

Disclosure of Offence, Charge or Conviction Policy

Section 1 - Background and Purpose

(1) The University is committed to providing a healthy and safe environment for staff, students, contractors and visitors to the University.

(2) This Policy provides for the requirement to disclose charges and convictions of criminal offences.

Section 2 - Scope

(3) This Policy applies to all staff and contractors.

Section 3 - Policy Statement

(4) The University is required to make decisions about the impact that charges and convictions of criminal offences (or other offences which may be related to a person's current employment or contractor status) may have on the University.

(5) All staff and contractors are required to notify the University of:

- a. being charged with an offence
- b. being convicted of an offence

(6) This excludes fines and infringements.

(7) This notification must be made to the University, in accordance with this Policy, within 10 business day of the charge or offence being served/determined by the Police/Law Courts/relevant body. Failure to do so, may lead to disciplinary procedures being initiated which may lead to (but not limited to) termination of employment.

(8) Some positions within the University have a legislated requirement for a national police clearance 'Police Check' and the remainder are to be determined by the University. Roles legislated for a national police clearance will be managed in accordance with the relevant requirements.

(9) International checks will be conducted on relevant roles as determined by legislation and University requirements.

Section 4 - Procedure

(10) These Procedures describe the process for University staff/contractors to disclose offence charges or convictions and details the process to follow in dealing with those disclosures.

What is Disclosed in a Police Check?

(11) Generally the release of criminal history information is done on the basis of findings of guilt at court, and it may also release details of matters currently under investigation or awaiting court hearing. It is important to note that a finding of guilt without conviction is still a finding of guilt and this information will be released according to the information release policy and legislation applicable to the Police/Police Agency.

(12) A Police check may include:

- a. court appearances;
- b. court convictions, including any penalty or sentence;
- c. charges and findings of guilt with no conviction;
- d. good behaviour bonds or other court orders;
- e. matters awaiting court hearing.

Part A - Charges and Convictions

(13) All staff are required to notify their Manager together with the Executive Director, Human Resources if they are charged or convicted with an offence under the [Crimes Act 1958 \(Vic\)](#) (excluding fines and infringements) or an offence which the staff should reasonably believe may impact on their employment role with the University. The staff member is required to keep their Manager and the Executive Director, Human Resources informed as to the progress of the matter through the legal system.

(14) This notification must be made to the University, within 10 business day of the charge or offence being served/determined by the Police/Law Courts/relevant body. Failure to do so, may lead to disciplinary procedures being initiated which may result in (but not limited to) termination of employment.

Manager Responsibilities

(15) Where a Manager becomes aware that a staff member/contractor under their supervision has been:

- a. charged with an offence; or
- b. convicted of any offence.

(16) the Manager must inform the Executive Director, Human Resources within 5 business days of becoming aware of the charge or conviction.

Human Resource Responsibilities - Staff

(17) After notifying both the manager and the Executive Director, Human Resources of the charge or conviction, the Executive Director, Human Resources (or their representative) will make an assessment as to whether the conviction or charge impacts on the staff member's ability to undertake the inherent requirements of the role.

(18) Should the assessment result in a view that there is no impact, no action will be taken and the staff member will be advised in writing of this outcome.

(19) Where the Executive Director, Human Resources (or their representative) is of the view that the charge or conviction may impact on the staff member's/contractor's ability to undertake his/her role, the Executive Director, Human Resources (or their representative) shall commence the Disciplinary processes under the [Collective Agreement](#).

Human Resource Responsibilities - Contractors

(20) After notifying both the manager and the Executive Director, Human Resources of the charge or conviction, the Executive Director, Human Resources (or their representative) will make an assessment as to whether the conviction or charge impacts on the contractor's ability to undertake the inherent requirements of the role.

(21) Should the assessment result in a view that there is no impact, no action will be taken and the Contractor will be advised in writing of this outcome.

(22) Should the assessment result in a view that there is an impact, a response from the Contractor will be sought. The Contractor must submit a response within 10 working days wherein it will be considered by the Executive Director, Human Resources (or their representative).

(23) If no response is received following the lapse of the required timeframe, the Executive Director, Human Resources (or their representative) may take any of the below actions (or combination of actions):

- a. seek further information from the Contractor (or any other relevant party)
- b. take no further action, in which case the Contractor will be advised in writing of this outcome
- c. suspend the Contractor (if this is allowable under the contract) for a period of time (for example, to allow the charges to be heard) or
- d. terminate the Contractor's contract in accordance with the provisions of the contract.

(24) The Contractor may be suspended from attendance on University campuses during this period at the University's discretion.

Part B - Assessment Criteria

(25) Whether a charge or conviction is relevant will depend on the nature of the offence and the nature of the staff/contractor/applicant's role. Whether the offence is relevant must be viewed in the overall context of:

- a. the inherent requirements of the role which may include:
 - i. the degree of supervision;
 - ii. the management of finances;
 - iii. the use of confidential information;
 - iv. the environment in which the role is carried out;
 - v. the level of trust in the position;
- b. for a current employee or contractor:
 - i. whether the matter occurred on University property; or
 - ii. whether the matter occurred in connection with the staff/contractor's employment/contract;
- c. the impact that the nature of the offence on people around the employee/contractor;
- d. the staff/contractor/applicant's position/level within the University;
- e. the seriousness of the offence;
- f. if convicted, what penalty was imposed by the court (this will go to the seriousness of the offence) including if the staff/contractor/applicant is listed on any sex offenders registry in Australia or overseas;
- g. whether the staff/contractor/applicant has any history of similar offences or other offences;
- h. what period of time has elapsed since the offence was committed;
- i. the conduct of the staff/contractor during the intervening time period;
- j. any mitigating factors - such as age, family circumstances, stress or illness at the time of the offence; and/or
- k. whether any risks can be mitigated through University processes.

(26) The charge/conviction must be assessed in the overall context of these factors. These factors will differ in each case and there is no set formula or hierarchy of factors.

Part C - Privacy

(27) All information received in accordance with this Policy will be treated in accordance with the [Privacy - Personal Information Policy](#).

Section 5 - Definitions

(28) For the purpose of this Policy and Procedure:

- a. Charge: A formal allegation of criminal conduct. A person charged with an offence is served with a summons or other form of indictment.
- b. Conviction: the outcome of a criminal prosecution which concludes in a judgment that the defendant is guilty of the crime charged.
- c. Cost Centre A unit within the University's financial management structure that is functionally and financially distinctive. University cost centres include Schools, Institutes, Co-operative Research Centres, administrative sections and University Business Enterprises.

Section 6 - Stakeholders

Responsibility for implementation – Staff and Contractors.

Responsibility for monitoring implementation and compliance – Executive Director, Human Resources.

Status and Details

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