



**London
South Bank
University**

EST 1892

Criminal Convictions Data Policy

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Approved by	Chief People and Legal Officer
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This policy is available in accessible formats on request from the Data Protection team. Please contact: DPA@lsbu.ac.uk

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Criminal Convictions Data Policy

1. Introduction

- 1.1. This policy sets out to document the University's collection, management and retention of Criminal Convictions and Offences Data and Disclosure and Barring (DBS) checks.
- 1.2. This policy is intended to comply with the Data Protection Act 2018 (DPA) Schedule 1 part 4 which requires the University to have an appropriate policy document in place to demonstrate compliance with the principles relating to the processing of personal data concerning criminal convictions and offences in respect of applicants (when they accept an offer of a place) and students, as set out in Article 5 of the UK General Data Protection Regulation (UK GDPR).
- 1.3. Criminal convictions and offences data is defined by the DPA s 11 to include alleged offences and proceedings in relation to the commission of offences or alleged offences ("Criminal Conviction and Offences Data").
- 1.4. This policy supplements the University's Data Protection Policy, which can be found at:

[Data Protection | London South Bank University \(lsbu.ac.uk\)](https://lsbu.ac.uk/data-protection)

and its Privacy Notices for applicants and students, which can be found at:

[Privacy Notices | London South Bank University \(lsbu.ac.uk\)](https://lsbu.ac.uk/privacy-notice)

2. Scope – who is covered by this policy?

- 2.1. This policy covers the University's processing of Criminal Records Data and DBS checks in relation to applicants to study and enrolled students on all courses. This policy also covers LSBU Staff, Contractors and any other agent. This policy covers the processing of this data at application stage and throughout the period of study/employment.

3. Responsibilities

- 3.1. The Chief People and Legal Officer has overall responsibility for this policy but has delegated day-to-day responsibility for overseeing its implementation to the Data Protection Officer. All relevant members of staff have been made aware of the policy and have received appropriate training.
- 3.2. The Data Protection Officer and the University Solicitor will review this policy from time to time (and at least every two years) to ensure that its provisions continue to meet our legal obligations and reflect best practice.

4. Principles of processing (UK GDPR Article 5)

The principles with which the University must comply are as follows:

- (a) lawful, fair and transparent processing;
- (b) personal data must be collected only for specified, explicit and legitimate purposes (purpose limitation);
- (c) personal data must be adequate, relevant and limited to what is necessary in relation to the purposes for which it is processed (data minimisation);
- (d) personal data must be accurate and where necessary kept up to date (accuracy);
- (e) not kept in a form which permits identification of applicants or students for longer than is necessary for the purposes for which the personal data is processed (storage limitation); and
- (f) personal data must be processed in a manner that ensures its security using appropriate technical and organisational measures to protect against unauthorised or unlawful processing and against accidental loss, destruction or damage (integrity and confidentiality).

5. Our lawful bases for processing Criminal Convictions and Offences Data and purpose limitation

5.1. We will only process Criminal Convictions and Offences Data for specific and lawful purposes that comply with the relevant conditions for lawful processing as set out in the DPA Schedule 1 as follows:

- (a) Preventing or detecting unlawful acts (DPA Schedule 1 par 10): all applicants who accept an offer of a place on a course and enrolled students are asked to declare relevant unspent convictions. The purpose of such processing is to assess risk of harm and hence to ensure a safe University environment. The University will also provide information to the law enforcement agencies regarding alleged offences for similar purposes.
- (b) Protecting the public against dishonesty, malpractice, unfitness, incompetence etc. (DPA Schedule 1 par 11). This condition applies to Criminal Conviction and Offences Data processed for the purpose of determining the fitness of students on regulated professional courses to practise to the relevant profession (e.g. allied-health courses such as nursing; teaching).
- (c) Necessary for a task carried out in the public interest or in the exercise of official authority vested in the University (DPA Schedule 1 par 6).

Conditions of the University's registration with the Office for Students require it to provide students with the support that they need to succeed. Criminal Conviction and Offences Data is processed to ensure that convictions and offences are not a bar to completing specific courses, in particular courses leading to a regulated professional qualification.

