



CRIMINAL CONVICTION DISCLOSURES AND SUPPORTING STUDENTS SUBJECT TO LEGAL LICENCE, RESTRICTION, CONDITION OR ORDERS POLICY

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1. Introduction

QA Higher Education (QAHE) is committed to the fair treatment of its staff, students and applicants, and no individual will be unjustifiably discriminated against on the basis of gender, race, nationality, ethnic or national origin, religious or political beliefs, disability, marital status, family circumstance, sexual orientation, criminal record, age or for any other reason.

QAHE strives itself in promoting educational opportunity and social justice by providing high-quality university education and arming students with the skills to achieve their career aspirations. We are committed to widening participation and upholding our enduring value of inclusivity.

Having a criminal record does not necessarily stop an applicant from studying, or a current student from remaining at QAHE. This will depend on the nature of the programme of study, and if relevant, the outcome of any Disclosure and Barring Service (DBS) check.

At all times we work with our partner universities to ensure compliance with both government legislation and university policies and procedures.

2. Responsibilities

QAHE has a responsibility to ensure the safety of our student and staff communities, and that of other people with whom students interact as part of their course of study and to prevent unlawful acts. QAHE acknowledges its responsibility to consider the needs of each individual applicant and student, ensuring that they can receive the support they require, whilst also seeking to protect and support QAHE's community

Applicants or students who are currently, or become, subject to an order, restriction, or arrangement imposed by a court or authorised body must inform us immediately of any conditions that may impact on their studies. This disclosure helps us support students in complying with any conditions whilst studying with QAHE and fulfils our safeguarding obligations. This also includes those subject to Sex Offender Registration and Sexual Harm Prevention Orders.

Since October 2009 it is a criminal offence for QAHE knowingly to permit a barred individual to undertake Regulated Activity. An applicant or student who is on a DBS list of barred individuals, and who has applied to or enrolled on a programme with regulated activity, will not be permitted to undertake the programme and will be withdrawn.

It is an expectation that staff notify Welfare should any students disclose a criminal conviction or proceedings.

In circumstances where legal restrictions and conditions make a student's first choice of course impractical, QAHE will make reasonable adjustments and suggest alternative programmes of study where available.

3. Regulated activity

Regulated activities are eligible for Enhanced DBS checks with children's and/or adults' barred lists. They reveal whether or not a person has committed criminal activity that makes them unsafe to work with children or adults.

Regulated activity refers to certain roles that involve working with children or adults at risk, such as teaching and providing care. Anyone who is on the Disclosure and Barring Service (DBS) barred lists cannot work in these roles.

An Enhanced DBS is required for any programmes which include regulated activities.



4. What is a 'relevant' conviction?

It is determined by the University, which convictions they require full disclosure of, however in general relevant convictions are defined as:

- I. Offences listed in the Sexual Offences Act 2003 (in the United Kingdom; or equivalent Act for outside of the United Kingdom);
- II. 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;
- III. Offences listed in the Terrorism Act 2006 (in the United Kingdom; or equivalent Act for outside of the United Kingdom);
- IV. The unlawful supply of controlled drugs or substances where the conviction concerns commercial drug dealing or trafficking;
- V. Offences involving weapons, firearms, crossbows and knives;
- VI. Offences involving arson;
- VII. Fraud;
- VIII. Offences of human trafficking, slavery and forced labour.

We also consider relevant convictions to be those offences related to any person under 18 considered a child under English law- see Children Act 2004.

Individuals are also asked to disclose any ongoing criminal investigations where they are subject to legal licence, restriction, condition or orders policy. Individuals are required to provide a copy of bail conditions and their charge sheet.

There is no requirement to disclose:

- Fixed penalty offences such as minor speeding offences.
- Any spent conviction or any associated order.

Unspent convictions

Apart from prison sentences of over 48 months (4 years), all convictions become spent after a period. Cautions become spent immediately.

If you are not applying for a place on a programme where there is a requirement for regulated activity, you do not need to disclose cautions or spent convictions.

The Your Conviction tool on The UK Government website can be used to check the status of any offence.

Advice is also available from the charities National Association for the Care and Rehabilitation of Offenders (UK) (NACRO) or UNLOCK

You can also contact QAHE Welfare team qahe.welfare@qa.com, who will be able to support you



with understanding what you need to disclose.

5. Applicants who disclose a relevant conviction prior to enrolment

If an applicant declares a relevant conviction or arrest, they will be contacted by a lead member of the Welfare team, who will discuss the circumstances surrounding the alleged offence or conviction. This is so we understand the full context of the offence/conviction, mitigating circumstances and risk factors.

The Welfare team may request consent to speak with the investigating officer, probation officer or any other third-party agency who may hold information that can support our understanding of the offence/conviction.

Dependent on when the declaration was made and the length of time it may take to complete the risk assessments, the applicant may be deferred to a following intake.

Once the Welfare team have completed their initial risk assessments, their findings and recommendations will be presented to the Safeguarding Risk Panel for review and outcome.

The outcome of the risk assessments will be shared with the applicant, admissions team, university partner, and if appropriate, recruitment agency.

