

GD2 Disclosure Text Guidance

Disclosure text serves to convey non-conviction information that may identify a potential risk to the vulnerable and/or to add relevant background detail to a conviction record (victim profile, for example).

Before releasing information, the Chief Officer should ensure that the disclosure text meets the following criteria:

1. The disclosure should follow the requirements of the Criminal Records Review **Recommendation 6c** template and state why you concluded that the information is relevant and ought to be disclosed (template included at Appendix A).
2. The wording must be a clear, concise and unambiguous summary of relevant information, written in Plain English – easy to read, follow and understand.
3. Police/legal jargon or other terminology should be avoided. However, if such terms are necessary or unavoidable, clear definitions should also be provided.
4. It should not include any un-necessary or disproportionate detail or information; it should only convey the relevant facts.
5. The disclosure text should be balanced and neutral in tone, offering no opinion on the employment suitability* of the applicant and making no unreasonable assumption.
*Expressing an opinion that information ought to be disclosed is not expressing an opinion on their suitability to be employed – any associated potential risk may be considered manageable by an employer. Legislation asks that the Chief Officer to determine whether, in their opinion, information ought to be disclosed.
6. The disclosure text should be as complete as possible and include (for example) the age of victim; the degree of any injury/harm/violence etc., where such information is available and relevant. This is equally important for relevant PNC conviction records (which are automatically disclosed on the certificate) as much relevant and useful information is not automatically printed on the EDBS (Enhanced Disclosure and Barring Service certificate). Inclusion of such information will negate the need for a potential employer to seek clarification or ask for further detail from the force concerned.
7. If information disclosed was sourced from another Agency or Organisation, they should be identified.
8. The disclosure text should include the following, where available, in order to assist the employer to fully comprehend the potential risks to the vulnerable;
 - Any applicable factors that may have contributed towards the triggering of the offence/criminal behaviour. When describing these factors, include the level of substantiation that is available. For example, if you state that an individual was under the influence of alcohol, state whether this was in the arresting officer's opinion, or was proven following a blood test etc.
 - Clarification on the extent of the offence/criminal behaviour. For an assault for example, distinguish between minor bruising and multiple lacerations etc.
 - Whether the party admitted or denied the charge/offence. In the case of non-conviction information, include the party's version of events (where applicable). Be balanced and fair in your disclosure.
 - Where drugs are involved, be specific (i.e. the class, type and amount).
 - The profile of any victim(s) should be included where available and appropriate (e.g. the relationship to the party; age; gender and mental capacity).
 - For non-conviction data, record the conclusion of the investigation or its current status (where available) or clearly state that this is not known and why.

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Where the information you are considering for disclosure is incomplete or may be inaccurate/in doubt, yet is of such gravity that you cannot risk not disclosing or making a disproportionate disclosure that would severely impact the applicant, you should offer the applicant the opportunity to make representation, prior to your final decision being made.

9. When making a third party disclosure, where the third party is the risk, the third party should be named and their relationship with the applicant be made clear. For example: if they live at, or have access to, the applicant's home, this should be stated.

There follows two disclosure examples of disclosure text for the same incident for comparison (for brevity, Rec 6c text covering the reasons for disclosure is not included):

Example 1a– Disclosure of non-conviction information

This text DOES NOT comply with GD2 guidance

“Mr A, an Afro-Caribbean male born in Jamaica on 3rd June 1946, first came to police notice in 1982 when it was alleged that, whilst caring for his partner's children whilst she was enjoying a hen-night at a male strip club, he had assaulted one of them. Mr A was investigated for acts of cruelty. We do not consider Mr A to be suitable to work with children.”

