Regulations for the consideration of criminal convictions for students on courses leading to professional registration

Responsibility of: University Secretary

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1. **Introduction**

1.1. The University is required to have regulations and a detailed process for the consideration of applications for courses leading to professional registration which require enhanced disclosure. The process adheres to the regulations, procedures and advice on good practice required by external organisations.

1.2. These courses to which these regulations apply to includes, but are not necessarily limited to:

- PgDip / BSc (Hons) Nursing
- BNursing Hons
- MSci Nursing Dual Registration
- BSc (Hons) Midwifery (3 year and 92 week courses)
- Return to Nursing
- BSc (Hons) Operating Department Practice
- BSc (Hons) Social Work
- MSc Paramedic Science.

1.3. Information on the requirements are outlined in The Code (NMC, 2015) and the HCPC Standards of conduct, performance and ethics (2016).

1.4. These regulations may also apply to students who, as a course requirement, need to undertake a placement where they will be in regulated activity or dealing with vulnerable adults.

1.5. The Regulations do not normally apply to students who are on apprenticeship programmes which lead to professional registration, as the disclosure and barring checks will have been undertaken by the employer.

2. **Policy statement on the enrolment of students with criminal convictions**

2.1. The University of West London wishes to ensure that higher education is available to all who will benefit from it. In this context, having a criminal record will not necessarily mean that an applicant cannot be admitted to their chosen course or a student continue on a course following a conviction. All criminal convictions (including cautions, reprimands or warnings) are considered in the context of the Rehabilitation of Offenders Act (1974) and the University will only consider relevant convictions.

2.2. For students on courses leading to professional registration, the University must consider all convictions as these are exempt from the provisions of the Rehabilitation of Offenders Act (1974). The declaration of a criminal offence (including convictions, cautions, reprimands or warnings) is not in itself a bar to entry onto the course. However any offence will be considered together with the applicant’s qualifications, experience, and overall profile and any professional or statutory body requirements.

2.3. In the health and social care professions, honesty and trustworthiness are of the utmost importance and normally failure to disclose a conviction (including a caution, reprimand or warning) will lead to the applicant being rejected.

2.4. Applicants to the Return to Practice (Adult Nursing) may have a ‘conditions of practice’ on their Nursing and Midwifery Council (NMC) registration. Before being accepted on the course, the University is required to review the ‘conditions of practice’ to ascertain the applicant’s suitability to be considered for a course leading to re-entry to
professional registration as a nurse. These cases will be presented at a DBS Screening Panel which will include colleagues from practice.

3. Information for applicants

3.1. Applicants to courses where these regulations are applicable will be informed via the Prospectus, UCAS website and other course related information that these courses are not exempted under the Rehabilitation of Offenders Act (1974). This means that all convictions (including cautions, reprimands or warnings), whether spent or not, must be disclosed.

4. Disclosure

4.1. All applicants will be asked to disclose all information regarding criminal offences during their application either through UCAS or as part of a direct application. In order to verify this, applicants will undergo an Enhanced Disclosure screening.

4.2. Applicants applying to the University to go on the Return to Practice course are required to provide information about their NMC registration and any ‘conditions of practice’.

4.3. Once a student has been through the DBS screening process, they will not normally be screened again during their course unless there has been a period of interruption. However, students will be required to complete a self-disclosure form on enrolment and at the commencement of each further year on the course.

4.4. These Regulations apply to applicants to the courses outlined in 1.2 above. Once students are registered on the above courses, any criminal convictions will be considered through the Fitness to Practise Regulations.

5. Disclosure and Barring Service Screening

5.1. All applicants for the above courses who are made an offer will be required to make an application for an enhanced disclosure application to the Disclosure and Barring Service (DBS). The University will be responsible for countersigning the application and forwarding it to the DBS.

5.2. The DBS will subsequently issue one copy of the Disclosure certificate to the applicant which the applicant must supply to the University.