6. Students who declare a relevant conviction during study

If a student declares a legal restriction whilst studying, the declaration and implications for study will be individually assessed. In addition to the requirement to self-disclose during the semester, students will be required to complete a declaration at re-enrolment.

Students must disclose by contacting the QAHE Welfare team so a declaration and risk assessment can be completed. At the point of disclosure, students may also be assigned a Welfare Advisor who can support you through the disclosure and assessment process.

If a student does not declare a legal restriction at registration or immediately after it becomes relevant, the student will be asked to explain the delay in writing. In there are no mitigating circumstances as to why the declaration was not made in a timely manner then this will be referred to the Safeguarding Risk panel to consider any disciplinary action.

Depending on the nature of the offence precautionary measures may be put in place whilst we complete our risk assessments, this may include suspension for attending the campus.

The student will be contacted by a lead member of the Welfare team, who will discuss the circumstances surrounding the alleged offence or conviction. This is so we understand the full context of the offence/conviction, mitigating circumstances and risk factors.

The Welfare team may request consent to speak with the investigating officer, probation officer or any other third-party agency who may hold information that can support our understanding of the offence/conviction.

Once the Welfare team have completed their initial risk assessments, their findings and recommendations will be presented to the Safeguarding Risk Panel for review and outcome.



We aim to complete investigations within a 30-day period; however, this is dependent on evidence being provided in a timely manner.

The outcome will be shared with the student, any relevant internal teams and the University partner.

7. QAHE investigation process and risk assessment

Following disclosure, the individual will be contacted by a senior welfare team member to complete the university's criminal convictions declaration. Once received, an appointment will be arranged to gather further understanding and supporting evidence. This may include contacting external parties, such as probation officers and other justice agencies.

The Welfare team will complete a risk assessment, see appendix 1 and share this with the Safeguarding Risk Panel for review and decision.

8. Support for students

If a student has declared a conviction or is the subject of a criminal investigation, a Welfare Advisor will be allocated to the student. The Welfare advisor's role is to provide non-judgemental pastoral support, liaising with internal teams and external agencies, where appropriate.

Their role is deliberately separated from QAHE investigations and risk assessments to ensure the student has access to a safe space.

9. Reporting of convictions from a third party

If a third party knows that a student may have an unspent conviction and/or legal restrictions, they are advised to report it to qahe.welfare@qa.com. The aim is to ensure the safety of our community and respect individuals' situations. The report will be investigated using the safeguarding policy and, if necessary, both QAHE's and the partner university's student code of conduct. Any reports subsequently determined as malicious, may also be deemed as a breach of the Student Code of Conduct and investigated accordingly.

10. Requests from third parties for information about students

From time to time, QAHE is asked to provide information about students primarily to police or related external organisations (e.g. a social services team) or other justice organisations. Information is only released through formal requests processed by our Privacy team.

11. Prevent statutory duty

QAHE has a statutory duty regarding the need to prevent people from being drawn into terrorism. If there is reason to believe that a member of staff or student may be at risk of being drawn into terrorism, any action taken under this policy will be taken in consultation with QAHE Prevent Co-ordinator and the Safeguarding Risk Panel.

12. Privacy and reporting of unlawful acts

Any disclosure obtained through the DBS or by other means must be kept, and disposed of, in accordance with the current guidance from the DBS on the secure storage, handling, use, retention and disposal of disclosures and disclosure information (see DBS website). All other documentation should be kept securely and in accordance with the QAHE's policy on the Data Protection Act.



Any DBS disclosure should not be kept on the student file, but, if necessary, one copy may be kept by the Head of Student Wellbeing in a secure location on the Welfare Case Management System, for a maximum six-month period. Permission will be required from DBS if it is necessary to hold the DBS disclosure for longer. Similarly, other (non-DBS disclosure) information on a person's criminal record should not be held on the student record system but will be held in the Welfare Case Management System. All other copies should be destroyed.

We may also transfer your personal data if we are under a duty to disclose or share it in order to comply with any legal obligation, to detect or report a crime, to enforce or apply the terms of our contracts or to protect the rights, property or safety of our enquirers, visitors and students. However, we will always aim to ensure that your privacy rights continue to be protected. Further information can be found [here](#).

13. Failure to declare, untrue and inaccurate declarations

If there has been a failure to declare and/or an individual has made an inaccurate declaration. Dependant on the circumstances, this may be investigated under the QAHE and University's Student Code of Conduct and could lead to disciplinary proceedings. Any breach may mean either deferral or termination of studies.

14. Complaints and appeals

Any complaints or appeals should be sent to qahe.complaints@qa.com.

**Criminal Convictions Disclosure Record and Risk Assessment**

Student ID:		Completion Method:	
Completion Date:		Completed By:	
University Partner		Intake	
Programme			
Campus			
Is the applicant/student on a relevant course?		Is the student sponsored?	

