



UCAS

UCAS providers

Criminal convictions

Good practice guide

September 2018

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Approach to supporting higher education providers with changes to the criminal conviction question in UCAS Apply

For the 2019 entry cycle, UCAS has made changes to the questions it asks applicants about criminal convictions. These changes require universities and colleges to assess their position and review their policies and procedures in this area.

To support the sector, UCAS has commissioned the production of good practice resources in collaboration with the charity Unlock. In May 2018, we invited universities and colleges to submit expressions of interest in participating in this work. We received a range of bids, including a joint bid between University of Cardiff, University of Exeter, University of Southampton, and University of York that proved successful.

In addition, UCAS hosted a criminal convictions seminar in June 2018 to explore the changes in more detail. Admissions and compliance staff within universities and colleges were invited to hear from experts, including representatives from Unlock, the Prisoners' Education Trust, and The Longford Trust about their work with individuals with convictions. The Group also heard, first-hand, the experiences and reflections of a student who applied to higher education with a conviction. [View a recording of this seminar.](#)

UCAS would like to thank the following individuals for their help and support in the production of these good practice resources:

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UCAS intends to revisit these resources in 2019 as providers decide how to embed them within their own policies and practice.

We value your feedback on the use and efficacy of these resources, so if you have any comments or suggestions, please contact Ben Jordan (Senior Policy and Qualifications Manager) at b.jordan@ucas.ac.uk.

Introduction from UCAS

UCAS is committed to ensuring all individuals who wish to progress to higher education can do so in an appropriate and respectful manner, and that no applicant is deterred from applying to university or college due to the questions posed as part of the application. The diversity of the student body is one of the things that makes higher education such a fulfilling experience.

In recent years, UCAS has been working with **Unlock** and the **Prisoners' Education Trust** to better understand what it is like to apply for higher education with a criminal conviction or from prison. As part of this, we have sought to improve our information and advice to applicants with criminal convictions, as well as to produce resources to support those with the responsibility for advising them, such as prison education officers. In addition, UCAS has facilitated a number of CPD exercises, including sessions at the past three admission conferences.

Through this work, it became apparent that asking all applicants about their criminal convictions was having a disproportionate impact, and it was potentially deterring people from applying to university, or causing undue concern about doing so. With this, and the requirements of General Data Protection Regulation (GDPR) in mind, UCAS decided to make changes to the questions applicants are asked regarding their criminal convictions.

In previous cycles (up to and including the 2018 entry cycle), UCAS asked two questions related to criminal convictions as part of the higher education application process:

Question 1:

All applicants are required to declare whether they have any relevant unspent criminal convictions.

Question 2:

Where an applicant applies to a course leading to certain professions or occupations exempt from the Rehabilitation of Offenders Act (1974), they are asked to declare whether they have any criminal convictions, including spent convictions, that are not filtered. This is a mandatory question.

For the 2019 entry cycle, we have removed Question 1 from UCAS Apply. Question 2 will remain available for use by providers for certain courses, such as those that require an enhanced DBS check. The use of this question is entirely at the discretion of the provider.

UCAS recognises this change will require universities and colleges to review their policies and procedures, and adjust them as they see fit. To support the sector with this work, UCAS has commissioned four providers to work alongside Unlock to produce good practice materials and considerations. Acknowledging that context is key in this area, the good practice guidance seeks to present a range of principles and considerations for providers to inform the development of their own position, while acknowledging there will be 'no one size fits all' approach.

Following presentations at the seminar and discussions by the Working Group, the overarching premise of these resources is that providers should not ask an applicant about their criminal convictions as part of the admissions process, unless there is a specific and proportionate need for that information. If providers recognise a need to ask for this information, it should be in a targeted and specific manner, related to specific courses and convictions.

Feedback from providers indicates that some are considering students with criminal convictions more closely than other widening participation cohorts, with a focus on student support and transition. These resources should support providers in reassessing whether they need this information for admissions purposes and, if so, what the specific circumstances are.

**Ben Jordan –
Senior Policy and Qualifications Manager, UCAS**

The Information Commissioner's Office (ICO)

The removal of Q1 came as a result of concerns that its continued use would not be compliant with GDPR. The changes introduced by UCAS for the 2019 entry cycle have ensured the data collected as part of the application is compliant with GDPR. This decision was reached following consultation with the Information Commissioner's Office (ICO).

