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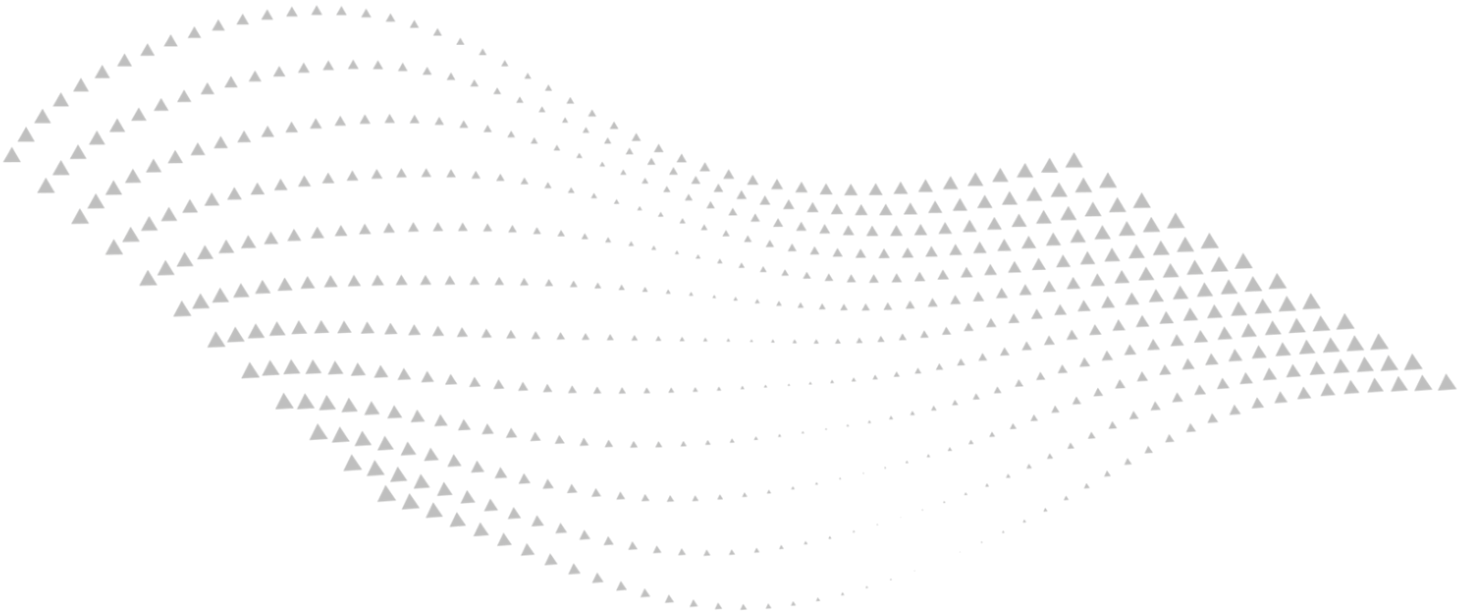
Applicant & Student Criminal Convictions & Charges Policy & Procedure



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1. Introduction

1.1. This Policy & Procedure sets out BIMM University's approach to investigating and reviewing applicants and students who declare unspent criminal convictions or charges, both as part of the admissions process and throughout the duration of their registration.

1.2. This Policy & Procedure aims to ensure that BIMM University is compliant with its obligations as defined under the Rehabilitation of Offenders Act 1974, ensuring fairness and transparency. The Institute has a duty of care to staff, students, visitors and others involved with it activities who may come into contact with students and, as such, will consider the impact of any criminal convictions or charges declared by applicants and students on a case-by-case basis.

2. Scope

2.1. Applicability

2.1.1. This Policy & Procedure applies to all students registered on a course at BIMM University campus in England or Ireland, and to all staff of the University.

2.2. Responsibilities

2.2.1. Admissions Teams are responsible for the management of the process to contact applicants who have been made an offer of a place to study at BIMM University and have firmly accepted that offer, requesting disclosure of any relevant unspent conviction or charges at this stage in the application process.

2.2.2. Student Wellbeing Managers are responsible for the management of the process for existing students who declare a criminal conviction or charges during their course of study.

3. Policy Statements

3.1. General Principles

3.1.1. BIMM University is required to balance its responsibilities to provide a safe and secure environment for its staff, students, visitors and others engaged with its activities with the need to comply with the relevant legislation. BIMM University will strive where possible to support those with a criminal conviction or pending charges, where appropriate, by putting measures in place to safeguard both the student and the wider University community. However, BIMM University reserves the right to refuse admission or to withdraw the offer of a place to applicants whose criminal record or pending charges make it inappropriate for them to be admitted, or to terminate their studies should they already be registered.

