



The DVDS Right to Ask and Right to Know Procedure

This document is part of North Yorkshire Police policy to which all Chief Constable personnel and the functions provided by the Deputy Mayor for Policing as part of the York & North Yorkshire Combined Authority are required to adhere.

Procedure Statement

The Domestic Violence Disclosure Scheme (DVDS, also known as “Clare’s Law”) enables the police to disclose information to a victim or potential victim of domestic abuse about their partner’s or ex-partner’s previous abusive or violent offending.

In April 2023 Section 77 of the Domestic Abuse Act places the DVDS guidance on a statutory footing imposing a duty on the Home Secretary to issue guidance to chief officers of the Police.

The scheme is not based on any single piece of legislation. It formalises processes, based on Police common law powers and other existing disclosure powers in which the Police can use to protect people who may be at risk from Domestic Abuse and/or violence.

Any disclosure must, therefore, comply with the existing legal framework, in particular the Human Rights Act 1998, Part 3 of the Data Protection Act 2018, the Rehabilitation of Offenders Act 1974, and established case law.

The Information that can be considered for disclosure includes convictions and out-of-court disposals for violent offences and/or information about the person’s behaviour that reasonably leads the police and other safeguarding agencies to believe that the person poses a risk of harm to the potential victim. Where police officers have, the power in the course of their duties to disclose spent convictions under the Domestic Violence Disclosure Scheme it is important that disclosure still needs to be reasonable and proportionate. The police will want to consider the age of the spent conviction during the decision-making process.

Critical to the success of the scheme is the need for a risk assessment to be completed at every stage in the disclosure process, as this will inform the practical actions necessary to safeguard the potential victim and inform the development of a potential disclosure under this scheme.

The Domestic Violence Disclosure Scheme recognises two procedures for disclosing information:

- The **‘Right to Ask’** route, which enables members of the public to make a direct request to the police for information.

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- The 'Right to Know' is where the police make a proactive decision to disclose information to protect a potential victim.

The DVDS may overlap with and complement other disclosure processes such as MAPPA and the Child Sex Offender Disclosure Scheme (CSODS, or Sarah's Law). Consideration should be given as to which process is most appropriate in each case.

All applications are to be considered on a case-by-case basis.

The DVDS does not replace existing procedures in place for Disclosure and Barring Service checks, subject access requests or Freedom of information requests.

Procedures:

Domestic-Abuse

Police-Perpetrated-Domestic-Abuse-

Honour-Based-Violence,-Forced-Marriage-and-Female-Genital-Mutilation

Safeguarding-Adults

[Stalking and Harassment Procedure](#)

Crime Recording and Occurrence Management Unit Procedure.docx

Data Protection - Safeguards for the Sensitive Processing of Personal Data Policy.docx

Information-sharing-

Other Documents:

Law enforcement processing: Part 3 DPA 2018; and sharing with competent authorities under the GDPR and Part 2 DPA 2018 | ICO

The Human Rights Act | Equality and Human Rights Commission (equalityhumanrights.com)

A simple guide to the Rehabilitation of Offenders Act 1974 (ROA) - Unlock

Domestic Violence Disclosure Scheme - GOV.UK (www.gov.uk)

Code of Ethics | College of Policing

Procedure /Process

Right to Ask

Under RTA individual members of the public where (A) is the person who may be at risk or (C) a Concerned person contacting the Police on A's behalf or out of concern for A who may not be aware.

From the first report the process is to be completed within 28 days unless there are extenuating circumstances that must be recorded on the Police NICHE system.

Step 1 - Initial contact with police can be via 101 or Single online Home.

Timescales - 24 hours

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Force Control Room (FCR) take the call and use THRIVE (Threat Harm Risk Investigation Victim Engagement) to consider immediate risk of harm to the applicant. Where an offence has been committed relevant action and system checks should be taken in line with force policy. If the application is via 101 or Single online Home the FCR will proceed to the DVDS Question set on both 101 and on the Single online home portal, the latter based on the information disclosed on the form.

- FCR create an occurrence PSW DVDS RTA or RTK and ensure the correct details of the person at risk, the subject and IMPORTANTLY any relevant children are linked on the occurrence this informs the person making the disclosure whether a Child Social Care referral is required should a disclosure be declined.
- Within 24 hours this occurrence will generate a task in the DVDS tasks on NICHE

Step 2 – Face to face or telephone / email contact verification

The DVDS Coordinator / DA team will make contact the person at risk (PAR) or applicant and complete the DVDS 1 including the 'Elements of risk' area.

