**BIRMINGHAM NEWMAN UNIVERSITY**

# POLICY RELATING TO CRIMINAL RECORD (DBS) CHECKS FOR STAFF AND STUDENTS

## 1 Introduction

Birmingham Newman University is a Higher Education Institution and, as such, is not generally required or entitled to undertake criminal record checks on its staff and students. However, many of its students are enrolled for courses in which they are regularly in sole charge of persons under 18 or vulnerable adults. A number of its staff may also come into prolonged contact with children or vulnerable adults in the course of their work particularly where they are assessing the work of students on placement. The University will therefore undertake DBS or status checks to ensure legal compliance with the Police Act (1996), Rehabilitation of Offenders Act (2020), Protection of Children Act(1999) etc. on the appropriate applicants, students or staff.

The University obtains Enhanced DBS Certificates (plus a check of the DBS ‘barred lists’) for all staff and students who come into the above categories.

## 2 Relevant Categories

Applicants to the following courses are required to have enhanced DBS Clearance prior to entry or prior to placement (as indicated below):

All courses leading to Qualified Teacher Status (prior to entry)

Early Years (prior to placement)

Counselling (prior to entry - except for minor routes on Joint Honours programme)

Youth and Community Work (prior to placement)

Youth Ministry (prior to entry)

Working with Children, Young People and Families (prior to placement) Nursing and Physiotherapy Programmes (prior to entry)

 Programmes with professional body accreditation requirements for DBS

Other courses may be added to this list as necessary.

If a student transfers from a course outside of this list to a course listed above that requires an enhanced DBS prior to entry or placement they should understand that a conviction may prevent them from being admitted to the transferred course which did not apply to the course that they were previously enrolled on.

Students for other programmes may be required to gain DBS certification if they intend to go on placement within a school or other regulated environment.

Outside of the scope of this policy:

If a student on a regulated course does not have a criminal record on entry but acquires a criminal record while enrolled on the programme, this will be dealt with under the Fitness to practise Policy i([Fitness to Practise and Study (newman.ac.uk)](https://www.newman.ac.uk/intranet/knowledge-base/fitness-to-practise-and-study/) in accordance with the General Academic Regulations.

Where no previous offence is revealed by the Disclosure, students will be automatically cleared. Where offences are revealed by the Disclosure, the Executive Dean in the Faculty in which the student is applying will be responsible for clearance.

The Executive Dean can clear single offences in the following categories:

Road traffic offences (other than fixed penalty offences) Driving a motor vehicle with excess alcohol.

Failing to provide a specimen for analysis Driving without due care and attention.

Drunk and Disorderly

Using a vehicle while uninsured

In charge of a mechanically propelled vehicle whilst unfit through drink Possession of a class C drug

Other minor offence more than 10 years old

Disclosures involving violence, repeated or more serious offences will be submitted by the University Secretary to an Internal Safeguarding Panel for clearance (see below).

Applicants to the following staff posts will be required to undergo an enhanced DBS check before appointment:

Academic staff teaching on any of the above courses.

2.1 Staff Applicants

The University’s policy on the Recruitment of Ex-Offenders is attached as Annex 2.

Where it is necessary to obtain DBS certificates for staff, the Director of HR will be responsible for obtaining the certificates and for clearing staff applicants where no offence is revealed or an isolated one-off offence.

All other offences will be brought to the attention of the Appointments Panel who will take them into account only after the initial appointment decision on merit has been made. In considering the relevance of criminal convictions, the Appointments Panel will take into account the nature of the post, the number, nature and seriousness of the offences and the passage of time since the offences were committed.

## 3 Internal Safeguarding Panel (for the consideration of student applicants and enrolled students)

Membership:

* The Executive Dean of a Faculty (Chair)
* Senior member of staff from Faculty of Education
* Senior member of staff from Faculty of Arts, Society and Professional Studies
* Senior member of staff from School of Nursing and Allied Health
* An external member who has experience of working in a regulated environment (as appropriate)
* The Admissions Manager (or appropriate nominee) will act as Secretary.

to the Panel

Students/applicants will be invited to submit an explanation of the circumstances surrounding the offences on the Disclosure before the panel make a decision Whilst this may usually be a written explanation, a student or applicant may use other media such as audio or video to present the explanation,(particularly to support any disabilities declared). The student/applicant may also ask for the panel’s agreement to meet with them to discuss the explanation. Annex 3 provides guidance on what the explanation should contain.

