



**ROBERT GORDON
UNIVERSITY ABERDEEN**

Student Criminal Charges and Convictions Policy



Approved by	The Executive		
Date Approved	April 2023	Status	Approved
Policy Author	University Solicitor	Impact Assessed	Yes
Version	2	Date of next review	April 2026

Version Number	Purpose/Change	Date
1	Creation of Policy	July 2019
2	The policy has been reviewed inline with recent sector learnings on criminal charges and serious offences. This includes; increasing the scope of declarations to include criminal charges and investigations, data protection legislation compliance, international coverage, centralised records, clarity on the procedure following the declaration and the appeals process.	April 2023

CRIMINAL CONVICTIONS

1. Policy Statement

- 1.1 Robert Gordon University has a commitment to ensuring a safe and secure environment for the whole University community. This Policy outlines the University's stance and procedure with regards to registered students and offer holders (hereinafter referred to collectively as 'Student' or 'Students') who have any of the following:
 - 1.1.1 An Unspent Criminal Conviction; which are convictions, that would not yet be considered spent under the Rehabilitation of Offenders Act 1974 or a criminal conviction arising outside of the UK where, had it occurred in the UK would be considered unspent. For the avoidance of doubt, as a Scottish University, the University adopts the rehabilitation rules as they apply in Scotland;
 - 1.1.2 A pending Criminal Charge; a formal accusation or investigation by a law enforcement authority relating to a relevant crime as detailed in clause 4.1 of this Policy;
 - 1.1.3 A relevant Spent Conviction in terms of the Rehabilitation of Offenders Act 1974 which must be disclosed by nature of the programme of study being undertaken by the Student. This applies to Students of the programmes of study listed in clause 3 of this Policy.
- 1.2 This Policy applies to all Students regardless of their programme of study. And applicants to PSRB Courses as defined in clause 3.
- 1.3 Failure by a Student to comply with this Policy is a disciplinary matter and may lead to a non-academic misconduct procedure.

- 1.4 This Policy aims to ensure that the University treats Students in a non-discriminatory manner and in accordance with applicable legislation (including the Rehabilitation of Offenders Act 1974 and the Data Protection Act 2018) and relevant guidance.

2. Why we ask for this information?

- 2.1 We ask for this information so that we can:
- 2.1.1 identify, assess, and manage any potential risks which a charge or conviction may create for others in the university environment,
 - 2.1.2 identify if a particular criminal record will affect an individual's ability or suitability to complete their chosen studies,
 - 2.1.3 where appropriate, put any appropriate additional support arrangements in place, and
 - 2.1.4 where appropriate, put suitable risk management arrangements in place in respect of a Student's studies with the University.
- 2.2 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. The University's student recruitment and student privacy notices are available on the [data protection webpage](#).

3. Students Applying for or Registered for a PSRB Course

- 3.1 Students applying to or registered for certain programmes of study at RGU must also comply with the requirements of Professional, Statutory and Regulatory Bodies (PSRBs). These PSRBs each maintain their own specific requirements with regards to criminal convictions and proceedings.
- 3.2 In such instances the relevant School is best placed to assess these requirements and apply procedures with regards to Students applying to or registered for PSRB courses.

3.3 As such Students applying to, or registered on, any variation of the following Courses are required to declare any criminal convictions and charges in accordance with the terms of their application and the regulations set out on the Disclosure Scotland website to their individual School.

3.3.1.1 Social Work

3.3.1.2 Applied Sport and Exercise Science

3.3.1.3 Diagnostic Radiography

3.3.1.4 Dietetics

3.3.1.5 Occupational Therapy

3.3.1.6 Physiotherapy

3.3.1.7 Sports Coaching

3.3.1.8 Midwifery

3.3.1.9 Nursing

3.3.1.10 Pharmacy

3.3.1.11 Paramedic Practice

3.3.1.12 Any other course which the University may offer from time to time where a PSRB sets specific requirements. Such courses will be clearly marked by the University.

3.4 Declarations by such Students will be administered by their relevant School in line with relevant PSRB regulation and RGU's wider statutory and legal obligations including Data Protection. Retention of such data will be in line with this policy unless the relevant PSRB regulation requires longer retention.

- 3.5 Where necessary, the School will inform other University services, such as accommodation, on the outcome of their determination regarding a PSRB course Student.
- 3.6 It is noted these Students are also subject to Fitness to Practise requirements and the correlating Academic Regulations throughout the duration of their studies.