3.1.2. The standard that BIMM University will apply is whether the criminal record or pending charges of an applicant or student gives reasonable grounds for consideration that admission or continued attendance of the individual will pose a threat to the safety, wellbeing or property of staff, students, visitors, those coming into contact with the applicant during their studies, or others involved in University activities, or would be contrary to law.

3.1.3. All applicants who are given an offer of a place to study at BIMM University and firmly accept this offer are required to disclose relevant unspent convictions (as defined by the Rehabilitation of

Offenders Act 1974) or charges (see 3.1.8). If information relating to offences is not provided, or is given in incomplete form, then BIMM University reserves the right to withdraw the application at any stage. If an applicant is convicted of or charged with a relevant criminal offence after the request for disclosure is received, they must inform BIMM University the earliest available opportunity.

Applicants should also be aware of the following:

a) Failure to provide information in a timely manner may result in their application being rejected. BIMM University defines a timely manner as 10 working days after the applicant has firmly accepted an offer.
b) At times of high activity (e.g., results and clearing period), it may not be possible for all investigations to be concluded and for a decision to be made before the close of enrolments. In such cases, enquiries will continue to be made until satisfactorily concluded and a decision can be made. If the decision is to admit, then admission will be allowed at the next available entry point.
c) Applicants must keep BIMM University updated if legal action is pending against them during the admissions process.

3.1.4. Students are required to inform BIMM University of any relevant conditional cautions, criminal convictions or charges during their time as a student of BIMM University. Students who fail to respond to requests for information regarding disclosed convictions or charges may be suspended as a precautionary measure and will not be permitted to resume their studies until the information is received and considered by BIMM University.

3.1.5. Applicants and students should be aware that delays in providing information from third parties are not the responsibility of BIMM University. Applicants and students are expected to ensure that information is provided to the Institute in a timely manner. If an applicant or student does not respond to a request for information within 10 working days of receiving a request, BIMM University may choose to close the investigation and reject the application or withdraw the student.

3.1.6. All discussions and documentation about criminal convictions or charges declared will be treated in confidence, in accordance with the relevant data protection legislation. Where it is necessary to obtain information from third parties, BIMM University will obtain permission in writing from the applicant or student to allow us to obtain or disclose necessary information to obtain sufficient facts and information for discussion by the Criminal Conviction & Charges Panel.

3.1.7. The consideration of criminal convictions and charges is separate to the assessment of an applicant's academic suitability and will not impact upon the processing of an application.

3.1.8. Certain courses may require that a student undertakes a Disclosure & Barring Service (DBS) check. Where that is the case, details will be provided in the published course information and directly to the applicant where an offer is made.

3.1.9. For the purpose of this Policy & Procedure, relevant criminal convictions or charges may include one or more of the following:

- Any kind of violence including, but not limited to, threatening behaviour, offences concerning the intention to harm or offences which result in the actual harm of individuals.
- Sexual offences, including those listed in the Sexual Offences Act (2003).
- The unlawful supply of controlled substances or drugs.
- Offences involving firearms or weapons.
- Offences involving arson.

- Offences involving terrorism.

3.2. Failure to Declare a Conviction

3.2.1. Should an applicant fail to declare a relevant conviction that is subsequently discovered during the application process, this may result in an offer being withdrawn by BIMM University.

3.2.2. Should a registered student fail to declare a relevant criminal conviction, this may result in disciplinary proceedings and/or cancellation of registration.

3.2.3. In cases where the applicant or student is subject to immigration control, the UKVI may need to be informed.

3.3. Criminal Convictions & Charges Panel

3.3.1. Following notification of a criminal conviction or charges, a senior member of the Admissions/Student Wellbeing Team will investigate and collate relevant information for consideration. This may include (but is not limited to):

- Statements from third parties involved in the rehabilitation of the applicant or student, e.g., offender managers/parole officers.
- Written evidence given in court, e.g., statements from legal counsel.
- Character references.
- Interview with the applicant or student. If this is required, a dialogue will be entered into with the applicant or student to confirm the approach to be taken (e.g., interview in person or via video conferencing).

3.3.2. A Criminal Convictions & Charges Panel will then be convened to consider the case as required either by the Head of Admissions (or nominee) for applicants, or by the Student Wellbeing Manager (or nominee) for existing students. The Criminal Convictions Panel will follow this Policy & Procedure, review the evidence and make a decision. Advice may also be taken from BIMM University's legal advisors if required.

