**NISQ Policy for Admissions**

**Applicants with Convictions**

**Step 1: Initial consideration of the application**

The application is considered by the relevant individual, according to the normal stated entry requirements and normal decision-making process, NISQ Qualification Division

**Step 2: Identifying whether a conviction has been disclosed**

A response to a criminal convictions question will first be identified when the application is received by NISQ. In the case of a NISQ application, a positive declaration of a conviction will be identified in the NISQ 12 application.

N.B: Even if an applicant declares in the NISQ application that they have a ‘relevant’ criminal conviction, it may be considered that it is not appropriate to investigate further (except in the case of those Qualifications where disclosure of criminal convictions is required), feeling that this is outside their competence and unnecessary in connection to their duty of care.

|  |
| --- |
| Step 3: **For successful applications, involve the NISQ Qualifications division**  If you wish to make an offer, or where appropriate, invite to interview, and the applicant has declared a criminal conviction, pass the application to the Chief Compliance Officer for any follow-up. |
| Step 3: **Treat unsuccessful applicants’ records securely**  If the application is unsuccessful, no action is taken in connection with the criminal convictions, and the decision is processed in the usual way. Records relating to convictions should be destroyed in accordance with the data protection policy. |

**Step 4: Only seek appropriate further information on the offence**

NISQ may wish to contact the applicant to seek further information on the offence.

**Bear in mind that if an applicant has also applied for Qualifications which require an enhanced disclosure, there may be convictions declared that are not relevant for all other Qualifications. These should therefore not be taken into account in decision-making and should not be revealed to other staff including NISQ Approved Centre Staff. In some cases, the criminal convictions question will have been ticked in error. The NISQ application requires applicants to declare only ‘relevant’ criminal convictions, which are limited to those that are both unspent and part of a specific group of types of offences. If this is the case, seek the applicant’s assurance of this in writing/by email, for audit trail purposes, and make an appropriate note or amendment on the student record system for this application. If the conviction was declared in error, process the offer in the usual way. If there was no error, continue consideration of the application.**

NISQ use the template letter and form NISQ Admission 5 and include a deadline for receipt of the information.

**Enhanced disclosure**

NISQ bear in mind the requirements of filtering, and that they should not ask for disclosure of convictions that would not appear on the enhanced disclosure. For Qualifications requiring enhanced disclosure, it is also important to make clear to applicants:

• they are being asked for this information because of the professional requirements of the Qualification, because enhanced disclosure or scheme membership will be required prior to the actual course start, and that this is the case for all applicants and not just those declaring a conviction

• what criminal convictions/cautions should be disclosed, which may include spent convictions

• the possible barriers to them taking up a place on this course, and the implications of withholding information

**Is the conviction for a 'relevant' offence?**

This is the first element to the question we ask. Relevant offences 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 resulted in actual bodily harm.

• Sexual offences, including those listed in the Sexual Offences Act 2003.

• The unlawful supply of controlled drugs or substances where the conviction concerns commercial drug dealing or trafficking (drug offences only involving possession are not relevant offences).

• Offences involving firearms.

• Offences involving arson.

• Offences involving terrorism.

If you were convicted outside the United Kingdom for an offence listed above, this is also considered a relevant offence.

**Step 5: Pass details to NISQ Governing Body**

details of the offence will be passed to the Governing Body– via a Governing Body meeting. Composition of the designated group varies but will often include: All the Governing Body Members – 6 persons and an external representative (e.g. of the relevant professional body) if the Qualifications requires enhanced disclosure, Consideration may need to be given to which members of the Governing Body should have the greatest degree of influence on the outcome – those internal to NISQ or the external professional – especially should there be a difference of opinion.

Staff in the relevant NISQ Approved Centre to which the applicant had applied should be informed whether or not an offer has been made, on a ‘need to know’ basis only.

**Step 5: Use discretion to make the offer**

If the further information from the applicant reveals that s/he has a relevant criminal conviction, but the offence is considered minor according to NISQ, NISQ Governing Body may use discretion to permit the offer to be made.

**Enhanced disclosure**

For these Qualifications, if the offence is not likely to bar the individual from professional practice or from taking up any placement, NISQ may consider it ‘minor’.

**Step 6: Keep the applicant informed**

It is good practice to contact the applicant to explain how their application will be handled, and provide them with relevant documentation, e.g. a copy of the criminal convictions policy, information about timescales, and any rights of appeal.

Depending on the nature of the Qualification, and of the conviction, the applicant may also be contacted for further information, including for the name of their probation officer and permission to contact them. No third party, including a probation officer, should ever be contacted without the written permission of the applicant, (NISQ has a templated letter for this). In some situations, the Governing Body may decide it is necessary to meet the applicant in order to fully understand the specifics that cannot be ascertained from the documentation. Any such invitation to the applicant should be clear about the purpose of the meeting so as to avoid any undue anxiety or confusion.

**Step 7: NISQ Governing Body considers any risks**

The Governing Body may wish to consider whether there are unacceptable risks associated with admitting the applicant. It is important that this consideration is evidence-based, and that the Governing Body members are sufficiently trained in the complexities of making risk-based judgements on individuals. It is important to take a holistic view, and the following are risk factors that the designated group may wish to consider as part of a matrix (NISQ Evaluation Template) ensuring that no one factor dominates the final decision:

• The nature of the offence, and whether it is relevant to the Qualification applied to.

• Any pattern of offending.

