

CRIMINAL CONVICTIONS POLICY AND PROCEDURE

1 Introduction

- 1.1 The University has a duty of care to its staff and students and therefore needs to be informed of any alleged criminal activity and/or convictions by its students and by any applicant to the University.
- 1.2 Relevant criminal convictions are only those convictions for offences that are unspent, as defined by [Rehabilitation of Offenders Act 1974](#). Spent convictions are not subject to the procedures detailed in this document. Any applications containing spent convictions should be subject to the same process as an application that contains no criminal convictions.

2 Currently Enrolled Students

- 2.1 If at any time during enrolment on a course of study of the University a student is arrested by the police and charged with a criminal offence, the student is required to report this immediately to the Head of Quality Assurance & Enhancement. If they are sent to trial, the University must also be kept informed at all stages either by the student or by their legal representative. If the student is convicted then this must also be reported along with details of any sentence imposed.
- 2.2 Conduct which may constitute a criminal offence may also amount to misconduct under the University's **Student Disciplinary Policy and Procedure**. Therefore, in addition to any criminal process, the student may be subject to disciplinary action by the University.
- 2.3 If at any time during a student's enrolment on a course of study of the University it is made known that the student has a previously unspent criminal conviction that they failed to disclose at the point of application or notify the University of in a timely manner, then they will be subject to the University's Student Disciplinary Policy and Procedure.
- 2.4 For the avoidance of doubt, it is deemed a disciplinary offence not to have disclosed any unspent conviction(s) at the point of application, regardless of whether the conviction is subsequently spent at the time of actual disclosure or when such information is made known to the University.

3 Applicants

- 3.1 Applicants to any of Falmouth University's awards or courses of study must declare any relevant, unspent criminal conviction(s).
- 3.2 Relevant criminal offences include convictions, cautions, admonitions, reprimands, final warnings, bind over orders or similar involving one or more of the following:
 - a) Any kind of violence including (but not limited to) threatening behaviour, offences concerning the intention to harm or offences which resulted in actual bodily harm;
 - b) Offences listed in the Sex Offences Act 2003;
 - c) The unlawful supply of controlled drugs or substances where the conviction concerns commercial drug dealing or trafficking;

- d) Offences involving firearms;
- e) Offences involving arson;
- f) Offences listed in the Terrorism Act 2006.

- 3.3 If your conviction involved an offence similar to those set out above, but was made by a court outside of Great Britain, and that conviction would not be considered as spent under the Rehabilitation of Offenders Act 1974, you should declare it as you would any other unspent conviction.
- 3.4 If, after making an application, you are subsequently convicted of a relevant criminal offence as outlined in 3.2 (a – f), then you must notify the University of this immediately.
- 3.5 Warnings, penalty notices for disorder (PNDs), anti-social behaviour orders (ASBOs) or violent offender orders (VOOs) are not classed as convictions for the purpose of this section, unless you have contested a PND or breached the terms of an ASBO or VOO and this has resulted in a criminal conviction.

4 The Selection Process

- 4.1 Before a criminal conviction is considered, an application will be considered initially on academic merit, to assess whether the applicant is suitably qualified and skilled to achieve the award for which they are applying.
- 4.2 If an applicant is deemed to have the academic and creative ability to benefit from a Falmouth University degree, the University will then consider the wider issues, including the interests and safety of all members of the Falmouth University community prior to offering any applicant a place to study.
- 4.3 To enable the University to make an informed decision, we may request a disclosure from the Disclosure and Barring Service (DBS).
- 4.4 The University also reserves the right to make such a check at a later date. The University will have the right to reject any application or later terminate any registration from an individual who is subsequently found to have omitted or falsified relevant information in relation to their initial application (see Section 2 of this Policy on Currently Enrolled Students).

5 Procedure for where a criminal conviction is declared

1. The Applicant Services team will check all applications that come into the Applicant Services Office to see whether a criminal conviction has been declared. If the conviction box is ticked then the relevant Applicant Services Officer will flag it as a clearance check for use at a later date, only if an academic offer is recommended.
2. Admissions Tutors will consider all applications on merit, to determine the suitability of the applicant from an academic perspective.
3. If an Admissions Tutor deems the application unsuccessful from an academic perspective, there will be no further action taken regarding the conviction.

