

PROCEDURE FOR MANAGING STUDENTS WITH CRIMINAL PROCEEDINGS AND UNSPENT CRIMINAL CONVICTIONS

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1.0	A procedure for managing cases where students hold, or incur, unspent criminal convictions	Education Enhancement	Senate – 1 st June 2022	From academic year 2021/22 onwards

Version 1.0

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INTRODUCTION

1. The University has a commitment to protect students, staff and other stakeholders by providing a safe and secure environment for all. This Procedure focuses on situations where the University is informed that a registered student or applicant (known hereafter as 'Student') has:
 - a. An unspent criminal conviction, which are convictions that have not yet reached a set period of time as defined by the Rehabilitation of Offenders Act 1974. These convictions are therefore active and will appear on a basic criminal record disclosure check.
 - b. A criminal conviction arising outside the UK which, had it occurred in the UK, would be considered an unspent criminal conviction as described in a above;
 - c. A potential pending criminal charge; a charge which, upon becoming a conviction, is an unspent conviction;
 - d. A relevant spent conviction which must be disclosed because of the nature of the programme e.g., the programme involves working with children or protected adults and a Disclosure Scotland Protecting Vulnerable Groups (PVG) criminal record disclosure check is required. Spent convictions are convictions that have reached a set period, (as defined by the Rehabilitation of Offenders Act 1974), and are removed from an individual's criminal record.
2. The categories outlined in paragraph 1 above are referred to hereafter in this Procedure as *Relevant Conviction or Charge*.
3. It is important to note that this Procedure does not constitute a legal or criminal process, however the Procedure is underpinned by the University's legal, moral and ethical duty towards all members of the University (students, staff, visitors and other stakeholders).
4. All students of the University of Strathclyde are subject to the jurisdiction of the [Senate](#), the academic governing body of the University. Senate delegates its authority for managing cases where a *Relevant Conviction or Charge* is declared or discovered, to the roles and groups defined within this Procedure.
5. Some programmes of study, and some University volunteering initiatives, such as those that involve contact with children, protected adults or vulnerable people require students to be subject to a criminal record disclosure check. In Scotland, this process is managed and delivered by Disclosure Scotland. If a disclosure check is a requirement for a particular programme of study, this will be arranged by the relevant Faculty/Department/School. Some programmes of study require students to become members of the PVG Scheme. Disclosure Scotland continually monitors PVG scheme members' records for vetting information including criminal convictions that may affect their suitability to work with vulnerable groups. The University has a Lead Signatory for the PVG Scheme.
6. Senate delegates authority to the Professional Lead (see paragraph 13), and the Criminal Convictions Panel (see paragraph 22) to make decisions on behalf of Senate, at application stage, annual registration stage and during registration, regarding a Student's registration or

continued registration at the University of Strathclyde. These decisions are not referred to Senate for approval, however Senate does receive anonymised reports on the outcome of cases heard by the Professional Lead and the Criminal Convictions Panel (see paragraph 40).

7. Students undergoing this process are encouraged to contact the University's [Disability & Wellbeing Service](#) for support, and to contact the [StrathUnion Advice Hub](#) for advice and guidance. Students and offer holders studying on a visa, are encouraged to contact the [International Support Team](#) for advice and to identify any visa implications related to this process.
8. This Procedure has an associated right to appeal, set out in paragraph 27 onwards below. Students and offer holders also have the right to make a complaint at any point in during this process, through the University's [Complaints Handling Procedure](#).

DECLARING A RELEVANT CONVICTION OR CHARGE

9. The University publishes on its website information relating to applying or continuing to study when a Student has a *Relevant Conviction or Charge*.
10. At application stage and at each registration stage (for programmes of study that require a criminal record disclosure check), a Student must declare any *Relevant Convictions or Charges*.
11. If a Student acquires a *Relevant Conviction or Charge* at any point during their studies, they have a duty to immediately update their record on Pegasus. Where the *Relevant Conviction or Charge* relates to a Student who is on a programme of study that requires a criminal record disclosure check, Student Business should immediately inform the relevant Faculty/Department/School, and also email disclosure@strath.ac.uk.
12. Any failure to declare a *Relevant Conviction or Charge* will lead to automatic escalation to Stage 2 of this Procedure if the *Relevant Conviction or Charge* is discovered later.

