



# Student Criminal Offence Data Policy

## POL

Lead Officer (Post):	Principal and CEO
Responsible Office/ Department:	Senior Management Group
Responsible Committee:	Operations and Estates
Review Officer (Post):	Head of Student Experience
Date policy approved:	Click or tap to enter a date.
Date policy last reviewed and updated:	Click or tap to enter a date.
Date policy due for review:	Click or tap to enter a date.
Date of Equality Impact Assessment:	09/08/2022
Date of Privacy Impact Assessment:	Click or tap to enter a date.

Accessible versions of this policy are available upon request. Please contact the Governance and Policy Officer on 01463 279000.

Policy Summary

Overview	<p>Why is the policy required?</p> <p>This policy is required to provide a clear position on student criminal offence data across UHI and all partners.</p>
Purpose	<p>What will the policy achieve?</p> <p>The policy will provide a unified approach to student criminal offence data across the university partnership and ensure parity of student experience.</p>
Scope	<p>Who does the policy apply to?</p> <p>This policy applies to all applicants and students of UHI and all partners, regardless of mode or level of study.</p>
Consultation	<p>Who has been consulted on the policy, and who will be notified?</p> <p>The policy has been developed with feedback from key practitioner groups from the university partnership to ensure that best practice is reflected in the policy and accompanying procedures.</p>
Implementation and Monitoring	<p>Who will be responsible for implementing and monitoring the policy, and what resources/ costs will be incurred?</p> <p>Partners are responsible for ensuring that the policy and procedures are followed in their own organisation.</p>
Risk Implications	<p>What are the risk implications of this policy?</p> <p>This policy will reduce risk for the university partnership by ensuring that best practice from across the partnership is being shared and followed.</p>
Link with Strategy	<p>How is this policy linked to University strategy?</p> <p>This policy supports the UHI's commitment to provide a safe and supportive learning environment for all. It also aims to ensure that all partners meet legislative requirements on student criminal offence data and rehabilitation of offenders.</p>
Impact Assessment	Equality Impact Assessment: Completed August 2022. No action required.
	Privacy Impact Assessment: n/a

## 1. Policy Statement

- 1.1 UHI and partners are committed to providing a safe and supportive learning environment for students, staff, visitors, members of the public and external partners. This policy on student criminal offence data forms a key part of that commitment, alongside a suite of other policies and procedures.
- 1.2 UHI and partners are committed to the principles of equality of opportunity. This policy has been developed to ensure that applicants and students are treated fairly and transparently with regard to their application for admission and/or continuing studies with UHI and partners in the event of criminal offence data becoming known.
- 1.3 For the avoidance of doubt, in accordance with other Scottish educational institutions, UHI and partners do not require compulsory disclosure of all criminal offence data in every circumstance. Current or prospective students may disclose criminal offence data, and we may be provided with this information by external agencies or other processes (e.g. Protecting Vulnerable Groups scheme applications).
- 1.4 As a general principle, UHI Shetland requires the minimum information possible about student criminal offence data deemed to be significant and/or relevant to the course of study. Significance and relevance are contextual, but in general issues such as minor traffic offences and other fixed penalty notices will not be significant or relevant. Students with concerns about relevance of offence data should feel comfortable having a confidential discussion with UHI Shetland staff regarding their circumstances.
- 1.5 UHI and UHI Shetland reserve the right in certain circumstances to withhold access to certain modules, courses, learning environments (physical and virtual) and placements following a risk assessment if it suggests we will be unable to provide a safe and supportive learning environment for the individual, students, staff, visitors, members of the public and external partners.
- 1.6 UHI Shetland undertakes to ensure that, by this policy and other procedures, it operates in consideration of all relevant statutory legislation and professional body requirements. In some circumstances UHI Shetland may be provided with information by external agencies.