The Panel will consider the explanation and may consult with partnership organisations (without revealing confidential information) before deciding whether to clear the student for admission/ placement. Where appropriate, the Panel will consult the subject team who may ask for guidance from the relevant accrediting body. The Panel is aware that different professional bodies have different requirements and that these must be adhered to in each case.

Where the Panel is not able to clear an applicant, the Admissions Office will be informed and the applicant will be deemed not to have met the conditions of entry. Where the Panel is not able to clear the Disclosure of a current student, the Placement Co-ordinator will be advised and placement in a non- regulated environment considered.

## 4 Confidentiality

All decisions taken in accordance with this policy are strictly confidential and all procedures will comply with requirements of the Disclosure and Barring Service for the use of disclosure data.

## 5 Repeat Disclosures

The University does not require students or staff to undergo further DBS disclosure unless students transfer to another (relevant) course, suspend for more than six months or a member of staff is appointed to another (relevant) post. However, students or staff who are subject to a requirement for a Disclosure and who commit offences after the DBS check must notify the Dean of Faculty (students) or the Director of HR (staff). Students who are on professional programmes and who fail to report offences will be subject to the University’s Fitness to Practise procedure.

The University encourages students to make use of the updating service offered by the DBS.

## 6 Appeals

An applicant or student has the right of appeal to the Vice-Chancellor against decisions made by the University in relation to DBS clearance, in line with the University Appeals procedure. See Annex 4.

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**ANNEX 1**

# SECURITY POLICY COVERING THE HANDLING, SAFEKEEPING AND DISPOSAL OF DBS DISCLOSURE INFORMATION

Disclosure information will be stored under separate, secure, lockable conditions only within:

* Registry
* HR Department
* Faculty Office.

Disclosure information will not be kept in staff or student main files.

Disclosure information will be stored for a maximum of six months unless a dispute has been raised. It will then be shredded and disposed of as confidential waste. The University will keep a record of the date of the Disclosure, the name of the subject, the programme/post in question, the unique number of the Disclosure and the recruitment decision taken in order to prove that the check was undertaken.

Access to the Disclosure information will only be available for a limited number of staff within the areas above and details of the information will only be shared with other staff involved in the recruitment and vetting process.

Any Additional Information on the Disclosure, including information as to its existence, will not be revealed to the subject of the Disclosure.

**ANNEX 2**

# UNIVERSITY POLICY ON THE RECRUITMENT OF EX-OFFENDERS

This policy outlines Birmingham Newman University policy on the recruitment of staff and students with criminal convictions

Under the Rehabilitation of Offenders Act 1974, a person with a criminal record is not required to disclose any spent convictions unless the position they are applying for, or are currently undertaking, is listed as an exception under the Act. Birmingham Newman University requires applicants, staff and students, to disclose ‘unspent’ criminal convictions as part of their application procedure but will only undertake DBS checks where the post is eligible under the Rehabilitation of Offenders Act 1974 Exceptions Order and as amended by subsequent legislation.

Birmingham Newman University will not unfairly discriminate against an applicant on the basis of convictions and will make an object assessment of the situation based on the programme or post applied for, the gravity and age of the offence and the risk to other students and staff.

Where the post or programme requires an individual to work within a regulated environment, an applicant will be informed of the requirement to undertake a DBS check and attention drawn to the University’s DBS policy posted on the website. Staff or students not cleared following the DBS check will not have their conditional offer of employment or student place confirmed.

Students or staff who are subject to a requirement for a Disclosure and who commit offences after the DBS check must notify the Dean of Faculty (students) or the Director of HR (Staff). Students who are on professional programmes and who fail to report offences will be subject to the University’s Fitness to Practise procedure.

**Annex 3** GUIDANCE ON WHAT AN EXPLANATION STATEMENT SHOULD CONTAIN FOR DISCLOSED OFFENCES?

Whilst this may usually be a written explanation, a student or applicant may use other media such as audio or video to present the explanation,(particularly to support any disabilities declared). The student/applicant may also ask for the panel’s agreement to meet with them to discuss the explanation.

Your explanation should include:

The circumstances around the offence (or offences) noted on the DBS.