STAGE 1: INITIAL ASSESSMENT

13. A senior member of the University's Directorate of Student Experience, known hereafter as the Professional Lead, will manage Stage 1 of this Procedure. Where a criminal record disclosure check is required, the PVG Lead Signatory should be involved at this stage. If the Student is on a programme of study that requires membership of Disclosure Scotland's PVG Scheme, the Student's access to placement and/or studies may be restricted until the completion of this Procedure e.g. the commencement date of a placement may be postponed pending the completion of this Procedure.
14. In the first instance, the Professional Lead will gather relevant information from the Student and the programme team, to inform an assessment of the *Relevant Conviction or Charge*, which the Student must provide within five working days of receiving a request from the Professional Lead. This should include all information of relevance, such as:

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- a. The nature of the *Relevant Conviction or Charge*;
 - b. The period set for this to be spent;
 - c. Confirmation, from the programme team, of whether the *Relevant Conviction or Charge* is one which must be disclosed because of the nature of the programme of study;
 - d. Any additional information the Student can provide, for example from the Probation Service, Social Services, or independent references or reports.
15. Where the programme of study requires an updated criminal record disclosure check, the Student will be required to complete the necessary application process and cover any associated costs.
16. If a Student declares a *Relevant Conviction or Charge* but fails to engage appropriately with the gathering of information at Stage 1 within the set timescales, the Professional Lead may take the following action:
- a. If, after five working days from the Professional Lead contacting the Student to request the information outlined in paragraph 14, a Student has failed to respond to a request for further information or fails, without good reason, to provide reasonably sufficient information to enable an appropriate assessment, a first warning may be issued by the Professional Lead that any further delay or inadequacy in response may result in suspension of registration and escalation to Stage 2 of this Procedure;
 - b. If, after a further five working days, following a warning issued under paragraph 16a above, a Student continues to fail to respond or fails to provide reasonably sufficient information to enable an appropriate assessment, the Student's studies may be temporarily suspended with a second warning that further delay or inadequacy in response will result in escalation to Stage 2 of this Procedure, with a recommendation to the Board of Study that the Student be withdrawn;
 - c. If a Student fails to respond appropriately within five working days after a second warning, under paragraph 16b, the case will be escalated to Stage 2 of this Procedure with a recommendation to the Board of Study that the Student be withdrawn.
17. Once the Professional Lead has acquired the full details of the *Relevant Conviction or Charge*, they will carry out a risk assessment in consultation with the relevant academic department or school, usually within 30 working days of receipt of the information outlined in paragraph 14 above. This will be conducted using the University's Criminal Conviction Risk Assessment Form and will identify one of the following outcomes regarding the Student's registration:
- a. That the Student's registration should remain active and that no further action is required;
 - b. That the Student's registration should remain active, subject to conditions set by the Professional Lead. Typically, these conditions will focus on conduct during registration and may include requirements to report to an appropriate member of

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staff on a defined schedule or to provide regular reports from an external source, such as a Probation Officer or other service provider supporting rehabilitation. Any set conditions that are not met will result in the case being escalated immediately to Stage 2 of this Procedure;

- c. That the Student's registration potentially poses a risk to students and staff and that the case should be escalated to Stage 2 of this Procedure and a Criminal Convictions Panel should convene to consider the case.

18. The Professional Lead will articulate the outcome of Stage 1 to the Student in writing, usually within ten working days of completion of the risk assessment. For outcome 17.b above, the Professional Lead will require the Student to confirm, in writing, that they have understood the conditions set and agree to meet these conditions. Failure to confirm and agree to the conditions set will result in escalation to Stage 2 of this Procedure. In the case of outcome 17.c above, the Professional Lead will immediately refer the case to Stage 2 of this Procedure.

19. All outcomes relating to paragraph 17.a and 17.b will be reported to the Director of Student Experience. All outcomes relating to paragraph 17.c will be reported to the University Secretary.

20. If the Student's behaviour is having a negative impact on other students and staff, either in terms of disruption or in a manner which raises safety concerns (both for the Student or anyone else), the Student may be restricted from accessing University services, buildings and/or other property, as a precautionary measure.

