**Disclosure text serves to convey non-conviction information that may identify a potential risk to the vulnerable and/or to add relevant contextual/background detail to a conviction/caution etc. Such information is invaluable to prospective employers.**

**The bullet points below refer to specific information that will clarify and add context to the text to enable the potential employer/decision making body to make an informed decision. You may not hold this particular detail, or you may conclude that it is not relevant or appropriate to disclose in certain circumstances, your audit trail should reflect the reasons for the non-inclusion of the information mentioned below.**

**Before releasing information, you should ensure that the disclosure text meets the following criteria where appropriate or the audit trail reflects its omission:**

1. The Disclosure text should follow the requirements of the Criminal Records Review **Recommendation 6c** template – 6c 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 where possible. However, if such terms are necessary or unavoidable, clear definitions should also be provided.
4. It should not include any un-necessary, irrelevant or disproportionate detail or information; it should only convey the relevant facts - clearly.
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. Legislation asks that the Chief Officer determine whether, in their opinion, information ought to be disclosed. The disclosure text should include (briefly) the reasons why disclosure was, ultimately, considered necessary.
6. It should not contain unnecessary/avoidable emotive or inflammatory language. Care should be taken when using words outside of the context of police systems. For example, ‘offender’ may be used to denote the applicant on force systems but out of context can imply an element of guilt in non-conviction information. The terms such as ‘Serious Offences’ need qualification to ensure that they are not viewed as a subjective personal opinion e.g. has a qualified source officially categorised the information.
7. The disclosure text should be self-contained; as complete as possible and include (for example) the age of victim/Complainant; the degree of any injury/harm/violence etc., where such information is available and relevant. This is equally important for relevant PNC conviction records (those which are automatically disclosed on the certificate) as much relevant and useful information is not automatically printed on the 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.
8. If information disclosed/referred was sourced from another Agency or Organisation, they should be identified (where appropriate/safe to do so). As per the judgments in SD and LG this includes information from the Disclosure & Barring Service (DBS), regulatory and professional bodies.

***NOTE: for guidance on SD/LG judgement please refer to the Explanatory note issued by NPCC Portfolio lead ACC Adderley issued on 10/05/2019. Appropriate wording can be found on pages 10&11 of this document when disclosing such information.***



1. The 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 or escalation of a relevant offence/ 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 proven following a blood/breath test etc.
	* Clarification of the extent of the offence/ behaviour. For a violent assault for example, distinguish between minor bruising and multiple lacerations etc.
	* Whether the party admitted or denied the allegation/charge/offence. In the case of non-conviction information, include the party’s version of events (where relevant and proportionate). Be balanced and fair in your disclosure.
	* Where drugs are involved, be specific i.e. the class, type and amount. (If the specific details are not available then this should be clearly stated)
	* For Thefts, be specific i.e. amount thefts, details of item stolen/amount of monies.
	* For any information containing multiple incidents avoid terms such as ‘numerous’, ‘several’. Always use the specific number of incidents unless the audit trail articulates why the specific number cannot be included within the text.
	* For Indecent Images, be specific i.e. number of images, their category and category definition. (If specific detail is not to be included or unavailable then this should be clearly stated or reflected in your Audit Trail)
	* The profile of any victim(s)/complainant(s) should be included where available and appropriate (e.g. the relationship to the party; age; gender and mental/physical capacity).
	* For non-conviction data, record the conclusion of the investigation (where available) or clearly state that this is not known and why.
	* For Not Guilty verdicts include the reason (where deemed relevant) or clearly state that this is not known and why. (e.g. if the individual was found Not Guilty by Jury, then please state this)
2. 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.
3. If your information relates to non-conviction information, ensure that this is clear within the text – do not leave room for doubt or misinterpretation.
4. If your disclosure relates to Mental Health always ensure that the Guidance Document 3 (GD3) is referred to prior to your final decision. [QAF\_v9\_GD3\_Mental\_Health\_and\_Disclosure\_September\_2014.pdf (publishing.service.gov.uk)](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/353033/QAF_v9_GD3_Mental_Health_and_Disclosure_September_2014.pdf)
5. It is for the employer to determine the risk posed by the applicant as a result of the information disclosed by the force, the text should not contain the force’s risk assessment, this is for the rationale not the approved text.

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 consider offering the applicant the opportunity to make representation, **prior to your final decision being made**. Your audit trail should record the reasons for/against making representations and also the considerations made toward the representations. Link to Representations Guidance is below.

