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Human Resources Policy Statement HRPS27

DISCLOSURE OF CRIMINAL RECORDS

Scope of the Policy

1. This Policy applies to all prospective students (including Research Students and Tutors), all staff (including temporary and part-time hourly paid staff) and students applying for student work within the University.

Policy Statement

2. The Rehabilitation of Offenders Act (ROA) 1974 was introduced to ensure that ex-offenders are not discriminated against when applying to study or work. Under the Act, prospective students and staff are not required to disclose information on criminal convictions after a set period of time for jobs or courses that do not require a disclosure.
3. However, certain work or programmes of study are exempt from the Act as they involve contact with young people aged under 18 or with vulnerable adults, or are positions of trust. Examples include financial services, education, nursing, midwifery, social work, the probation service, healthcare, sport and recreation and welfare services.
In these cases, all criminal convictions, cautions reprimands and final warnings must be declared and can never be regarded as 'spent'.
4. Middlesex University is registered with the CRB to assess suitability for such programmes of study or positions of trust. Information on convictions will be requested through a Disclosure from the CRB. In addition the CRB will liaise with the Independent Safeguarding Authority (ISA) which holds a complete list of all those barred from such study/work.
5. 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.
6. The University undertakes not to discriminate unfairly against any disclosure of a criminal record and **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 and the circumstances and background of an applicant's offence(s).

Guidance on assessing a criminal record

7. A number of factors are 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. 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.

◦ *The activity they will be undertaking and whether it is regulated or controlled*

The Independent Safeguarding Authority defines activities as being either regulated or controlled. In some circumstances a person barred by the ISA can sometimes be employed in a controlled activity, depending on the nature of the role and providing safeguards are in place such as stringent supervision. However, barred individuals are not allowed to be employed or volunteer in a regulated activity.

- A regulated activity may be defined as an activity of a specified nature i.e. teaching, training, instruction, mentoring, care, supervision, advice, guidance, treatment, therapy or transport, that involves contact with children or vulnerable adults on a frequent, intensive or overnight basis
- A controlled activity may be defined as an ancillary support worker in further education, or a healthcare setting (e.g., cleaner, caretaker, catering staff, receptionist) which is done frequently or intensively and give the opportunity for contact with children or vulnerable adults

The relevant Senior Manager (Dean, Director, Academic Registrar) will make the final decision on whether to offer a place / work to an applicant with a criminal record using published guidance and advice and / or Human Resources.

8. 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. It is an offence knowingly to offer a barred person work or a placement with children/vulnerable adults or to allow them to continue in such work.
9. The University has a duty to refer to the ISA any information about an individual where it considers them to have caused harm or pose a risk of harm to vulnerable groups, such as why they stopped, or considered stopping, an individual working with vulnerable groups.

Guidelines for overseas applicants

10. For up to date information on obtaining disclosure for overseas applicants please refer to the CRB webpage here: http://www.crb.homeoffice.gov.uk/guidance/rb_guidance/overseas.aspx

Portability of Disclosure Certificates

11. If an applicant already has a disclosure certificate which is less than 3 months old it may be possible to use this again, following a strict checking process. For more information please refer to the CRB guidance on this: http://www.crb.homeoffice.gov.uk/guidance/rb_guidance/portability.aspx

Secure Storage, Handling, Use, Retention and Disposal of Disclosure Certificates and Certificate Information

12. Certificate information is not kept on an applicant's personnel file. It is kept separately and securely, in lockable, non-portable, storage cabinets with access strictly controlled by the countersignatories and limited to those who are entitled to see it as part of their duties.

13. Certificate information is only passed to those who are authorised to receive it in the course of their duties. The countersignatories will be responsible for maintaining a record of all those to whom Certificates or Certificate information has been revealed. It is recognised that it is a **criminal offence** to pass this information to anyone who is not entitled to receive it.
14. Certificate information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given in writing.
15. Once a student recruitment or staff appointment decision has been made, we only keep Certificate information for a period of up to six months, to allow for the consideration and resolution of any disputes or complaints. If, in exceptional circumstances, it is considered necessary to keep Certificate information for longer than six months, we will consult the CRB about this and will give full consideration to the Data Protection and Human Rights of the individual subject before doing so. Throughout this time, the usual conditions regarding safe storage and strictly controlled access will prevail.
16. Once the retention period has elapsed, Certificate information is destroyed securely. We will not keep any photocopy or other image of the Certificate or any copy or representation of the contents of a Certificate. However, notwithstanding the above, we may keep a record of the date of issue of a Certificate, the name of the subject, the type of Certificate requested, the position for which the Certificate was requested, the unique reference number of the Certificate and the details of the recruitment decision taken.

For further information on any aspect of CRB please visit its website:

<http://www.crb.homeoffice.gov.uk>

This policy was developed through consultation with Executive Briefing Group and the recognised Trade Unions (UCU and UNISON), and approved by Executive Team on 13 May 2004. It was reviewed in September 2010.