

Guidelines on the management of student disclosure of criminal convictions in the context of volunteering and placement learning

Introduction

Placements for which criminal convictions must be disclosed

1. As a result of Police Act 1997, those students taking up a position or placement as part of their programme, or unconnected to their programme but co-ordinated by the University as a volunteering opportunity¹, should be routinely required to complete a Disclosure and Barring Check if that position is exempt from the Rehabilitation of Offenders Act 1974. Broadly, such exempt positions are:
 - Those whose duties will involve regular contact with children and vulnerable adults
 - Certain other professions in certain areas such as health, pharmacy, and law
 - Roles in banking and financial services in which the student will be in a position of trust
2. Students should not be routinely required to complete a Disclosure and Barring Check for any other position or placement unless requested by the placement provider.
3. Students may be required to complete either a Standard or Enhanced level of Disclosure, depending on the nature of the individual position or placement. An Enhanced Disclosure is appropriate for positions that involve regular caring for, training, supervising, or being in sole charge of children or vulnerable adults. A Standard Disclosure is appropriate for all other exempt positions.

Standard and Enhanced Disclosures

4. A Standard Disclosure will show details of both spent and unspent convictions², and cautions, formal reprimands and final warnings held on

¹ This Policy does not apply to University employees

² Under the Rehabilitation of Offenders Act 1974, criminal convictions have a specified rehabilitation period, after which they become spent. After this period, you are not normally obliged to disclose the conviction to others. The rehabilitation period depends on the sentence given and not the offence committed - custodial

the National Police Computer. If the individual is applying for a relevant position, the Disclosure will also show whether they are included on the Protection of Children Act (POCA) List or the Protection of Vulnerable Adults (POVA) List held by the Department of Health, or 'List 99' held by the Department for Education and Skills, which list those banned from working with children and/or vulnerable adults.

5. An Enhanced Disclosure will show, in addition, any non-conviction information from local police records which a chief police officer thinks may be relevant. This may include information on ongoing investigations.

Filtering

6. From 29 May 2013, the DBS will be removing certain specified old and minor offences from criminal record certificates issued from this date. The amendments to the Exceptions Order 1975 (2013) provide that certain Spent convictions and cautions are 'protected' and are not subject to disclosure to employers, and cannot be taken into account. Guidance and criteria on the filtering of these cautions and convictions can be found here <https://www.gov.uk/government/news/disclosure-and-barring-service-filtering>
7. Cautions and convictions for specified serious violent and sexual offences and other specified offences of relevance for posts concerned with safeguarding children and vulnerable adults will remain subject to disclosure. In addition, all convictions resulting in a custodial sentence will remain subject to disclosure.

Statement of Principle

8. All students seeking to apply for a programme containing a placement learning element shall be advised prior to entry of any restrictions relating to criminal record, and in particular what level of Disclosure and Barring Check (if any) will be required;
9. Potential students for programmes containing a placement learning element shall be able to seek advice and guidance from the relevant sponsoring University School or Office prior to entry, in confidence, on the relevance of previous convictions. Such advice should refer to both the placement learning element of their programme and, more broadly, any potential impact on career development;
10. It shall be the responsibility of the sponsoring University School or Office to keep abreast of relevant legislation and placement requirements in order to ensure that its guidance is accurate. Advice may be sought from the Director of Student Learning and Teaching Services;

sentences of over 2 ½ years can never become spent; cautions, reprimands and final warnings are considered spent the moment they are administered. The rehabilitation period for other sentences (including suspended sentences) varies. Guidance on rehabilitation periods can be downloaded from <http://www.crb.gov.uk/> If students have not been employed in an exempt position before, they may not be aware of the need to disclose spent convictions in particular.

11. Disclosure of a criminal conviction, either voluntarily or as a result of completion of a Disclosure and Barring Check, will not *automatically* bar a student from being nominated for or allocated a placement or voluntary position;
12. Disclosures will not be used as a substitute for other checks, such as references, but will rather be seen as complementary to the wider appointment or placement allocation procedure;
13. Information on students' criminal convictions, howsoever gained, will only be passed to those who need access to such information in the course of their duties, and any documentation will be securely stored by the relevant Office.

Duties of the Student

14. If a programme contains an element of placement learning in a position that is exempt from the Rehabilitation of Offenders Act 1974, students will be required to disclose all criminal convictions, spent or otherwise, at the time of application. An appropriate means by which they might do so must be provided.
15. Students wishing to take up an exempt voluntary position co-ordinated by the University will be required to disclose all criminal convictions, spent or otherwise, at the time of application for that post.
16. Students are required to disclose any relevant criminal convictions accrued after entry to their programme as soon as is reasonably practicable. If the placement element of their programme is a Notifiable Occupation³, as defined by the Home Office, they will be required to disclose all convictions.
17. It is the duty of the student to present their certificate to the individual responsible for their placement module within their School & Department, for checking PRIOR to undertaking the activity for which they need clearance.

Administration of Disclosure and Barring

18. The administration of the Disclosure and Barring Process is the responsibility of the sponsoring University School or Office. Procedures for managing disclosures must comply with the CRB *Code of Practice*, available from <http://www.crb.gov.uk/>.

