

Title of policy			
Access Validating Agency (AVA) cessation of trading procedures			
Policy statement			
This document sets out the procedures that an AVA should follow, and the actions that the Quality Assurance Agency for Higher Education (QAA) will take when an AVA is unable to continue trading.			
Strategic aim of the policy			
To safeguard the security of arrangements for the recognition and quality assurance of Access to HE provision, and to protect students' interests, if an AVA is unable to continue trading.			
Document owner		Access Manager	
Approved by Access Recognition and Licensing Committee		Date: November 2019	
Published location		https://qaa.moodle.school	
Link to other policies/procedures and guidelines			
<ul style="list-style-type: none"> • Access Validating Agency (AVA) licence withdrawal procedures • AVA licensing agreement • AVA licensing criteria. <p>Please refer to: https://qaa.moodle.school</p>			
Acknowledgements		Access Officer Governance Officer	
Next review		Date: September 2020	
Version number	Date issued	Author	Update information
V1.0	April 2018	A Karadia	First published version
V2.0	September 2018	A Karadia	The policy was updated in September 2018 to include an updated link to the Licensing Agreement Conditions (see point 4). Additional requirements added to Stage 2 (paragraph 13) in relation to intellectual property rights.

V3.0	July 2019	J Mizon	<p>The policy was updated to include the following statement: The closing Access Validating Agencies (AVA) may have in place an agreement with other licensed Access Validating Agencies to facilitate the transfer of business should the AVA need to close. However, providers are not obliged to transfer under the terms of any such agreement and may choose to transfer to any other licensed AVA.</p> <p>See paragraph 2: Purpose of the procedure</p>
V4.0	November 2019	A Karadia	<p>The policy was updated at:</p> <ul style="list-style-type: none"> • paragraph 14 to insert QAA as a data controller on receipt of the closing AVA's data • paragraph 23 to insert the requirement on QAA to undertake the relevant checks to ensure receiving AVAs are equipped to become data controllers • paragraph 25 to insert a statement that the receiving AVA becomes the data controller.

Procedures when an Access Validating Agency is unable to continue trading

Purpose of the procedures

- 1 The purpose of these procedures is to make sure that when an AVA is unable to continue trading:
 - plans are in place to protect students' interests
 - action is taken to ensure a smooth transfer of responsibility for recognised Access to HE provision to another licensed AVA (or AVAs), through a clear and managed process
 - course recognition and effective quality assurance is maintained during the period when providers are moving between AVAs.
- 2 The closing Access Validating Agency (AVA) may have in place an agreement with other licensed Access Validating Agencies to facilitate the transfer of business should the AVA need to close. However, providers are not obliged to transfer under the terms of any such agreement and may choose to transfer to any other licensed AVA.

Circumstances in which these procedures apply

- 3 These procedures apply when an organisation that holds an AVA licence is unable to continue trading as an AVA for any reason, including:
 - the organisation is unable to continue to meet the obligations of the AVA licence
 - the organisation is to be wound up or has been put into administration (see paragraph 5).

Application of these procedures

- 4 These procedures may need to be adapted according to the circumstances under which they are initiated.

Relationship with regulatory requirements

- 5 Under the terms of the AVA Licensing Agreement, Standard Conditions of AVA Licence (condition 9) and licensing criterion LC26, AVAs are required to 'inform QAA immediately of any change in its circumstances that constitute a medium or long-term threat to its viability as an AVA'.
- 6 Under the terms of the AVA Licensing Agreement, QAA 'may terminate the licence at any time on written notice to the AVA with immediate effect...if a resolution is passed or an order is made for the winding up of the AVA (otherwise 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'.
- 7 This procedure is in addition to the legal requirements that an AVA would have to comply with to cease trading as a limited company and to close a charity (if applicable).

Outcome

- 8 When all procedures have been completed, the organisation will no longer be recognised by QAA to approve Access to HE Diplomas, or providers, or to award Access to HE Diplomas.

Procedures

Stage 1

- 9 The closing AVA¹ notifies QAA of any changes in circumstances that render it unable to continue to trade and to meet the obligations of the AVA licence.

