

## Domestic Violence Disclosure Scheme (DVDS)

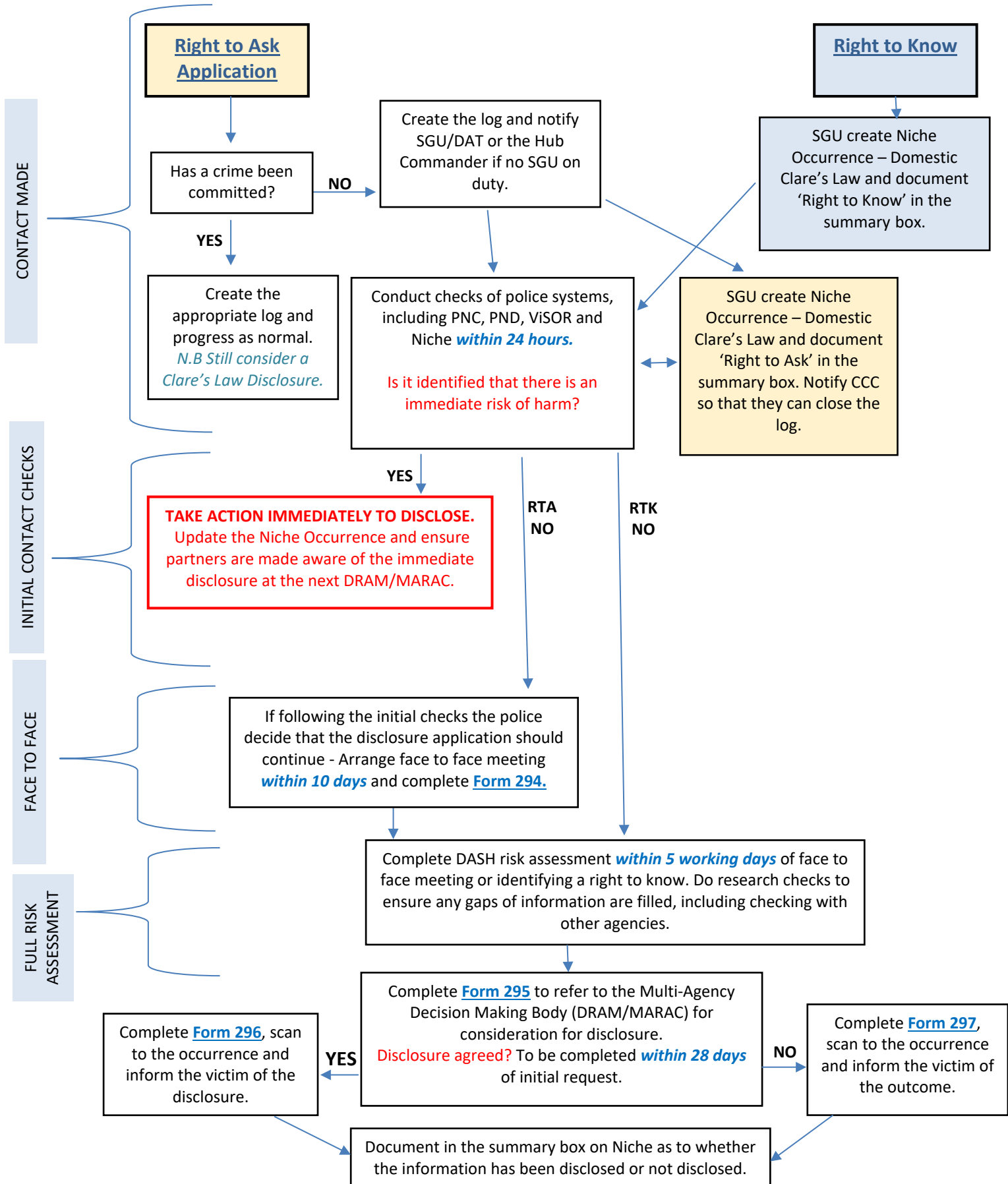
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### Flowchart



## Policy Statement

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### Summary

Police forces are allowed to disclose information to a potential victim and have a duty to protect members of the public from domestic abuse.

