

# ***Recruitment of Ex-Offenders to Programmes of Study or Posts***

## **Background**

1. The Rehabilitation of Offenders Act (ROA) 1974 was introduced to ensure that ex-offenders who have not committed a further offence since they were originally convicted are not discriminated against when applying to study or for a post. Under the Act, prospective students and staff are not required to disclose information on criminal convictions after a set period of time (or rehabilitation period) as they become 'spent'.
2. However, certain programmes of study or staff appointments are exempt from the Act as they involve contact with young people aged under 18 or with vulnerable adults. In addition, professions, occupations and programmes of study in nursing and midwifery, social work, the probation service or healthcare are also exempt from the Act. In these cases, all criminal convictions, cautions reprimands and final warnings must be declared and can never be regarded as 'spent'.
3. In March 2002, the Criminal Records Bureau (CRB) was set up by the Home Office to manage the Disclosure service. Its primary purpose is to facilitate safer admission and recruitment decisions by improving access to criminal record information through the Disclosure service. Middlesex University is registered with the CRB as a user of this service to assess suitability for the above programmes of study or positions of trust.

## **Scope of the Policy**

4. This Policy will apply to all prospective students (including Research Students/Tutors and Research Students) and all staff (including temporary and part-time hourly paid staff).

## **Policy Statement**

5. As a registered body, the University complies fully with the CRB Code of Practice and undertakes to treat all prospective students and staff fairly. It undertakes not to discriminate unfairly against any subject of a Disclosure on the basis of conviction or other information revealed.
6. Middlesex University is committed to the fair treatment of its staff, potential staff or users of its services, regardless of age, colour, ethnic origin, family responsibility, gender, marital status, nationality, 'race,' religion, sexual orientation, socio-economic status or disability or offending background.
7. The achievement of Equal Opportunities is central to the University's mission as a provider of higher education. Our aim is to foster and develop a wide range of skills and experience which cannot be found within any single group of students or staff. In the pursuit of our aims we seek to create a community in which diversity is valued and which both reflects and services the needs of the broader community in which we operate. Selection for programmes of study or posts shall be based on assessment of applicants against pre-defined selection criteria identified for the programme of study or post and any University selection policies in operation at the time of recruitment or appointment.
8. The University will normally only ask prospective students and staff about 'unspent' convictions as defined in the Rehabilitation of Offenders Act 1974, unless the nature of the programme of study or position allows the University to ask questions about an applicant's entire criminal record. Information on 'spent' convictions will be requested through a Disclosure only where a thorough risk assessment has indicated that one is both proportionate and relevant to the programme of study or post concerned such as contact with young people under 18 years or vulnerable adults. Professions, occupations and

programmes of study in nursing and midwifery, social work, the probation service or healthcare are also included. These are likely to be in the Schools of Health and Social Sciences and Lifelong Learning and Education, in Sports or in the University Nurseries.

9. For those programmes of study or posts where a Disclosure is required, all relevant student literature, application forms, job advertisements and recruitment information will contain a statement that a Disclosure will be requested in the event of the individual being made an offer to study or of employment.

10. The CRB Code of Practice and this policy on the recruitment of ex-offenders are available for all Disclosure applicants, on request, at the outset of the recruitment process and are downloadable from the University's website.

11. Where a Disclosure is to form part of the recruitment process, the University encourages all prospective students offered a place to study or called for interview or prospective staff to provide details of their criminal record at an early stage in the recruitment process. This information should be sent under separate, confidential cover either to Student Admissions or the Recruitment Section of Human Resources and it guarantees that only those who need to see this information as part of the recruitment process shall see it.

12. The University ensures that all who are involved in the recruitment of students and appointment of staff 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, e.g. the Rehabilitation of Offenders Act 1974.

13. At interview, or in a separate discussion, the University ensures that an open and measured discussion takes place on the subject of any offences or other matter that might be relevant to the programme of study or position. Failure to reveal information that is directly relevant to the programme of study or position sought could lead to withdrawal of an offer to study or of employment or expulsion or dismissal (if already studying or in post) under the relevant University procedures.

14. We undertake to discuss any matter revealed in a Disclosure with the person seeking a University place on a programme of study or position before withdrawing a conditional offer of a place or employment or dismissal or expulsion.

15. **Having a criminal record will not necessarily bar an applicant from studying or working with the University.** This will depend on the nature of the programme of study or the employment (see para 8) and the circumstances and background of an applicant's offence(s), in line with the following guidance on assessing a criminal record:

#### **Guidance on assessing a criminal record**

16. If a prospective student discloses a criminal record, a decision on whether to offer a place to study will be made by the Head of the relevant Admissions Office (or other appropriately delegated person acting in her/his absence with responsibility for student admissions).

17. When applications from prospective staff are sent for shortlisting, the Chair of the Appointment Panel is advised that s/he should shortlist all applicants in the normal way by considering their application against the criteria for the post contained in the person specification. The Chair is advised in a covering note with the application forms if an applicant has disclosed a criminal record. The Chair **must always** contact the relevant Human Resource Services Manager (or Assistant Manager in his/her absence) for advice before reaching a decision to shortlist or appoint.

18. Whilst disclosures are an important tool in the process, the information disclosed needs to be carefully considered in the overall context. It is one element in the pre- and post-offer/ employment checks which underpin good admissions or employment practice. A number of factors should be taken into account when considering the relevance of a criminal record:

- *The nature of the offence*

Some types of offence (e.g. sexual or violent offences) may be particularly strong indicators that an applicant is unsuitable and should not be offered a place or be employed.

- *The nature of the University course or placement or appointment,*

The nature of the course or placement or appointment will help to assess the relevance of the conviction.

- *The age of the offence*

A minor offence that occurred many years in the past may often have less relevance than a recent offence. An offence committed when the person was young may give less cause for concern than a recent, serious conviction. The prospect of rehabilitation must be weighed against the need to protect children, vulnerable adults or members of the public, staff and students.

- *The frequency of the offence*

A series of offences over a period of time is more likely to give cause for concern than an isolated (minor) conviction.

19. The final decision for students rests with the Head of the relevant Admissions Office (or other appropriately delegated person acting in her/his absence with responsibility for student admissions).

20. For staff appointments, the Chair of the Appointment Panel is responsible for the recruitment decision. Where the Chair wishes to appoint contrary to HRS advice, the final decision will rest with the Line Executive Director.

21. Under the Criminal Justice and Court Services Act 2000, it is an offence to apply for, offer to do, accept or do any work with children (paid or unpaid) if disqualified from working with children. Disqualification can arise from inclusion in either the list of those considered unsuitable to work with children, held by the Department of Health or the Department for Education and Skills list of people who are barred from employment in the education sector. In addition, the courts can disqualify those convicted of serious offences of a sexual or violent nature from working with children by imposition of a disqualification order. It is an offence knowingly to offer a disqualified person work or a placement with children or to allow them to continue in such work.

*This policy was developed through consultation with Executive Briefing Group and the recognised Trade Unions (NATFHE and UNISON), and approved by Executive Team on 13 May 2004. It is due for review in May 2009.*

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