UNIVERSITY OF STIRLING

CRIMINAL CONVICTIONS POLICY AND PROCEDURE

**VERSION CONTROL STATEMENT**

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# **CRIMINAL CONVICTIONS POLICY AND PROCEDURE**

## **Purpose**

1. The University of Stirling strives to create a safe and welcoming community for our students, staff and visitors. We are also committed to widening access and within this, recognise the important role that higher education has in the rehabilitation of offenders.
2. In order to facilitate a safe environment, protect the University community, and ensure the suitability of applicants for a course of study, the University collects and records information on relevant unspent criminal convictions from applicants who have received an offer of admission to the University and from students.
3. In doing so, the University seeks to facilitate safety, fairness and transparency.
4. This policy and procedure sets out the University’s approach, requirements and expectations for criminal convictions and the arrangements in place to engage with applicants and students in respect of this.
5. The policy operates in conjunction with the University’s other Ordinances, policies, procedures, codes and regulations. This includes (but is not limited to), the Admissions Policy and Procedure, Ordinance 2: Code of Student Discipline, Data Protection Policy.

## **Scope**

1. The policy and procedure are applicable to University of Stirling applicants and students, whether undertaking study in person or online.

## **Points of Policy**

### **General**

1. The University collects information regarding criminal convictions on the basis of relevant legislation including the Rehabilitation of Offenders Act 1974. This legislation classifies individuals as rehabilitated after a specified time period, provided they do not receive any further convictions. After this specified time period the original conviction is considered as ‘spent’. There are however convictions which are never considered as spent such as where a custodial sentence longer than four years was applied, and there are professions where any conviction spent or unspent requires to be considered, these are termed as being exempt from the Rehabilitation of Offenders Act 1974.
2. The University has a number of programmes which involve regulated work with children and/or protected adults (as defined in the Protection of Vulnerable Groups (Scotland) Act 2007), which are exempt from the Rehabilitation of Offenders Act 1974. These programmes include, for example, Nursing, Social Work, Teacher Education, Paramedic Education, Doctorates in Health Psychology.
3. Applicants to these exempt programmes referred to in paragraph 8 are therefore required to declare all convictions including spent and unspent and should include sentences and cautions (including verbal). In addition, applicants are required to become a member of the [Protecting Vulnerable Groups (PVG)](https://www.mygov.scot/pvg-scheme?via=https://www.disclosurescotland.co.uk/disclosureinformation/pvgscheme.htm) membership scheme. Where an application is submitted for PVG membership, by a University of Stirling applicant, Disclosure Scotland will carry out a criminal record check and share that with the applicant and the University.
4. Applicants who are applying from outside of the UK are required to engage with the University’s arrangements regarding criminal convictions in the same way as other applicants, and their information is considered in the same way as that of a UK resident. Additionally, for applicants who live outside of the UK or who have been resident outside the UK in the previous five years, evidence of a current criminal record check is also required from the applicant’s home country/overseas country of residence along with a Certificate of Good Conduct or Police Certification.
5. Applicants are asked by the University to declare if they have any relevant unspent criminal convictions once they have received an offer of admission from the University.
6. Students are asked to declare this information on an annual basis within the enrolment process.
7. The consideration of any criminal convictions declared by an applicant must have been concluded before studies with the University can commence.
8. It is the responsibility of the applicant or student to provide comprehensive and accurate information to the University in line with the requirements of the Criminal Convictions Procedure and as required by the University to enable a full and appropriate consideration of information provided.
9. If an applicant/student fails to disclose information within the time-period requested, the University reserves the right to withdraw an offer or admission, in line with the Admissions Policy, and to take this into account within any action progressed under Ordinance 2: Code of Student Discipline.
10. Where an applicant or student reports an unspent conviction, the information is used by the University in line with the Criminal Convictions Procedure, and associated University ordinance, policy and procedure as appropriate. In addition, the University will seek additional information from the applicant or student where it considers this necessary.
11. Criminal convictions information is only used to inform considerations and make decisions about admission to the University and/or action required as appropriate through the Fitness to Practise or student disciplinary procedures, and the University will only ask for the information necessary for these purposes.
12. Information provided by applicants/students is held securely on the University’s systems and access is strictly limited to members of staff who are required to see it. The information provided, and other information relevant to the considerations undertaken by the University of any convictions declared, will be retained in line with specified data retention timelines and where information is not to be retained permanently it will be securely destroyed.
13. Information is collected, processed and retained by the University in line with the University of Stirling Privacy Notices for Applicants, Students and the General Data Protection Regulation (UK GDPR) / the Data Protection Act 2018. The University’s Privacy Notices are available here: [www.stir.ac.uk/privacy](http://www.stir.ac.uk/privacy).
14. The University maintains a Data Privacy Impact Assessment (DPIA) in respect of the collection and retention of data on criminal convictions. The DPIA acknowledges the sensitive nature of the data and the necessity of collection and processing.

