



## Policy statement: Candidates for employment and existing staff with criminal records

### Contents

1. Introduction.....	1
2. Grounds for not appointing a candidate with a criminal record or taking action against an existing member of staff with a criminal record.....	2
3. Process.....	2
4. Ongoing obligations .....	3
5. False declaration or failure to declare.....	3
6. Security.....	3
7. Further information.....	4

### 1. Introduction

- 1.1. The University does not wish to debar individuals with criminal records from taking up or continuing employment in the University<sup>1</sup>. In general a criminal record is not to be regarded as an absolute obstacle to employment at this University. In any event, the University will not take into account, when dealing with candidates for posts and existing staff, a criminal record which is deemed “spent” under the terms of the Rehabilitation of Offenders Act (1974) unless such criminal record is taken as an “exception” under terms of the Rehabilitation of Offenders Act (1974) (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2020.
- 1.2. The University must balance its responsibilities to provide a safe and secure environment for its staff, its students, visitors and others related to University activities. In addition sometimes the University has to take into account the demands of various professional bodies and requirements under the law to protect special categories of people, e.g. children and the mentally ill.
- 1.3. The University will balance the interest of the candidate or employee with its responsibility to other people and the University reserves the right to not offer posts to candidates who have a criminal record. The University also reserves the right to take action against employees with criminal records; such action may in serious cases include dismissal.
- 1.4. Recognising the particular demands upon some staff requiring a special degree of trust in their professional positions, the Faculty of Medicine and Health and the School of Education have their own special policies. Such policies will apply in

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<sup>1</sup> For the purposes of this policy the term “employment” means only those seeking or continuing under a contract of services. Where persons are, or are to be appointed under a contract for services e.g. deliver services on a self employed basis, then the University will, so far as practicable, follow the principles contained within this policy.

preference to this general policy. All special policies allow for a right of appeal in accordance with section 12 of this general policy.

## **2. Grounds for not appointing a candidate with a criminal record or taking action against an existing member of staff with a criminal record**

- 2.1. The test the University will use in considering whether to accept a candidate with a criminal record or for taking action against a member of staff with a criminal record is whether that record gives reasonable grounds for considering that the recruitment or continuation of employment in its present form:
- poses a real threat to University property, or the safety or property of staff, students or others who are likely to come into contact with the person whilst employed on University business;
  - would be contrary to the law or to the requirements of any relevant professional or other regulatory body applicable to the post concerned; or
  - for some other reason practically would prevent the person from completing, with the confidence of the University any of their duties.
- 2.2. Sometimes for staff to perform all their duties they may be required to meet the standards of other third parties in relation to their criminal record e.g. where research involves contact with children in local authority care. If these requirements cannot be met the University may decide that it is not practicable for the person then to start or continue with their employment on its present basis. Where it is known by the University that there are third parties who may have additional standards that need to be met for an appointment to be made the University will alert individuals to such a requirement by following the methods indicated under section 7 below.

## **3. Process**

- 3.1. All candidates on their employment application form will be required to disclose 'unspent' criminal convictions and conditional cautions. Where allowed under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2020 and indicated as required in vacancy details, candidates will also be required to disclose 'spent' offences which are not 'protected'. If the criminal record is as routine to be checked on application and/or thereafter, then this will also be indicated in the vacancy details. For existing staff when there is a requirement to be subject to routine criminal record checks this will be confirmed in writing by the respective Head of Department. Criminal record checks will in most cases where the candidate is resident in England and Wales be completed by the Disclosure and Barring Service (DBS). Candidates and employees who wish to understand more about the process of criminal record checks used by the University should contact in the first instance Adrian Slater on telephone number 0113 343 4079.
- 3.2. The criminal record will only be considered in the context of its relevance to the particular post that has been applied for. Consideration will at least in part be given to any or all of the following:
- the seriousness of any offences;
  - the number of any offences;
  - whether the offences show a pattern of behaviour that seems to be recurrent and ongoing;
  - whether the offences involve violence or threats of violence;
  - whether the circumstances surrounding the offences were unique;

- whether the candidate's circumstances have now changed; and
  - what evidence the candidate produces to support the view that the candidate is unlikely to offend again.
- 3.3. The candidate may be required to provide additional information from other third parties who may have relevant views on the above matters. Third parties may include probation officers and others who are professionally or personally involved in the rehabilitation of or familiar with the candidate.
  - 3.4. The person or body responsible for the appointment within the University will review all information revealed by the candidate. The person or body will reach a preliminary decision. This decision shall then be communicated as a recommendation to the University's Director of Human Resources or his/her nominee ("the HR Director"). The HR Director shall review the case. The HR Director shall make a decision based on the information available to him as to the candidate's suitability.
  - 3.5. As soon as the HR Director has reached a decision the candidate will be advised if their application to the University has not been allowed to proceed. Such confirmation will always be in writing.
  - 3.6. A candidate may appeal to the University's Secretary against a decision of the HR Director. Such appeal must be lodged in writing within 14 days of written notification that their application has not been successful. If a candidate has not been accepted for a post then there is no further right of appeal.

#### **4. Ongoing obligations**

- 4.1. If a member of staff obtains a criminal record, or is the subject of pending criminal proceedings, after commencement of their employment in the University, then the member of staff shall report the matter to the HR Director or nominee. The matter may then be passed on further to the respective Head of School/Service to deal with, only where the HR Director or nominee considers that there is a potential need to take further action. Before any action against the member of staff is taken by the Head of School/Service, it shall be confirmed as appropriate by the HR Director or nominee. Disciplinary action, including dismissal, may follow. Factors mentioned under section 3 of this policy will again form at least part of the consideration given to the issue.
- 4.2. If the University regards the alleged offence, in the circumstances, as sufficiently serious, the University may take action - including on the assumption that a criminal conviction is a possibility.

If it transpires that the individual is not later convicted, then following a written request by the individual to the University's Secretary, the University shall review its earlier decision to take action. The review shall be conducted by a senior member of University staff who has not been involved in consideration of the matter to date.

#### **5. False declaration or failure to declare**

If at any stage a candidate or member or staff fails to accurately disclose information required about their criminal record then this may be regarded as an extremely serious matter and may lead to any offer of employment being withdrawn or the employee being disciplined (including dismissal).

## **6. Security**

- 6.1. Except where third parties are involved in the employees' activities and have a legitimate interest e.g. where they are responsible for the safety of children or other vulnerable persons, all information provided by candidates or employees relating to their criminal record will not be disclosed outside of the University.
- 6.2. Information within the University relating to criminal records will be restricted only to those who are involved in any of the processes detailed above.
- 6.3. All information relating to criminal records will be kept securely. In particular documents will be stored in locked filing cabinets and access to keys or combinations to those cabinets will be restricted.
- 6.4. Generally no information on candidates or staff criminal records will be kept for longer than 6 months after consideration of that record by the University.

## **7. Further information**

If any persons would like further information on this policy and its operation they may contact in the first instance Adrian Slater on telephone number 0113 343 4079.