to rehabilitation)?

- iii) Any special issues relating to the particular programme applied for

Are there particular rules laid down by an accrediting or partner body that would be broken by admitting the applicant?

In the case of postgraduate research, will the proposed research project require the applicant to be in contact with vulnerable people or sensitive data?