

Policy on Applicants and Students with a Criminal Conviction

Responsibility of: Head of Registry Services Original approval date:

Review date:

Approved by: Academic Board

Consultation via: Academic Regulations Review

Group/Admissions / Students’ Union

# Scope of the Policy

* 1. This policy is to enable the University to consider applications from those who have declared convictions (including cautions, reprimands or warnings) on their application form.
  2. Applicants to courses which lead to professional registration are required to apply for an enhanced disclosure with the Disclosure and Barring Service and any convictions will be considered under the DBS Screening Regulations.
  3. Students who are convicted of a criminal offence following their admission to the University will be considered under the Student Disciplinary Policy.
  4. When considering admission for professional courses where a Disclosure and Barring (DBS) check is required, all convictions are relevant including those that are spent. For all other courses, the University will only review unspent convictions.

# Policy statement on the admission and continued registration of applicants and students with criminal convictions

* 1. The St Mary’s University Twickenham (hereafter, referred to as the University) wishes to ensure that the 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 or a student continue on their course.
  2. 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.
  3. The University must balance fairness with its responsibilities to provide a safe and secure environment for its staff, its students, visitors and others. The University will balance the interest of the student/applicant with its responsibilities to the wider university community. Where a student has applied or is on a course which confers a license to practice (ie Law, Teacher Training, Sports Coaching etc.) account must also be taken of the requirements of the professional bodies.
  4. In considering whether to make an offer, account will be taken of the applicant’s qualifications, experience, and overall profile. The University will also consider whether the criminal record of an applicant gives reasonable grounds for considering that the admission of the individual poses a real threat to the safety or property of staff, students, visitors or others involved in University business. The University reserves the right to refuse to admit where it believes that their criminal record makes it inappropriate for them to be admitted/attend.
  5. The University reserves the right to refuse to admit/expel students where it believes that their admittance or further attendance is contrary to a) or

b) above and their criminal record therefore makes it inappropriate for them to be admitted/attend.

1.5 When considering admission for professional courses where a Disclosure and Barring (DBS) check is required, all convictions are relevant including those that are spent. For all other courses, the University will only review unspent convictions.

1.7 The University reserves the r ight to decline to admit an applicant to a course, or withdraw the student if it discovers, at any time, that the application was based on, or contained, false, incomplete, or misleading information relating to criminal convictions.

# Relationship to DBS Screening

* 1. Applicants to the courses which lead to a professional qualification and confer a license to practice listed below are required to undergo a DBS check prior to confirmation of their offer:
     + BAITT Primary Education with QTS (3 year full time)
     + Education In Context Foundation
     + Primary Education (2 year Work Based Route)with QTS
     + PGCE (Primary and Secondary)
     + School Direct non-salaried (Primary and Secondary)
     + MSc Sports Rehabilitation
  2. Applicants 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.
  3. Applicants will be asked to disclose all information regarding criminal offences during their application. These applications will be considered under the DBS Screening Regulations.
  4. Applicants to the LLB in Law should note that although the decision to admit a student onto the course is not subject to a DBS check, the profession is not exempt from the Rehabilitation of Offenders Act (1974) and therefore they may not be able to become a solicitor or a barrister. Applicants should seek further advice from the Law Society.

# Requirement for disclosure at admissions

* 1. Applicants applying through UCAS complete a declaration on the UCAS form relating to criminal convictions. The notes provided by UCAS to assist students in completing their form provide guidance on what convictions need to be declared and for which types of courses. As outlined above, for the courses in 2.1 above which confer a license

to practice, all convictions must be declared. For those on other courses, only those that are unspent must be declared.

* 1. Applicants applying directly via the University are also required to provide information relating to convictions on their University application form.
  2. In addition to information on the application form, the University may be made aware that the applicant has a conviction through:
* The applicant informing a member of University staff during the application process
* The applicant informing a member of University staff at an interview

Staff must inform the Admissions Office of any such declaration and it will be processed as outlined below.

