

**UNIVERSITY of
STIRLING**



CRIMINAL CHARGES AND CONVICTIONS POLICY AND PROCEDURE

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CRIMINAL CHARGES AND CONVICTIONS POLICY AND PROCEDURE

Purpose

1. The University of Stirling strives to create a welcoming community for our students, staff and visitors, and a safe environment in which students can study, live and work. 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 criminal charges and convictions from applicants who have received an offer of admission to the University and from current students. This subsequently enables appropriate consideration of the information, risk assessment and determination of potential mitigation measures to be undertaken.
3. In doing so, the University seeks to facilitate safety, fairness and transparency.
4. This policy and procedure set out the University's approach, requirements and expectations for criminal charges and convictions and the arrangements in place to engage with applicants and students and take appropriate follow up actions 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 and the Data Protection Policy.

Scope

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

Points of Policy

General

7. The University collects information regarding criminal charges and convictions, in line with the Higher Education sector baseline approach in Scotland, on the basis of relevant legislation including the General Data Protection Regulation (UK GDPR) / the Data Protection Act 2018, and the Rehabilitation of Offenders Act 1974.

8. The Rehabilitation of Offenders Act 1974 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.
9. 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.
10. Applicants to exempt programmes such as those referred to in paragraph 9 are therefore required to declare criminal charges and 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) 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.
11. Applicants who are applying from outside of the UK are required to engage with the University's arrangements regarding criminal charges and 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. If any documentation that is required to be submitted is in a language other than English, it must be accompanied by an official, genuine translation into English (the translation cannot have been completed by the applicant). Only original documents can be accepted.
12. Applicants are required by the University to declare if they have any relevant criminal charges and/or unspent criminal convictions once they have received an offer of admission from the University.
13. The consideration of any criminal charges or convictions declared by an applicant within the admissions process must have been concluded before any studies with the University can commence.

14. Current students are required to declare if they have any relevant criminal charges and/or unspent criminal convictions on an annual basis within the enrolment process. In addition, any relevant criminal charges and/or convictions received after the annual enrolment process has been concluded, should be reported to the University without delay via studentcasework@stir.ac.uk.
15. Where a student has criminal charges or convictions in/from a country outside of the UK, these must be declared in the same way as UK charges or convictions, and the information will be considered in the same way as information on UK charges or convictions. If any documentation that is required to be submitted is in a language other than English, it must be accompanied by an official, genuine translation into English (the translation cannot have been completed by the student). Only original documents can be accepted.
16. 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 Charges and Convictions Procedure and as required by the University to enable a full and appropriate consideration of information provided.
17. If an applicant/student fails to disclose information within the time-period specified by the University, the University reserves the right to withdraw an offer of admission, in line with the Admissions Policy, and to take this into account within any action progressed, such as for example, under Ordinance 2: Code of Student Discipline.
18. Where an applicant or student reports a criminal charge or an unspent conviction, the information is used by the University in line with the Criminal Charges and 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.
19. Criminal charges and convictions information is only used to inform considerations and make decisions about admission to the University and/or action required as appropriate in respect of a current student, to enable the University to maintain a safe learning, living and working environment, and the University will only ask for the information necessary for these purposes.
20. A declaration of a criminal charge or conviction will not necessarily put an applicant's admission to the University or a student's continuation as a student at risk. In some circumstances however, it may be decided that an applicant is not suitable to be admitted, or that a student cannot continue studies with the University.

21. 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.
22. Information is collected, processed and retained by the University in line with the General Data Protection Regulation (UK GDPR) / the Data Protection Act 2018 and the University of Stirling Privacy Notices for Applicants and Students. The University's Privacy Notices are available here: www.stir.ac.uk/privacy.

Relevant Types of Charges and Convictions

23. The University considers the following types of offence as being relevant and as such, any charges or unspent convictions for these types of offence should be disclosed to the University:
 - a. Offences relating to any kind of violence. This includes (but is not limited to) threatening behaviour, gender-based violence, offences concerned with intention to harm or offences which resulted in actual bodily harm.
 - b. Any sexual offences. This includes (but is not limited to) those listed in the Sexual Offences Act 2003 or the Sexual Offences (Scotland) Act 2009.
 - c. Any type of hatred offence. This includes those listed in the Hate Crime and Public Order (Scotland) Act 2021.
 - d. The unlawful supply of controlled substances where the conviction or charge concerns commercial drug dealing or trafficking.
 - e. Any kind of harassment.
 - f. Any terrorism offences. This includes (but is not limited to) those listed in the Terrorism Act 2006.
 - g. Any offences involving harm to children. This includes those listed in Schedule 1 to the Protection of Vulnerable Groups (Scotland) Act 2007.
 - h. Offences involving stalking.
 - i. Offences involving arson/wilful fire raising.
 - j. Offences involving theft.
 - k. Offences involving firearms.
 - l. Offences involving fraud or embezzlement.
 - m. Offences involving bribery. This includes (but is not limited to) those listed in the Bribery Act 2010.
 - n. Offences involving criminal finances. This includes (but is not limited to) those listed in the Criminal Finances Act 2017.
 - o. Offences involving computer misuse. This includes (but is not limited to) those listed in the Computer Misuse Act 1990.

