**Policy Statement on Recruitment of Ex-Offenders and Declaration of Criminal Convictions for Employees**

This statement is to outline the University’s approach towards employing people who have criminal convictions.

1. The University is committed to equality of opportunity for all job applicants and aims to select people for employment on the basis of their individual skills, abilities, experience, knowledge and, where appropriate, qualifications and training.
2. The University complies fully with the [Code of Practice](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/996540/June_21_-_Code_of_Practice_377_Investigations_.pdf) (“the Code”) published by the Scottish Ministers under section 1221 of Part V of the Police Act 1997 (“the 1997 Act”) in connection with the use of information provided to registered persons, their nominees and other recipients of information by Disclosure Scotland under Part V of the Police Act 1997, for the purposes of assessing applicants' suitability for employment purposes and other relevant purposes.
3. We undertake to treat all applicants for roles fairly and not to discriminate unfairly against the subject of a disclosure on the basis of conviction or other information revealed. We will not automatically refuse to employ a particular individual just because they have a previous criminal conviction.
4. In line with the [Rehabilitation of Offenders Act 1974](https://www.legislation.gov.uk/ukpga/1974/53/contents/scotland), the University will only ask about convictions which are defined as "unspent" in terms of that Act, unless the nature of the role is such that it is one of the excluded jobs listed in the [Rehabilitation of Offenders Act 1974 ( Exclusions and Exceptions) (Scotland) Order 2013](https://www.legislation.gov.uk/sdsi/2013/9780111019085) we are entitled to ask questions about an individual's entire criminal record and require the applicant to disclose all convictions.
5. Further guidance on the self-disclosure process, what types of convictions require to be disclosed under the Rehabilitation of Offenders Act 1974 and if exempt and the rehabilitation periods in Scotland can be found [here](https://www.gov.scot/publications/guidance-self-disclosure-previous-convictions-alternatives-prosecution-scotland-under-rehabilitation-offenders-act-1974/pages/2/)
6. We will therefore consider ex-offenders for employment on their individual merits; however, this approach will depend on whether the job is or is not exempt from the provisions of the Rehabilitation of Offenders Act 1974 and if the nature of the offence is relevant to the job for which they have applied. Having a criminal record will not necessarily automatically debar someone from working with the University and will be risk assessed separately on an individual basis and will depend on the nature of the role, together with the circumstances and background of their offences and we may, decline to progress the applicant or select the individual for employment.
7. We will request a Disclosure only where this is considered proportionate and relevant to the role, as outlined in the [Protection of Vulnerable Groups Policy](https://staff.napier.ac.uk/services/hr/HRDocuments/Documents/Protection%20of%20Vulnerable%20Groups%20Policy%20April%202019.docx). This will be based on a thorough risk assessment of that role/service and having considered the relevant legislation which determines whether a Basic or Standard Disclosure or registration of the PVG Scheme for regulated work with children and/or Protected Adults is relevant to the role in question. Where a Disclosure is deemed necessary for a role, all applicants will be made aware at the initial recruitment stage that the role will be subject to a Disclosure and that the University will request the individual being offered the position to undergo an appropriate Disclosure check/PVG registration.
8. We undertake to ensure that University staff involved in the recruitment process are suitably trained and receive appropriate guidance and training in the relevant legislation relating to employment of ex-offenders (e.g., Rehabilitation of Offenders Act 1974).
9. Where an applicant makes a self-disclosure at the application stage, an assessment of the applicant’s skills, qualifications and experience will take place first and an initial assessment will take place separately and take account if the role is covered by the Rehabilitation of Offenders Act 1974 and if the role requires a disclosure check or PVG membership. In some cases, dependant on the details of the self-disclosure and stage in process, an initial paper risk assessment may take place and be sufficient or prior to proceeding with any formal offer of employment a documented individual risk assessment discussion will take place with the applicant and a member of HR and the hiring manager.
10. We undertake to discuss any matter revealed in a Disclosure Certificate with the subject of that Disclosure before considering withdrawing a conditional offer of employment.
11. The University processes information about an individual's criminal convictions in accordance with our Data Protection Policy: [Data Protection (napier.ac.uk)](https://staff.napier.ac.uk/services/governance-compliance/governance/DataProtection/Pages/default.aspx).
	1. with Data Protection Legislation- - the following information is provided as required by the Data Protection Act 2018