5.3. If a Disclosure certificate reveals a criminal conviction (including a caution, reprimand or warning) that has not been previously declared, the offer will normally be withdrawn as non-disclosure is not considered compatible with the requirements of the codes of conduct of the professional bodies for the above courses. If the University were to decide not to withdraw the offer, the conviction will be considered by a DBS Screening Panel outlined below.

6. Consideration of criminal convictions

6.1. If an applicant declares a conviction (including a caution, reprimand or warning) they will be invited to put the details surrounding the conviction in writing, together with any mitigating circumstances that they wish to submit. This will be considered by the DBS Screening Panel outlined below.

6.2. Applicants will also be referred to the DBS Screening Panel if their certificate reveals
undisclosed convictions.

7. **Referral to the DBS Screening Panel**

7.1. An applicant will be referred to a DBS Screening Panel where they have declared a conviction (including a caution, reprimand or warning) through the application form or where the DBS certificate shows that the applicant has a previous conviction. The latter is at the discretion of the University as outlined in 5.3 above.

7.2. An applicant for the Return to Practice course who is registered with the NMC but has ‘conditions of practice’ will be referred to the DBS Screening Panel.

7.3. The applicant will be requested to submit a statement giving further detail regarding the offence(s) listed and references as follows:

- Details of the nature of your offence(s) and conviction(s), from an official source if possible, such as your probation officer, solicitor etc., if not contained in the DBS.
- A **personal statement** giving the circumstances surrounding the commission of the offence(s). This should include:
  - The date of the offence
  - The sentence
  - Any other information you wish the University to take into account in e.g. personal mitigating circumstance the time of the offence.

8. **Membership of the DBS Screening Panel**

8.1. The membership of the DBS Screening Panel is as follows:

- Chair, who is a member of the Senior Management Team or a Senior Academic;
- One member of academic staff from an appropriate discipline;
- At least one practitioner representative, working at strategic level in the appropriate profession.
- An administrator appointed by the Academic Registry.

9. **The DBS Screening Panel meeting**

9.1. The DBS Screening Panel meeting will proceed as follows:

9.1.1. The Chair will open proceedings and will:

- Establish the names and designations of everyone present on the panel
- Explain the purpose and the possible outcomes.

9.1.2. Consider the available documentation for the applicant, which may include the following:

- Application Form
- DBS Disclosure Certificate
- Declaration of Suitability Form
- Statement (if submitted) References
- NMC statement on ‘conditions of practice’ if applicable
- Any other supporting information submitted.
10. Decision of the Panel

10.1. In coming to a decision, the Panel will consider the available documentation.

10.2. The decision will take into account the following overarching principles to judge whether the offence(s):

   10.2.1. Constitutes, or do not constitute, a risk to the safety and/or well-being of other members of the University community (including patient safety whilst in practice) that is inconsistent with the University’s duty of care;

   10.2.2. Lead, or do not lead, to the possibility of the applicant qualifying for a profession where the nature of the offence(s) disbars a person from entering that profession.

10.3. The Panel must reach a decision based on the balance of probabilities, based on all the facts available at the time.

10.4. The DBS Screening Panel may decide one of the following outcomes:

   10.4.1. To offer a place on the course subject to other entry criteria being met;

   10.4.2. To request further information regarding the offence;

   10.4.3. Not to proceed with the application.

10.5. In reaching its judgement, the Panel shall take into account the following:

   10.5.1. Whether the criminal record has any bearing on the applicant’s suitability to become a member of the student body;

   10.5.2. The length of time since the offence(s) (whether resulting in a conviction, caution, reprimand or warning) was committed;

   10.5.3. Whether the applicant/student has reoffended and, if so, whether there is a pattern of the re-offence;

   10.5.4. The circumstances surrounding the offence;

   10.5.5. Whether the applicant/student’s circumstances have changed in any significant way since the time of the offence(s);

   10.5.6. Whether the conviction, caution, reprimand or warning was disclosed;

   10.5.7. The degree of risk posed to patients/clients;

   10.5.8. The applicant’s explanation of the offence(s);

   10.5.9. Evidence submitted by the applicant/student or his/her referees, of his/her good character;

   10.5.10. The applicant’s commitment to work safety and effectively upholding the trust and confidence of patients/clients;
10.5.11. Any professional or statutory body requirements and/or guidance.