As part of the seminar UCAS hosted in June, the ICO outlined its position on the processing of criminal convictions information by HE providers as part of the admissions process. This presentation and accompanying [briefing note](#) outlines UCAS' liaison with the ICO, as well as the advice received, and suggests further actions providers may wish to take.

In summary, ICO guidance suggests the justification threshold around asking for information about criminal convictions is very high, therefore any request for disclosure must be necessary, proportionate, and timely. Providers should be mindful of this, and if they deem it necessary to collect information relating to criminal convictions as part of the admissions process, should undertake the following:

- + Document the lawful basis for processing.
- + Document the data conditions so they can demonstrate compliance and accountability.
- + Inform data subjects of their grounds for processing this data to meet their transparency requirements.

[View a recording of the seminar.](#)





The view from Unlock

The view from Unlock

Unlock very much welcomes the removal of the main criminal conviction box from the UCAS application. Having worked with higher education providers for a number of years, the previous approach presented a barrier to individuals with a criminal record, and the decision by UCAS is a significant change that has the potential to help many people with convictions see higher education as a positive way forward in their lives. Unlock has seen first-hand how people have been put off from applying to university as a result of the box on application forms.

With the changes that UCAS has announced, the higher education sector now has a unique opportunity to question whether criminal records should feature at all when deciding whether someone should be accepted onto a university course. If universities are committed to widening participation, they should be considering the widest number of potential applicants. The change by UCAS provides a strong signal to universities that criminal records should not feature in their assessment of academic ability. Many institutions are now rightly looking at how to amend their policies and practices.

When you look at who actually has a criminal record, you can see how there are real benefits to universities in being open and inclusive towards people with a criminal record.

1. There are large numbers of people with convictions who could potentially be admitted to university who are not because they are being deterred from applying. The numbers of prison-university partnerships are growing. Less than 10% of people with a criminal record go to prison, yet there are **over 11 million people with a criminal record** and approximately **three-quarters of a million people with an unspent criminal record**.
2. This issue should be seen through the lens of widening participation, which remains at the forefront of government policy in higher education. People of Black, Asian or minority ethnic (BAME) background are **disproportionately represented** amongst those who are arrested and imprisoned; the racial disproportionality in the UK criminal justice system is actually greater than that in the US system. Just under three quarters of the prison population in England and Wales was from the white ethnic group. When compared to the general population, those who identified as BAME are over represented in the prison population; 13% in the general population compared to 26% in prison. People with convictions also often represent other groups who are disproportionately under-represented at university, including care leavers, people from low income households, mature students, people with learning difficulties and/or disabilities and first-in-family. Nearly a quarter of people in prison (compared with 2% of the general population) have spent time in the care system as children.

People with convictions who are applying to university are showing a huge commitment to turning their lives around. As a society, we should be doing all that we can to support them. The opportunity to go to university can help people to move away from their criminal past, build careers and contribute positively to society. Their presence is also hugely beneficial to universities themselves, which gain highly committed students who help create a more diverse and inclusive learning environment.

Whether universities should ask at all

It's important to understand why UCAS have **dropped the need for applicants to disclose relevant unspent convictions**; they recognised that the question at application stage could deter people from applying, and wanted to reaffirm that higher education is open to everyone.

In Belgium, Denmark and the Netherlands, universities don't ask about criminal records. Most European universities do not ask, nor do Australian institutions. The 23 California state universities do not ask. The 64 State University of New York colleges and universities do not ask. **Research from the US** found no evidence that admitting people with criminal convictions led to a higher rate of crime on campus. It is also consistent with the **ban the box campaign** that is spreading amongst employers, removing the question about criminal records from job application forms.

How should universities respond to the change?

It is our view that the starting point should be that criminal records should not be a part of a university's assessment of academic merit. The change by UCAS sends a strong signal to universities that they should not be collecting criminal records from all potential students at application stage, and we expect to see the majority of institutions decide not to ask about criminal records for admissions purposes for most courses. Criminal record disclosure (of, say, certain offences) may feature in other parts, like when applying for university accommodation, but that's further down the line and a separate process to that of admissions with different considerations.

