



POLICY ON ADMISSION OF EX-OFFENDERS AS STUDENTS

1. Background

1.1 This policy on admission of ex-offenders as students aims to ensure that:

- (i) prospective and registered students are treated on the basis of relevant merits and abilities; and
- (ii) there is no prejudice to the safety and well being of other members of the University community, and specifically to students aged under 18 years of age.

A separate policy developed by the Human Resources Department applies to staff.

1.2 To help the University endeavour to ensure the well being of the University community, it must know about any relevant criminal convictions that an applicant may have. Relevant criminal convictions are only those convictions for offences against the person, whether of a violent or sexual nature, and convictions for offences involving unlawfully supplying controlled drugs or substances where the conviction concerns commercial drug dealing or trafficking. Convictions that are spent (as defined by the Rehabilitation of Offenders Act 1974) are not considered to be relevant and do not need to be revealed, except for applications to courses or programmes in teaching, health, social work and courses involving work with children or vulnerable adults. At Heriot-Watt University relevant programmes include

Mathematics with Education
Physics with Education

For these programmes, applicants will need to obtain an 'Enhanced Disclosure Document' from Disclosure Scotland. The University will provide the appropriate documents for applicants to complete.

1.3 Decisions regarding admission of an applicant with relevant criminal convictions should be taken only after the implications have been fully explored. This policy must be adopted for all prospective or registered students who declare, or are discovered to have, a relevant criminal conviction.

1.4 Part V of the Police Act 1997 is aimed at helping organisations assess the suitability of applicants and make safe recruitment decisions by providing access to information about criminal records. To this end, the Act provides for issue of the following criminal conviction certificates:

'Basic Disclosures'	– Unspent convictions only will be revealed
'Standard Disclosures'	– Spent and Unspent convictions will be revealed
'Enhanced Disclosures'	– Spent and Unspent convictions; non-conviction information supplied by the Chief Constable.

1.5 In Scotland, these certificates are issued by Disclosure Scotland. The Scottish Code of Practice (see Appendix), issued by the Scottish Executive, governs the use of all

information issued. All organisations using the Disclosure Scotland service must comply fully with the Code of Practice and use the information properly and fairly. Where conviction or other information is revealed as part of the Disclosure process, that information must not be used to unfairly discriminate against individuals.

2. Procedures

- 2.1 Applicants applying through UCAS are requested to declare relevant criminal convictions according to the text in the UCAS 'How to Apply' booklet. Other application forms for entry to the University will be amended to also include a request for applicants to declare any relevant criminal convictions.
- 2.2 Initially, Admissions Tutors should assess applications on academic and motivational merit. If there are no academic grounds for making an offer, the application can be rejected in the normal way. Information on relevant convictions will only be provided to those who need to know as part of the recruitment process. If, from an academic viewpoint, the applicant merits the offer of a place, the Admissions Officer in Recruitment & Admissions Office will obtain as much information as possible about the nature of the relevant offence concerned. In particular, the Admissions Officer will ask the applicant to provide appropriate references from, for example, his/her Probation Officer and/or prison authorities. An applicant who is a serving prisoner at the time of application will be required by UCAS to submit their application via the prison authorities who will normally indicate suitability and availability to undertake a study programme. In the case of undergraduate applicants, further information may also be available from the UCAS Verification Unit, which should be approached through the Admissions Officer in Recruitment & Admissions.
- 2.3 All correspondence relating to the declaration of criminal convictions by an applicant must be copied to the Academic Registrar & Director of Student Services and will be held securely in the Academic Registry on behalf of the Secretary of the University. At all stages, the Academic Registrar, Recruitment & Admissions staff and Admissions Tutors in Schools must ensure that procedures are in place to restrict access to correspondence relating to the criminal record of a student on a need-to-know basis (see separate Policy attached on Handling, Holding and Destruction of Disclosure information).
- 2.4 Heriot-Watt University will provide guidance to those involved in the recruitment process on the identification, assessment, relevance and circumstances of offences. Appropriate guidance will also be provided on relevant legislation, including the Rehabilitation of Offenders Act 1974, relating to the acceptance of ex-offenders on to study programmes.
- 2.5 Where there is continuing doubt about admitting an ex-offender as a student to the University, the case must be referred to the Secretary of the University for a final decision on recruitment.

