UNIVERSITY OF ESSEX
STUDENT MEMBERSHIP AND DISCLOSURE AND BARRING SERVICE CHECKS POLICY AND PROCEDURE
AUGUST 2014

1. OVERVIEW

1.1.1 When processing applications and admitting students to study, the University of Essex is committed to ensuring (i) the safety of persons and property and good order in the University and its precincts, and (ii) that all students engaged in University-related activity involving vulnerable groups are suitable to do so.

1.1.2 The purpose of this policy is to set out how the University meets the commitment described in paragraph 1.1.1 within the context of the admission and readmission of students to the University who are known to have a criminal record and the management and oversight of student Disclosure and Barring Service (DBS) checks.

1.1.3 The policy operates on the basis that all student DBS checks are managed centrally by the Academic Section and all staff DBS checks, including for students who are employed as staff by the University, are managed centrally by Human Resources.

2. POLICY

2.1 Membership

2.1.1 The case of any student applying to be admitted or readmitted to the University who declares a criminal record during the admission or readmission process, or where there are other grounds for concern about the student (for example, evidence of disruptive behaviour or a disciplinary record as a former student at the University of Essex or elsewhere) is considered by the Chair of the Student Membership and DBS Review Panel (hereafter referred to as the Review Panel) in consultation with others as necessary once it has been decided that the application should not be rejected on academic grounds.

2.1.2 The Chair of the Review Panel considers each case on its merits and determines whether the admission or readmission should proceed as normal or be referred to a Review Panel for further consideration and decision.

2.1.3 Convictions must be declared for consideration in accordance with the Rehabilitation of Offenders Act 1974 or related legislation (except for a course for which a satisfactory DBS check is a mandatory entry requirement). This usually means that only unspent convictions are required to be declared – see 2.2.2.

2.1.4 For students applying to a course where a mandatory DBS check is not required, declared unspent convictions are considered and decisions in relation to whether the student may be admitted or readmitted are taken solely on the basis of the risk that the student might pose to the University community if admitted to the membership of the University.

2.1.5 Where a criminal conviction comes to light following a formal admissions offer, but prior to registration, including where a student has deferred entry, the matter is normally considered within the provisions of this policy.

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1 For the purpose of this policy, the term ‘student’ is used to describe applicants and students
2 The policy covers mandatory DBS checks and re-checks both for academic purposes and for the appointment of Students’ Union volunteers.
2.1.6 If a student has been convicted of a criminal offence or received a caution or reprimand since registering with the University, the matter is referred to the Proctor in accordance with the University's Code of Student Conduct. The matter will also be considered in accordance with this Policy as appropriate and the University's Safeguarding Policy where the offence relates to under-18s and/or vulnerable adults.

2.2 DBS Checks

2.2.1 The Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) have merged to become the Disclosure and Barring Service (DBS). With effect from 2012, CRB checks are known as DBS checks. The purpose of the DBS is to help Universities and employers to make safe recruitment decisions and to prevent unsuitable people from working with vulnerable groups, including children. The DBS process searches police records and, in relevant cases, barred list information, and issues a DBS certificate to the applicant.

2.2.2 In accordance with DBS eligibility criteria, students who may come into contact with vulnerable groups, including children, as part of their University of Essex course, or through certain activities organised by the Students' Union, are required to undertake a DBS check prior to commencement of the relevant placement or activity. Under these circumstances students may be asked to declare all criminal convictions that will display on an enhanced criminal records disclosure if the placement or activity is exempt from the Rehabilitation of Offenders Act.

2.2.3 The requirement for a student DBS check is determined, in the first instance, by the Department or relevant placement provider, in accordance with advice and guidance provided by the DBS Administrator and the DBS itself. Annual re-checks may be required as necessary. Departments are expected to consult with placement providers (where applicable) to determine the requirement for DBS checks. All requests by Departments for DBS checks will be verified by the DBS Administrator. The final decision as to whether a DBS check is required rests with the Chair of the Review Panel on the basis of any contractual, statutory and legal requirements.

2.2.4 The University only conducts DBS checks for students who are referred by a Department. Checks are not be carried out for students' private activities.

2.2.5 DBS Disclosures are not transferable between the University of Essex and third parties. The University of Essex does not accept a DBS Disclosure obtained through a third party, or pass information in relation to a DBS Disclosure certificate to a third party.