4. All other Students

4.1 Relevant Unspent Criminal Conviction or Criminal Charge

4.1.1 For the purposes of this Policy, all Students, except those outlined clause 3 of this Policy, must declare any Unspent Criminal Convictions or Criminal Charges which refer to relevant offences. For the purposes of this Policy, relevant offences are serious offences that include but are not strictly limited to those which fall within the following:

- 4.1.1.1 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;
- 4.1.1.2 Offences listed in the Sexual Offences Act 2003 or the Sexual Offences (Scotland) Act 2009;
- 4.1.1.3 The unlawful supply of controlled drugs or substances where the conviction concerns commercial drug dealing or trafficking;
- 4.1.1.4 Offences involving firearms;
- 4.1.1.5 Offences involving arson;
- 4.1.1.6 Offences involving fraud or embezzlement;
- 4.1.1.7 Offences involving theft;

- 4.1.1.8 Offences listed in the Terrorism Act 2006;
- 4.1.1.9 Offences listed in Schedule 1 to the Protection of Vulnerable Groups (Scotland) Act 2007
- 4.1.1.10 Offences listed in the Bribery Act 2010
- 4.1.1.11 Offences listed in the Criminal Finances Act 2017
- 4.1.1.12 Offences listed in the Computer Misuse Act 1990
- 4.1.1.13 Offences as defined by the Domestic Abuse (Scotland) Act 2018
- 4.1.1.14 Hate Crime and Public Order (Scotland) Act 2021
- 4.1.1.15 Any conviction involving an offence similar to those set out above, made by a court outside the UK

4.2 Declaration

- 4.2.1 During the admissions process and at each enrolment thereafter, a Student must declare any relevant Unspent Criminal Convictions or Criminal Charges. If a Student acquires a relevant Unspent Criminal Conviction or Criminal Charge at any point during their studies, they have a duty to immediately submit a disclosure form on the [University webpage](#).
- 4.2.2 Students are expected to promptly provide full, accurate and detailed information to the greatest extent possible regarding the relevant Unspent Criminal Conviction or Criminal Charge. This may include but is not limited to details surrounding the circumstances of the relevant Unspent Criminal Conviction or Criminal Charge, details of any restrictions which they are subject to by virtue of bail conditions or sentencing, any relevant Court papers or contact details for their Social Worker or Solicitor. This information is required to ensure that the Panel are able to fully evaluate the relevant circumstances and complete an accurate assessment of the risks. It is often in the Students' best interests to disclose as much information as possible and they are encouraged to do so early in the process.

4.2.3 Failure to declare or provide full, timely and accurate information about any relevant Unspent Criminal Convictions or Criminal Charges as required under this Policy will be taken very seriously by the University. Where a Student fails to disclose a relevant Unspent Criminal Conviction or Criminal Charge in accordance with this Policy or comply with clause 4.2.2, the University reserves the right to withdraw or cancel an offer, and registered students will be subject to appropriate action(s) under the University's Academic Regulations.

4.3 Initial Review

4.3.1 Where a Student discloses a relevant Unspent Criminal Conviction or Charge, the Head of Admissions or nominee will facilitate the process for offer holders and the University Solicitor or nominee will facilitate the process for current or returning students.

4.3.2 The Head of Admissions or nominee or the University Solicitor or nominee, as applicable, will review the initial submission from the Student to confirm that the declaration received falls within the remit of this Policy. They shall also review the information received by the Student and may request further information from the Student in accordance with clause 4.2.2.

4.4 Criminal Convictions and Charges Panel

4.4.1 The Head of Admissions or nominee or the University Solicitor or nominee, as applicable will act as a facilitator and arrange a Panel to risk assess the Student's declaration usually within 10 working days of receipt of the declaration. A longer time period may be necessary where a Student does not provide sufficient information per clause 4.2.2 and the facilitator is required to request further details.

4.4.2 The Panel shall consist of the following university Staff:

4.4.2.1 Director of Student Life or nominee,

4.4.2.2 A Dean of School or nominated Associate Dean of School, and

4.4.2.3 Head of Occupational Health and Environmental Safety or nominee.

4.4.3 The Panel may seek advice from the University Solicitor or relevant external body. This may include directing the relevant facilitator to consult with the Student's social worker where applicable.