* 1. Admissions Staff on receiving an Application Form on which the relevant question is unanswered, shall write to the applicant requesting this information.

# Process for dealing with applicants

* 1. The University will initially review the application on academic grounds. If the University does not consider that the applicant is qualified, it will not offer a place and no further action will be taken.
  2. Where an applicant who has declared a relevant conviction is academically qualified and the University wishes to make an offer, he/she will be sent a letter (Appendix 1) requesting the details surrounding the conviction, together with any mitigating circumstances to support the application. This will be undertaken prior to any offer being made. The applicant will also be asked to supply character reference, including where relevant that of a probation officer.
  3. If the applicant fails to respond by the specified date, the application will not be processed. This date will be set taking into account any relevant UCAS deadlines for applications
  4. If at any stage, by any means, information subsequently reveals a relevant criminal conviction that has not been previously declared, the application will not normally be processed.
  5. On receipt of the further information, the Admissions Office shall refer all information, including the Application Form where relevant, any accompanying documentation and details of the nature of the offence(s) and conviction(s), to the Head of Admissions who will convene a panel as set out below.

# Panel to consider criminal convictions

* 1. The Panel shall consist of three senior members of staff including the Head of Admissions, Head of Service/Faculty or Nominee and a senior academic.
  2. The panel’s duty is to make recommendations, based on the evidence, to Pro Vice Chancellor (Academic Strategy).

# The Panel meeting

* 1. The Panel will meet within 21 days of receipt of the information referred to in Section 4 (above).
  2. In arriving at a decision the panel will review:
     1. Application form/academic record
     2. Statement if submitted
     3. Character reference
     4. Any other supporting information submitted
  3. The panel will make a decision taking into account the following overarching principles to judge whether the offence(s):
     1. Constitute, or not constitute, a risk to the safety and/or wellbeing of other members of the University community that is inconsistent with the University’s duty of care.
     2. Lead, or 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.
  4. In reaching its judgement, the Panel shall take into account the following:
     1. Whether the criminal record has any bearing on the applicant’s suitability to be a member of the student body
     2. The length of time since the offence(s) was committed
     3. Whether the applicant has re-offended and, if so, whether there is a pattern to the re-offending;
     4. The circumstances surrounding the offence
     5. Whether the applicant’s circumstances have changed in any significant way since the time of the offence(s)
     6. The applicant’s explanation of the offence
     7. Evidence submitted by the applicant, or referees, of good character.
  5. The Panel must reach a decision based on the balance of probabilities, based on all of the facts available at the time.

# Panel recommendations

* 1. The panel may make the following recommendations:
     1. To offer a place on the course subject to other entry criteria being met;
     2. To offer a place on the course subject to specific conditions;
     3. To request further information from the applicant regarding the offence.
     4. Not to proceed with the application.
  2. In all cases the panel will take into account the reasonable interests of all concerned and the proportionality of any decision.
  3. 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.
  4. The Panel shall communicate its judgement, with reasons, and Pro Vice Chancellor, who will consider the recommendations, in conjunction with the Vice Chancellor’s Senior Management Team, where appropriate.
  5. The Panel will keep a record as outlined in Appendix 2.

# Procedures if an applicant does not submit a statement.

* 1. If the applicant does not submit a statement and/or supporting information to the panel and does not communicate the reason for their non- submission, the Chair of the Panel will consider whether sufficient effort was made to contact the applicant and request the required information and so whether the Panel should:
     1. proceed in the absence of the statement.

# or

* + 1. adjourn the panel to give the applicant one further opportunity to submit further information.

# Record keeping and data protection

* 1. Information relating to convictions is sensitive personal data under the terms of data protection legislation and staff should ensure that all such information is stored and protected in accordance with the University’s data protection policies and procedures.

# Notification of the panel’s decision to the applicant

* 1. The applicant will be notified in writing of the Panel’s decision by the Admissions Office within five working days of the outcome of the Panel meeting.

