

## POLICY

### Policy on the Recruitment and Employment of People with Criminal Records

#### Contact Officer

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#### Purpose

*This Policy, and accompanying procedures, lays the framework for the University's approach to the employment of those with a criminal background. Further, the Policy outlines the way in which the University works within legislation, particularly the Rehabilitation of Offenders Act 1974, the Safeguarding Vulnerable Groups Act 2006 and the Protection of Freedoms Act 2012. This Policy also details the University's requirements as a Signatory to the Disclosure and Barring Service and outlines the operational approach to meeting the DBS Code of Practice.*

#### Overview

*In line with its Strategy (2013-2018) the University is strongly committed to the fair treatment of its staff, potential staff or users of its services, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background.*

#### Scope

*This Policy applies to all staff at the University and is also of relevance to those applying for a role within the organisation.*

#### The Policy

1. The University aims to ensure that any staff are involved in recruitment and selection processes have been suitably trained to identify and assess the relevance and circumstances of offences. We also ensure that they have received appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders including the Rehabilitation of Offenders Act 1974, the Safeguarding Vulnerable Groups Act 2006<sup>1</sup> and the Protection of Freedoms Act 2012.<sup>2</sup>

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<sup>1</sup> [Safeguarding Vulnerable Groups Act 2006](#)

2. Staff at the University will not undertake any investigations into the background of candidates that are not explicitly articulated in advertisements, job descriptions and/or person specifications. This includes the carrying out of online searches on candidates (or prospective candidates) including searches of social media presence, or the holding of informal, off-the-record conversations with friends, relatives or current or previous employers. Where such investigations are included in the process, these will be carried out in accordance with the University's Recruitment and Selection policy and guidance.
3. If a person deliberately withholds information to gain employment, even for roles that may be deemed to be of the lowest risk, the University retains the right to take disciplinary action up to and including dismissal. This action may not be directly related to previous offences but will be based on the fact of non-disclosure itself, which potentially calls the individual's integrity into question.
4. Current employees of the University who are convicted of a criminal offence must disclose this fact to Personnel at the earliest possible opportunity. Failure to do so may jeopardise employment status. In most cases, this will not include motoring offences, unless driving is included in role descriptors/person specifications.
5. Should the conviction of a current University employee come to light, whether that be through self-disclosure, discovery (eg. through the media) or through DBS procedures, Personnel will carry out a full risk assessment in order to identify whether the conviction is relevant, whether there is a significant risk to any party, University property or University reputation and whether this risk can reasonably be reduced, for example through the introduction of certain safeguards or redeployment to another role and/or department. Individual's terms and conditions of employment may need to be amended as a result of this investigation.
6. This risk assessment will be based on the following criteria:
  - a. the extent of one to one contact with children or other vulnerable groups as employees, client or other associated people, within the post
  - b. the level of supervision the postholder will receive
  - c. the responsibility for finance or items of value
  - d. the contact with the public
  - e. any opportunities within the post for the postholder to re-offend
  - f. the seriousness of the offence and its relevance to the safety of other employees, customers, clients and property
  - g. the length of time since the offence occurred
  - h. any information offered by the applicant about the circumstances which led to the offence being committed
  - i. whether the applicant's circumstances have changed since the offence was committed, making re-offending less likely
  - j. whether the offence was a one-off or part of a history of offending
  - k. the country in which the offence was committed
  - l. whether the offence has since been decriminalised by Act of Parliament (or equivalent if not committed in the UK)
  - m. the degree of remorse, or otherwise, expressed by the applicant and their motivation to change

7. Whilst the University will make every reasonable effort to mitigate any risks arising from an individual's conviction, should it be identified that there are issues of significant risk that cannot be mitigated, termination of employment will be considered.
8. Risk factors to be taken into account when considering the need to carry out a DBS check are contained within the University's DBS Procedures<sup>3</sup>.
9. A flowchart outlining University Procedure in respect of managing the disclosure of unspent convictions<sup>4</sup> through the Recruitment and Selection process is available for all applicants.
10. An additional flowchart outlines the University Procedure for managing the DBS Checking process<sup>5</sup> in relation to staff employment.