2.2.6 University of Essex student DBS checks are completed electronically using externally provided software, which is subject to formal contractual arrangements between the supplier and the University.

2.2.7 The Chair of the Review Panel considers all convictions, cautions and reprimands disclosed via a DBS check and determines whether the application should proceed as normal or be referred to a Review Panel for further consideration and decision. Where the Chair of the Review Panel determines that an application may proceed, it is usually subject to subsequent agreement by the relevant placement provider where applicable.

2.2.8 Where a DBS Disclosure highlights a criminal conviction that subsequently prevents a student from undertaking a placement or activity so he or she is unable to meet the course learning outcomes, the student is required to withdraw from the course or to transfer to an alternative course where possible.

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3 In this context, "Department" is defined in the widest sense and encompasses the professional services, academic departments and schools, major centres and other significant units in the University.
2.2.9 In all cases, the outcome of the DBS check is recorded as follows:

- Clear: no conviction, reprimand or caution is disclosed
- Satisfactory: One or more conviction, reprimand or caution is disclosed but has been considered in accordance with the policy and the student is permitted to register, continue the course or undertake the relevant activity.
- Unsatisfactory: One or more conviction, reprimand or caution is disclosed, has been considered in accordance with the policy and the decision has been taken to reject the application.

2.3 Training

2.3.1 All members of staff involved in conducting student DBS identity checks are required to read the DBS Code of Practice and undertake initial and refresher training on a regular basis, as determined by the DBS Administrator.

2.3.2 All members of staff who participate in the decision-making process related to DBS disclosures as a member of the Review Panel or Student Membership and DBS Appeal Panel (hereafter referred to as the Appeal Panel) are required to read the DBS Code of Practice and NACRO Guidance relating to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and undertake relevant training, as determined by the DBS Administrator. Separate guidance is provided for members of staff involved in membership cases.

2.3.3 All other members of staff identified in the Roles and Responsibilities are required to have an understanding of the content of the DBS Code of Practice and the Rehabilitation of Offenders Act 1974.

2.4 Retention of Records

2.4.1 In line with the DBS Code of Practice and University of Essex Data Protection policy, a records management procedure is in place to cover the secure handling, storage, retention and disposal of all student data.

2.4.2 DBS Disclosure data are held for six months or, if necessary, a defined period of time in agreement with the DBS.

2.4.3 After a case referred to the Review Panel has been completed, all correspondence and documents relating to an applicant are kept in a confidential file held by the DBS Administrator for the current academic year plus six subsequent academic years. No information relating to previous convictions is held on the Student Records Database or on any other University file.

2.5 Review Process

2.5.1 The student DBS policy and procedure is reviewed every three years or sooner as appropriate to ensure it meets the University’s operational requirements and legal obligations.

2.5.2 The policy is reviewed in consultation with other relevant stakeholders.

3. PROCEDURE

3.1 Roles and Responsibilities

3.1.1 The Registrar and Secretary has ultimate responsibility for all matters relating to the operation and application of this policy and is the University of Essex Lead DBS Countersignatory.
3.1.2 The Deputy Academic Registrar (Systems Administration) is Chair of the Review Panel and is responsible for:
(i) considering each case on its merits and determines whether the admission or readmission should proceed as normal or be referred to a Review Panel for further consideration and decision
(ii) ensuring the effective operation of the meetings in accordance with this policy and the DBS Code of Practice, with support from the DBS Administrator.
(iii) has management responsibility for this policy, the supporting procedures and the delivery of student DBS checks

3.1.3 The Academic Registrar is Chair of the Appeal Panel and responsible for ensuring the effective operation of the meetings in accordance with this policy and the DBS Code of Practice, with administrative support from an Appeal Secretary.

3.1.4 The DBS Administrator has operational responsibility for managing the student DBS checks process, ensuring all applicants and students complete checks when required, by liaising with the relevant Department. The DBS Administrator oversees the identity checks process and escalates cases to the Review Panel in accordance with this policy. The DBS Administrator is Secretary to the Review Panel.

3.1.5 All relevant Departments identify students requiring DBS checks as set out in paragraph 2.2.3, and agree a timeframe for conducting the checks with the DBS Administrator. All relevant Departments notify the DBS Administrator of any changes to placement requirements relating to student DBS checks.

3.1.6 All Review Panel members and Appeal Panel members are required to consider each case in accordance with the DBS Code of Practice and contribute to the discussions and decision making process of the panel.