# The Right of Appeal

* 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:
     1. the decision to not admit the applicant was not commensurate with the seriousness of the conviction;
     2. the findings of fact in support of the decision were manifestly perverse;
     3. that the Panel was not conducted in accordance with these procedures
     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.

# Procedure for the appeal

* 1. An appeal against the decision of the Panel must be made in writing to the Head of Registry Services 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.
  2. The Head of Registry Services will reject any appeal against the decision of the Panel that has not been lodged in accordance with the time period set out in 12.1 above or which does not demonstrate one of the grounds for appeal set out in 11 above. In that event, the Head of Registry Services will send a letter to the appellant as soon as possible giving his or her decision and the reasons for it.
  3. The Head of Registry Services 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. 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 this Policy.
  4. The Panel will consider all further information submitted by the applicant.
  5. Following the completion of the Panel Meeting, the Panel may decide:
     1. reconsider the original decision; or
     2. To recommend that the original decision should stand.
  6. The Head of Registry Services will decide upon the appeal and his/her decision will be final. Decisions on the appeal will be final.
  7. Following an appeal, there will be no further opportunity to pursue the issue within the University.

# Referral to the Office of the Independent Adjudicator for enrolled students

* 1. Students who are enrolled on course may refer their case to the Office of the Independent Adjudicator (OIA). Further information on the procedure can be found on the OIA’s website: [www.oiahe.org.uk. Guidance](http://www.oiahe.org.uk.Guidance/) can be sought from the Students’ Union.
  2. Applicants who have had their appeal rejected are not able to refer their case to the OIA and the decision of the University will be final.

# Appendix 1 - Standard Form of Letter for general applicants

PRIVATE AND CONFIDENTIAL [Date]

Dear [Applicant]

Thank you for your application to study at St Mary’s University Twickenham. You have declared on your Application Form that you have a criminal conviction. The University has a policy on the admission of students with a previous criminal record (available at [insert link].

In order to consider your application further, the University has to consider details of the nature of your offence(s) and conviction(s).

# Spent Convictions

Certain convictions become spent after a certain period of time. If your conviction is spent you should confirm this in writing and your application will proceed as normal.

You should note, however, that if you are applying for the LLB, you may not be able to become a solicitor or barrister with a conviction. You should consult the Law Society on this issue.

**Unspent convictions**

If your conviction is unspent, then you must provide the following:

* + 1. **Details of the nature of your offence(s) and conviction(s)**, from an official source if possible, such as your probation officer, solicitor etc.
    2. Please supply a **personal statement** giving the circumstances surrounding the commission of the offence(s). This should include:
       - The date of the offence
       - The nature of the offence
       - The sentence
       - Any other information you wish the University to take into account in considering your application e.g. personal mitigating circumstances at the time of the offence
    3. Please also supply me with two additional references (**two actual references, not just names and addresses**) from people who are aware of your conviction and can give details

as to why you should be accepted as a student at the University.

Please send all information to: Admissions Room N45

St Mary’s University Twickenham London

TW1 4NX

It would be helpful if you could provide me with the details I have requested **no later than four weeks from the date of this letter**. I regret that if you do not comply with my request by this date, the University will not consider your application further.

I assure you that any information you provide will be treated in the strictest confidence.

Yours sincerely

[insert name here] Admissions Administrator

# Appendix 2 - Standard Form of Letter for DBS regulated qualification

PRIVATE AND CONFIDENTIAL [Date]

Dear [Applicant]

Thank you for your application to study at St Mary’s University Twickenham. You have declared on your Application Form that you have a criminal conviction. The University has a policy on the admission of students with a previous criminal record (available at [insert link].

In order to consider your application further, the University has to consider details of the nature of your offence(s) and conviction(s).

You have applied for a qualification that leads to professional registration. These professions are exempt from the Rehabilitation of Offenders Act 1974 which means that all convictions need to be considered, including cautions, even where they are spent.