• The recommendations of any referees.

• Mitigating circumstances.

• Aggravating circumstances.

• Any comments about the risk of re-offending noted in the pre-sentencing report or other official documentation.

A risk assessment matrix including these factors can be found at NISQ Admission 2.

**Note that the charity Niacro will be providing support to the NISQ Governing Body in determining risk.**

The reason for evaluating these risk factors is to assess whether an applicant poses an unacceptable risk to the NISQ, or whether the applicant is able to meet the particular professional or statutory requirements that exist for some courses. Again, it is not the role of the NISQ Governing Body to make a moral judgement, or act as an alternative judiciary.

The panel may decide to require further information from either the applicant or other sources (e.g. the probation officer, if they have permission to do so). As above, the panel may wish to meet with the applicant. Depending on the nature of the situation, the group may then reconvene to discuss the additional information.

**Step 8: Decide on what terms to admit the applicant**

**The Governing Body may decide:**

• it is possible and suitable to admit the applicant to the Qualification, either without reservation or with certain, proportionate provisos, e.g. concerning accommodation or support for the applicant, or checks in place

**Enhanced disclosure Qualifications**

• The applicant’s conviction would not bar them from joining the NISQ Qualification Cycle and undertaking the Qualification but would bar them from the profession to which their chosen Qualification leads, and still make the applicant an offer. It is important to make it explicitly clear to the applicant that they are unlikely ever to be able to practise that profession, and to consider whether they could undertake placements. Providers may wish to seek legal advice and consider whether this option is in the best interest of the applicant.

• The applicant would not be able to follow the profession to which their chosen Qualification leads or take up placements that form integral or compulsory parts of the Qualification. Where the conviction would not bar them from joining the NISQ Qualification Cycle, but they cannot be admitted for the chosen Qualification, the Governing Body may wish the NISQ Qualification Division to contact the applicant to discuss admitting them to an alternative Qualification or Level.

Staff in the relevant NISQ Approved Centre or Qualification to which the applicant had applied should be informed whether or not an offer has been made on a ‘need to know’ basis only.

**Step 8: Inform the applicant they have been unsuccessful**

The Governing Body may decide:

• to reject the applicant because the conviction is such that entry to the NISQ Qualification would be unsuitable, or because no alternative Qualification is available

Contact the applicant to explain the outcome, and any opportunity to appeal the decision, then process the application in the normal way.

Staff in the relevant NISQ Approved Centre or course to which the applicant had applied should be informed whether or not an offer has been made, on a ‘need to know’ basis only.

**Records should be dealt with in accordance to the data protection policy.**

**Step 9: Make the offer, and if necessary, make clear the need for disclosure**

If there are no provisos and the Qualification does not require enhanced disclosure, make the offer in the usual way.

**Enhanced disclosure courses** There is a wide variety of practice for how to communicate the necessity for criminal convictions disclosure in the offer:

1) The requirement for disclosure is part of the offer of admission,

2) A two-part offer, where the requirement for disclosure is set out in a separate letter. It is important to make the distinction between the two parts of the offer clear to applicants, and that the letter to applicants is very clear on what is expected of the applicant.

3) A distinction is made between admission and registration. A ‘normal’ academic offer is made but the applicant is also informed – either in the NISQ offer or in a separate letter– that s/he will not be able to register unless disclosure is received, and it is considered acceptable for admission.

4) A ‘normal’ academic offer is made. If the applicant accepts it, s/he can register, but will then be required to withdraw if a criminal convictions disclosure is not subsequently received. NISQ will need to make it clear that their offer may not actually entitle them to follow the course.

NISQ has provided information about how to go about gaining disclosure/scheme membership, the process for allowing NISQ to verify their identity, any costs or fees involved, and the timescales and deadlines.

**Step 10: Treat accepted applicants’ records securely**

If the offer is accepted, providers must ensure information regarding the past offence(s) remains confidential.

However, in limited cases, after careful consideration (e.g. by the Governing Body and via a risk assessment), NISQ may decide there are departments, services, or individuals who have an important interest in this information – to support the applicant or protect the Governors. NISQ will seek legal advice before sharing any personal information.

**Step 10: Treat decliners’ records securely**

If the offer is declined by the applicant, the records relating to convictions should be destroyed in accordance with the provider’s data protection policy

**Step 11: The criminal record check**

• NISQ will conduct the disclosure assessment in good time before registration/enrolment, while mindful of the time-limited nature of the check. It is neither in the applicant’s nor NISQ interest to request a check too early, e.g. before other requirements have been satisfied.

• NISQ intends to undertake disclosure checks themselves at some point 2019, which undertake some of the administration for a fee.

N.B: International applicants

• NISQ will be aware of the difficulty of obtaining information on applicants from outside the UK, where there may be different legal assumptions and arrangements.

• NISQ will seek to make DBS/Disclosure Scotland/NI Direct checks in respect of any time spent in the UK. Where the applicant has not yet spent time in the UK, NISQ will not allow admission until satisfactory records are provided in relation to security checks.

• Where possible, NISQ will obtain (before the course begins) police or criminal record checks from the other country (or countries) in which they have lived. The DBS now provides helpful guides on how to seek comparable information on a country-by-country basis. If formal police or criminal record checks cannot be obtained, NISQ will take reasonable steps to seek information from applicants, including taking up references, and make their policy on this issue clear. NISQ are also aware of any requirements of professional bodies in these circumstances.