4.4.4 The panel will notify their decision to the relevant facilitator immediately following the Panel meeting. Thereafter, the appropriate facilitator will normally inform the Student in writing of the outcome within 5 working days of the Panel meeting.

4.4.5 If the Panel determine they require further information from the Student to undertake their risk assessment, they may request further information via the relevant facilitator who will remind the Student of their duty under clause 4.2.2. Where further information is provided, the Panel's 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.

4.4.6 The relevant facilitator will inform other University Staff as necessary of the Outcome of the Panel. For example, it may be necessary for the University accommodation team (where the student is resident in University owned or managed accommodation) or for the Student's School to be informed of any restrictions placed upon the Student.

4.5 Outcomes

4.5.1 Unspent Criminal Convictions

4.5.1.1 Where the Student has a relevant Unspent Criminal Conviction, the decision of the panel will be one of the following:

1. The Student may continue their student journey without any restrictions or risk management arrangements.
2. The Student may continue their student journey subject to certain restrictions or risk management arrangements. This may include restrictions to accessing campus facilities and university owned or managed accommodation.
3. In the case of an offer holder, 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 registered Student's conviction(s) present one or more risks that cannot be appropriately managed in the University environment, and where applicable, this will be communicated to the Student's Dean of School and a recommendation will be made in respect of non-academic misconduct. In this instance the Panel may also refer the registered Student to the Principal for Suspension under the relevant Academic Regulations pending the outcome of the Misconduct Hearing.

4.5.2 Pending Criminal Charges

4.5.2.1 Where the Panel are asked to consider a relevant Criminal Charge it must be acknowledged that the Panel are not a court process and they are not making a determination on whether the Student is guilty or not of their relevant Criminal Charge. The Panel are only making an assessment as to the suitability of the Student to be part of the RGU community on a balance of probabilities and the risk of harm to the University community. The Panel must ensure that their decision-making process is not based on reputational risk to the University. The University Solicitor or nominee shall provide advice and support to Panel on the decision-making process to ensure that any decision made by the panel does not unduly impede on the Student journey of a Student with a relevant Criminal Charge.

4.5.2.2 Where the Student has a relevant Criminal Charge, the decision of the panel will be one of the following:

1. The Student may continue their student journey without any restrictions or risk management arrangements.
2. The Panel may refer a registered student to the Principal for consideration of Suspension under the relevant Academic Regulations pending the outcome of the criminal trial.
3. Where applicable, the Panel may refer a registered student to the Student's Dean of School and a recommendation will be made in respect of non-academic misconduct.

4. In the case of an offer holder, their application may be deferred or may proceed but with certain conditions for example may be subject to certain restrictions or risk management conditions pending the outcome of the criminal trial. Any offer holder with a relevant Criminal Charge who goes on to become a registered student must still comply with this policy should their charge become an Unspent Criminal Conviction. For the avoidance of doubt, this requires Students to resubmit a declaration at the point they are found guilty or otherwise receive an Unspent Criminal Conviction.

5. Right to Appeal

5.1 Offer Holders

- 5.1.1 An offer holder who is dissatisfied with the outcome may seek a consideration by submitting an [Admission Appeal Form](#).

5.2 Registered Students

- 5.2.1 Students who are dissatisfied with the panel's outcome may submit an appeal to 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.
- 5.2.2 A Vice Principal 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.

6. Retention and Reporting

- 6.1 All information in regards to a Student disclosure will be held and processed in accordance with the University's Information Governance Policy. Personal information about Students should only be disclosed to University staff where strictly necessary.
- 6.2 The University will retain the information contained within the disclosure from the time of receipt for the following periods:
 - 6.2.1 for offer holders who do not become registered students – current academic year plus one year, and
 - 6.2.2 for registered students –the end of their student status plus six years.
- 6.3 The information will then be destroyed securely within six months of the stipulated retention periods.

7. Data Protection

- 7.1 The University processes personal data relating to criminal convictions from students and offer holders. This Policy considers a balance between the rights and freedoms of students and the safety and wellbeing of other students and staff.
- 7.2 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).
- 7.3 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:

- 7.3.1 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 offer holder/student; and
- 7.3.2 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).
- 7.3.3 Paragraph 11 of Schedule 1 DPA 2018 (processing is necessary for the exercise of a protective function)
- 7.3.4 Information about how the University uses your information and your rights in relation to that use can be found on the [data protection webpage](#).

8. Review

- 8.1 This policy will be reviewed every three years or as required.



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