[Representations (publishing.service.gov.uk)](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/274374/QAF_v9_GD4_Representations_-_Guidance.pdf)

**Disclosure of information relating to an Impending prosecution/ongoing investigation**

* Where your information relates to Impending Prosecution/Ongoing investigation ensure that the text is clearly reflective of the considerations made within the AT3
* If the Box 4 rationale confirms that the information that is believed to be true is solely the factual information of the charge/court date/ongoing investigation, then the text should reflect this
* The text should include the applicants’ admittance or denial of any allegations (if available), where rationale has deemed this as relevant and appropriate for proposed disclosure
* If you’re intending to include any of the background to the Impending Prosecution/Ongoing investigation, this information must be tested for its accuracy and credibility at Box 4 in the same way as any other piece of non-conviction information.
* Ensure that the final paragraph of the 6c template accurately reflects the investigation e.g. there is a distinction between a Released Under Investigation and an Impending Prosecution:
	+ Impending Prosecution – the person been formally charged for an offence.
	+ Released Under Investigation – the person is suspected, but not charged for an offence.
	+ Your final statement, addressing your ‘Relevant’ and ‘Ought to be Disclosed’ considerations, should accurately reflect whether the subject of the disclosure is currently a subject of an allegation or whether they have been formally charged for an offence. This will help mitigate the risk of any reader misunderstanding the correct circumstances and/or misinterpreting this statement as an implication of guilt by the Police. Please see **Appendix A**
	+ Ensure that your audit trail fully records all of the considerations you have made for the proportionality and accuracy of the wording of your ‘Relevant’ and ‘Ought to be Disclosed’ paragraph.

**Disclosure of information related to a conviction recorded on PNC**

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

Keep in mind the **filtering of Old & Minor convictions, cautions, youth cautions, warnings and reprimands** – should any of your records be removed by the filtering rules, you may assess them for possible disclosure as Approved Information.

Example of ‘automatically’ disclosed PNC record details:

**John DOE, born 01/04/1985;**

**‘Post Applied for’: Adults Workforce; Care of the elderly**

**2006 conviction for Theft; 6 months custodial sentence**

Although this may, on the face of it, appear to convey sufficient information (without any additional input from the Disclosure Unit), the MO – *modus operandi*, the background/context to the incident(s) – may provide further information relevant to the application. Disclosure of such relevant information, if owned by and available to your force, can be of significant value to employer and applicant by putting an incident into proper context.

**Disclosed text based on MO for the above PNC record**

“Whilst visiting a friend, who was then 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, left unattended in the common room of the care home whilst their owners were at lunch.

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, masking the risk that he may pose to other vulnerable adults.

Revealing the extent 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 lied; that he had a drug habit at the time of arrest.

It also conveys the extent of his actions; 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.

**Disclosure of mitigating circumstances**

QAF MP7a asks: *“Is it reasonable**to believe that the information is* ***relevant*** *to* ***considerations of 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 theoffence title does not fully convey the applicant’s actions and could lead an employer to believe a more serious incident has occurred; then this may be relevant for disclosure consideration as it is relevant to considerations of risk; disclosure of contextual information allows the prospective employer to make a fair and balanced assessment of the applicant.

For instance:

**John DOE, born 01/04/1965**

**‘Post Applied for’: Children’s Workforce; Care Worker with children**

**2009 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. Mr DOE awoke in his home, at around 2am, to find an intruder standing over the bed of Mr DOE’s 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 acted without thinking, to protect 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 would not be revealed and as a consequence the prospective employer may (unreasonably) conclude 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 offence following years of systematic physical and sexual abuse from a violent and controlling family member (the victim of the murder) 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 an applicant as being a victim of sexual or violent offences – representations are advisable as there are Human Rights considerations to be made and their wishes will need to be taken into account.

**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 the end of this document (\*revised in October 2015)

Example disclosure text:

*Wessex Police holds the following information which is believed to be relevant to the application of APPLICANT/DOB, for Health Care Assistant within the child and adult workforces.*

*The information held by police is that on 28th June 2019 APPLICANT was arrested on suspicion of theft. Whilst in a position of trust as a carer for ABC Care Company, it is alleged that between 27th April 2019 and 9th June 2019, without permission, he made a total of twenty(20) cash withdrawals from a ninety-four year old female service user’s bank account, totalling £5,650.95. The service user was vulnerable due to being partially sighted and in the early stages of dementia.*

*In police interview APPLICANT denied the allegations. He stated that the service user had asked him to provide extra care independently from ABC Care Company. He said that an agreement was made for her to pay him £1,600 per month, and that she would give him her bank card so that he could withdraw the money to pay himself.*

*On 9th September 2019 APPLICANT was voluntarily interviewed by police in relation to further allegations of theft. Whilst in a position of trust as a carer for ABC Care Company, it is alleged that between 3rd May 2019 and 3rd June 2019, without permission, he made a total of eight cashpoint withdrawals, and one branch withdrawal from a ninety-one year-old female service user’s account, totalling £2,500. The service user was vulnerable due to having dementia.*

*During the interview, APPLICANT denied the allegations, stating that he has never used the service user’s bank card*

