

## HOUSING POLICY ON CRIMINAL CONVICTIONS

### 1. OVERVIEW AND PURPOSE

- 1.1 This University policy relates to criminal convictions in the context of University managed accommodation.
- 1.2 The purpose of this policy is to set out:
  - the requirements for disclosure of criminal convictions data in relation to offers of University managed accommodation;
  - the basis for decision making in relation to such disclosure;
  - the responsibilities of individuals under this Policy.

### 2. SCOPE

- 2.1 This policy applies to housing applicants who have been provisionally offered University managed accommodation who have a relevant unspent criminal conviction.

### 3. RESPONSIBILITIES

#### 3.1 The University

- 3.1.1 The University shall ensure that criminal convictions data is held and processed in accordance with relevant data protection legislation, namely the General Data Protection Regulation (EU) 2016/679 and the Data Protection Act 2018 (as amended, updated or re-enacted)

#### 3.2 Housing applicants

- 3.2.1 Applicants for housing in University managed accommodation shall disclose relevant unspent convictions to the University before entering into a License to Occupy any University managed accommodation.

#### 3.3 Housing Services of the University

- 3.3.1 The University's Housing Services shall maintain the integrity and confidentiality of any criminal convictions data disclosed to the University.

#### 3.4 The Director for Student Experience

- 3.4.1 The Director for Student Experience (or their nominee) shall make decisions regarding the suitability of an individual to live in University managed accommodation, based on the disclosure of relevant unspent criminal convictions data.

## **4. POLICY DETAILS**

### **4.1 Disclosure of criminal convictions**

4.1.1 In order to discharge its safeguarding obligations to all members of the University's campus community, the University considers that it is necessary for any offer of University managed accommodation to be subject to a satisfactory criminal convictions decision. Therefore, housing applicants are required to disclose certain criminal convictions data in order for a decision to be taken.

4.1.2 To ensure that the principles of proportionality and necessity are met, the necessary disclosure is limited to relevant unspent criminal convictions, to be disclosed at the point at which a provisional offer of University managed accommodation has been made.

### **4.2 Relevant unspent convictions**

4.2.1 The University considers the following convictions to be relevant in the context of University managed accommodation:

- 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;
- offences listed in the Sex Offences Act 2003;
- the unlawful supply of controlled drugs or substances where the conviction concerns commercial drug dealing or trafficking;
- offences involving firearms;
- offences involving arson; and
- offences listed in the Terrorism Act 2006.

4.2.2 Only unspent convictions are required to be disclosed to the University. Convictions that are 'spent' – as defined by the Rehabilitation of Offenders Act 1974 (as amended) – or will be spent at the point of taking up the offer of University managed accommodation, do not need to be disclosed.

4.2.3 In addition, convictions imposed outside of England and Wales which are equivalent in scope or nature to those detailed in para 4.2.1 are also considered relevant and any unspent convictions must be disclosed.

### **4.3 Decision making**

4.3.1 The Director for the Student Experience (or their nominee) shall consider any relevant unspent criminal convictions and whether it is appropriate for an individual to live in University managed accommodation.

4.3.2 Having a relevant unspent criminal conviction will not necessarily prevent an individual from being housed in University managed accommodation. The Director for Student Experience (or their nominee) may decide that it is appropriate to house the individual, with or without conditions attached to the offer of accommodation.

4.3.3 If the Director for the Student Experience (or their nominee) decides that the University's safeguarding obligations to students and others mean that it is not appropriate for the individual to be housed in University managed accommodation, they can decide to withdraw the offer of accommodation.

- 4.3.4 If the Director for the Student Experience (or their nominee) decides to withdraw an offer of accommodation or to make the offer subject to conditions, the housing applicant may appeal the decision to the Chief Operating Officer. The appeal must be made in writing and sent to the Chief Operating Officer within five working days of the date of notification of the decision of the Director for the Student Experience (or their nominee). Any appeal should explain why the individual considers the decision to be unreasonable.
- 4.3.5 The Chief Operating Officer will consider the appeal on the papers and can decide to uphold the decision of the Director for the Student Experience (or their nominee) or substitute another decision, namely one that was available to the Director for the Student Experience (or their nominee). The Chief Operating Officer's decision must be made as soon as reasonably practicable after receiving the appeal and their decision will be final.

#### 4.4 **Data Protection**

- 4.4.1 The lawful basis for the processing of criminal convictions data is the individual's consent. It is in the public interest that the University undertakes the necessary and proportionate processing and evaluation of criminal convictions data as an aspect of exercising its safeguarding obligations towards staff and students.
- 4.4.2 Criminal convictions data will be processed only for the purposes of determining an individual's suitability to live in University managed accommodation and not further processed in a manner that is incompatible with those purposes. The University will only seek disclosure of criminal convictions data that is necessary for that purpose, namely relevant unspent convictions.
- 4.4.3 Criminal convictions data shall only be kept in a way that enables the individual to be identified for as long as is necessary for decision making processes relating to suitability to live in University managed accommodation.
- 4.4.3.1 Where a provisional offer of accommodation is withdrawn following a criminal convictions decision, such data shall be retained for 6 months after the final decision then securely destroyed.
- 4.4.3.2 Where a student accepts an offer of accommodation in University managed accommodation following a criminal convictions decision, such data shall be retained for 6 months after the last day of their residence in University managed accommodation.
- 4.4.3.3 Where necessary for the purpose of a legal obligation or for legal proceedings, such data shall be retained for 6 months after the expiry or cessation of the obligation or proceedings.
- 4.4.4 Criminal convictions data shall be stored securely. Security measures will be in place to protect against unauthorised or unlawful processing or against accidental loss, destruction or damage. Access to criminal convictions data will be limited to those that require access for the purpose of accommodation decisions.

#### 5. **LEGISLATION AND GOOD PRACTICE**

- 5.1 The Rehabilitation of Offenders Act 1974 (as amended) can be found at the following link: <https://www.legislation.gov.uk/ukpga/1974/53?timeline=false>
- 5.2 The relevant data protection legislation can be found at the following links: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679>

<http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted>

<b>Review / Contacts / References</b>	
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Related internal policies, procedures, guidance:

University of Sussex's Data Protection Policy

<https://www.sussex.ac.uk/webteam/gateway/file.php?name=data-protection-policy.pdf&site=76>

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