## 2. Definitions

- 2.1 **UHI and partners:** UHI is an integrated university, made up of a distinctive partnership of independent colleges and research institutions. The partners are: UHI Argyll, UHI Inverness, UHI Moray, UHI North Highland, UHI Outer Hebrides, UHI Shetland, UHI West Highland, Highland Theological College UHI, Orkney College UHI, Perth College UHI, Sabhal Mòr Ostaig, and Scottish Association for Marine Science (SAMS).
- 2.2 **Criminal offence data:** UHI Shetland uses the Information Commissioner's Office (ICO) definition of criminal offence data: 'personal data relating to criminal convictions and offences or related security measures'. The ICO definition covers a wide range of information about offenders or suspected offenders in the context of:
  - Criminal activity
  - Allegations
  - Investigations
  - Proceedings

In some circumstances, particularly for courses that involve Protecting Vulnerable Groups (PVG) scheme membership application or courses with stringent professional requirements, it includes not just data which is obviously about a specific criminal conviction or trial, but may also include personal data about:

- Unproven allegations
- Information relating to the absence of convictions

It also covers a wide range of related security measures, including:

- Personal data about penalties
- Conditions or restrictions placed on an individual as part of the criminal justice process
- Civil measures which may lead to a criminal penalty if not adhered to

2.3 **Duty of Care:** Our responsibility to use professional expertise and judgement to protect and promote the best interests of students, staff, visitors, members of the public and external partners, and to ensure that we exercise an appropriate level of care towards them, as is reasonable within the parameters of our relationship.

2.4 **Risk assessment:** A process to assess the risk that may be posed to our community based on the disclosure of criminal activity or conviction (only where it is deemed to be significant and/or relevant to the course of study). In some circumstances this may involve more than one partner from the university partnership if a student engages with multiple campuses either physically or via a virtual platform.

2.5 **External agencies:** This may include police forces, prison services, social work departments, health services and support organisations.

### 3. Purpose

3.1. The purpose of this policy is to ensure there is a consistent system implemented across the UHI partnership for the processing of criminal conviction and criminal offence data when it has been disclosed to a staff member. This policy fits in a broader framework of policies which includes:

- Fitness to practise guidelines (course-specific)
- Gender Based Violence Policy (forthcoming AY22/23)
- Mental Health Strategy
- Placement and Externally Supported Learning Policy
- Policy on Protecting Vulnerable Groups (PVG) Scheme membership for students
- Safeguarding Policy
- Support to Study Procedure
- Student Code of Conduct
- Student Conduct Policy
- Student Disciplinary Procedure
- Student Mental Health and Counselling Policy
- Suicide Intervention and Risk Management Policy and Guidance

#### 3.2 Data Sharing and Privacy

3.2.1 UHI Shetland is committed to protecting the rights and freedoms of individuals with respect to the collection and processing of their personal data. Disclosed criminal activity and criminal offence data, is treated in strict confidence and is normally only

shared with staff who are directly involved in the risk assessment process or on a need-to-know basis, where applicable.

3.2.2 UHI Shetland has a statutory duty arising from the Counter-Terrorism and Security Act 2015 'to have due regard to the need to prevent people from being drawn into terrorism', known as the Prevent duty. Established protocols allow the sharing of Prevent-related concerns between relevant public bodies.

3.2.3 We encourage all applicants and students to disclose information about any relevant criminal convictions or police proceedings which may affect their ability to take part in/complete key aspects of their programme or placement. This includes personal restrictions or other conditions arising from court orders or parole conditions e.g. travel, contact with others and use of equipment.

### 3.3 UCAS Applications

3.3.1 For UCAS higher education applications, on certain courses where criminal convictions are relevant to an applicant's suitability, applicants will be asked to disclose any criminal convictions (including spent convictions).

3.3.2 UHI will process any information disclosed via UCAS in accordance with this policy.

3.3.3 Should applicants be applying through UCAS for a course where they are not required to disclose the information but are concerned about criminal convictions, they should contact the admissions department to discuss confidentially.

### 3.4 External Agencies

3.4.1 UHI Shetland may receive information about an applicant or student from external agencies. Any information disclosed via external agencies will be treated in accordance with this policy.

3.4.2 UHI Shetland commits to working with external agencies as necessary, i.e. third sector, social work teams, police forces, Offender Management Units and Multi Agency Public Protection Arrangements (MAPPAs), liaising with/being part of Child Protection & Adult Protection Committees locally.