To discuss with applicant/student

Date, nature of offence and sentence (may be multiple)
Was the conviction(s) in the UK? If not, please detail country of conviction
Were there any mitigating circumstances surrounding the offence(s)
Bail/Licence Conditions
Does the applicant/student need to seek approval from their probation officer to enrol?
Are there any changes in lifestyle, circumstances, attitude on the part of the applicant/student subsequent to the offence(s)
Does the applicant/student wish to make any further comments/representation?
Does the applicant/ student want to provide contact details and give consent for character references (the referee must be 'a person of good standing in their community' or work in (or be retired from) a recognised profession.



Checklist for external reports

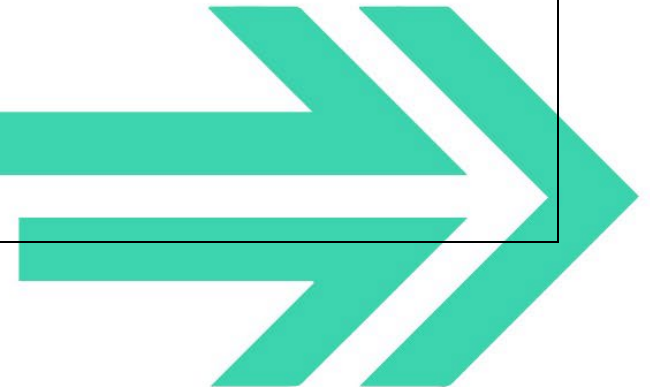
Has a Probation Officer report or other appropriate professional or agency evidence, including comments concerning the applicant's rehabilitation and risk of re-offending, level or risk to alleged victim and/or public been received?	
If the conviction was overseas, has a Certificate of Good Character been received?	
Have further character reference(s), where appropriate, been received?	
If student is on a relevant course, do we have current EDBS?	



QAHE RISK ASSESSMENT

Date		Mode	
Assessing Staff members			

Factors	Things to consider	Discussion
1. Relevance	Do any of the convictions relate to, or impact on the applicant/students' ability to complete placements and / or work in their chosen field?	
2. Age/time	<p>Look at:</p> <ul style="list-style-type: none">• The length of time since the offence was committed• Country the offence was committed• Their age when the offence was committed• The person's age now <p>Remember: conviction dates can often be much later than when the offence was committed</p> <p>Also consider if overseas conviction would length of sentence be different?</p>	





3. Nature	<p>Consider not just the category of the offence, but what the offence involved and what the applicant's actions were. For instance:</p> <ul style="list-style-type: none">• Financial offences – was it theft or fraud?• Violent offences – was it against a vulnerable person, what was the level of harm caused?• Drugs offences – was it possession or supply	
4. Seriousness	<p>How serious the offence is, as determined by the charge and sentence and may help you determine whether an offence is relevant when balanced against other factors.</p>	
5. Pattern	<p>Consider whether the person committed a single offence, or whether there is/was a pattern of offending.</p> <ul style="list-style-type: none">• If they committed a number of offences, is there a significant gap between them?• Were the offences committed over a particular period of time? <p>What was happening for them at that time?</p> <ul style="list-style-type: none">• Have their circumstances or motivation changed? <p>It's important to remember that some people may receive multiple convictions</p>	



	relating to the same time/incident. This means that multiple convictions do not automatically indicate a pattern of offending.	
6. Circumstances	<ul style="list-style-type: none">· What happened· Who was involved· Why it happened (e.g. whether there were any aggravating factors such as finances/accommodation/drug use etc.	
7. Legal restrictions/licence conditions	<p>Some applicants/students may be under supervision or have certain requirements for what they do and where they go. These could be bail conditions, licence conditions or reporting requirements with the police.</p> <p>Restrictions of these kinds may have a direct practical effect on whether an applicant is able to conduct the role they have applied for.</p> <p>For example:</p> <ul style="list-style-type: none">· Curfews or exclusion zones – can the applicant carry attend campus at the time and location?· Restrictions on use of the internet or electronic devices. <p>In the course of their studies, will the applicant/student need to access specific devices that are internet-enabled?</p>	



	<ul style="list-style-type: none">· Electronic device monitoring. If this restriction is in place, will this pose any challenges to your organisation?	
8. Mitigating Factors	<p>For any of the potential challenges identified, list here what positive or mitigating factors are also present.</p> <p>You may have already identified some of these above (such as it having been a long time since the last offence) but this is a space to collate and consider others.</p> <p>For example: · Any existing risk management measures on campus. Such as: CCTV, training, passwords, lockers, supervision, employee wellbeing services, etc.</p> <ul style="list-style-type: none">· Whether the applicant/student has made effort to move forward and/or avoid risk in future (such as rehabilitative courses/education or healthier relationships).· Whether the applicant/student is currently being monitored by police/probation – if so, mitigations may include:<ul style="list-style-type: none">A) They will likely have had to seek approval to make an application – which could mean supervising staff don't consider them a risk in this roleB) They will continue to be monitored, and risk assessed by professionals	



Outcome

Risk Title	Decision	Risk Management Measures required
Is there a transferrable risk?	Yes/No/Further info req	
Is there a risk reputational damage?	Yes/No/Further info req	
Can the applicant/student comply with bail/licence conditions?	Yes/No/Further info req	
Outcome:		
Date applicant/student informed:		