In considering concerns about people recently convicted of serious offences applying to universities and not having to declare whether they have a criminal record, this is where a key understanding of the role of others outside of universities is important, and Unlock has produced a separate briefing on understanding applicants with a criminal record.

For courses that involve enhanced criminal record checks, the briefing also looks at how universities should approach applicants that have a criminal record. There remains work to be done to ensure that there is a proportionate approach to assessing the relevance of the applicant's criminal record and that the right decisions are reached. While it's right that individuals should be aware of what future challenges they might encounter, universities shouldn't be preventing them the opportunity to try.

Throughout all of this, universities need to have a strong, inclusive mindset with student support at the heart. Unless you are proactively including, you are probably accidentally excluding. Many institutions are now rightly looking at how to amend their policies and practices. I hope to see a number of universities step forward and make changes to their processes following consideration of this good practice. Unlock will continue to work with UCAS and institutions to ensure fair admissions policies towards applicants with criminal records.

Christopher Stacey - Co-director, Unlock – for people with convictions



What does good practice look like?

This good practice guide aims to provide higher education providers with the key considerations to assist them in compiling policy, procedures, and processes for students applying to their provider with a criminal conviction. It can be applied to admission to courses both through UCAS and direct applications throughout the cycle.

The overarching theme of this guidance is that providers should not ask applicants about their criminal convictions by default as part of the admissions process, and that context is key. Providers need to consider their specific course portfolio, module make up, location, and other aspects when determining if there is a specific need for this information. Given the importance of context, it is likely there will be no 'one size fits all' approach, and different providers will adopt slightly different processes. The purpose of this guidance is to highlight the sorts of considerations providers should make when forming their own position, and to ensure consistency in approach throughout the cycle.

This guidance is focused on the admissions process only and specifically relates to the gathering of information at the application stage to inform admissions decisions. We recognise providers may require information regarding criminal convictions for different services and facilities, such as accommodation, and acknowledge these as separate. We are currently exploring the implications for accommodation with AMOSSHE, The Student Services Organisation, in recognition that this is a concern for universities and colleges, and we encourage admissions practitioners to work with providers of other student services to determine an approach.

Is there a specific and proportionate need to ask applicants to declare unspent, relevant criminal convictions as part of the admissions process?

In 2017, there were over 11 million people in the UK with a criminal record, with approximately 750,000 of these having an unspent criminal record¹. In previous admissions cycles, the percentage of applicants declaring an unspent, relevant conviction has been less than 1%.

The view of the Working Group is that as a starting point, asking all applicants to generically declare any unspent, relevant criminal convictions by default should not be a common part of the admissions process, and should only be undertaken when there is a specific and proportionate need for that information. ICO guidance suggests the justification threshold around asking for information about criminal convictions is very high, therefore any request for disclosure must be necessary and proportionate.

When an applicant is asked to declare information about their criminal convictions, the assessment of these should be entirely separate from the academic assessment of an application.

There are several considerations for HE providers when determining an institutional position and establishing if there is a specific need to collect information on unspent, relevant criminal convictions.

i Purpose and necessity

Good practice should start with the position of not requesting a declaration of any unspent, relevant convictions at the point of application. Providers should consider the purpose and necessity of asking students to declare a criminal record at the point of application, within the confines of the Data Protection Act 2018.

HE providers should have a clear understanding of the existing criminal justice and rehabilitation process and seek to complement this. Any individual who has been issued with a criminal conviction or has been to prison, and has no licence, probation, or any other restrictions, has been deemed suitable for re-entry into society through a robust, evidence-based, criminal justice system. This process ensures the appropriate safeguards and restrictions are in place to notify a provider of any student that may pose a risk or would not be able to succeed on their course. Probation officers are responsible for managing those on licence, and have the expertise to undertake any necessary risk assessments. Given these processes are established to determine the potential risk of an individual, providers should question whether additional assessment is required outside of this.

Unlock's briefing for universities and colleges on understanding applicants with criminal records offers more detailed information about the role of the criminal justice system, and provides information and guidance to universities and colleges who may be considering whether and/or how to ask applicants about their criminal record.