4. If an Admissions Tutor recommends making an offer based on academic grounds only, no formal offer will be made until further information concerning the criminal conviction can be obtained from the applicant.
5. The Applicant Services Officer will refer the criminal convictions clearance check to the Head of Applicant Services, who will write to the applicant asking for information about the conviction, giving an appropriate response date, taking into account any relevant deadlines (eg UCAS).
6. Upon receipt of a response, the Head of Applicant Services will confer with the Senior Deputy Vice-Chancellor (who may delegate authority to the Head of Sales) regarding the nature of the conviction and decide whether it is considered of a serious and/or complex nature.
7. At this point the Senior Deputy Vice-Chancellor (or delegate) has the discretion to make a decision and make an offer. However, if the conviction is deemed to be of a serious and complex nature, they will refer the details of the offence to a panel who will meet to discuss the exact nature of the conviction and the potential impact on staff and students (if any). The panel should be composed of: the Senior Deputy Vice-Chancellor; Head of Applicant Services, Head of Sales; Head of Quality Assurance & Enhancement; the Departmental Director and Head of Subject for the award, and the Director of Student Services. If a member of the panel is absent, membership may be delegated to another member of staff. Quorum for the panel shall be at least 3 members, including the Senior Deputy Vice-Chancellor and the Head of Applicant Services, or their delegate(s). The University may co-opt other members of staff to the Panel to ensure the necessary expertise is available to carry out an informed risk assessment and to enable a final decision for admission.
8. The panel will take the following into consideration in making their decision:
 - a. The nature of the offence and its relevance to the programme of study;
 - b. The circumstances that influenced the offence and which may no longer apply (eg personal or social factors);
 - c. When the offence was committed
 - d. Any factors that minimise the impact of the offence;
 - e. Any of the applicant's achievements since the conviction.
9. If, having received the initial response from the applicant, the panel still feels that it does not have all the necessary information to make a decision, it may go back to the applicant to request further clarification. It may also request the applicant's permission to contact their probation officer to liaise with them about the case.
10. The Accommodation Manager and the Living Support Manager will be informed of any applicants who have disclosed a relevant criminal conviction, but only after they have been accepted on to a course of study at the University. This is so that the University can ensure compliance with legal requirements in relation to students under the age of 18. No details other than that the applicant had a disclosed criminal conviction will be made known. The risk assessment shall be disclosed to the Living Support Manager and details shared with key colleagues only when necessary and relevant.
11. The University will share the outcome of any risk assessment and the details of the conviction where an applicant is to be admitted to the University, with relevant key University staff members such as the Living Support Manager, and where deemed necessary, relevant external agencies, in order for appropriate measures and duty of care obligations to be put in place.

12. The Head of Applicant Services will be responsible for recording decisions relating to criminal convictions confidentially and keep a file of all correspondence and documentation relating to the admission decision. This file will be kept for a maximum of one year following enrolment. Any application where the applicant has not been admitted will be destroyed at the end of that application cycle.
13. Should the applicant not accept an offer, or not enrol, and choose to reapply to the University again in the future, they should follow the criminal conviction declaration procedure again from the beginning.
14. If the applicant is dissatisfied with the panel's decision, they may request a review of the procedure. A review may only be requested on the grounds that there has been a procedural irregularity in the processing of their application.

6 Further Guidance: Spent and unspent convictions

- 6.1 Some criminal convictions are 'spent' or ignored, after a suitable time period has lapsed. This is known as the 'Rehabilitation Period'.
 - 6.2 For more details on the Rehabilitation Act 1974, including a table showing the varying Rehabilitation Periods, visit [Guidance on the Rehabilitation of Offenders Act 1974](#)
 - 6.3 HE providers may find useful information about how and when convictions become 'spent' on the Websites provided by Unlock (www.unlock.org.uk) and Nacro (www.nacro.org.uk).
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VERSION CONTROL

PURPOSE/CHANGE	AUTHOR	DATE
Original document for approved at AQSC.	QAE	8/12/2016
Updates to the clauses below following approval at Academic Board: 2.1; 5.6; 5.7.	QAE	12/07/2017
Change of wording from Admissions to Applicant Services throughout document	Applicant Services	06/10/2017