3.3.3. The Criminal Convictions & Charges Panel will normally be comprised of two or more of the following:

- Campus Dean (Chair).
- Head of Admissions
- Student Wellbeing Manager.
- Senior member of Admissions/Student Wellbeing Team who led the investigation.

3.3.4. The Criminal Convictions & Charges Panel may consider any or all of the following in reaching a risk assessment-based decision about each applicant or student:

- whether the criminal conviction or charges are relevant;
- the nature and severity of any offences/charges and any sentences imposed;
- whether the offences/charges show a pattern of behaviour;
- age at date of offence;
- length of time since the offence was committed;
- whether the offences involve violence, threats of violence, or were of a sexual nature;
- whether there are any mitigating factors;
- whether the applicant's circumstances have now changed;
- Rehabilitation of Offenders Act 1974 and supporting guidance;
- the SPA Good Practice Guide – considerations for applicants with criminal convictions;

It should be noted that decisions by the Panel are made on the basis of evidence provided, in terms of risk, and on the balance of probability.

3.3.5. In addition to the above factors, BIMM University will also consider whether admittance or ongoing attendance would have a detrimental impact on:

- the safety of staff, students, visitors and members of the public who are making use of BIMM University's facilities or engaging with its activities;
- the need to protect the Institute's property and reputation;
- the applicant's or student's right to an education and to not be discriminated against because of a criminal record.

3.4. Notification of Decision to Applicants

3.4.1. The Criminal Convictions & Charges Panel will notify the applicant of the decision in writing within 10 working days of the meeting. The Panel has three possible outcomes:

- not to admit;
- admit with conditions (these will be stated on the decision letter and re-confirmed in any offer letter) and any supporting measures will be agreed in confidence with the appropriate team within BIMM University;
- admit without conditions.

3.5. Notification of Decision to Students

3.5.1. The Criminal Convictions & Charges Panel will notify the student of the decision by letter within 10 working days of the meeting. The Panel has the following possible outcomes:

- No further action required;
- Allow the student to continue on the course of study subject to meeting specific requirements (for example, providing updates on probation reports, details of any further court activity, evidence of engagement with court directed support/activity, evidence of engagement with support services);
- Decide that the student be excluded from the course for a defined period;
- Decide that the student be withdrawn from the course of study.

3.5.2. The decision of the Criminal Convictions & Charges Panel will be notified to the student in writing by the Chair, with the reasons being stated as to the decision reached by the Panel.

3.5.3. The notification will also include a clear statement of the right to and method for appealing against the decision, as outlined below.

3.6. Appeal

3.6.1. If an applicant is dissatisfied with the outcome and considers the decision reached by the Criminal Convictions & Charges Panel to be unreasonable, they may appeal the decision in writing to the Director of Recruitment & Admissions (or nominee) within 14 days of notification of the outcome. Any Appeal not submitted within this timeframe will be rejected.

3.6.2. If a student is dissatisfied with the outcome and considers the decision reached by the Criminal Convictions & Charges Panel to be unreasonable, they may appeal the decision by following our Student Appeals Procedure. All appeals must be submitted within 14 days of notification of the outcome.

3.6.3. Students who follow the appeals procedure will also have the right of review by the Office of the

Independent Adjudicator as outlined in the Student Appeals Procedure.

4. Policy Enforcement

4.1. Failure by applicants to comply with this Policy & Procedure in terms of providing information to BIMM University to arrive at an admission decision will be treated very seriously and may lead to the withdrawal of an offer or place.

4.2. Failure by students to comply with this Policy & Procedure in terms of providing information to BIMM University will be treated very seriously and may lead to the withdrawal of a student from the course, or investigation under the Student Misconduct Procedure.

5. Data Protection

5.1. It may, in certain circumstances, be necessary to share information relating to student criminal convictions or charges with third party organisations. As this information is considered to be personal data under data protection legislation, any such sharing will normally take place with explicit consent from the individual concerned and in accordance with the relevant legislation.

5.2. Sensitive information provided by an applicant or student will be destroyed once a decision has been made and only the outcome will be recorded.

6 Office of the Independent Adjudicator for Higher Education

6.1 Once all internal processes have been exhausted, including invoking the formal process, an OIA review is available to students studying on HE courses awarded by a UK provider, including those awarded by BIMM or any of its UK partner institutions.

6.2 Where a student is not satisfied with the outcome of this Procedure, they may request a review by the OIA. The OIA provides an independent scheme to enable the review of unresolved student complaints, including appeals.

6.3 The student must refer their case to the OIA within one year of being informed of the outcome of the Review Request. An appeal to the OIA can be made by completing an application form, which can be downloaded from the OIA website or requested via email to enquiries@oiahe.org.uk.