¹. Home Office (2017) [Freedom of information request to Unlock](#)

ii. Context for disclosure

Context is crucial when determining whether it is necessary to ask for this information. While the considerations of the providers involved in the production of these good practice resources indicate that, in general, requesting information about an applicant's unspent, relevant convictions as part of the admissions process is unnecessary, there may be certain circumstances in which a provider has identified a specific and appropriate need to ask an applicant about their criminal record.

Any questions must be targeted and proportionate – simply asking all applicants generically about their convictions is unlikely to satisfy the Data Protection Act 2018. Courses which are closely linked to some professions may have their own strict requirements governed by professional, statutory, and regulatory bodies (PSRBs), regarding the background of the students admitted. In these cases, providers are responsible for ascertaining whether an applicant has a relevant criminal conviction. Where an applicant applies to a course leading to certain professions or occupations exempt from the Rehabilitation of Offenders Act (1974), they will continue to be asked to self-disclose at the point of application whether they have any criminal convictions, including spent convictions, that are not filtered. These courses require an enhanced criminal record check. HE providers will continue to be able to choose the courses this question applies to when they are setting them up in the UCAS system.

Where an enhanced criminal records check is not required, but PSRB requirements may impact on an applicant with a criminal conviction, it should not be assumed that all applicants have the same motivations for choosing a degree subject. For example, not every applicant who wants to read law will wish to become a solicitor. Equally, a conviction would not necessarily preclude their progression into certain routes within the legal profession – it may just mean different processes or routes will need to be followed. For example, a student planning a career in the social welfare advice sector (e.g. for charities such as the Citizens' Advice Bureau) would find a law degree offers a valuable pathway. Course providers should be mindful of the various possible career paths within professions and work in partnership with the relevant PSRBs to determine whether it is appropriate to require the disclosure of criminal convictions at the point of application – if at all. If a conviction is likely to impact on a student's ability to progress or follow a specific career route, this should be referenced briefly in supporting course information.

In some situations, case-related decisions may set precedents – these should be applied consistently. Providers may also find it helpful to refer to the [scenarios](#) and [flowchart](#) as an aid for considering whether it is appropriate to ask in the first instance.

iii. Clear and transparent policies and procedures

When a decision has been made, HE providers should ensure policies and processes relating to criminal convictions provide clarity and transparency. This is particularly important where there is differentiation between programmes.

When implementing any revised policies and processes, consideration should be given to the timing to avoid changes during the admissions cycle. However, it should be noted that while reviews may happen at particular points in the year within individual providers, legislative changes may come into force at any time.

iv. Fair admissions

Providers should consider the principles of fair admissions² when developing and reviewing their policies and procedures for requesting information from applicants with criminal convictions.

In addition, often those with convictions also intersect with other under-represented groups that universities and colleges are trying to attract and support, such as individuals from BAME backgrounds, low participation schools, low participation neighbourhoods, and care leavers. Providers should be mindful of the multiple identities of students with criminal convictions and ensure they are taking a holistic assessment of their academic ability and potential in the context of their wider educational background. Admissions data should be monitored and evaluated to ascertain whether policies or procedures for applicants with criminal convictions disproportionately disadvantage these applicants.

² Admissions to Higher Education Steering Group (2004) [Fair admissions to higher education: recommendations for good practice](#)

Considering a specific and proportionate need

As noted above, the view of the Group is that generically asking an applicant to provide information about criminal convictions should not be a common part of the admissions process, and only undertaken when there is a specific and proportionate need for that information. However, it is recognised there may be certain circumstances in which a higher education provider may still feel it necessary to request information directly from the applicant regarding an unspent, relevant conviction, following the removal of 'question one' from the UCAS application.

Where a specific need for the information has been identified, the request should be conducted in a sensitive, transparent, targeted, and specific manner.

The Group discussed scenarios where a higher education provider may require information about an applicant's criminal convictions as part of the admissions process. For the vast majority of these, the Group concluded that a DBS check would be conducted, and therefore would negate the need for an initial disclosure. These are discussed further in our scenario document.

In addition, the Group also acknowledged the role of the criminal justice system in determining if someone has been deemed suitable for re-entry into society through a robust, evidence-based process, and whether they pose a risk. Probation officers have responsibility to manage those on licence, and to undertake any required risk assessments. All people under supervision are subject to regular risk assessment, and any individual with a criminal conviction who has never been, or is no longer under supervision, has been deemed suitable for re-entry into society via a robust, evidence-based criminal justice system.