The DVDS team /DA team will provide preliminaries at this stage as follows:

- It is suggested in the guidance that the PAR (person at risk) or Applicant are informed that if they wilfully or maliciously provide false information to the police to try and obtain a disclosure they are not entitled to, they may risk prosecution.
- If they have provided false details in an attempt to make a malicious application, they may be prosecuted under Section 5(2) of the Criminal Law Act 1967.
- warn A or C that if they disclose evidence of an offence whilst registering a concern, it may not be possible to maintain their confidentiality.
- warn A or C that information disclosed by the police must only be used for the purpose for which it has been shared i.e., in order to safeguard A, and any relevant children.
- It would be pertinent at this stage to inform the applicant (A) or (C) that should there be significant concerns found about the subject then a referral to Children's Social care will be made particularly if the person at risk declines disclosure.
- assure A or C that where possible the application will be dealt with confidentially.

There should however be a caveat placed on this - that confidentiality can only be guaranteed pending the outcome of the process.

It should be explained that in the event of a concern arising about B, the police must consider whether representations should be sought from B. Moreover, if a resultant disclosure is to be made to A or C, the police must consider whether B should be informed that a disclosure has been made to A or C.

This should not be done, however, without first assessing the full risk to A, and any relevant children, if B were to be contacted, informing A or C of the need to involve B and giving them the opportunity to withdraw the application before B is informed.

During this information gathering stage, crimes may be disclosed by the PAR or the applicant. It is important that appropriate action be taken in line with related force procedures and ensuring PPN's and a DARA are completed.

The DVDS/DA team will provide safety advice, and details of the specialist agencies which they may feel beneficial whilst the DVDS is being dealt with.

Step 3 and 4 – Completion of Decision-Making guide (DVDS 3) -

If the DVDS does **not** meet the criteria for disclosure, this can be closed at certain stages, at the beginning as we carry out initial checks, the DVDS Coordinator can close the application providing the rationale that the DVDS has not met the threshold and the Police do not hold any information relevant to Domestic abuse and violence and this is written up on the NICHE OEL. Contact will be made with the applicant to communicate the decision and offer safety planning and signposting.

The procedure can be completed by the Report and Research staff if there is no information to share but should seek confirmation from supervision.

No information or no concerns will include the following:

- A. no convictions for an offence related to domestic violence and abuse that may be disclosed, including spent convictions; and/or
- B. there is no other intelligence or information that indicates that the subject's behaviour may cause harm to the PAR; and/or
- C. there is insufficient intelligence or information to register a concern.

The DVDS Coordinator /DA Team will close the process.

If the DVDS application meets the criteria the DVDS Coordinator will task the occurrence to the research and report writer and they will begin research on PNC, PND, and NICHE

The research form will include a chronological profile of incidents/occurrences of offences, charges, convictions including non-convictions to inform the DVDS3 this is prepared on a research sheet. A non-exhaustive list can be found on pages 33-37 of the Domestic Violence Disclosure Scheme Statute Guidance.

The DVDS 4 is then prepared with the information from the research and sent to the authorising supervisor for review. Where appropriate joint disclosures should always be pursued.

The authorising supervisor records on the DVDS 3 their rationale to why a disclosure is necessary. A **concern** occurs if a victim or potential victim and their children are at risk of harm from the offender or potential offender based on the profile considering:

- convictions for an offence related to domestic abuse, and/or
- the subject is a serial perpetrator of domestic violence, and/or

- there is intelligence about previous offending including cases not dealt with at court see pages 33- 37 of the Domestic Violence Disclosure Scheme Statute Guidance for the list of offences that can be considered.

The Authorising supervisor will ensure the disclosure adheres to the three-stage disclosure test using the following script in the authorising narrative:

“The police have the common law power to disclose information about an individual where it is necessary to do so to protect another individual from harm.

A. it is reasonable to conclude that such disclosure is necessary to protect the PAR from being the victim of a crime.

B. there is a pressing need for such disclosure; and

C. interfering with the rights of the subject including the subject’s rights 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.

Narrative is to be included how it meets the above criteria.

While it will be for the police to make the final decision on whether the trigger is a “concern” and, consequently, whether a disclosure should be made, where there maybe complex issues surrounding the safety of the PAR and whether the disclosure could be unsafe due to the complex issues the Police will discuss the disclosure within the forum of the DVDS Panel to ensure a multi-agency response and joint working wherever possible.

The DVDS Panel meetings are managed for North Yorkshire Council and City of York Council by the DVDS Report and research team and meet monthly to discuss complex cases and agree whether a disclosure is safe. Documents and outcomes pertaining to the Panel are held in the Teams Safeguarding App and outcomes recorded on the NICHE OEL.

The Authorising supervisor reviews and amends if necessary both DVDS 3 and DVDS 4 and saves the forms to PDF and uploads the forms to the PAR nominal reports tab, the occurrence is then tasked to the area Domestic abuse coordinator to arrange the disclosure.