West Yorkshire Police has developed a policy procedure on the domestic violence disclosure scheme (DVDS) (commonly known as Clare's law) to assist police officers and police staff members when requests for this type of information are received.

The aim of this policy is to provide details on:

- Processing Right to Know and Right to Ask applications under the DVDS;
  - The role and responsibilities of district Safeguarding Units (SGUs) or Domestic Abuse Teams (DATs) in the DVDS; and
  - How to make a recommendation and decision on disclosure.
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### Scope

This policy applies to all police officers and police staff.

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## Principles

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### Background

- The Domestic Violence Disclosure Scheme (DVDS), often referred to as Clare's Law, sets out procedures that could be used by the police to disclose information about previous violent or abusive offending, including emotional abuse, controlling or coercive behaviour, or economic abuse by an individual, where this may help protect their partner or ex-partner, and any relevant children, from violent or abusive offending.
- The DVDS relies on the police's common law power to disclose information where it is necessary to prevent crime and provides structures and processes to exercise those powers. It does not in itself provide or create new legal powers to disclose information but provides a framework for disclosure in these circumstances. It does not have any impact on other lawful disclosures by police in circumstances that fall outside the scope of the DVDS.
- The DVDS is focused on disclosure, safety planning and risk management where the subject is identified as having a conviction, caution, reprimand, or final warning for domestic abuse or related offences, and/or information held about their behaviour which may not include domestic abuse-related matters but reasonably leads the police and other safeguarding agencies if involved to believe that they pose a risk of harm to the applicant.
- Applications should be progressed where:
  - The person has convictions relating to domestic abuse (DA); and/or
  - The person is a serial perpetrator (DA against two or more victims); and/or

- There is intelligence about previous violent and abusive offending which may include cases not proceeded with, intel concerning violence or abusive offences which do not necessarily need to be DA related, and/or previous concerning behaviour towards previous partners, such as stalking or controlling coercive behaviour (including after the relationship has ended); and/or
  - There are concerning behaviours of stalking or controlling behaviour over the applicant.
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**Domestic Abuse Act 2021**

- Section 77 of the Domestic Abuse Act places the guidance for the DVDS on a statutory footing. The DA Act does not change the legal basis under which the police can make a disclosure of information, but it does impose a duty on the police to have regard to the guidance when using the DVDS.
  - What constitutes an intimate personal relationship will differ from case to case. A relationship could be intimate even if it were not a physical, sexual relationship, but was based only on emotional intimacy, or vice versa.
  - While it might depend, in part, on whether those in the relationship considered it to be intimate, it might be intimate even if it were not considered by the parties to be a formal relationship.
  - An intimate personal relationship relates to both those who are current intimate partners and also ex-intimate partners.
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**Other disclosure powers**

- The disclosure of information is not a tool available only to police. Other agencies may have disclosure powers and should act according to their own safeguarding frameworks.
  - If an applicant has already received a disclosure via an alternative mechanism, but is requesting more information, then they must be directed back to the agency who was responsible for the original disclosure.
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## Responsibilities

### All Officers and Staff

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**Important**

- The process for Right to Know requests is the same as Right to Ask applications apart from the recording of the initial enquiry from a member of the public.
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**Receiving a request**

- Police officers and police staff are responsible for:
- If the request is received at a public enquiry counter, creating a log and providing all required information. See supporting information.
  - If received while on duty away from the station, giving the number of the Customer Contact Centre.

- If it becomes apparent that a disclosure under Right to Know needs considering, referring their concerns to their Safeguarding Unit(SGU)/ Domestic Abuse Team (DAT). The SGU/DAT will:
    - Action the request as detailed in the Safeguarding Unit/Domestic Abuse Team responsibilities section below; and
    - Record these on a Domestic Clare’s Law occurrence.
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**Cross border requests**

The co-ordinating force (the area where the applicant lives) is responsible for:

- Recording the application;
- Conducting the risk assessment;
- Coordinating the enquiries; and
- In most circumstances, determining whether a disclosure is made.