Information of any mitigating factors

Any supporting documents relevant to the Criminal Records (DBS) Check

Why these circumstances will not occur in the future.

*Advice on the information to be provided can also be provided by Birmingham Newman University Students’ Union*

Annex 4

**APPEALS PROCEDURE**

# Purpose

The Appeals procedure operates to enable a final stage appeal against a decision made in relation to a DBS Criminal Records Check by the internal Safeguarding panel.

# Scope and Principles

An Appeal must be made in the required format ([appeal form)](https://www.newman.ac.uk/intranet/knowledge-base/appeals/) and sent to:

The Academic Registrar (l.de-la-Haye@newman.ac.uk) No later than one month from receipt of the outcome of the internal safeguarding panel

This procedure applies to applicants and students who are enrolled on, all courses offered by Birmingham Newman University. It also applies to a student of an institution in partnership with Birmingham Newman University where that student is studying on a programme validated by the University.

In considering appeals, the University will apply the Procedure in accordance with its Equality and Diversity Policy. ([Equality and Diversity Policy - Birmingham Newman University, Birmingham](https://www.newman.ac.uk/knowledge-base/equality-diversity-policy/)) In particular, reasonable adjustments will be made for those with disabilities, specific learning disabilities, or long-term medical conditions.

All personal information will be processed in accordance with the Data Protection Act 1998.

All parties to the appeal and individuals who are involved in any related investigation and/or administration of the appeal must observe the requirement for confidentiality. Whilst confidential information may need to be disclosed in order to consider the appeal, this will only be to those staff involved in consideration of the appeal (including any persons named by the appellant).

Where an appeal is found to have been brought with frivolous, vexatious or malicious intent, this may itself prove grounds for disciplinary action against the appellant: Frivolous, vexatious and malicious appeals include, but are not limited to:

* appeals which are harassing, repetitive or pursued in an unreasonable manner;
* insistence on pursuing non-meritorious appeals and/or unrealistic or unreasonable outcomes;
* appeals designed to cause disruption or annoyance;
* demands for redress which lack any purpose or value.

An appellant may withdraw an appeal at any point providing the Deputy Registrar is advised in writing, but may not later re-launch the appeal.

Information which comes to light as a result of an appeal may lead to Birmingham Newman University or other agencies taking other kinds of action. This includes staff and student disciplinary procedures and civil or police investigations. If this happens the resolution of the appeal may be delayed until that other action has been taken. Appellants will be informed if this is the case and advised of a new date by which it is intended to complete enquiries.

# Outline of Procedure

In cases where the applicant or student feels that the Internal Safeguarding Panel (DBS) has not taken appropriate consideration in relation to the case on the following grounds:

1. Material irregularity in the way the student’s case was considered by the Internal Safeguarding Panel.

1. Extenuating circumstances which relate to the offence and where it was not possible to notify the University prior to the decision of the Internal Safeguarding Panel.

Appeals which are not based on the acceptable grounds will be dismissed.

# Initiating the Appeal Process

The appellant must state the grounds on which they wish to appeal (see Section above) and must include all necessary supporting evidence and documentation. No evidence can be submitted anonymously.

The Deputy Registrar (or nominee) must be satisfied that these conditions are met before progressing a case to the Vice Chancellor for appeal.

If the Deputy Registrar (or nominee) determines that there is no basis for the appeal requested to be considered then the appellant will have exhausted the internal procedures. The appellant will be informed of this decision in writing by the Deputy Registrar (or nominee), normally within twenty working days of receipt of request by the appellant to progress to a Final Stage Appeal. In such cases, the appellant may be able to seek a further review of their appeal by the Office of the Independent Adjudicator (OIA).

# Office of the Independent Adjudicator for Higher Education (OIA)

The OIA is an independent body set up to review individual student complaints against universities in England and Wales ([OIA website)](http://www.oiahe.org.uk/).

Current or former students may only take their complaint (in the case of these procedures the complaint will relate to the outcome of a DBS Internal Safeguarding Panel to the OIA once the University’s internal procedures have been exhausted and the University has issued a Completion of Procedures letter to the current or former student.

The OIA must receive a completed Scheme Application form within twelve months of the date of the Completion of Procedures letter.

# Monitoring and Evaluation

Birmingham Newman University will monitor and evaluate the effectiveness of this Appeals Procedure and reflect upon the outcomes for enhancement purposes.