		1. Security - For services provided locally by Information Services, information is stored on servers located in secure University datacentres. These datacentres are resilient and feature access controls, environmental monitoring, backup power supplies and redundant hardware. Information on these servers is backed up regularly. The University has various data protection and information security policies and procedures to ensure that appropriate organisational and technical measures are in place to protect the privacy or your personal data. The University makes use of a number of third party, including “cloud”, services for information storage and processing. Through procurement and contract management procedures the University ensures that these services have appropriate organisational and technical measures to comply with data protection legislation. Specific local processes include secured paper forms and files, password protected e-files, encrypted emails, etc. and the use of third-party systems which the University ensures have the necessary technical and organisational security and contractual measures in place to protect the data.
		2. Lawful, Fair and Transparent – The legal bases for processing are Article 6(1)(e) and Article 9(2)(g) processing is necessary for reasons of substantial public interest, and under the Data Protection Act 2018 Schedule 1 Part 2 S.11 processing is necessary for the exercise of a protective function and S.18 safeguarding (as allowed by Schedule 1 Part 3 S 36).
		3. Collected for specified, explicit and legitimate purposes - As per this policy. Criminal Convictions data will not be further processed for any other purposes incompatible with those detailed here.
		4. Adequate, relevant and limited - The University will only collect and process the data necessary for the purposes e.g., job recruitment, as per 7. above.
		5. Storage limitation - Criminal Convictions data will not be stored longer than necessary for the purpose of assessing suitability for recruitment purposes. Information about retention periods for both successful and unsuccessful applicants please see the University Records Retention Schedules here: [Records Retention Schedules (napier.ac.uk)](https://staff.napier.ac.uk/services/governance-compliance/governance/records/Pages/RecordsRetentionSchedules.aspx).
		6. You have a number of rights available to you with regards to what personal data of yours is held by the University and how it is processed – to find out more about your rights, how to make a request and who to contact if you have any further queries about Data Protection please see the information online using the following URL: <https://staff.napier.ac.uk/services/governance-compliance/governance/DataProtection/Pages/default.aspx>.
		7. Please see the University Privacy Notices at: staff.napier.ac.uk/statements
12. All staff are required to disclose a criminal conviction or charges pending acquired during employment with the University which may be relevant to their position and could have an impact on their ability to do their role or that related to violence, assault or damage to property.
13. Disclosure should be made confidentially to their line manager who will consider the effect of the offence on the employee's role e.g., convictions relevant to roles include a driving offence for a driver, theft or fraud for a finance role, and convictions relating to vulnerable groups if working in a regulated activity and the role requires PVG membership. The line manager should inform the Head of HR Operations of the staff members disclosure and a risk assessment will be carried out to consider the areas listed below and to inform the next steps and any required actions.
14. If an employee is charged with, or convicted of, a criminal offence (outside of their employment with the University) this will not normally in itself be considered a reason for disciplinary action or an automatic reason for dismissal. Consideration will be given to the relevance and effect the charge or conviction has on the employee’s suitability / ability to complete their job and their relationship with the University, work colleagues, students and customers.
15. The University will not wait for the outcome of a criminal prosecution in convening a disciplinary hearing and reaching a decision, if it considers that prompt action is required.

 Confidentiality

It is the University’s aim is to deal with criminal conviction disclosures sensitively and with due respect for the privacy of any individuals involved.

All individuals involved in the operation of this policy must treat as confidential any information communicated to them in connection with it, subject to the need to seek appropriate advice and guidance and to put into effect any decisions or recommendations made in accordance with the procedures set out above.

This guidance is made available to all applicants at the outset via the recruitment/ application process via a link on our external recruitment page and is also available to all employees via the intranet

|  |  |
| --- | --- |
| Who can help?  | The Talent & Resourcing Team and HR Services Team can provide support and assistance with the application of this statement and answer any questions that you may have. recruitment@napier.ac.uk or HumanResources@napier.ac.uk |

**Related Policies**

* Protection of Vulnerable Groups Policy
* Data Protection Policy
* HR Retention Schedule
* Staff Privacy Notice
* Disciplinary Policy and Procedure

**Document Control**

|  |  |
| --- | --- |
| AuthorDate First ApprovedLast Review DateReview Frequency | Human Resources January 2022April 2022 2 years |

|  |  |
| --- | --- |
|  |  |