3.1.7 In accordance with the agreement between the University of Essex and Health Education East of England, the University will not correspond with any specific placement provider regarding a student’s suitability for placement based on their DBS check. Once a provisional decision has been made to admit a student to a University of Essex course with a placement, the Programme Lead (or nominated representative) will correspond with a host Practice Education Partner (PEP), providing anonymous information and context; specifying that the University recommends that the student be accepted onto the course and seeking the agreement of the PEP that the student could be placed in practice. If agreement is not reached then the student would not be able to register on the course.

3.1.8 Designated members of staff from the Academic Section that are trained in accordance with the DBS Code of Practice verify the identity of students by checking the documents provided, ensuring they meet the DBS approved identification document requirements.

3.2 Escalation

3.2.1 Where a criminal conviction is declared or disclosed, in accordance with paragraphs 2.1 and 2.2, the student is informed that the case has first to be considered in accordance with this policy. The DBS Administrator writes formally to the student to inform them of the procedure to be followed and to request that additional information is provided using a standard proforma.

3.2.2 Where a DBS Disclosure is received relating to a student wishing to undertake non-academic activities, usually related to Students’ Union volunteer activities, the case is not referred to a Review Panel. Under these circumstances, it is the responsibility of the Students’ Union or relevant office of the University to determine what action should be taken following notification of the disclosure.
3.2.3 The Chair of the Review Panel considers all criminal convictions declared or disclosed via a DBS check and determines whether (i) the admission or readmission should proceed as normal or (ii) be referred to a Review Panel for further consideration and decision.

3.2.4 For cases referred to the Review Panel, all decisions are taken on the basis of a risk assessment relating to the circumstances of the individual case.

3.2.5 Where a satisfactory DBS check is a mandatory entry requirement of a course, the Review Panel considers whether any criminal record disclosed might affect the student’s ability to attend the placement. If it is deemed that, on the basis of the information declared or disclosed, the individual should be allowed to attend a placement, the Review Panel will recommend that the offer may proceed.

3.2.6 When an applicant to the University declares a criminal record in advance of completing a mandatory DBS application, the DBS Administrator requests additional information from the applicant, the relevant Department and the placement provider as appropriate to enable a decision to be made as described above. On receipt of the DBS Disclosure, the DBS Administrator compares the information disclosed with the information declared. If this information corresponds, the original decision of the Chair of the Review Panel or Review Panel is upheld. If it does not correspond, the matter is referred to the Chair of the Review Panel.

3.3 Non-Mandatory activities requiring a DBS Check

3.3.1 If a student is registered with the University of Essex and requires a DBS check for a placement or activity that is not mandatory for the completion of the course, the DBS Administrator requests additional information from the student, the relevant Department and the placement provider as appropriate.

3.3.2 The Chair of the Review Panel considers all criminal convictions declared or disclosed via a DBS check and determines whether (i) the student should be permitted to undertake the placement or activity, or (ii) the matter should be referred to the Review Panel for further consideration and decision.

3.3.3 Under these circumstances, if a student declares a criminal record in advance of completing a DBS application, on receipt of the DBS Disclosure, the DBS Administrator compares the information disclosed with the information declared. If the information corresponds, the decision of the Chair of the Review Panel or Review Panel is upheld. If it does not correspond, the matter is referred to the Chair of the Review Panel.

3.3.4 If the student has been convicted of a criminal offence or received a caution since registering with the University, the matter is considered in accordance with this policy and is referred to the Proctor in accordance with the University’s Code of Student Conduct and for consideration in accordance with the University’s Safeguarding Policy where the offence relates to under-18s and/or vulnerable adults.

3.4 Annual Rechecks

3.4.1 Annual re-checks are conducted for students where the course or placement requires it, as determined by the relevant Department.

3.4.2 On receipt of a DBS Disclosure Certificate that has been completed as a result of a mandatory annual recheck, the DBS Administrator will compare the information held on the Certificate with the information disclosed at the point of application. If this information corresponds, the student is automatically approved to commence placements for that academic year. If the information does not correspond, or the student has been convicted of a criminal offence, caution or reprimand since their last DBS check conducted by the University of Essex, the matter is referred to the Review Panel for consideration and to the Proctor in
accordance with the University’s Code of Student Conduct and for consideration in accordance with the University’s Safeguarding Policy where the offence relates to under-18s and/or vulnerable adults.