Disclosure and Barring for Overseas Residents

19. Disclosures only give details of criminal convictions accrued within the UK. Students who have spent a substantial period of time residing overseas

³ See <http://www.crb.gov.uk/> for further information. Notifiable Occupations include teaching and some health professions.

may be asked, in addition, to provide a Certificate of Good Conduct from the country in which they resided. This may usually be obtained from the relevant embassy.

Consideration of Disclosures

[The following procedure does not apply to disclosure of Schedule Four offences - see paragraphs 28-29 for further information]

20. The sponsoring University School or Office should discuss the disclosed conviction with the student as soon as is practicably possible. A written record of this meeting should be agreed with the student and stored securely until the matter has been resolved. This meeting should help to inform the appropriate course of action.
21. If the sponsoring University School or Office wishes to speak with the potential placement agency about the matter, or seek other professional advice, it should inform the student prior to doing so.
22. It is the responsibility of the sponsoring University School, in consultation with the placement agency where appropriate, to determine whether a student's previous conviction(s) signifies that they may present a genuine risk, either to the placement agency or individuals with whom they might come into contact in the course of their placement. It is good practice also to consider, more broadly, where relevant, whether such conviction(s) are likely to render the student unable to pursue a career in their chosen field.
23. In reaching its decision, the sponsoring University School or Office (and placement agency, if appropriate) should consider:
 - The relevance of the conviction to the placement or position applied for
 - The seriousness of the conviction
 - The length of time since the offence occurred
 - Whether the student has a pattern of offending behaviour
 - Whether the student's circumstances have changed since the offence
 - The circumstances around the offence and the explanation offered by the student

Inaccuracies in the information

24. It is possible that a Disclosure may be inaccurate. If a student contends that this is the case, they should be advised to contact the DBS dedicated Disputes Team. Consideration of the Disclosure should be deferred until the issue has been resolved.

Implementing Decisions regarding Disclosures

Fraudulent misrepresentation

25. If, as a result of its investigations, the sponsoring University School or Office deems that the student fraudulently misrepresented their conviction history or other relevant information, by not disclosing it when given the opportunity to do so prior to application, the student should be referred under Regulation for Conduct 9 (e) to the Standing Disciplinary Committee whose sanctions include removal of the student from membership of the University. This decision should be conveyed in writing to the student.

Voluntary declaration and mistaken non-declaration

26. If the sponsoring University School or Office deems that it is likely that the student misunderstood their responsibilities, or if the student voluntarily discloses a conviction accrued since they entered the programme, the sponsoring University School or Office should endeavour to support the student as appropriate. This may include:

- Supporting the student in seeking an alternative placement or position that is not affected by their conviction, where possible

And specifically with regard to placement learning:

- Offering the student the opportunity to complete their programme without the placement element, where possible
- Supporting the student in seeking an alternative programme to which the student may reasonably transfer, either at this institution or another
- Offering advice and guidance on alternative study and career options

27. All correspondence during this process should be stored securely and all meetings formally recorded. The sponsoring University School or Office cannot take any responsibility for the outcome of such assistance.

Schedule Four Offenders

28. Under the Criminal Justice and Court Services Act 2000, it is an offence punishable by imprisonment for anyone convicted of a Schedule Four offence⁴, or anyone on the POCA and/or POVA Lists and/or List 99, to apply for work with young people and vulnerable adults. It is also an offence for anyone knowingly to employ such a person in such a capacity, either on a voluntary or a paid basis.
29. If such information is received as a result of a Disclosure for such a placement or position, the student must be reported to the police immediately. The student should furthermore be referred under Regulation for Conduct 9 (e) to the Standing Disciplinary Committee, whose sanctions include removal of the student from membership of the University.

⁴ Schedule Four offences include murder, manslaughter, rape, and offences against children.

Decisions based on ongoing investigations

30. In a small number of cases, an Enhanced Disclosure may result in the local police force disclosing non-conviction information to the University only and not the student. This may be because the information relates to an ongoing investigation. This information must not be disclosed to the student. If the information is deemed to show that they would present a genuine risk if they continued with the voluntary opportunity or placement element of the programme, legal advice should be sought on how to proceed.

Allegations of criminal behaviour and/or convictions

31. Claims made by a third party regarding the alleged criminal behaviour and/or conviction history of a student should be viewed with caution. Schools and Offices are advised to seek legal advice should they receive such information.

Appeals

32. Students will have the right to appeal only on the following bases:
 - That they did not receive appropriate information prior to entry on the programme
 - That the conviction is not relevant to the placement or position⁵
 - That the sponsoring University School or Office did not follow due procedure
33. Appeals against a decision of the Standing Disciplinary Committee will be heard in accordance with the Regulations for Conduct.
34. Appeals against the conduct of the sponsoring University School or Office should be referred to the Director of Student Learning and Teaching Services for consideration by the Pro-Vice-Chancellor.

⁵ It may be necessary for professional advice to be sought with regard to the relevance of the conviction. This advice should be sought from an organisation other than the placement agency if they have been involved in the consideration of the Disclosure.