In example 1a the text:

1. Contains **un-necessary information** (irrelevant reference to the ethnicity of applicant; irrelevant reference to the specifics of the activities of his partner)
2. Does not include the **age of the alleged victim**
3. Does not include the **extent of the injuries** sustained by the victim (if any)
4. Does not include Mr A's **response to the charge** of cruelty
5. Does not conclude the matter (what was the relevant outcome from the investigation?)
6. Contains **opinion as to the applicants suitability** for employment

Example 1b – Disclosure of non-conviction information

This text DOES comply with GD2 guidelines

“Mr A came to police notice in 1982 when it was alleged that, whilst caring for his partner's three children, he had assaulted one of them, a boy, aged three years. This came to light when the child was examined at hospital and was found to have fresh bruising to his leg, bottom, ear and face. Hospital staff alerted Social Services and the Police. Mr A was investigated and denied the assault but admitted smacking the boy twice for scratching his eczema. No charges were brought against Mr A as neither the children (all aged under 6 years) nor their mother wished to make any complaint or take the matter further.”

In example 1b the text:

1. Does not contain un-necessary information
2. Includes the age of the victim
3. Includes the extent of the injuries sustained by the victim
4. Includes Mr A's response to the charge of cruelty
5. Does not contain opinion as to the applicants suitability for employment
6. Concludes the matter appropriately

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Example 1a contains un-necessary and irrelevant reference to Mr A's ethnicity and country of birth; to this being the 'first time' that he had come to police notice and to his partners social activity – all serve only to paint a pen-picture that is not relevant to the facts in the case.

Example 1b provides a more **balanced** and **fair** disclosure that, whilst containing only the **relevant** facts, also includes other detail that the potential employer would find relevant and useful.

Disclosure of information related to a conviction recorded on PNC

Only the basic details of PNC conviction records are automatically included on an EDBS(the offence; the Act covering the offence; date; court; sentence etc). However, in some cases, including some of the relevant background details will provide a complete and balanced disclosure. QAF MP7a asks: "*Is it **reasonable** to believe that the information is **relevant** to **considerations of the risk** that this individual may pose to children, vulnerable adults or both, for this specific application?*" For instance:

John DOE, born 01/04/1985

Sector Applied for: Vulnerable Adults

2006 conviction for Theft; 6 months custodial sentence.

Although this may, on the face of it, appear to convey (without any input from a Disclosure Unit) sufficient information, the MO – *modus operandi*, the background to the record – may provide further information relevant to the application. Review and disclosure of such information, if owned and available to your force, can be of significant value to the potential employer.

Disclosed text based on MO for the above PNC record

"Whilst visiting a friend in the employ of The Willows Care Home for the Elderly in Slough, Mr DOE stole the entire monetary contents of two purses from two residents. The purses were in the handbags of his victims, unattended in the common room of the care home during lunch time.

Mr DOE was caught on closed circuit cameras and was easily identifiable.

When questioned whilst in custody by the arresting officer, Mr DOE denied the allegations until a recording of his activity was shown to him.

Mr DOE then admitted the offence and stated that he had taken over £60 from the two purses and that he needed the money to support his heroin addiction.

He pleaded guilty in court and was sentenced to 6 months imprisonment."

It is clear that the basic PNC record alone does not convey the true nature of the conviction - during an interview with his prospective employer, the applicant could claim any background to the offence that suited his purpose and masked the risk that he may pose to other vulnerable adults.

Revealing the truth of the matter would highlight the risk in employing Mr DOE in any role providing relevant access to vulnerable adults and allow the employer to manage it accordingly.

The 'Disclosed text based on MO' example gives a fair and balanced account of the offence. It details how Mr DOE had the access and opportunity; how he came to be identified as the perpetrator; that he had lied and that he had a drug habit at the time of arrest.

It also conveys the fact that he stole the entire monetary contents of the purses - a sum that he is on record as stating was at least £60 – leaving his victims with nothing, the result of which is likely to have caused distress and financial hardship.

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‘Positive’ disclosure (mitigating circumstances)

QAF MP7a asks: “Is it reasonable to believe that the information is **relevant to considerations of the risk** that this individual may pose to children, vulnerable adults or both, for this specific application?”

You may have background information to a PNC conviction that reveals that the applicant would pose **less of a risk** than the basic disposal suggests and, if you do, then this may also be relevant for disclosure consideration as it is relevant to considerations of risk.

