

## DOMESTIC VIOLENCE DISCLOSURE SCHEME

### **AIM OF THE SCHEME**

THE PRINCIPAL AIM OF THE DOMESTIC VIOLENCE DISCLOSURE SCHEME IS TO INTRODUCE RECOGNISED AND CONSISTENT PROCEDURES FOR DISCLOSING INFORMATION WHICH WILL ENABLE THE PARTNER OF A PREVIOUSLY VIOLENT INDIVIDUAL, TO MAKE INFORMED CHOICES ABOUT WHETHER AND HOW THEY TAKE THE RELATIONSHIP FORWARD.

**PRIOR TO AN ASSESSMENT FOR DISCLOSURE THE FOLLOWING STEPS WILL HAVE BEEN COMPLETED.**

1. An individual will have made a request to Police for information about a believed perpetrator or an organisation will have come into possession of information concerning a believed perpetrator.
2. If the request was from an individual then a face to face meeting will have taken place with that person. Police would ask that person for more information including their reason for asking for the disclosure.
3. Police will have completed a number of checks, both with Police systems and other agencies to gather as much information as possible.
4. Police would have then made a decision that a concern exists. The case then will then have been referred to a Public Protection Detective Inspector regarding disclosure.

**PRINCIPALS UNDERPINNING THE SCHEME**

The Domestic Violence Disclosure Scheme is dependant on the appropriate information sharing between agencies and disclosure to a third party for the purpose of protecting the public. The Police have a Common Law power to disclose information to prevent and detect a crime and this power should only be exercised in accordance with their statutory obligations.

For the sake of clarity, information sharing is the sharing of information between all agencies and disclosure is sharing of specific information about a person, to a third party, for the purpose of protecting the public.

**THE ABILITY TO DISCLOSE INFORMATION**

The ability to disclose information under Domestic Violence Disclosure Scheme must be done on a case by case basis, and that assessment must consider that it

is lawful, necessary and proportionate to justify the decision being made. This approach is dependant upon agencies having due regard to the following:

- a. Common Law
- b. Article 8 of the European Convention of Human Rights.
- c. Data Protection Act 1998
- d. Rehabilitation of Offenders Act 1974.

There is a general presumption that intelligence on a person or details about a person's previous convictions are confidential. Accordingly, when considering whether to disclose information, the assessment must apply the following 3 stage test before a decision to disclose is made:

- a. There is a power to disclose the information. As the Domestic Violence Disclosure Scheme is reliant on common law powers, then the police must be able to show that it is reasonable to conclude that such disclosure is necessary to protect the public from crime. In the context of this scheme, the police would have to conclude that disclosure to the applicant is necessary to protect a person from being the victim of domestic violence
- b. that there is a pressing need for such disclosure; and
- c. interfering with the rights of the offender (under Article 8 of the European Convention of Human Rights) to have information about his/her previous convictions kept confidential, is necessary and proportionate for the prevention of crime. This involves considering the consequences for the offender if his/her details are disclosed against the nature and extent of the risks that the offender poses to the victim. This stage of the test also involves considering the extent of the information which needs to be disclosed e.g. it may not be necessary to tell the applicant the precise details of the offence for the applicant to take steps to protect the victim.

There may be concerns that relate to perpetrators current behaviour towards the victim within the disclosure application e.g. abusive or threatening behaviour. In this case, even though there is no recorded information held by the police or other agencies to disclose to the applicant, the applicant may still be contacted to talk about the decision-making forum's concerns over the perpetrators current behaviour.

This discussion should cover steps the applicant should take in relation to these concerns to safeguard the victim from the risk of harm posed by the perpetrator. Any decision will also consider what safeguarding measures could be introduced to support the victim in the short, medium and long term, and determine the roles and responsibility of the appropriate agency to ensure that the safety plan remains victim-centred.

