

**CRIMINAL CONVICTION  
POLICY AND PROCEDURE**

<b>Approved by</b>	Elizabeth Hancock		
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# Criminal Convictions Policy and Procedure

## 1. INTRODUCTION

This Criminal Convictions Policy and Procedure ("CCPP") details why and how the University collects, records and uses information on "relevant offences" committed by offer holders or students.

## 2. PURPOSE

- 2.1. It is necessary for the Robert Gordon University to take appropriate steps in order to maintain a safe environment our University community.
- 2.2. A criminal record may also affect an individual's ability or suitability to complete their chosen studies.
- 2.3. This CCPP aims to ensure that the University treats offer-holders and students in a non-discriminatory manner and in accordance with current legislation (including the Rehabilitation of Offenders Act 1974 and the Data Protection Act 2018) and relevant guidance.

## 3. WHO DOES THIS POLICY AND PROCEDURE APPLY TO?

- 3.1. This CCPP applies to students and offer holders for courses which do not require a Disclosure Scotland check.
- 3.2. Students studying the courses listed below are required to disclose criminal convictions in accordance with the terms of their application and the regulations set out on the Disclosure Scotland website.

Social Work  
Applied Sport and Exercise Science  
Diagnostic Radiography  
Dietetics  
Occupational Therapy  
Physiotherapy  
Sports Coaching  
Midwifery  
Nursing  
Pharmacy

- 3.3. This CCPP covers unspent criminal convictions for relevant offences received by offer-holders and students in any country.

## 4. WHAT INFORMATION?

4.1. For the purposes of this CCPP, **relevant offences** means an offence within the following categories:

- 4.1.1. 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;
- 4.1.2. Offences listed in the Sexual Offences Act 2003 or the Sexual Offences (Scotland) Act 2009;
- 4.1.3. The unlawful supply of controlled drugs or substances where the conviction concerns commercial drug dealing or trafficking;
- 4.1.4. Offences involving firearms;
- 4.1.5. Offences involving arson;
- 4.1.6. Offences involving fraud or embezzlement;
- 4.1.7. Offences involving theft;
- 4.1.8. Offences listed in the Terrorism Act 2006;
- 4.1.9. Offences listed in Schedule 1 to the Protection of Vulnerable Groups (Scotland) Act 2007
- 4.1.10. Offences listed in the Bribery Act 2010
- 4.1.11. Offences listed in the Criminal Finances Act 2017
- 4.1.12. Offences listed in the Computer Misuse Act 1990

## 5. WHY DO WE ASK FOR THIS INFORMATION?

5.1. We ask for this information so that we can:

- identify, assess and manage any potential risks which a conviction may create for others in the university environment,
- identify if a particular criminal record will affect an individual's ability or suitability to complete their chosen studies,
- where appropriate, put any appropriate additional support arrangements in place, and
- where appropriate, put suitable risk management arrangements in place in respect of a offer-holder's/student's studies with the University.

5.2 Robert Gordon University recognises the confidentiality and sensitivity of information relating to criminal records, and the importance of ensuring that individuals are not unjustifiably restricted from undertaking higher education as a result of their criminal record.

5.3 The University's student recruitment and student privacy notices can be viewed [here](#)

5.4 The University will retain the information contained within the disclosure from the time of receipt for the following periods:

- for offer holders who do not become students – current academic year plus one year, and
- for students –the end of their student status plus six years.

The information will then be destroyed securely within six months of the stipulated retention periods.

5.5 Where an offer holder/student fails to disclose a relevant conviction in accordance with this CCPP:

- the University reserves the right to withdraw or cancel an offer, and
- students will be subject to appropriate action(s) under the University's Academic Regulations.

5.6 Failure to declare a relevant conviction as required under this CCPP is taken very seriously by the University.

## 6. PROCEDURE

6.1 When an offer holder or student discloses an unspent conviction for a relevant offence via the [online form](#) during the admissions or re-enrolment process, or at any other time in their studies, the following procedure shall be used:

6.1.1 A panel shall be convened within 10 working days to risk assess the offer holder/student's declaration.

6.1.2 The panel shall consist of the following university staff:

- Director of Student Life or nominee,
- A Head of School (not associated with the applicant's proposed school of study), and
- Head of Occupational Health and Environmental Safety or nominee.

6.1.3 The Head of Admissions or nominee will facilitate the process for applicants and the University Solicitor or nominee will facilitate the process for current or returning students.

6.1.4 The panel will undertake their risk assessment of the declaration on a redacted "no names" basis.

6.1.5 The panel may seek external advice from a relevant regulatory body.

6.1.6 The panel will normally notify their decision in writing, via the appropriate facilitator, to the offer holder/student and the relevant department(s) within 5 working days of their meeting.

- 6.1.7 The panel may request further information via the facilitator, and in such circumstances their decision will normally be notified to the holder/student within 5 working days of the information being received by the panel. If further information is requested but not forthcoming within the timescale stated by the panel, the panel may complete their risk assessment with the information they have.

## **7. DECISIONS**

- 7.1. The decision of the panel will be one of the following:
1. The offer holder/student may continue their student journey without any restrictions or risk management arrangements.
  2. The offer holder/student may continue their student journey subject to certain restrictions or risk management arrangements.
  3. In the case of an applicant, their offer is withdrawn on the basis that their conviction(s) present one or more risks that cannot be appropriately managed in the University environment.
  4. Where the panel decide that a student's conviction(s) present one or more risks that cannot be appropriately managed in the University environment, this will be communicated to the student's Head of School and a recommendation will be made in respect of non-academic misconduct.

## **8. APPEALS – OFFER HOLDERS**

- 8.1 An offer holder who is dissatisfied with the outcome may seek reconsideration by submitting an [Admission Appeal Form](#)

## **9. APPEALS – STUDENTS**

- 9.1 Students who are dissatisfied with the panel's outcome may submit an appeal to [declare@rgu.ac.uk](mailto:declare@rgu.ac.uk) Appeals must be submitted within 10 working days of the outcome being notified to them and will be considered only on the following grounds:
- (i) there has been a significant procedural irregularity or material error in the risk assessment resulting in an unfair or unreasonable decision, or
  - (ii) there is significant new information now available which was not available at the time of the risk assessment.
- 9.2 The Assistant Chief Academic Officer or nominee will consider the submitted appeal and will provide a response to the student normally no later than 5 working days following the receipt of the appeal. This decision is final.

## **10. DATA PROTECTION**

10.1 The University processes personal data relating to criminal convictions from students and offer holders.

10.2 In doing so the University complies with the provisions of both the General Data Protection Regulation (GDPR) and the Data Protection Act 2018 (DPA 2018).

10.3 The lawful basis the university relies on in processing this data is Article 6.1(b) and /or 6.1(e) GDPR, and under Article 10 GDPR ( read in conjunction with section 10 of DPA 2018) on the following conditions:

10.3.1 Paragraph 10 of schedule 1 DPA 2018 ( processing is necessary for the purposes of prevention or detection of an unlawful act), on the basis the university wishes to prevent students and staff coming to harm because of further unlawful acts by the applicant/student; and

10.3.2 Paragraph 18 of Schedule 1 DPA 2018 (processing is necessary for safeguarding, i.e. protecting under 18's and at risk adults from neglect or physical, mental or emotional harm).

10.4 Information about how the University uses your information and your rights in relation to that use can be found [here](#)

## 11. Process Flowchart