3.5 Student Membership and DBS Review Panel

3.5.1 The terms of reference of the Review Panel are:

(a) to consider each case referred to it, taking into account:

   (i) the safety of persons and property and good order in the University and its precincts based upon a risk assessment, and

   (ii) in the case of admission or readmission to a course requiring a satisfactory DBS Disclosure as a mandatory entry requirement, the nature of the course or activity to be carried out, any additional information provided, the recommendations of the relevant Department and placement provider as appropriate, and the DBS Code of Practice.

(b) to resolve on behalf of the University:

   (i) that no objection be raised to the admission of the person to student membership of the University; or

   (ii) that no objection be raised to the admission of the person to student membership of the University subject to certain conditions, e.g. eligibility for residential accommodation; or

   (iii) that the person concerned may not be admitted to student membership of the University at that time.

(c) In respect of students undertaking a course requiring a mandatory DBS check, to resolve on behalf of the University:

   (i) that no objection be raised to admission to the course; or

   (ii) that no objection be raised to the student continuing on the course; or

   (iii) that the student may not be admitted to or continue on the course.

(d) To consider as appropriate DBS checks in relation to students undertaking academic related activities that are not a mandatory requirement for admission or continuation on a course and to determine appropriate action.

3.5.2 The Review Panel comprises the Deputy Academic Registrar (Systems Administration) (Chair), a representative from the relevant Department, the placement provider (where necessary), an impartial representative, and any other relevant stakeholders as appropriate. The DBS Administrator acts as Secretary.

3.5.3 The Review Panel does not normally seek to interview the student, but the Panel is free to request an interview, to request additional documentation or to consult any person it sees fit before reaching a final decision on the case.

3.5.4 Where there is disagreement between members of the Panel, the Chair’s decision is final taking into account all views expressed and the risk assessment.

3.5.5 The Secretary to the Review Panel produces a concise report of the Panel’s deliberations, which is the formal record of the case alongside the completed risk assessment.
3.5.6 The Deputy Academic Registrar (Systems Administration) writes to the student to inform them of the outcome.

3.6 Student DBS Appeal Panel

3.6.1 A student may appeal against the decision of the Review Panel. The grounds on which an appeal may be submitted are:

(a) that there were procedural irregularities in the operation of this policy of such a nature as to cause reasonable doubt as to whether the result might have been different had they not occurred;

(b) that new evidence has come to light which could not reasonably have been made available to the Review Panel.

3.6.2 A student wishing to submit an appeal should write to the Academic Registrar within fifteen working days of the date of the original outcome letter sent by the Deputy Academic Registrar (Systems Administration), setting out the grounds for appeal. The Academic Registrar considers the appeal and determines whether there are grounds for appeal and whether the case should be referred to an Appeal Panel. Where the Academic Registrar determines that there are no grounds for appeal, the appeal is dismissed. It is at the discretion of the Academic Registrar to determine whether any new evidence could reasonably have been submitted to the original Review Panel.

3.6.3 The terms of reference of the Appeal Panel are:

(a) to consider each case referred to it, taking into account the original decision of the Review Panel, including the risk assessment, the grounds of appeal and any conditions or circumstances relating to the student’s work placement or other activity requiring a DBS check; and

(b) on behalf of the University, to resolve that the appeal be upheld or dismissed and, where the appeal is upheld, to resolve:

(i) that no objection be raised to the admission of the person to student membership of the University; or

(ii) that no objection be raised to the admission of the person to student membership of the University subject to certain conditions, e.g. eligibility for residential accommodation; or

(iii) that the person concerned may not be admitted to student membership of the University at that time.

(c) In respect of students undertaking a course requiring a mandatory DBS check, to resolve on behalf of the University:

(iv) that no objection be raised to admission to the course; or

(v) that no objection be raised to the student continuing on the course; or

(vi) that the student may not be admitted to or continue on the course.

3.6.4 The Appeal Panel comprises the Academic Registrar (Chair), the Head of the relevant Department and a Head of Department or representative from another Department. The Appeal Panel is serviced by an independent secretary.
3.6.5 Where there is disagreement between members of the Panel, the Chair’s decision is final, taking into account all views expressed.

3.6.6 The decision of the Appeal Panel is final.

Richard Stock
Deputy Academic Registrar (Systems Administration)

Sam Quinney
DBS Administrator

April 2014