



Access Validating Agency Licensing Agreement

Standard Terms for the Licensing of Access Validating Agencies

Draft for consultation

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Introduction

1 The Quality Assurance Agency for Higher Education (QAA) is responsible for regulating the Access to Higher Education (HE) Diploma. The QAA Recognition Scheme for Access to HE ('the Recognition Scheme') provides the regulatory framework through which QAA exercises this responsibility. Within this framework, QAA authorises organisations to develop, validate, approve and award Access to HE Diplomas. An organisation that has been authorised by QAA for these purposes is known as an Access Validating Agency (AVA).

2 The Recognition Scheme can be split down into the following five areas:

2.1 **The Licence arrangements:** These are the arrangements QAA has in place to manage the licensing process for AVAs. They set out the requirements for becoming an AVA ('the Licensing Agreement') and maintaining an AVA licence.

2.2 **The Access to HE Conditions:** These are the conditions an AVA must continue to meet once it has been successfully awarded an AVA licence. An organisation that wishes to become an AVA must demonstrate how it meets, or may meet, some of these conditions.

2.3 **The Monitoring arrangements:** These are the monitoring arrangements QAA operates to make judgements about whether an AVA is meeting the requirements of the Recognition Scheme. This also includes information on the approaches QAA may take where it has concerns about an AVA's compliance with the requirements of the Recognition Scheme.

2.4 **The Qualification requirements:** These requirements are set out in the Diploma Specification, Grading Scheme and Subject Descriptors. The Diploma Specification and Grading Scheme set out QAA requirements for the design, delivery, assessment and award of the Diploma. The Subject Descriptors set out requirements for the content of particular subject areas. Together, these qualification requirements ensure consistency across the qualification, and across AVAs.

2.5 **Guidance documents:** QAA will, from time to time, produce guidance documents that provide further explanation and detail as to how specific elements of the Recognition Scheme will operate or be implemented by QAA.

3 This document sets out the terms of the AVA Licensing Agreement, the regulatory requirements for becoming an AVA and maintaining an AVA licence.

The benefits of an AVA licence

4 The award of an AVA licence provides an AVA with a range of benefits, including:

4.1 offering services for the development and recognition of Access to HE courses and the award of Access to HE Diplomas

4.2 using the Access to HE trademarks to identify themselves as a licensed AVA and the status of the work they do in relation to recognised Access to HE provision

4.3 benefitting from QAA's development and publication of information about the Access to HE Diploma, statistical data and advice provided to higher education providers by QAA

4.4 receiving information from QAA about developments relating to the Recognition Scheme, and being invited to participate in meetings and conferences arranged by

QAA and to respond to formal consultations

- 4.5 having its Access to HE courses listed on QAA's course database, and enquirers to QAA are advised of the availability of Access to HE courses
- 4.6 promoting its recognised courses and progression opportunities for students, with reference to the credibility of the Access to HE Diploma in the higher education sector, which derives from QAA's respected management and maintenance of national arrangements.

The time period of an AVA licence

5 An AVA licence is awarded for a specified time period, after which an AVA must reapply to retain its licence. The time period of an AVA licence will be determined on an individual basis, but will be subject to the following general policy position as a guide:

Licence type	Time period
New licence - for new AVAs	No longer than three years
Renewal license - AVAs seeking relicensing with no ongoing compliance concerns (for example, not currently subject to an ongoing investigation) and not subject to any regulatory activity	Five years
Renewal license - AVAs seeking relicensing with ongoing compliance concerns or where the AVA is subject to any current action from QAA as a result of any monitoring activity	Three years

6 QAA reserves the right, at its sole discretion, to place specific restrictions on the operation of the licence or the withdrawal of the licence in accordance with its procedures. Should QAA exercise this right, the AVA will be notified of the reasons and given an appropriate period of notice before the decision is enacted; fees will be payable for any activity falling outside the AVA annual monitoring process.

Terms of the AVA Licensing Agreement

7 The following terms ('Terms') are attached to the award of an AVA licence and must be complied with by all AVAs alongside all other elements of the Recognition Scheme. For the purposes of these Terms, the term 'Provider' refers to an authorised provider of Access to HE courses.

8 QAA may undertake an investigation into the AVA or any of its Providers if so required, at any time on reasonable notice, for any legitimate reason. Such reasons include but are not limited to circumstances where there is evidence that any of these Terms or any of the criteria or documents referred to within these Terms, are not being complied with. Such investigations can take place at the premises of an AVA or authorised Providers of Access to HE courses and can lead to procedures being instigated for the withdrawal of the licence or other regulatory activity.

9 Charges will be imposed for any investigation or activity undertaken outside the standard AVA monitoring process.

10 Save where expressed otherwise, in the event of a conflict between these Terms and any document referred to within these Terms, these Terms shall prevail.

Identity, constitution and governance arrangements

11 An AVA must be a company registered in England or Wales, have a constitutional basis that is clear and readily identifiable, and have formal documentation that specifies its legal identity, function(s), aim(s) and principal governance structures.

12 An AVA's legal identity, constitutional and governance arrangements jointly ensure:

12.1 protection from the undue influence of any one of, or a minority group of, its members

12.2 its independent decision-making and operation as an AVA, as required by these criteria and other requirements of the Recognition Scheme.