The domestic abuse coordinator will make note of the time remaining of the 28-day period and prioritise accordingly.

Arranging and making the disclosure

Disclosures can only be made in person and be delivered by trained staff, this can include the DVDS coordinator, the Domestic abuse coordinators, Domestic abuse officers, Stalking officers, PCSO’s and in some cases Police officers where risk may be an issue.

Disclosures can also be made by OMU.

- The PAR is contacted using the best contact method preferred and agreed and a time suitable for them to receive the disclosure.
- It is recommended that PAR’s come into a Police station, Support Agency or Community building for security reasons. It is recommended joint disclosures are carried out.

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- The DVDS 4, the DVDS advice letter and a blank safety plan are printed off in readiness.

The Meeting

Photographs are taken of the PAR's identification to ensure verification.

The Disclosure is read out verbatim from the DVDS 4 to the PAR (Person at Risk) and they will be asked to sign in two places on the form. (It is advisable to let the PAR read the DVDS 4 before taking it back.) Reading and hearing the information ensures information is retained.

Talk about Safety planning with the PAR ask specific questions to understand the current relationship and complete the Safety plan and advise on a case-by-case basis.

Should the PAR not agree to sign the confidentiality statement and accept the disclosure then consideration needs to be made regarding the safety of the victim, a PPN submitted for any children who reside with the PAR, tasked to VAT and MAST clearly explaining that a DVDS has been refused. All this is required to be captured on the NICHE DVDS occurrence OEL.

If the PAR signs the DVDS 4 and agrees to the terms of the disclosure the signed DVDS 4, the Identification, photo ID and safety plan are scanned onto Niche and the OEL updated.

Important Note

At no time throughout the process will any written correspondence concerning the specifics of the disclosure consideration be sent out or left with the applicant in relation to the disclosure of information. There would be a potential risk to intelligence sources, victims and perpetrators should such written information get into the wrong hands. The information is a Police process and documents are held by the Police for the purpose of DVDS. This applies to agencies too.

Breaching Confidentiality

If an applicant PAR/Victim discusses the disclosure information with anyone then this contravenes S170 of the Data Protection Act, under which it is a criminal offence to: Knowingly or recklessly obtain, **disclose** or procure personal data without the consent of the data controller (The Police).

The circumstances around breaches should be dealt with on a case-by-case basis as each will have different ramifications for example:

- Who has the data been shared with?
- Where has the data been shared?
- How and what method has the data been shared.

The Police then need to reassess the risk and safeguarding of the person who has breached confidentiality and consider what the subject is capable of for example:

- Coercive controlling behaviour
- Stalking – Fixated and obsessive will be key factors from the pneumonic
- Violence

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There are no custodial sentences in respect of offences under DPA 2018 and no powers of arrest; all offences are punishable only by a fine.

The management and security of confidentiality should focus on safeguarding and the risks associated with breaching rather focusing on the breach and for this we need to look at damage limitations for example:

if we become aware of a breach and the applicant has posted information on a social media site, the Police need to act quickly to reduce the damage this may cause, this may include using uniform officers to approach the applicant to ask the applicant to remove the information. The Police need to protect applicants, subjects and the integrity of the organisation which is often a balancing act and that's why each case needs to be looked at individually.

If staff become aware of a breach, they need to alert the Authorising Supervisor or their line manager.

The Authorising supervisor will notify the DPA /MOPI department so we can assess if we need to make the ICO aware of a Security Incident.

The Authorising supervisor will discuss with the DVDS DAC, the DCI to put in place a plan of action. This may include:

- A face-to-face meeting
- A discussion with the applicant
- A new Safety plan to look specifically at the subject behaviours and possible ramifications.

Right to Know

For the purposes of the “right to know” entry route, the trigger which may lead to a disclosure under this scheme is where the police receive indirect information that may impact and affect the safety of the Victim/PAR. Indirect information is likely to be information received by the police from intelligence gathering arising from the following activities:

- An investigation into a criminal act where, as part of that investigation, the police have reason to believe that the victim/PAR may be at risk of harm from the subject.
- information on alleged violent and abusive offending by the subject that is received from partner agencies (statutory and/or third sector) as part of routine information sharing at local safeguarding meetings.
- Intelligence sources.
- Either the victim/PAR or the subject coming into contact with the police as part of their routine operational duties.

Processes under the National Intelligence Model should also be used to determine, as far as possible, the veracity of the indirect information received.