APPENDIX

SCOTTISH CODE OF PRACTICE - POLICE ACT 1997 REGISTERED PERSONS AND OTHER RECIPIENTS OF DISCLOSURE INFORMATION

The Scottish Executive, The Scottish Criminal Record Office, Disclosure Scotland

Introduction

1. This Code of Practice is published by the Scottish Ministers under section 122 of the Police Act 1997 (“the Act”) in connection with the use of information (“Disclosure information”) provided to registered persons under Part V of the Act. The Code may be revised from time to time, but the Scottish Ministers will normally consult on any proposed changes before publishing a revised Code. The Code is supplemented by a non-statutory Explanatory Guide by Disclosure Scotland.

Purpose of Code

2. The Code is intended to ensure that the disclosure information released will be used properly and fairly to provide assurance to those applying for Standard and Enhanced Disclosures that the Disclosure information will be used properly and fairly to ensure that Disclosure information is handled and stored appropriately and is kept for only as long as necessary and thereafter disposed of securely.

Interpretation

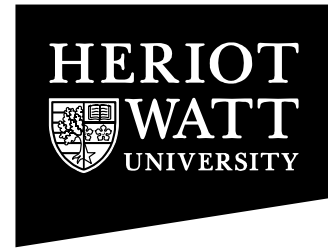
3. Disclosure information is information contained in criminal record certificates under section 113 of the Act (referred to hereinafter as “Standard Disclosures”) contained in enhanced criminal record certificates under section 115 of the Act (referred to hereinafter as “Enhanced Disclosures”) provided by the police under section 115(8) of the Act.
4. This Code of Practice applies to all recipients of Disclosure information, except the subject of the Disclosure information, that is to say Persons registered under section 120 of the Act (“registered persons”), including “umbrella” bodies, that is, bodies which have registered under section 120 for the purpose of countersigning applications on behalf of others who are not registered Employees and Agents of registered persons, bodies or individuals, in respect of whom a registered person has countersigned an application for Disclosure.

Obligations of the Code

5. Registered persons countersigning applications on behalf of others: Registered persons who countersign Standard Disclosure or Enhanced Disclosure applications on behalf of other persons or bodies must satisfy themselves that those on whose behalf they intended to countersign applications are entitled to receive disclosure information by virtue of their being entitled to ask exempted questions under the Exceptions Orders to the Rehabilitation of Offenders Act 1974 and will take reasonable steps to ensure that those to whom they pass Disclosure information observe the Code of Practice.
6. Fair use of Disclosure information by recipients: Recipients of Disclosure information must not use Disclosure information for purposes other than those for which it has been provided must have regard to any guidance issued by Disclosure Scotland on the use of

information and must not unfairly discriminate against the subject of Disclosure information on the basis of any conviction or other details revealed.

7. Handling of Information: Recipients of Disclosure information must not disclose this information in contravention of section 124 of the Act. Unauthorised disclosure is a criminal offence; recipients must not disclose to the applicant information provided under section 115(8) of the Act, that is information which is supplied to the registered person but which is not shown on the Disclosure; must ensure that Disclosures and the information they contain are available only to those who need to have access to them in the course of their duties; must securely store Disclosures and the information that they contain during the period they need to be retained; and must not retain Disclosures or records of Disclosure information contained within them for longer than is required for the purpose for which the Disclosure was obtained. In general, this should be no later than six months after the date on which recruitment or other relevant decisions have been taken, or after the date on which any dispute about the accuracy of the Disclosure information has been resolved. This period should be exceeded only in exceptional circumstances which justify retention for a longer period. Where, however, a Disclosure application is countersigned by a registered person on behalf of others, Disclosure information should not be retained by the registered person after it has been disclosed to those on whose behalf applications were countersigned. In such circumstances, Disclosure information must be disposed of in a secure manner, for example, shredding.
8. Registered persons shall have a written security policy on handling, holding and destroying Disclosure information and will ensure that a body or individual at whose request applications for Disclosures are countersigned has such a written policy.
9. Assurance (see para 30 of the Explanatory Guide): Recipients of Disclosure information shall, at the request of Disclosure Scotland, undertake an audit of their procedures for handling, holding and destruction of Disclosure information and report to Disclosure Scotland any evidence of failure, either on their own part or on the part of another party, to comply with this Code of Practice and will report to Disclosure Scotland any reasonable suspicion that an offence has been committed under section 124 of the Act. Failure to comply with Code of Practice.
10. Registered persons should be aware that, in accordance with section 122(3) of the Act, Disclosure Scotland is empowered to refuse to issue a Disclosure if it believes that a registered person, or someone on whose behalf a registered person has countersigned an application has failed to comply with the Code of Practice.