#### **Disclosure of unspent convictions**

11. Under the provisions of the Rehabilitation of Offenders Act (ROA), a person with a conviction for an offence may be rehabilitated and allowed to treat the conviction as if it had never occurred. The conviction therefore becomes 'spent' and it is then illegal for an employer to discriminate against the person for that reason during the recruitment process. The Act obliges candidates to determine whether or not a conviction is regarded as 'spent'. Appendix 1 provides guidance on how to clarify whether this is the case. Candidates are advised to seek further guidance if they are unclear (for example from organisations such as [NACRO](#), or [Unlock](#)).
12. The University retains the right to take disciplinary action up to and including dismissal if a person does not disclose an unspent conviction at the point of employment.
13. Details of any unspent convictions will be requested from any individual who is invited to a selection event and will be submitted anonymously to Personnel only.
14. If necessary and if the individual has given consent via the application form, references seeking information about the offences may be taken up before a decision is made (for example, from a probation officer or specialist employment organisation). Following receipt of such information a decision regarding whether to proceed with the appointment will be taken.
15. Should prospective employees disclose convictions that are deemed relevant to the post, the individual may be invited to discuss details with a member of Personnel. This discussion will be based upon the risk assessment criteria outlined in paragraph 6 of this procedure and will only take place following a decision to appoint.
16. Any points raised, either through direct discussion with the candidate or in relation to the original disclosure itself will be drawn to the attention of the selectors if the Personnel officer believes that the matter is relevant and that specialist input from the selecting team is necessary.
17. All information obtained from applicants who are not appointed will be destroyed immediately following the selection event; information obtained from successful applicants will also be destroyed after a note is placed on their Personnel file noting that a conviction was listed, risk-assessed and

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<sup>3</sup> See <http://www.worc.ac.uk/personnel/765.htm>

<sup>4</sup> See <http://www.worc.ac.uk/personnel/765.htm>

<sup>5</sup> See <http://www.worc.ac.uk/personnel/765.htm>

approved. Details of the nature of the conviction(s) will not be kept.

18. Candidates are reminded that, where an open and measured discussion is required to take place on the subject of any offences or other matter that might be relevant to the position, failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment or termination of a contract already issued.
19. Should an individual wish for feedback at the end of this process, this will be carried out by the Personnel officer and the Chair of the appointments panel if deemed appropriate.

#### **Disclosure and Barring Service (previously Criminal Records Bureau) Checks**

20. The ROA does not apply to some occupations or activities, particularly those involving working unsupervised with people under 18 and adults considered vulnerable (typically because of the need for personal care and/or help with personal finance and/or travel). More detail on this is provided in the University's process in relation to the Disclosure and Barring Service (DBS). Reference can also be found in the University's Policy for Safeguarding Children and Vulnerable Adults<sup>6</sup>.
21. As an organisation using the Disclosure & Barring Service (DBS) to assess applicants' suitability for positions of trust, The University of Worcester complies fully with the DBS Code of Practice. We actively promote equality of opportunity for all with the right mix of talent, skills and potential and welcome applications from a wide range of candidates, including those with criminal records. We select all candidates for interview based on their skills, qualifications and experience and undertake not to discriminate unfairly against any subject of a DBS check on the basis of a conviction or other information revealed.
22. A DBS check is only requested after a risk assessment has indicated that one is both proportionate and relevant to the position concerned. For those positions where a DBS check is required, all job adverts and job descriptions will contain a statement that a DBS check will be requested in the event of the individual being offered the position.
23. There is no requirement for extant staff, who have provided a DBS Check to Personnel prior to appointment, to be 're-Checked' at intervals. Staff are reminded, however, of Paragraph 5 of this Policy, which requires them to disclose any subsequent criminal offence. Additionally, staff should be aware that a change of role within the University may, on occasion, require them to undergo a further Check.
24. Where a DBS check is required, we guarantee that any information disclosed is made available only to those who need to see it as part of the recruitment process. The only exception to this will be in cases whereby an applicant illegally applies for a role working with children and/or adults (ie. is on the Barred List Check). In such cases, the Director of Personnel is obliged to contact the Police.
25. The University undertakes to offer discussion regarding any matter revealed in a DBS check with the person seeking the position before withdrawing a conditional offer of employment.
26. Candidates are reminded that, where an open and measured discussion is required to take place on the subject of any offences or other matter that might be relevant to the position, failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of

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<sup>6</sup> [Safeguarding Children and Vulnerable Adults Policy](#)

employment or termination of a contract already issued.