Below are some scenarios when there may be a specific need to request information regarding relevant criminal convictions, along with example responses from the Group. Academic judgment should always be the first consideration, and generically asking an applicant to provide information about criminal convictions should not be a common part of the admissions process. These themes and additional, specific scenarios are also considered in our resources on ucas.com.



Courses and modules

Providers deliver diverse course content and a number of courses that may include the option of placements/years in industry, and modules that could have direct contact with minors or apparatus and chemicals. You will need to assess individual courses and pathways, and it is unlikely a uniform approach to all will be appropriate, or satisfy the Data Protection Act.

Where a course or pathway requires it, an enhanced criminal records check would sufficiently highlight any relevant convictions. However, this should only occur at the point where necessary to support a specific transaction.

Some courses will have specific modules that could require an applicant to provide information about their criminal convictions. If you identify a valid, specific need, but it is not relevant to all aspects of the course (e.g. if it is only required for optional modules or placements where students have regular, unsupervised access to children or vulnerable adults), then you should only ask for and collect a declaration from those applicants it is relevant to. The group concluded that providers should only require this information from applicants following that route, making this clear in their pre-offer information when and for what modules or placement a declaration may be required³. The applicant may still be able to complete the course without taking these modules. You may wish to consider how this is reflected in your pre-offer materials, and any options or adjustments should be made clear.

The timing of any request for disclosure should be aligned to a specific need within a specific transaction at a particular time. Information should be gathered at the point it is immediately required. e.g. if it relates to a placement, ask when they choose that placement, although the requirement for this information should be clear in course information pre-offer, and in any terms and conditions.

³ An example discussed at the Working Group was a sports coaching course, where students undertake a mandatory placement in year three. There were options available for the placement that involved working with children and/or vulnerable adults, as well as some that were adults only. It could therefore be determined that there was a specific need to request a declaration at the point a student chose their placement, but not as part of the admissions process, as it would be possible to complete the course without undertaking any regulated activity.

Course delivery

There may be circumstances where certain criminal convictions will impact on the applicant experience. Where a course has key requirements or modes of delivery that will impact on a student's ability to successfully complete the programme, if they are prohibited from undertaking them, these requirements should be clearly stated in course information.

IT access is now a significant part of course delivery, participation, and student life in general. An applicant may have IT restrictions related to a criminal conviction. If possible, the provider should offer reasonable adjustments. It is important that providers are explicit with their course information, and make it clear that IT use is required to complete the course. Another example highlighted by the Working Group is the use of laboratories, and access to hazardous chemicals. Providers may choose to request information that is relevant to the above area, and offer reasonable adjustments.

If there are specific convictions that would impact on a student's ability to complete their course, any information requested regarding this should be targeted in its nature. Providers should start by identifying and targeting only the specific convictions that indicate an individual may be a greater risk or that may inhibit the student's ability to complete the course in a satisfactory or reasonable manner. Course information should be made clear and explicit, and highlight any potential barriers to learning and student success.

Accreditation and license to practice

Providers may also want to consider the role of PSRBs or other accrediting bodies and their requirements. For example, access to some professions may not be possible if an applicant has received certain convictions. However, providers should not make assumptions regarding an applicant's intended career path. For example, a student may study accountancy to become a bookkeeper, rather than an accredited accountant.

Students should be informed of any potential barriers or additional steps that may be required as part of their desired career progression. Information should be made readily available by higher education providers and other information providers, such as UCAS.

Tier 4 visa processes


Possession of a criminal conviction may impact on an individual's ability to gain a visa. The requirement to declare criminal convictions for the purposes of UK immigration law is a separate process to the suitability to study a programme. Providers may consider at the point of issuing a CAS the need they have for criminal convictions declarations, and those concerned about an increase in visa refusals should seek appropriate legal advice.

Wider safeguarding

Optional services and facilities should have additional terms in their contract to cover wider safeguarding for those choosing to engage with them.

If you have identified a valid specific need relating to an aspect of student life outside of the study requirements, you should only ask for and collect a declaration from those students at the point this information is required for that transaction. For example, if the need relates to accommodation, you should only ask for this information once a student has accepted your offer, and as part of accommodation application process. We encourage admissions practitioners to work with providers of other student services to determine an approach.