### **FURTHER PRINCIPALS TO BE ADHERED TO**

The following principles also underpin the Domestic Violence Disclosure Scheme at **every stage of the process**:

1. No disclosures should be made to members of the public in respect of an individual's previous convictions or intelligence history without following all appropriate stages of this guidance document (unless there is an immediate/imminent risk of harm).
2. Under the "right to ask" entry route, if at any stage the police believe that the applicant is alleging a crime (e.g. a specific incidence of a violent act) rather than asking for information about the previous violent offending of the offender, then the police must pursue the crime report under normal criminal investigation procedures.
3. There is an assumption that, following the process and checks outlined in this document, a disclosure will be made to a person unless there is a compelling reason not to (e.g. the risk assessment flags that a disclosure to the victim would put the victim in danger; the victim does not have the mental capabilities to understand the consequences of the disclosure).

In such circumstances, disclosure will be made to the person best able to safeguard the victim as determined by the risk assessment (e.g. relative, social worker).

To raise public confidence and increase the protection of victims of domestic violence, both convictions for violent offences and/or relevant intelligence where it is judged that the offender poses a risk of harm to the victim may be disclosed. Such a judgement will be based on a risk assessment and, where intelligence is disclosed, the National Intelligence Model. Information disclosed may include:

- un-spent convictions held by the offender on any offence related to domestic violence
- information where, even if the offender does not possess any convictions, it indicates that the offender poses a risk of harm to the victim.
- Information on spent convictions as defined under the Rehabilitation of Offenders Act 1974 may not be disclosed – this includes spent convictions that are from overseas. (Check legislation for full definition.) **It will be assessed on a case-by-case basis whether a specific offence on which the offender has been convicted is spent or not before a disclosure is made.** However, it is permissible for the police and other agencies to consider the impact of a spent conviction when determining a risk assessment on the victim, regardless of the fact that the spent conviction may not subsequently be disclosed.

### **DECISION MADE TO DISCLOSE INFORMATION**

If the decision is made to disclose information because the judgement is that there is a risk of harm to the victim that warrants a disclosure, then the forum should consider the following points:

**a. What will be disclosed?**

The forum will consider the specific wording of a disclosure that contains sufficient information to allow the recipient to make an informed choice with regard to their relationship with the perpetrator. The disclosure must be accompanied by a robust safety plan tailored to the needs of the victim and based on all relevant information, which identifies the service provision and the agency leads who will deliver on-going support to the victim.

**b. Who should the disclosure be made to?**

The disclosure should be provided to the person(s) best placed to safeguard the victim. Whilst it is envisaged that the majority of disclosures will be made to the victim, it may not be appropriate to do so in all instances. The judgement of who to disclose to will be determined following the information gathered as part of this Disclosure Scheme process and subsequent risk assessments.

**c. How the disclosure should be made?**

Prior to any disclosure consideration will be given as to which agencies are best-placed to deliver the disclosure, based on the information at hand. It may be appropriate to consider a joint-agency approach to the disclosure provision.

It is strongly recommended that the disclosure should be made in person. In line with safeguarding procedures, it is essential that the disclosure takes place at a safe time and location to meet the specific needs of the victim.

Whether or not a disclosure is made, an entry should be made on the local intelligence system in order that future requests are assessed together with any previous history.

## DECISION MADE NOT TO DISCLOSE

If the decision is not to disclose information because the judgement is that there is a no risk of harm to the victim that warrants a disclosure, then the follow actions should be followed:

- If the decision not to disclose has been made following the “right to know” entry point, then the decision not to disclose plus the rationale should be recorded. Recording the decision in this way may inform future disclosure considerations made on the perpetrator.
- if the decision not to disclose has been made following the “right to ask” entry point, then the following steps should be taken:
  - i. It is highly recommended that the applicant should be visited in person as any written correspondence has the potential to put the victim at more risk. The applicant should be told that there is no information to disclose given the information/details provided by the applicant and the result of checks made on these details.
  - ii. However, it is important that the applicant is told that the lack of information to disclose this does not mean that there is no risk of harm to the victim, and the applicant should remain vigilant and report any future concerns. This contact also presents an opportunity to provide safeguarding information and sign-posting to relevant support services.
  - iii. The applicant should be given an information pack to help safeguard the victim in the future, and **at no time should the information pack contain written correspondence concerning the specifics of the disclosure consideration, nor should it be left with the applicant. There would be a potential risk of harm to the victim should such written information be obtained by a third party and/or the perpetrator.**