POLICY ON HANDLING, HOLDING AND DESTRUCTION OF DISCLOSURE INFORMATION

Background to Policy

Part V of the Police Act 1997 is aimed at helping organisations to assess the suitability of applicants and make safer recruitment decisions by widening access to criminal record information. To this end, the Act provides for the issue of criminal conviction certificates, criminal record certificates, and enhanced criminal record certificates. In Scotland, these certificates will be issued by Disclosure Scotland. In practice, the certificates will be known as Basic, Standard and Enhanced Disclosures.

The Act also provides for a Code of Practice to be published by Ministers governing the use of all information issued in respect of Standard and Enhanced Disclosures. The Code requires all recipients of such Disclosure information to comply with the Code and to handle, store and dispose of that information appropriately.

Registered Bodies are therefore required to have a written policy on handling, holding and destroying Disclosure information, and to ensure that any body or individual, at whose request applications for Standard and Enhanced Disclosures are countersigned, has such a written policy in place.

Policy Statement

1. General Principles

Heriot-Watt University undertakes to comply fully with the Code of Practice, issued by Scottish Ministers, regarding the correct handling, holding and destruction of Disclosure information provided by Disclosure Scotland under Part V of the Police Act 1997, for the purposes of assessing applicants' suitability for study. Heriot-Watt University also undertakes to comply fully with the Data Protection Act 1998 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure information and has a written policy on these matters. This policy is available to anyone who wishes to see it upon request.

2. Usage

Heriot-Watt University undertakes to use Disclosure information only for the purpose for which it has been provided. The information provided by an individual will not be used or disclosed in a manner incompatible with the purpose and personal data will only be processed with the express consent of that individual. Heriot-Watt University will notify the individual of any non-obvious use of the information, including further disclosure to a third party (identifying the Data Controller), the purpose of using the data and any other relevant information.

3. Handling

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Approved By: University Data Protection Officer, Support Services Board; PME

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The University recognises that, under section 124 of the Police Act 1997, it is a criminal offence to disclose Disclosure information to any unauthorised person. Heriot-Watt University will therefore only pass Disclosure information to those who are authorised to have access to it in the course of their duties. The University will not disclose information provided under section 115(8) of the Act, namely information which is not included in the Disclosure, to the applicant.

4. Access and Storage

Heriot-Watt University will not keep Disclosure information on an individual's student file. Such information will be stored securely in lockable, non-portable storage containers with access strictly controlled to authorised and named individuals who are entitled to have access to such information in the course of their duties.

5. Retention

Heriot-Watt University will not keep Disclosures or Disclosure information for any longer than is required after a student completes their period of study at the University. In general, this is no longer than six months. This is to allow for the resolution of any disputes or complaints. Disclosure information will only be retained for longer than this period in exceptional circumstances, and in consultation with Disclosure Scotland. The same conditions relating to secure storage and access will apply during any such period.

6. Disposal

Once the retention period has elapsed, Heriot-Watt University will ensure that Disclosure information is immediately destroyed in a secure manner by shredding, pulping or burning. The University will not keep Disclosure information which is awaiting destruction in any insecure receptacle, such as a waste bin or confidential waste sack, and will not retain any image or photocopy or any other form of the Disclosure information. Heriot-Watt University will, however, keep a record of the date of issue of the Disclosure, the name of the subject, the Disclosure type, the position for which the Disclosure was requested, the unique reference number of the Disclosure and details of the student recruitment (or other) decision taken.

7. Umbrella Bodies

Before acting as an Umbrella Body (that is, a body which countersigns applications for Standard or Enhanced Disclosures on behalf of another organisation such as the Interactive University, SCHOLAR programme or Edinburgh Business School), Heriot-Watt University will take all reasonable steps to ensure that the organisation on whose behalf it is acting complies with the Scottish Code of Practice, and in full accordance with this policy. Heriot-Watt University will also take all reasonable steps to ensure that Disclosure information is handled, used, stored, retained and disposed of in full compliance with the Code of Practice, and in full accordance with this policy. Heriot-Watt University will ensure that any organisation at whose request applications for Disclosures are countersigned, has such a written policy and, if necessary, will provide a model policy for that organisation to use or adapt for this purpose.