When is it appropriate to ask applicants about criminal convictions where there is a specific and proportionate need?

As noted above, there may be circumstances where a specific and proportionate need for providers to directly ask an applicant about their criminal convictions have been identified.

Information provided to applicants should be proactively communicated, both pre-applications, and as part of offer information, and should be transparent to facilitate informed decision-making, to ensure well-qualified applicants with previous convictions are not deterred from applying. The way information is requested can be just as important as the request.

Where there is a specific need for a declaration at any stage of the student journey, students should be well-informed and feel able to discuss their circumstances at the earliest appropriate stage. Clear information and guidance on the support and advice available from the provider will assist in the application process and journey into higher education.

As noted above, often those with convictions also intersect with other under-represented groups that universities and colleges are trying to attract and support. As part of a providers ongoing commitment to student support, they may wish to inform the applicant of how they can voluntarily declare information about a conviction or time in prison, to ensure the provider is able to support them to the best of their ability.

Providers may also wish to invite students to proactively present their convictions as part of the transition or enrolment process, to allow them to benefit from the range of student support that provider may offer. If a provider chooses to ask an applicant about their criminal convictions, they should carefully consider when they will do this. Asking for a conviction declaration later in the student experience will better target those it is relevant for. This will reduce the amount of personal data you collect unnecessarily and minimise a declaration being perceived as a barrier by some applicants.

Providing potential students with an appropriate contact(s) they can confidentially discuss their conviction with, to gain advice on their potential to study, including the possibility of reasonable adjustments and support, is highly recommended. Establishing a relationship early, even before the point of application, can lead to a smoother application experience, and allow providers maximum time to consider and put in place any necessary adjustments. It can also provide a platform for supporting students onto an appropriate course of study, to prevent disappointment.

Through our good practice investigation, two phases of the applicant experience were identified:

Pre-offer stage

Providers should make clear as part of their pre-offer information (such as the prospectus or online resources) what courses may require information about a criminal conviction, including those that require an enhanced criminal records check. Equally, the provider should make clear the purpose of this information, and where a conviction may impact on a student's ability to complete the course or limit the module options available.

Information on the process, and any support that can be provided should be accessible to all potential applicants, so it is clear and transparent (with an aim of removing the stigma of applying with a conviction). The information should not be purely process-based, but give the potential applicant an understanding of what may impact their ability to study a course, or a specific element of their chosen programme. It is also beneficial to include how reasonable adjustments may be possible to facilitate their study (providing examples or case studies where possible) and, signpost support services available, as a conviction may impact on many aspects of a potential student's life.

Offer or post-offer stage

If choosing to request criminal convictions information at the offer stage, it is helpful to provide information as part of a formal offer, as to the unspent, relevant convictions an applicant is required to declare for that specific programme of study. This should also include clarification on why this information is required, and how it will be used, which may be in a separate policy with signposting. Provision of information should be tailored to different programmes of study, or groups of programmes of study, based on course content, location or module choice, as possible, reasonable adjustments or outcomes of declaring a specific conviction may differ, depending on the programme of study.

Providing criminal conviction information at key points in the cycle, such as during Clearing, can be challenging – part of the accessible advice and guidance, it is helpful to provide information specific to this audience, explaining what is required, and outlining that some types of disclosures could require additional consideration, or time for reasonable adjustments to be put in place. It is beneficial in these circumstances to outline what steps could be taken, such as offering a deferred place, to allow time for the necessary processes or arrangements to be undertaken.



Other resources and feedback

Other resources and feedback

There are a number of [other resources](#) to support providers with the changes to the criminal convictions question in UCAS Apply in conjunction with this good practice guide, including:

- + Videos offering an overview of the changes for 2019, and how providers are responding
- + A flowchart incorporating the key principles to help providers formulate their position on criminal convictions
- + A briefing from Unlock on understanding applicants with a criminal record

UCAS intends to revisit these in 2019 and we value your feedback on the use and efficacy of these resources, so if you have any comments or suggestions, please contact Ben Jordan (Senior Policy and Qualifications Manager) at b.jordan@ucas.ac.uk.

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