- (d) Safeguarding children and adults at risk (DPA Schedule 1 par 18). The University admits students who are under 18 years of age and offers placement opportunities involving contact with children and vulnerable adults. It also engages in outreach activities. Criminal Conviction and Offences Data is processed to assess risk and to prevent harm to vulnerable people.
- (e) Confidential counselling (DPA Schedule 1 par 17). The University's counsellors and other staff who provide confidential advice to students may receive Criminal Conviction and Offences Data in the course of providing those services and will process it where necessary for the provision of those services. Such data will be processed without the explicit consent of the individual concerned where obtaining it would prejudice the provision of the confidential counselling/advice service, the University could not reasonably be expected to obtain it or the individual's consent cannot be given.
- (f) Legal claims (DPA Schedule 1 par 33). The University will retain Criminal Conviction and Offences Data where (a) it is necessary for the purpose of, or in connection with, any legal proceedings (including prospective proceedings); (b) it is necessary for the purpose of obtaining legal advice; or (c) it is otherwise necessary for the purposes of establishing, exercising or defending legal rights.

6. Fairness and transparency

The University provides all applicants and students with the privacy notice referred to above. This is placed on the University's website and a link is provided to it on application and enrolment documents. The University's admissions policy, also published on its website, provides information on what Criminal Conviction and Offences Data will be sought and why. Criminal Conviction and Offence Data is always processed in accordance with applicants' and students' reasonable expectations.

The University provides privacy information to applicants at the point of application. Successful candidates who are completing a DBS check as part of their onboarding at LSBU should refer to the Staff Privacy notice and their Employment Contract for further details in relation to the processing of their data.

7. Data minimisation

The extent of Criminal Conviction and Offences Data sought by the University depends on the course or role applied for and enrolled on. More extensive information is sought in respect of courses leading to regulated professional qualifications, and enhanced DBS checks will only be conducted where the activities to be undertaken during the course fall within the exceptions to the Rehabilitation of Offenders Act 1974. In respect of non-professional courses, the information sought is limited to a sub-set of unspent convictions for offences which could indicate a real risk to the safety of the University community and the information is sought from applicants only when they accept an offer of a place. This approach ensures that the University acts proportionately.

For employees the level of checks required is determined by the role and candidates will be notified of role specific requirements on application.

8. Accuracy

Where eligible, Criminal Conviction and Offences Data is obtained via DBS enhanced and Barred List checks to ensure accuracy. Criminal Conviction and Offences Data are also obtained direct from applicants and students are required to ensure the data provided is accurate. We also check to ensure that Criminal Conviction and Offences Data is accurate and up-to-date, and any errors are rectified without undue delay.

9. Storage Limitation

We will only retain Criminal Conviction and Offences Data for as long as necessary, given the purposes for which it was processed. Retention periods for personal data are set out in the University's retention schedule which can be found at:

[Publication Scheme | London South Bank University](#)

The University complies with the DBS code of practice for retention of Criminal Conviction and Offences Data obtained in respect of admissions decisions i.e. six months. In exceptional circumstances only, usually where admission of a student is subject to continuing conditions as a result of a risk assessment following disclosure of Criminal Conviction and Offences Data, retention may be for a period longer than six months. Only such Criminal Conviction and Offences Data that is relevant to the imposition and review of such conditions will be retained for the purposes of maintaining an audit trail, subject at all times to the principles of data minimisation and integrity/confidentiality. The data will be retained usually for legal limitation periods, in accordance with the University's retention schedule for student records (student enrolment information). Criminal Conviction and Offences Data processed for assessing

students' fitness to practise form part of the student record and will be retained in accordance with the Fitness to Practice retention schedule.

10. Integrity and Confidentiality

Criminal Conviction and Offences Data is stored separately from other student records and is accessed only by those members of staff who need to have access to fulfil the purposes outlined above. It is not shared with third parties unless there is a legal obligation to do so in connection with any of the purposes outlined above e.g. disclosures to statutory regulators. The University has access controls in place for the system that holds this information. It can only be accessed by an authorised member of staff via their password protected account and any amendments to the record are logged for audit trail purposes.

For staff the data is stored on the colleagues HR file if a record of it is required for the duration of their employment. Records are retained in accordance with the HR sections of our Retention Schedule.

11. Retention and Erasure

- 11.1. The University's policy relating to retention and erasure is as outlined above.
- 11.2. The policy will be retained where we process Criminal Convictions Data and for a period of at least six months after we stop carrying out such processing.
- 11.3. A copy of this policy will be provided to the Information Commissioner on request and free of charge.