10.6. The Panel need not be unanimous in its decision, but should base its decision on the majority view. Where there is not a majority view, the Chair will have the casting vote.

10.7. The Chair of the Panel will sign the written record of the decision of the Panel and, the record will be kept by the Academic Registrar or designate and a copy will be placed on the applicant’s file and a copy sent to the relevant PSRB, if appropriate.

11. Procedures if an applicant does not submit a statement

11.1. If the applicant does not submit a statement, and/or supporting information, including references, to the Panel and does not communicate the reason for their non-submission, the Chair of the Panel will consider whether sufficient effort has been made to contact the applicant and request the required information and so whether the Panel should:

11.1.1. Reject the application without consideration of the disclosure, or

11.1.2. Adjourn the case to enable one further attempt to contact the applicant to be made.

12. Evidence

12.1. Evidence must be in writing and signed where applicable.

13. Notification of the panel’s decision to the applicant

13.1. The applicant will be notified in writing of the Panel’s decision within five working days of the outcome of the Panel meeting.

14. The Right of Appeal

14.1. The Applicant has a right of appeal against the decision of the Panel. Appeals against the decisions of the Panel will only be considered on the following grounds:

14.1.1. The decision to not admit the applicant was not commensurate with the seriousness of the conviction;

14.1.2. The findings of fact in support of the decision were manifestly perverse;

14.1.3. That the Panel was not conducted in accordance with these procedures;

14.1.4. New evidence has been made available that could not be available at the time of the Panel and which could have been expected to have materially affected the decision of the Panel.

15. Procedure for the appeal

15.1. An appeal against the decision of the Panel must be made in writing to the University Secretary, stating in full the grounds for the appeal and must be submitted within 20 working days after receipt of the letter informing the student of the decision of the Panel.
15.2. The University Secretary or nominee will reject any appeal against the decision of the Panel that has not been lodged in accordance with the time period set out in 15.1 above or which does not demonstrate one of the grounds for appeal set out in 14 above. In that event, the University Secretary will send a letter to the appellant as soon as possible giving his or her decision and the reasons for it.

15.3. The University Secretary will then review the findings of the Panel to ensure that they are reasonable and that there was no error in the findings or the procedure.

15.4. Where there is new evidence this will be referred back to the Panel for consideration who will review it in line with the procedures set out in 9 above.

15.5. The Panel will consider all further information submitted by the applicant.

15.6. Following the completion of the Panel Meeting, the Panel may decide:

- To reconsider the original decision; or
- To recommend that the original decision should stand.

15.7. The University Secretary will decide upon the appeal and his/her decision will be final.

16. Secure storage, handling, use, retention and disposal of disclosures and disclosure information

16.1. Disclosure data on criminal convictions must be treated with the same care as special category data the General Data Protection Regulations and the Data Protection Act (2018).

16.2. The University is committed to ensuring that all information provided about an individual's criminal convictions, including any information released in disclosures, is used fairly and is stored and handled appropriately and in accordance with the provisions of data protection legislation. Disclosure information will only be shared with those who are authorised to receive it in the course of their duties.

16.3. For all enrolled students, a record of the date of issue of a disclosure, the name of the subject, the type of disclosure requested (including whether barred lists checks were obtained), the position for which the disclosure was requested, the unique reference number of the disclosure.

16.4. The University will ask to see the original disclosure certificate where applicable. In exceptional circumstances the original disclosure certificate may be kept for the purposes of the DBS panel.

16.5. Once an admissions decision has been made, the disclosure certificate will not be kept for any longer than is necessary and in no cases longer than six months. Once the retention period has elapsed, any disclosure information held will be destroyed securely.

16.6. A brief summary of the offence and the decision of the Panel will be retained by the University in accordance with the Student Privacy Notice. All other information will be destroyed.