Procedure

General

24. Where an applicant or student is in any doubt as to whether or not a criminal charge or conviction is relevant, informal advice may be sought from the University via: studentcasework@stir.ac.uk.
25. 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)
Citizens Advice Scotland: [Citizens Advice Scotland \(cas.org.uk\)](https://www.cas.org.uk)
Nacro: [Applying for university and school | Criminal Record Advice | Nacro](#)

Applicants

26. Where an applicant applies for a programme which is exempt from the Rehabilitation of Offenders Act 1974 (see paragraphs 8, 9 and 10), the University requests information about any relevant criminal charges and convictions when the application is received and seeks a PVG membership application to be completed by the applicant.
27. 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 required to declare whether they have any relevant criminal charges or unspent criminal convictions, shortly after the offer is issued.
28. In respect of all declarations of relevant criminal charges and convictions, the information provided will not automatically prevent an applicant from being admitted as a student. The information 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.
29. Where a relevant criminal charge or 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.
30. Relevant charges and convictions disclosed to the University are considered and decided upon by appropriate senior staff. This consideration and decision-making is generally undertaken by the Academic Registrar (or their appropriate nominee), but may also be undertaken by the Deputy Secretary, or a Deputy Principal as required. In respect of applicants to a programme that is exempt from the Rehabilitation of Offenders Act 1974, the consideration may also include the Dean of Faculty or their appropriate nominee as required.

31. The outcome of the consideration of the declared information will be one of the following decisions:
 - a. Additional information is required from the applicant or a third party before a substantive decision can be made.
 - b. The applicant is suitable to join the University community / the profession.
 - c. The applicant is suitable to join the University community / the profession but only with certain conditions or restrictions.
 - d. The applicant is unsuitable to join the University community / the profession.
32. In all cases, the applicant will be notified of the outcome.
33. 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.
34. Applicants may request a review of a decision made through this procedure only if there is significant additional information provided which, for good reason, was not made available at the time of the decision and is directly relevant to the decision, and only within 14 days of the notification of the outcome decision.
35. Any such request should be prepared in writing and submitted, along with the significant additional information, to studentcasework@stir.ac.uk.
36. Where a request for review is received, the request and the additional information provided will be considered by the original decision maker and one other of the Academic Registrar, or Deputy Secretary or a Deputy Principal, who will decide whether:
 - a. The additional information provided does not necessitate any revision to the original decision. In this circumstance, the original decision will stand, and this will be the University's final decision on the matter.
 - b. The additional information provided does necessitate a revision to the original decision. In this circumstance, those reviewing the decision will decide how the original decision should be varied, within the scope of the outcomes set out in paragraph 30, and this will be the University's final decision on the matter.

Students

37. Current students are required to inform the University of any relevant criminal charges and convictions they receive after they have been admitted to the University. On a continuing basis, students can provide such information to the University via studentcasework@stir.ac.uk.

38. In addition, as part of the annual enrolment process, current students are asked to declare any relevant criminal charges and unspent criminal convictions.
39. A declaration of a relevant criminal conviction or charge will not automatically prevent a student from continuing to study with the University, however relevant charges and unspent convictions disclosed to the University are considered within the framework of Ordinance 2, Code of Student Discipline. As such, in the first instance, 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.
40. This consideration will inform any follow up action that may be appropriate. Follow up action will be determined on a case-by case basis. Such action may include the implementation of mitigating arrangements or measures within the student's continuing study. Follow up action may also include the progression of disciplinary action in line with Ordinance 2, or action under the Fitness to Study Policy/Procedure or a Fitness to Practise procedure, or any combination of these.
41. Progression of such action may result in a range of outcomes in line with the provisions of the relevant procedure. One such potential outcome, aligned with paragraph 19 of the Criminal Charges and Convictions Policy, is that a student cannot continue studies with the University.