### **Relevant Types of Convictions**

1. The University considers the following types of offence as being relevant and as such, any unspent convictions for these types of offence should be disclosed to the University:
2. Any kind of violence included (but not limited to) threatening behaviour, gender-based violence, offences concerned with intention to harm or offences which resulted in actual bodily harm.
3. Any sexual offences including those listed in the Sexual Offences Act 2003 or the Sexual Offences (Scotland) Act 2009.
4. Any offences listed in the Hate Crime and Public Order (Scotland) Act 2021.
5. The unlawful supply of controlled substances where the conviction charge concerns commercial drug dealing or trafficking.
6. Any kind of harassment including (but not limited to) stalking.
7. Offences listed in the Terrorism Act 2006.
8. Offences listed in Schedule 1 to the Protection of Vulnerable Groups (Scotland) Act.
9. Offences involving stalking.
10. Offences involving arson.
11. Offences involving theft.
12. Offences involving firearms.
13. Offences involving fraud or embezzlement.
14. Offences listed in the Bribery Act 2010.
15. Offences in the Criminal Finances Act 2017.
16. Offences listed in the Computer Misuse Act 1990.

## **Procedure**

### **General**

1. Where an applicant or student is in any doubt as to whether or not an unspent criminal conviction is relevant, informal advice may be sought from the University via: [studentconduct@stir.ac.uk](mailto:studentconduct@stir.ac.uk).
2. A range of information can also be sought externally to the University via these organisations Disclosure Scotland: [Disclosure Scotland - mygov.scot](https://www.mygov.scot/organisations/disclosure-scotland)

Citizens Advice Scotland: [Citizens Advice Scotland (cas.org.uk)](https://www.cas.org.uk/)

Nacro: [Applying for university and school | Criminal Record Advice | Nacro](https://www.nacro.org.uk/nacro-services/advice/advice-for-individuals/applying-for-university-and-schools/)

### **Applicants**

1. Where an applicant applies for a programme which is exempt from the Rehabilitation of Offenders Act 1974 (see paragraph 8), the University requests information about any relevant criminal convictions when the application is received and seeks a PVG membership application to be completed by the applicant.
2. For all applicants other than those applying for a programme which is exempt from the Rehabilitation of Offenders Act 1974, where the University makes an offer for admission, whether conditional or unconditional, the applicant will be asked to declare whether they have any relevant unspent criminal convictions, shortly after the offer is issued.
3. In respect of all relevant criminal convictions declarations, the information provided will be considered with regard to an applicant or offer holder’s suitability to join the profession that the programme of study relates to, and to join the University community as a student.
4. Where a relevant criminal conviction is declared, risk assessment is undertaken by the Student Conduct and Casework team to inform consideration of the declaration and decision-making on the suitability of the applicant, in light of the declaration.
5. Relevant convictions disclosed to the University are considered by appropriate senior staff such as the Deputy Principal (Education and Students), Deputy Secretary and Academic Registrar. In respect of applicants to a programme that is exempt from the Rehabilitation of Offenders Act 1974, the consideration will also include the Dean of Faculty or their appropriate nominee.
6. The outcome of the consideration of the declared information will be one of the following decisions:
7. Additional information is required from the applicant or a third party before a substantive decision can be made.
8. The applicant is suitable to join the University community / the profession.
9. The applicant is suitable to join the University community / the profession but only with certain conditions or restrictions.
10. The applicant is unsuitable to join the University community / the profession.
11. Where it is decided that an applicant is unsuitable to join the University community or be a member of the relevant profession, Admissions and Access will withdraw the application or offer of a place and the applicant will not be entitled to enrol as a student of the University.
12. Applicants may appeal against a decision made through this procedure only if there is significant additional information, which for good reason was not made available at the time of the decision and is directly relevant to the decision.
13. Any such appeal should be prepared in writing and directed to [appeals@stir.ac.uk](mailto:appeals@stir.ac.uk).

### **Students**

1. Current students are required to inform the University of any relevant criminal convictions they receive once they have been admitted to the University. On a continuing basis, students can provide such information to the University via [studentconduct@stir.ac.uk](mailto:studentconduct@stir.ac.uk).
2. In addition, as part of the annual enrolment process, current students are asked to declare any relevant unspent criminal convictions.
3. Relevant unspent convictions disclosed to the University are considered in line with [Ordinance 2, Code of Student Discipline](https://www.stir.ac.uk/about/professional-services/student-academic-and-corporate-services/policy-and-planning/university-calendar/ordinances/). As such, the University will consider the most appropriate action in the circumstances, taking account of the information provided by the student, and risk assessment undertaken by the Student Conduct and Casework team, and proceed with action as appropriate. This action may proceed under the provisions of Ordinance 2, or a Fitness to Practise procedure or both.