Step 1 Timescales for steps 1-4 -28 days

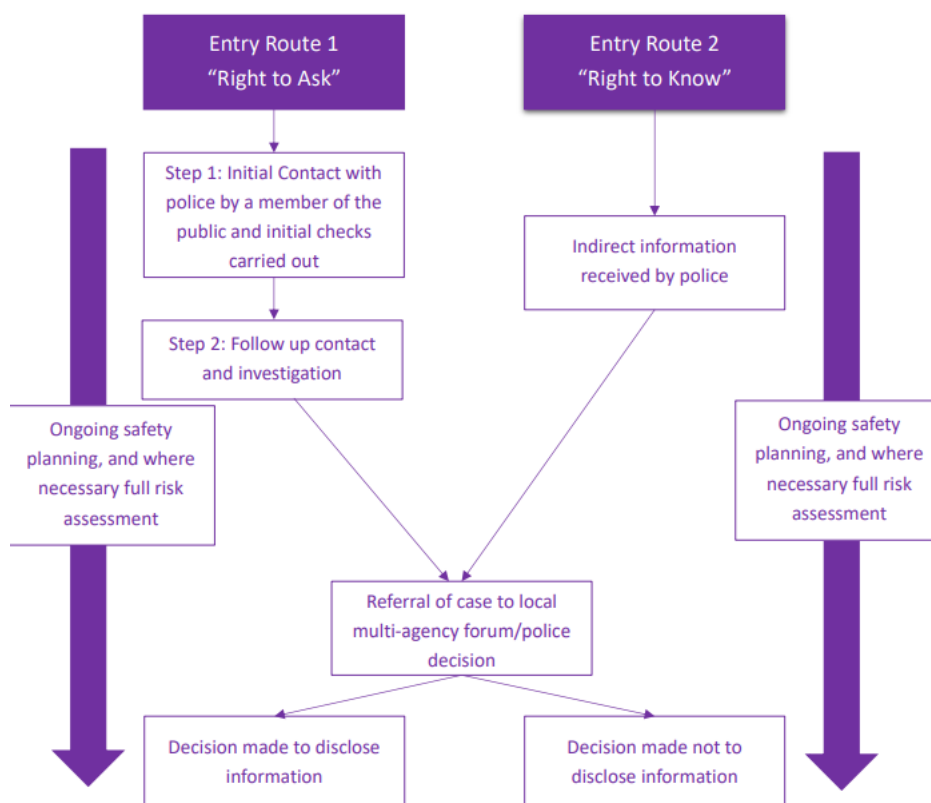
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- The DVDS team will receive the intelligence via a task or an email from internal colleagues often from MARAC or MATAC and Intelligence dept's.
- The DVDS team then create an occurrence PSW DVDS RTK.
- The DVDS team will then interrogate the Police systems PNC, PND and Intelligence to create the disclosure/

Step 2

- Contact should be established with the PAR; this may not be a member of Police staff to establish if they would like to receive disclosure.
- It is important to glean from other agencies if it is safe to contact the victim/PAR or work with another agency to engage the victim the Police have to be creative in their approach and look at each case individually on how best to create victim engagement and the safe delivery of a disclosure.

Steps 3, 4 and 5 are as the RTA procedure as above.



Responsibilities

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- RTA applications, THRIVE, recording of the DVDS RTA and the transfer of the Single online home reports are the responsibility of the FCR.
- Coordination of the DVDS, RTK initiations, management of the NICHE task Box, the allocation of work, preparation, researching both the person at risk and the subject, compilation of the DVDS 3 & 4 is the responsibility of the research and report writers.
- Data collection is provided by the DVDS research and report team.
- Compliance, review, and authorisation is the responsibility of the Safeguarding Managers, Sergeant or Inspector within Safeguarding and with DVDS understanding.
- Initial contact made to the applicants is made by the DVDS DAC Local area DAC Domestic Abuse Officer and in some cases the Research and Report staff.
- Delivery and safety planning is the responsibility of DAO' and PCSO's trained and assigned to local command.

Points to note.

- Consideration should be given on both processes whether to inform the subject of the disclosure with risks clearly recorded.
- Risk assessments should be considered at every stage of the process and recorded on NICHE.
- It is equally important to check PAR's background to ensure safety to both parties.

Definition of Special Terms

DA Domestic Abuse

DAC Domestic Abuse Coordinator

DAO Domestic Abuse Officer

DVDS Domestic Violence Disclosure Scheme (Clare's Law)

FCR Force Control room

MAPP Multi Agency Public Protection Arrangements

MARAC Multi Agency Risk Assessment Conference

MATAC Multi Agency Tasking and Coordination.

NICHE The Police Information, evidence, and record management system

NYP North Yorkshire Police

OEL Occurrence Enquiry Log

PAR Person at Risk

PNC Police National Computer

PND Police National Database

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PPN Public Protection Notification (The Police referral system/form)

RTA Right to Ask

RTK Right to Know

VISOR Violent Sex Offender Register