In order for the University to make a decision on your application you must provide the following information:

1. **Details of the nature of your offence(s) and conviction(s)**, whether they are spent or not, from an official source if possible, such as your probation officer, solicitor etc. Please note that cautions, reprimands and final warnings are not convictions, but these will show up on Disclosures and you should include these.
2. Please supply a **personal statement** giving the circumstances surrounding the commission of the offence(s). This should include:
   * The date of the offence
   * The nature of the offence
   * The sentence
   * Any other information you wish the University to take into account in considering your application e.g. personal mitigating circumstances at the time of the offence

3. Please also supply two additional references (**two actual ref**1**e**2**rences, not just names and addresses**) from people who are aware of your conviction, if possible, and can give details as to why you should be accepted as a student at the University.

Please send all information, marked confidential:

Admissions Room N45

St Mary’s University Twickenham London

TW1 4NX

It would be helpful if you could provide me with the details I have requested **no later than four weeks from the date of this letter**. I regret that if you do not comply with my request by this date, the University will not consider your application further.

I assure you that any information you provide will be treated in the strictest confidence.

Yours sincerely

[insert name here]

Admissions Administrator

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# Appendix 2

**Form for assessing risk in relation to applicants who have relevant criminal convictions**

|  |
| --- |
| **Name of Applicant:** |
| **UCAS Number:** |
| **Course Applied for: Proposed Year of Entry:** |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  |  | | Additional Notes |  | Risk Assessment | | |
| Did the applicant disclose past convictions/cautions on the UCAS application form? | Yes | No |  |  | If NO, question applicant about why:   * If mitigating circumstances then complete assessment. * If no mitigating circumstances, end application process if appropriate.   If YES, complete this assessment. | | |
| W hat was the offence?  (use additional forms if more than one offence and not sufficient space here)  Detail here or attach CRB Disclosure Form |  | | | | | | |
| **RISK LEVEL IN RELATION TO QUESTIONS:** | **HIGH MEDIUM LOW** | | | | | | |
| W hat was the sentence? |  | | |  |  |  |  |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  |  |  | Custodial | Suspended, community, conditional discharge | Warning, caution, reprimand, fine, absolute discharge |
| W hen was the offence committed? | Date: |  | High  In the past 3 years | Medium  Between 3 and 10 years | Low  More than 10 years before |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  |  | | **Additional Notes** |  | **Risk Assessment** | | |
| Is the type/nature of the offence directly relevant to the programme applied for?  If yes, in what way? | Yes | No |  |  | **High**  Yes | **Medium**  Some link between offence and aspects of course of study | **Low**  No |
| Is there a pattern of specific offences?  If yes, state nature of pattern: | Yes | No |  |  | **High**  Yes | **Medium**  Some instances | **Low**  No pattern |
| Has the applicant supplied additional references? | Yes | No |  |  | **High**  Referees declare applicant unsuitable | **Medium**  Referees share some reservations | **Low**  Referees declare applicant suitable |
| How do the referees rate the applicant’s suitability for attendance at the institution and participation in the life of the institution? | Yes | No |  |  |
| Does the applicant/referee offer any mitigating circumstances concerning past offence/s? | Yes | No |  |  | **High**  No | **Medium**  Some mitigating circumstances | **Low**  Yes |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Any aggravating factors to take into account (e.g. intent/harm/exploitation/breach of trust): |  | What has changed since offence occurred? (e.g. treatment etc)  Applicant’s attitude towards offence/s? | | |
| Who else has been consulted about this disclosure (partner agencies/probation officer etc): |  | Name: Position:  Date consulted: Reply: | Name: Position:  Date consulted: Reply: | Name: Position:  Date consulted: Reply: |

Criminal Convictions Panel – Declaration and Decision

The Panel understands the University’s policy on the recruitment of applicants with criminal convictions and has recognised this in its deliberations.

On consideration of the risk assessment form and other materials submitted by the applicant and others the Panel believes that the applicant / should not be invited to proceed with the admissions process for the following reasons:

Signed: Date:

Date applicant informed:

Copy of letter appended? Y/N

Details of additional attachments/appendices/reports/letter from applicant or referee or probation officer or similar

Form completed by:

(name)

(signed)

(date)