For instance:

John DOE, born 01/04/1965

Post Applied for: Care Worker

2007 conviction for Assault; 2 months suspended sentence.

Disclosure text providing background to the conviction:

“Mr DOE attacked a male intruder, 15 years of age, in his home when he awoke to find the intruder standing over the bed of his seven year old daughter. It is believed that the intruder intended to burgle the home of Mr DOE and had just entered through the window of his daughter’s bedroom when Mr DOE found him. Mr DOE stated that he was acting in defence of his daughter, whom he feared to have been at risk of harm. He was not aware of the young age of the intruder as the room was very dark. On reflection, Mr DOE felt that he had used excessive force, acting on impulse. Mr DOE has not come to the attention of police before or since.”

Without these background details, the full facts of the matter are not revealed and the prospective employer may consider that this applicant is unsuitable for such a responsible role. The additional details above deliver a balanced and proportionate disclosure and the information is relevant to the considerations of risk.

When should disclosure be considered?

Whilst not necessary in every case, disclosure of such mitigating circumstances may be a consideration for any relatively serious conviction likely to influence an employer’s risk and suitability assessment of the applicant. For instance, a conviction for murder is highly likely to impact on an applicant’s employment prospects. However, if the applicant has no other offences and had been driven to commit the act following years of systematic physical and sexual abuse from a violent and controlling family member, there exists mitigating factors that may be relevant to considerations of the risk they may pose to others – sensitive inclusion of these factors may balance the disclosure and prevent disproportionate impact on their private life and employment prospects.

NB Careful consideration, however, should always be made of potential impact from identifying the applicant as being a victim of such offences – representations are advisable.

Recommendation 6c

Incorporated into QAF from April 2012, this recommendation from Sunita Mason’s report into the Criminal Records Regime, “*A Common Sense Approach*”, seeks to provide the applicant and employer with the reasons why you concluded that information is relevant and ought to be disclosed. Following adoption of Rec 6c, a good disclosure text includes these pertinent aspects of your reasoning, taken from your QAF audit trail.

The 6c template is attached at Appendix A

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Appendix A (GD5)

Process for addressing Recommendation 6c of the Criminal Records Regime Review Report:

Recommendation 6C – “I recommend the development and use of a common template to ensure that a consistent level of information is disclosed to the individual with clearly set out reasons for that decision.”

The 6c template format seeks to standardise the presentation of information and ensure a consistent level of detail, sufficient to inform the reader of the reasons/need for disclosure and the extent of associated risks.

A good 6c text needs to leave the reader in no doubt as to why disclosure was necessary - it should provide the reader with an understanding of the reasoning that led to your decision to disclose.

You do not need to disclose your entire thought process, only the key elements – be clear and concise.

There are always exceptional cases that will prove challenging when attempting to fit them within the template structure. If you are struggling with such a case, please use your discretion and apply common sense – make reasonable deviations but stay true to the over-arching aim of the template.

Use of the template

After first applying QAF to your information, the disclosure text should be set-out as follows for each person who is the subject of the information being disclosed:

1) Opening – Identification

Identify (name) the police force / law enforcement agency making the disclosure

Identify (name, DoB) the applicant and post applied for (to clearly link the correct disclosure to the correct application) **and/or**

Identify (name DoB) the subject(s) of the disclosure (the individuals who present a risk); if they are a 3rd Party to the applicant, clearly state their relationship to the applicant (**MP7a Box 5**)

2) 6c Rationale - Why this information is RELEVANT to this application

Briefly state the type of information being disclosed (background to a conviction for assault; allegation of a sexual assault; impending prosecution for sexual assault on a minor etc.)

Briefly convey why this information is relevant for disclosure within the scope of this specific application – draw from your AT3 Section 2.2 rationale for Box 3. Be brief – Section 4 ('ought to') will also include aspects of relevance.