21. The decision of the Professional Lead is final and there is no right of appeal at Stage 1. The Student can contact the [Scottish Public Services Ombudsman](#) for advice, should they wish to make a complaint to the Ombudsman regarding the outcomes of a Stage 1 Initial Assessment. It is important to note that the Ombudsman will not be able to consider a complaint until the University of Strathclyde's own [Complaints Handling Procedure](#) has been followed and completed.

STAGE 2: CRIMINAL CONVICTIONS PANEL

22. Senate delegates authority to a Criminal Convictions Panel (a constituted Sub Committee of Senate, see Constitutional Regulations ([1.5.14 to 1.5.16](#))) to review and make decisions on Stage 2 cases relating to Relevant Convictions or Charges. Criminal Conviction Panel membership will comprise:

- a. The Director of Student Experience (or nominee) who acts as Panel Convener. This individual cannot be the Stage 1 Professional Lead. If a vote is needed regarding the Criminal Convictions Panel hearing outcomes, the Director of Student Experience will hold the casting vote;
- b. A representative from the Faculty within which the Student is registered or to be registered;
- c. A member of the Criminal Convictions Panel from Senate membership;

- d. The University's PVG Lead Signatory, if the programme of study requires a criminal record disclosure check.
23. The Criminal Convictions Panel will consider the evidence presented by the Professional Lead, which will include the completed Criminal Conviction Risk Assessment Form and any available supporting evidence. The Student will be invited to submit a written statement in support of their case, within at least 5 working days' of being notified of the Criminal Convictions Panel meeting date. The Criminal Convictions Panel meeting will be a closed-door process and will not require the presence of the Student or the Professional Lead. Having considered the evidence, the Criminal Convictions Panel will determine whether it is appropriate for the Student to remain registered/pending registration, and whether any conditions should be attached to remaining registered or proceeding to registration.
24. In arriving at its determination, the Criminal Convictions Panel will consider the following:
- a. Nature of the offence(s) and related sentence;
 - b. The time elapsed since completion of sentence;
 - c. Any relevant information available as to the likelihood of reoffending from an external source, such as a Probation Officer or other service provider supporting rehabilitation;
 - d. The risks presented by potential re-offending to the University and its staff and students;
 - e. Any steps that can be reasonably taken to mitigate such risks;
 - f. The degree with which the Student has engaged with and disclosed under this Procedure.
25. The possible outcomes of the Criminal Convictions Panel hearing shall be as follows:
- a. That the Student should proceed to registration/remain registered and that no further action is required;
 - b. That the Student's status as a registered student/pending student should remain active, subject to conditions set by the Criminal Convictions Panel. Typically, these conditions will focus on conduct during registration and may include requirements to report to an appropriate member of staff on a defined schedule or to provide regular reports from an external source, such as a Probation Officer or other service provider supporting rehabilitation. Any set conditions, (including a requirement to engage with the Procedure) that are not met may result in reconsideration by the Criminal Convictions Panel and therefore registration being suspended;
 - c. That the Student's registration poses a risk to students and staff or any individuals in a placement setting and that the registration should be suspended with immediate effect, until the Relevant Conviction is spent, subject to any enhanced disclosure requirements for programmes of study requiring a criminal record disclosure check, or until a Relevant Charge has gone to trial, at which point the Criminal Convictions Panel may review the suspension in light of the outcome of the criminal justice process;

- d. The Student's registration poses a risk to students and staff or any individuals in a placement setting and that their registration should be terminated with immediate effect. If the Student has achieved enough credits for the award for which they are registered, or for a lower, exit award, subject to confirmation of the award by the Board of Study, the Student will still be eligible for the award. All students can request transcripts from the University.
26. Usually within five working days of the Criminal Conviction Panel meeting, the Student will be informed of the outcome of the Criminal Convictions Panel in writing by the Director of Student Experience (or nominee) and, in the case of outcome 25b above, will be required to confirm, in writing, that they understand the conditions attached to their registration and agree to meet these. If the Student fails to respond in writing within five days of receipt of the conditions, or to meet the conditions, this may result in the suspension of the Student's registration/pending registration until they re-engage with the process.