13 An AVA must not itself be a provider of Access to HE Diplomas or a receiver of Access to HE students.

Terms of agreement

14 The AVA agrees that it will:

14.1 act in accordance with the regulations set out in the QAA Recognition Scheme for Access to Higher Education (including the Access to HE Conditions) and such other requirements for AVAs that may be issued by QAA from time to time

14.2 exercise its AVA responsibilities through its own organisation as required by the Access to HE Conditions, and not devolve to any other body any part of those responsibilities, subsequent to QAA's approval of the organisation's arrangements for operation of the licence

14.3 follow, and be able to demonstrate that it has followed, the procedures that it has set out in formal submissions to QAA to demonstrate how it meets the Access to HE Conditions, which have been approved by QAA through the processes of AVA licensing or monitoring

14.4 make resources available to implement fully the approved procedures that are set out in its formal documentation or submissions to QAA, and requirements that may be made by QAA for the continuation of the licence

14.5 make a specified annual contribution as determined by QAA to the costs of maintaining and developing the QAA Recognition Scheme for Access to Higher Education

14.6 inform QAA of any proposed changes in ownership of the AVA

14.7 take legal advice and consult with QAA before adopting a new legal identity, in order to confirm:

- the appropriateness of the new identity for meeting its public obligations and
- that the new identity (or other, additional arrangements) ensures that the AVA's

liability exists separately from that of member or partner organisations and their individual representatives

- 14.8 cooperate with, and participate in, QAA's procedures for the licensing and monitoring of AVAs, including the submission of reports and data, according to requirements specified by QAA; and comply with requirements made by QAA for the continuation of its licence
- 14.9 take no action and make no omission that brings into disrepute or could endanger the reputation of the Access to HE qualification, the QAA Recognition Scheme for Access to Higher Education, or QAA, or which damages the goodwill or reputation in the Access to HE logo trademark and Access to HE word trademark (the 'Access to HE Trademarks')
- 14.10 use, and ensure that eligible Providers only use, the Access to HE Trademarks in such forms and such manner as permitted by QAA's *Conditions for the use of Access to HE Trademarks* for use of the Access to HE logo (as may be amended from time to time) and comply, and ensure that Providers comply, with all other provisions of that document and the licensing criteria in the use of the Access to HE Trademarks
- 14.11 not sub-license, assign or otherwise dispose of any rights granted under these Terms to any third party other than to eligible Providers in accordance with these Terms, and also acknowledge that all rights and goodwill in the Access to HE Trademarks shall belong to QAA and that neither the AVA, nor any Provider, shall acquire any rights in the Access to HE Trademarks other than as expressly set out in these Conditions
- 14.12 conduct an inspection or audit at any time on reasonable notice at any one or more of the Providers, should it be of the reasonable belief that the Provider is not operating in accordance with the requirements of any part of the Recognition Scheme, including, but not limited to, guidelines for the use of the Access to HE Trademarks in their use of the Access to HE Trademarks.

Non-compliance

15 The AVA acknowledges that, where QAA, in its reasonable opinion, concludes there has been, or there is risk of, non-compliance with any aspect of the Recognition Scheme, QAA may:

- 15.1 issue a notice to an AVA that requires an AVA to take targeted action to resolve the non-compliance, or risk of non-compliance
- 15.2 impose a specific condition or conditions on an AVA that must be complied with, which may require an AVA to take certain action, or prohibit it from taking certain action
- 15.3 impose a formal sanction on an AVA such that the AVA is restricted in the activities it can undertake under its licence, or suspend its licence.

16 The AVA acknowledges that, where QAA has taken action such as that specified in 15.1 above, and the AVA has failed to comply with the action, or the issue that led to QAA concluding in its reasonable opinion that there has been, or there is a risk of, non-compliance with any aspect of the Recognition Scheme, QAA may take further action as specified in 15.2 above, or may issue a notice as per 15.1 - to seek to terminate an AVA licence.

- 17 The AVA acknowledges that QAA may terminate the licence at any time on written notice to the AVA with immediate effect:
- 17.1 if the AVA is in breach of any of these Terms or Access to HE Conditions and, if the breach is capable of remedy, the AVA has failed to remedy such breach within 30 days of the date of the notice from QAA requiring such remedy
 - 17.2 if a resolution is passed or an order is made for the winding up of the AVA (other than for the purpose of solvent amalgamation or reconstruction) or the AVA becomes subject to an administration order or a receiver or administrative receiver is appointed over, or an encumbrancer takes possession of any of the AVA's property
 - 17.3 for non-compliance by the AVA with the Term 14.7 by entering into a new legal identity without recourse to legal advice and without adherence to relevant QAA procedures
 - 17.4 for non-compliance by the AVA with the guidelines for use of the Access to HE logo or in the event that, by reason of any act or omission of the AVA, there has been, or there is likely to be, damage to the reputation of QAA, the QAA Recognition Scheme for Access to Higher Education, or to any of the Access to HE Trademarks
 - 17.5 in the event that in QAA's reasonable opinion, by reason of the use being made of the Access to HE Trademarks by the AVA, there is a risk that the Access to HE Trademark may become devalued by its generic use or application; or that the Trademark has been used in such a way as to suggest QAA's approval has been given to activities that are unrelated to Access to HE
 - 17.6 in the event that the use by any of the AVA's Providers results in or is likely to result in one of the outcomes set out in paragraphs 17.4 and 17.5 above, and QAA has notified the AVA of such circumstances, and the AVA has not taken steps to rectify the same within a reasonable time period of being given notice to do so.

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Southgate House, Southgate Street, Gloucester GL1 1UB
Registered charity numbers 1062746 and SC037786

+44 (0)1452 557 000
www.qaa.ac.uk