### 3.5 Risk Assessments

Risk assessments are carried out where significant concerns exist based on the evidence of student criminal activity. All risk assessments should be completed anonymously e.g. the identity of the applicant/student should not be known and should only be identifiable by a reference number allocated by the Admissions Team. The risk assessment must be undertaken by an independent manager with appropriate training and experience, taking into account:

- Whether admission or retention of the individual would pose a significant and unacceptable risk to our community, including the individual, students, staff, visitors, members of the public and external partners either physically or virtually.
- Whether there are any specific requirements related to the course applied for (or being undertaken) which need to be considered, including placements, future employment and membership of professional organisations.
- Type/category of offence; date of occurrence; any restrictions in place on the individual.

### 3.6 Support for applicants and students disclosing criminal offence data

- 3.6.1 We will offer support and guidance to applicants/students disclosing criminal offence data about course selection and career planning and advise on the scope for any potential course or placement adjustments.
- 3.6.2 Under some circumstances UHI Shetland may have no choice but to advise applicants/students that due to their circumstances supporting an application/retention on a course will not be possible. In this situation UHI Shetland will work with individuals to try to identify suitable alternatives.

## 4 Scope

- 4.1 This policy applies to all applicants and students of UHI and all partners, regardless of mode or level of study, at any point during application or whilst enrolled.

## 5 Exceptions

- 5.1 This policy applies without exceptions, exclusions, or restriction.

## 6 Notification

- 6.1 All staff who are involved in receiving criminal offence data and carrying out risk assessments should be familiar with this policy and procedure.
- 6.2 In addition to the staff identified in 6.1, Safeguarding Leads and Deputies should be familiar with this policy and procedure.
- 6.3 The policy will be publicly available on our website.
- 6.4 Relevant regional groups such as Admissions Sub-group, Safeguarding Group and Student Support Group will include any updates to the policy or procedure as an agenda item to ensure that staff group have an opportunity to discuss changes and best practice.

## 7 Roles and Responsibilities

- 7.1 UHI Shetland is responsible for ensuring relevant staff receive appropriate training and support to aid implementation of the policy.
- 7.2 UHI Shetland's Board of Management is responsible for approving the policy, ensuring the legal compliance of the policy and ensuring that it is followed.
- 7.3 Principals and Senior Management Teams are responsible for operational compliance with the policy set by the Board of Management and The Lead Officer and Review Officer are responsible for ensuring the policy is reviewed to ensure currency. Principals and Senior Management Teams are also responsible for ensuring the operational effectiveness of the policy and making provision for training for all staff.
- 7.4 Safeguarding Leads and Deputies are responsible for supporting relevant managers tasked with completion of a risk assessment and providing advice and guidance to Admissions staff in relation to disclosures.

## 8 Legislative Framework

- [Children and Young People \(Scotland\) Act 2014](#)
- [Counter-Terrorism and Security Act 2015](#)
- [Data Protection Act 2018](#)

- [Equalities Act 2010](#)
- [Mental Health \(Care and Treatment\) \(Scotland\) Act \(2003\)](#)
- [Police Act 1997](#)
- [Police and Fire Reform \(Scotland\) Act 2012](#)
- [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005](#)
- [Protection of Vulnerable Groups \(Scotland\) Act 2007](#)
- [Rehabilitation of Offenders Act 1974](#)
- [Sexual Offences Act 2003](#)
- [Sexual Offences \(Scotland\) Act 2009](#)
- [UK General Data Protection Regulation \(GDPR\) 2018](#)

## 9 Related Policies, Procedures, Guidelines and Other Resources

- Complaints Handling Procedures
- Fitness to Practise Guidelines (course-specific)
- Gender Based Violence Policy (forthcoming AY22/23)
- Mental Health Strategy
- Placement and Externally Supported Learning Policy
- Policy on Protecting Vulnerable Groups (PVG) Scheme membership for students
- Safeguarding Policy
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## 10 Version Control and Change History

Version	Date	Endorsed/ approved by	Amendment(s)	Author
0	August 2022	Partnership Council	New single policy	Steven Gregg
1				
2				
3				
4				