RIGHT TO APPEAL

27. If a Student wishes to submit an appeal against the outcomes of the Criminal Convictions Panel hearing at Stage 2, they must submit the [Criminal Convictions Panel Appeals Form](#) to the Vice-Principal via the Directorate of Student Experience within ten working days of receiving written confirmation of the outcome of Stage 2.
28. The criteria for appeal against the outcomes of a Criminal Convictions Panel hearing are as follows:
- a. Fresh material information is available, which was not available on reasonable enquiry or application at the time of consideration by the Criminal Convictions Panel;
 - b. A procedural irregularity occurred during the process;
 - c. Bias or prejudice against the Student was demonstrated by the Criminal Convictions Panel;
 - d. The decision reached was perverse, in that it was one which no reasonable person could have reached on the available evidence.
29. The Vice-Principal (or nominee) will convene a group of three Senators¹ who are members of staff, including themselves, to determine whether there are sufficient grounds for appeal. This group will usually meet within 20 working days of receipt of the appeal.
30. If the group of the Vice-Principal (or nominee) and Staff Senators, see paragraph 29 above, decide there are insufficient grounds for appeal, the case will be dismissed. There is no further right to appeal. Students can contact the [Scottish Public Services Ombudsman](#) for advice, should they wish to make a complaint to the Ombudsman regarding the outcomes of a Criminal Conviction Panel hearing. It is important to note that the Ombudsman will not be able to consider a complaint until the University of Strathclyde's own [Complaints Handling Procedure](#) has been followed and completed.

¹ Members of the University's [Senate](#)

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31. If the group of the Vice-Principal (or nominee) and Staff Senators decide that there are sufficient grounds for appeal, the Director of Education Enhancement (or nominee) will be required to arrange a Criminal Convictions Appeals Panel (hereafter known as Appeals Panel), with entirely new membership, to hear the appeal.
32. The Appeals Panel will not meet with the Student and the Student will be given the opportunity to produce a written statement and additional documentation relevant to the criteria in support of the appeal within at least 5 working days' notice of the Appeals Panel meeting date.
33. The Appeals Panel membership will be formed on the same principles as set out in paragraph 22, except that the Convener will be a Staff Senator appointed by the Vice-Principal. If the programme of study requires a criminal record disclosure check, the PVG Lead Signatory may be asked to attend the hearing to provide expertise and insight to the Appeals Panel, however they will not be involved in the decision-making process, due to their involvement in the Stage 2 Criminal Convictions Panel hearing.
34. The Appeals Panel will carefully review the appeal information relating to the criteria for the appeal, including the information gathered by the Professional Lead at Stage 1, the notes of the Stage 2 Criminal Convictions Hearing and the Criminal Conviction Risk Assessment Form. They will also review any documentation provided by the Student relating to the criteria for the appeal. Where the appellant has raised concerns about the conduct of the Stage 2 Panel the Appeals Panel will be asked to respond to those concerns
35. The Appeals Panel will decide whether to uphold the Student's appeal and impose alternative outcomes under paragraph 25 of this Procedure, or to dismiss the appeal and confirm that the original outcomes should stand.
36. A summary record of the Appeals Panel hearing will be taken and will be provided to the Student by the Director of Education Enhancement (or nominee) at the point of confirming the decision of the Appeals Panel.
37. The Convener (or nominee) will confirm the decision of the Appeals Panel to the Student in writing, normally within five working days of the date of the hearing. In exceptional circumstances, the Appeals Panel may need to source additional information, which may delay confirmation of the outcome. In these circumstances, the Convener (or nominee) will write to the Student to confirm the reason for the delay and keep them informed of timescales. Any delay should not normally continue beyond 20 working days from the date of the appeal hearing.
38. The decision of the Appeals Panel is final and there is no further right to appeal.
39. As noted in paragraph 30 above, the Student can contact the [Scottish Public Services Ombudsman](#) for advice, should they wish to make a complaint to the Ombudsman regarding the outcomes of a Criminal Conviction Panel hearing. It is important to note that the Ombudsman will not be able to consider a complaint until the University of Strathclyde's own [Complaints Handling Procedure](#) has been followed and completed.

RECORD KEEPING & REPORTING

40. Senate receives regular reports of cases heard by Professional Leads and the Criminal Convictions Panel. These are anonymised in nature and heard under the Reserved Agenda of Senate. Senate receives these reports to provide it with a strategic overview of this Procedure and to identify any revisions required to benefit Students undergoing this process.

41. All decisions made under both stages of this Procedure must be recorded in writing and stored by the Directorate of Student Experience. Access to information regarding criminal convictions should be restricted to only those staff directly involved in the case.