Stage 2

- 10 This stage follows Stage 1 without delay.
- 11 QAA informs the closing AVA that it is terminating its AVA licence in accordance with the AVA Licensing Agreement and specifies the date of termination.
- 12 QAA requires the closing AVA to provide within as short a time as possible:
- a full records of all its external moderators including their contact details, contractual arrangements, and dates of any scheduled moderator visits
 - b full records of all students currently registered with the AVA
 - c all historical student records relating to Access to HE
 - d assign to QAA all intellectual property rights in the Access to HE Diplomas awarded and/or certified by the AVA.
- 13 QAA will acknowledge receipt of the notification and will confirm the requirements for the surrender process, including an outline schedule for Stages 3-6 and an undertaking from the AVA to assign to QAA all intellectual property rights in the Access to HE Diplomas awarded and/or certified by the AVA.
- 14 As data receiver, QAA becomes the data controller for the closing AVA and holds the information securely in accordance with current data protection legislation requirements until it can be transferred to the receiving AVA.

Stage 3

- 15 QAA informs all the closing AVA's providers of:
- the termination of the licence
 - the procedures being followed, in particular in relation to existing students
 - the need to select a new AVA and of the date by which this must be done
 - the details of all other AVAs.
- 16 At the same time, QAA informs all other AVAs.
- 17 QAA informs other appropriate regulatory and other authorities of the actions it is taking and takes account of any actions being undertaken by any such organisations.

¹ For the purposes of these procedures, the term 'closing AVA' includes any administrators appointed under company law to control that company.

18 QAA makes a public statement of the actions it is taking.

Stage 4

19 The closing AVA provides to QAA the information specified in Stage 2 by the agreed deadline.

20 If the AVA is unable to provide any of this information, QAA will seek to obtain it from the AVA's providers, or by some other means, and will subsequently seek to recover the costs of doing so from the closing AVA.

Stage 5

21 The closing AVA's providers select new AVAs and inform QAA by the date specified the name of the AVA (or AVAs) to which it has decided to transfer its business. If more than one AVA has been chosen, the provider also indicates which Diplomas are to be transferred to each AVA.

Stage 6

22 Receiving AVAs confirm with QAA which providers are transferring their business to them and the date of the transfer.

23 QAA will undertake the relevant checks of the receiving AVA to ensure it is adequately equipped to become a data controller and then will securely transfer the data to the receiving AVA. QAA informs the relevant moderators and seeks their permission to provide their details to the receiving AVA.

24 QAA also provides all relevant student records (current and former) retrieved from the closing AVA to the receiving AVA(s).

25 The receiving AVA then becomes the data controller.

Stage 7

26 If moderation visits are scheduled and required in the period between the cessation of business of the closing AVA and the transfer of business to the receiving AVAs, QAA authorises the moderators to make the visits and pays the costs of such visits. Moderators submit reports of such visits to QAA, which will then forward them in due course to the receiving AVA(s).

27 QAA will seek to recover the costs of such moderation visits from the closing AVA.

Stage 8

28 QAA amends the records of all Diplomas that are being transferred from the closing AVA on the Access to HE course database to ensure that learning aims are unaffected for the remainder of the relevant academic year for students planning to complete within that year. Arrangements for continuing students will be discussed and agreed by QAA with the receiving AVA(s).

29 The receiving AVA(s) add the details of the Diplomas being transferred as their own on the courses database.

30 QAA informs all the closing AVA's providers and the receiving AVA(s) of the actions it has taken.

31 QAA updates other regulatory authorities as appropriate.

Stage 9

- 32 Receiving AVAs update their records for Diplomas and students transferring from the closing AVA. Such records include those for both current and former students of the providers that have transferred their business to the receiving AVA, which assumes responsibility for providing replacement award certificates, and responding to legitimate requests for information about the achievement of such students.
- 33 Receiving AVAs must, in agreeing to accept transferred business, confirm financial arrangements with each provider. Students should not be disadvantaged in these arrangements. Where students have already paid registration fees to the closing AVA, the receiving AVA must make a business decision whether or not to take on transferred students at reduced, or no extra, cost to the providers and students. In such circumstances the receiving AVA may seek to recover these costs from the closing AVA.
- 34 With respect to curriculum consistency and credit transfer arrangements, QAA will work with the receiving AVAs as necessary in order to ensure that all students transferring from the closing AVA are able to complete their Diploma with another AVA within their intended timeframe.
- 35 Receiving AVAs are allowed to accept transferred Diplomas in accordance with their procedures for course transfer.

Stage 10

- 36 Receiving AVAs complete the process of moderation of student outcomes according to normal procedures and confirm the award of the Diploma to successful students transferred from the closing AVA. Certificates for such students are issued under the logo and signature of the receiving AVA.

Stage 11

- 37 QAA will seek to recover any monies owed to it by the closing AVA, including a proportion of any unpaid annual contribution to QAA for the year in which it ceased to trade, and any costs incurred by QAA in operating these procedures.

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QAA manages the national framework for the recognition and regulation of Access to HE Diplomas.

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