*On 23rd November 2020, APPLICANT was charged with:*

*• 2 x Theft from person (one relating to each service user)*

*• 3 x Fraud by abuse of position (one relating to each service user, and one relating to ABC Care Company).*

*APPLICANT appeared in Bristol County Court on 20th Jan 2021 and was found not guilty by jury. The APPLICANT was subsequently dismissed by ABC Care Company due to gross misconduct in relation to procedural breaches in the treatment of service user’s financial affairs.*

*After careful consideration, we conclude that this information is relevant and ought to be disclosed to an employer, in this instance, because: APPLICANT is applying to work within the child and adult workforces and the allegations relate to theft in the workplace and the APPLICANT was dismissed for gross misconduct in relation to professional standards.*

*The interference with the human rights of those concerned has been considered and it has been determined that, in this instance, disclosure is proportionate and necessary.*

**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; reasoning that may be challenged.

You do not need to disclose your entire thought process, only key elements.

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) workforce / 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) Body Text – The information that the employer needs to be made aware of**

Provide detail that would be of material value to anyone assessing the applicant’s suitability.

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

**3) 6c Rationale - Why this information/behaviour is RELEVANT to this application** and **Why you concluded that this information OUGHT TO BE DISCLOSED**

Briefly state the type of information being disclosed *(“it is contextual background to a conviction for assault on a disabled man”; “it relates to an allegation of sexual assault”; “it relates to an 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. **Be brief** – Section 4 (*‘ought to’*) will also include aspects of relevance e.g. information is relevant because it relates to an assault on a child and the application is for the child workforce.

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 prosecution that resulted in a Not Guilty verdict at court or a charge that was NFA’d etc, address why you believe it is still necessary to disclose.

State why you concluded that the information ought to be disclosed; consider referencing representations offered/received.

Ensure the wording is neutral and balanced that offers no leading opinion.

**Optional Paragraphs following SD and LG cases:**

*The following two (optional) Paragraphs should be considered for inclusion within the 6c text where you deem is it relevant to include the decision* ***not to*** *bar the applicant. The paragraph/s can be placed anywhere within the text.*

*If the 6c text contains multiple pieces of information, then it should be made clear which piece/s of information that the paragraph is applicable to.*

* *Optional DBS barring decision paragraph:*

*“[Applicant] has informed [name of force] that they have not been included on the [regulated activity groups(s)] barred list under paragraph 3 of Schedule 3 to the Safeguarding of Vulnerable Groups Act 2006. Inclusion on a barred list requires the DBS to be satisfied that: the person has engaged in relevant conduct; the person is, has been or might be engaged in regulated activity; and it is appropriate to include the person in the list. The decision whether to include an individual on a barred list is not the same as the nuanced consideration and balancing of risk expected of any registered person / employer in receipt to this ECRC.”*

* *Optional professional body finding paragraph:*

*“[name of force] are aware that the [insert name of professional body] concluded that [insert outcome of investigation e.g. Fit to practice. Insert date of professional body conclusion if available]. The decision of the professional body not to exclude someone from their profession is not the same as the nuanced consideration and balancing of risk expected of any registered person / employer in receipt to this ECRC.”*

The wording consists of standard template text (black) and text that must be replaced with your words (red text). Please follow this template.

|  |  |  |
| --- | --- | --- |
|  | **Wording** | **QAF** |
| **1a** | [*Insert name of Force*] holds the following information which is believed to be relevant to the application of [*Insert full name*], born [*insert date of birth*], for [*insert post / workforce / identify vulnerable group(s) if applicable*]. | **GD2** |
| **1b** **(3rd Party)** | “[*insert name of force*] hold no relevant information concerning [*insert applicant name*] however we do hold information concerning [*insert 3rd Party name and connection/relationship to applicant]*, which is believed relevant to the application as they [*insert brief details of their access to the vulnerable*]”.or“[*insert name of force*] also hold information concerning [*insert 3rd Party name and connection/relationship to applicant]*, [*insert brief details of their access to the vulnerable*]”.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 | **MP7a****Box 5** |
| **2** | “The information held by police [*insert clear and concise details of the relevant information that you hold*]”Provide dates; 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.)Describe the incident/relevant behaviour - be clear and conciseProvide all (and only) relevant, proportionate and additive information/names/detailsBe neutral and balanced State how relevant individuals were involved | **GD2** |
| **3** | “After careful consideration, we conclude that this information is relevant and ought to be disclosed to an employer, in this instance, because: [*refer to the relevant behaviour/circumstances*] and *[give reasons why the information is relevant within the context of the application]* …. The interference with the human rights of those concerned has been considered and it has been determined that, in this instance, disclosure is proportionate and necessary.  Explain why this information is relevant and ought to be disclosed in this instance.For allegations, and Not Guilty/non-conviction information in particular, address why you concluded that, despite such an outcome, the information ought to be disclosed | **MP7a** **Box 3, 4 & Human Rights****GD2** |