3) Body Text – The information that the employer needs to be made aware of

Provide detail that would be of material value to the employer

Provide only relevant additive details – dates; locations; victim profile; level of harm/injury; aggravating/mitigating circumstances; weapons etc.

Do not provide any irrelevant or disproportionate details

Clearly differentiate between each relevant individual and state how they were involved (provide names only where necessary/proportionate/safe to do so i.e. is it necessary to identify victims?)

Your text should be clear and concise; written in Plain English; easy to understand

4) 6c Rationale - Why you concluded that this information OUGHT TO BE DISCLOSED

This needs to address how/why you reached your decision to disclose this information for this application

If the information relates to allegations or other non-conviction information, address why you believe it is necessary to disclose

If information relates to a charge for which the individual received a Not Guilty verdict at court or was never prosecuted etc, address why you believe it is necessary to disclose

Identify the risk, the extent of the risk, who is at risk or the mitigation of a risk (a 'positive' disclosure)

State why you concluded that the need for disclosure outweighs the rights of the applicant to a private life (draw on your AT3 Section 4 Human Rights considerations); consider referencing representations received

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The wording consists of standard template text (black) and text that must be replaced with your words (red text). Guidance notes are given in blue text. Please follow this template.

	Wording	QAF
1a	<p>“<i>[insert name of force]</i>, hold the following information which we believe to be relevant to the application of <i>[insert applicant name; DoB]</i>”</p>	
1b (3 rd Party)	<p>“<i>[insert name of force]</i> hold no relevant information concerning <i>[insert applicant name]</i> however we do hold information concerning <i>[insert 3rd Party name and connection/relationship to applicant]</i>, which we believe to be relevant to the application as they <i>[insert brief details of their access to the vulnerable]</i>”.</p> <p style="text-align: center;">or (when you are also disclosing on the applicant)</p> <p>“<i>[insert name of force]</i> also hold information concerning <i>[insert 3rd Party name and connection/relationship to applicant]</i>, <i>[insert brief details of their access to the vulnerable]</i>”.</p> <p style="color: blue;">You need to clearly state their relationship or link to the applicant; state why you believe the 3rd Party will have relevant access to the vulnerable; the risk, of contact, should be at least possible, and by no means fanciful</p>	MP7a Box 5
2	<p>“The information relates to <i>[brief outline of the type of information behaviour; incident; offence etc. being disclosed i.e. background to conviction; allegation;]</i>.”</p> <p><i>[insert name of force]</i> believe this information to be relevant to an employer’s risk and suitability assessment when considering <i>[insert applicant’s name]</i> application for <i>[insert role/post and identify vulnerable group if applicable]</i> because...”</p> <p style="color: blue;">As ‘relevance’ and ‘ought to’ are very closely linked, the greatest detail will be provided at section 4 below. Avoid unnecessary repetition</p> <p style="color: blue;">Use Plain English avoid jargon or legal terms – this is intended to be a simple, clear and brief reflection of your reasoning; the applicant or employer should be able to see that your conclusion is a reasonable one</p>	MP7a Box 3
3	<p>“The information held by police is <i>[insert clear and concise details of the relevant information that you hold]</i>”</p> <p style="color: blue;">State the nature of the information so that the reader is in no doubt (allegation/background to a conviction/background to professional misconduct that was not dealt with by police etc.)</p> <p style="color: blue;">Describe the incident - be clear and concise</p> <p style="color: blue;">Provide all (and only) relevant, proportionate and additive information/names/details</p> <p style="color: blue;">Be neutral and balanced</p> <p style="color: blue;">State how relevant individuals were involved</p>	GD2
4	<p>“After careful consideration, <i>[Insert name of force]</i> believe that this information ought to be disclosed because...”</p> <p style="color: blue;">Explain why this information ought to be disclosed by clearly identifying the risk and stating why you concluded that the risk outweighs the impact on the private life of the applicant in this particular case</p> <p style="color: blue;">For allegations and non-conviction information in particular, address why you conclude that it ought to be disclosed</p>	MP7a Box 4, 6 & Human Rights