27. For posts that are exempt from the ROA, appointments are subject to DBS checks. Individuals will be notified of the University procedure for carrying out such checks. Should information provided in the DBS check contradict that provided by the individual, these will be discussed in an interview with the named officer and the Chair of the appointments panel. Applicants are entitled to appeal to the DBS Disputes Department if they think a mistake has occurred.

#### **Data Security**

28. No information disclosed regarding criminal convictions or through DBS will be released to any individual or organisation not authorised to receive it under Section 124 of the Police Act Part V 1977.
29. The Countersignatories will ensure that Disclosures and the information they contain will only be released to individuals to those who need access in the course of their duties.
30. Where, during the process of recruitment and selection, self-disclosed information or that emanating from a DBS Check needs to be kept (eg. for the purposes of risk assessment), it will be stored in secure, locked filing cabinets or on secure and protected University networks. Information will not be transferred via any insecure route, including portable media or online storage facilities.
31. A record of the date of disclosure, the name of the subject, the type of disclosure, the position in question, the unique number issued by the DBS and the recruitment decision taken will be retained in accordance with DBS advice. Such records will be kept in secure, locked filing cabinets or maintained on secure and protected University networks.
32. Information from disclosures or DBS Checks will normally be disposed of immediately following the conclusion of recruitment and selection processes. This means that hard copy evidence, such as copies of Disclosures or Checks, or pertinent notes, will be removed through the University's Confidential Waste System. Electronic information will be deleted from University systems.

## Appendix 1: Definition of Spent convictions

The following information is taken from the Rehabilitation of Offenders Act (1974).

The following sentences become spent after the fixed rehabilitation period, which begin from the date of conviction.

| Type of offence   | Rehabilitation/Spent period in years   |                                       |
|---|--|---------------------------------------|
|   | People aged 17 or under when convicted | People aged 18 or over when convicted |
| Absolute discharge  | 6 months                               | 6 months                              |
| Fine, probation, compensation, community service, combination action plan, curfew orders, drug treatment and testing, reparation orders | 2½ years                               | 5 years                               |
| Prison sentences of 6 months or less  | 3½ years                               | 7 years                               |
| Prison sentences of more than 6 months and up to 2½ years   | 5 years                                | 10 years                              |

Custodial sentences of more than two-and-a half years can **never** be spent and all applicants for University posts are asked to make a full declaration of any such convictions.

If, as a candidate, you are unclear on whether or not your conviction is spent, you are advised to seek guidance from a probation officer, Citizen's Advice or organisations such as [NACRO](#), or [Unlock](#). You must ensure that you do not fail to disclose an unspent conviction.

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|---|---|
| <b>Date Approved</b>  | <i>Day Month Year</i>   |
| <b>Approval Authority</b>   | <i>Health, Safety and Wellbeing Committee</i>   |
| <b>Date of Commencement</b>                                       | <i>January 2014</i>   |
| <b>Amendment Dates</b>  |   |
| <b>Date for Next Review</b>                                       | <i>January 2017</i>   |
| <b>Related Policies, Procedures, Guidance, Forms or Templates</b> | <a href="#"><u>DBS Process &amp; Flowchart</u></a><br><a href="#"><u>Recruitment and Selection</u></a> (Policy, Procedure and Guidance)<br><a href="#"><u>Safeguarding Policy</u></a> |
| <b>Policies/Rules Superseded by this Policy</b>                   | <i>Policy on the Employment of People with Evidence of Criminal Records (January 2002)</i>  |