The responding force (the area where any party other than the applicant lives) is responsible for:

- Any actions in relation to any party other than where the applicant lives; and
  - Reporting back to the coordinating force with their findings and within agreed timescales.
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## Customer Contact Centre (CCC) Staff

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**Receiving a request**

Customer Contact Centre Staff are responsible for:

- Establishing in the first instance whether in fact any substantive offence is being alleged:
  - If it is alleged that a crime has been committed, or it is apparent that the potential victim is currently suffering domestic abuse, then creating the appropriate log and progressing it as normal;
  - If it is apparent that a person is not currently suffering abuse, then proceeding as below.

Please note: a DVDS application can be completed alongside a crime report;

- Informing the applicant:
  - DVDS does not replace Criminal Records Bureau (CRB) or Disclosure and Barring Service checks or Subject Access (Data Protection Act) or Freedom of Information Act requests;
  - The disclosure will only be made to the person who is in the best position to safeguard the potential victim from harm;
  - Initial checks will be completed as soon as possible, and in any case within 24 hours, to assess if the disclosure application should be progressed and if there is an immediate or imminent risk of harm to the potential victim from the subject:

- If we decide to progress the disclosure application further, then the applicant, or potential victim, will need to attend a face-to-face meeting in the next ten working days;
  - If we decide that no disclosure is appropriate, then the applicant will be contacted within the next five days with that information;
  - They will be required to provide proof of their identity at the face-to-face meeting and, if the applicant is a third party, proof of their relationship to the potential victim;
  - We will aim to complete the enquiry within 28 days but there may be extenuating circumstances that increase this timescale and they will be informed if this is the case;
  - If any immediate risks to a potential victim are identified at any stage, immediate safeguarding action will be taken, and this will include a robust safety plan. If a decision is made to disclose information, this will also be accompanied with a robust safety plan tailored to their needs;
  - The log number and details of the SGU/DAT who will manage the application (district where the potential victim resides); and
  - Passing the log to their supervisor via Storm.
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## Customer Contact Centre (CCC) Supervisor

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- Responsibilities** CCC Supervisors are responsible for:
- Contacting the district SGU/DAT (where the potential victim resides) by telephone, notifying them about the log and endorsing the log with the SGU/DAT staff member spoken with;
  - If there is no SGU/DAT supervisor on duty, contacting the relevant district Hub Commander; and
  - Closing the log if/when notified that SGU/DAT are dealing with it.
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## Hub Commander

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- Responsibilities** Hub Commanders are responsible for:
- Reviewing the log and requesting checks of police and other (Interpol) systems to be made on the applicant, potential victim and subject and endorsing the log with the result of those enquiries;
  - Considering if the checks disclose the need for any immediate action to safeguard the potential victim from imminent harm. This may mean liaising with any SGU/DAT staff on duty; and
  - If, in their opinion, there are identifiable indicators of risk of serious harm to the enquirer (i.e. potential event could happen at any time and the impact would be serious):
    - Initiating action they feel appropriate to mitigate that risk, e.g. dispatching an officer to make an urgent disclosure to the caller,

- completing a DASH risk assessment and assisting the caller with any required safeguarding action such as seeking emergency accommodation; and
- Updating the log with their considerations and the action taken.

The log will remain open and the district control room will contact SGU/DAT staff when they are on duty so they can take responsibility for further follow up action.

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## Safeguarding Unit (SGU) or Domestic Abuse Team (DAT)

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### Supervisor responsibilities

The SGU or DAT supervisor is responsible for:

- Reviewing the log and tasking staff members as appropriate;
- Once tasks completed, reviewing the information relating to the antecedent histories of the applicant, potential victim and subject and the circumstances which have prompted the enquiry;
- Conducting an initial risk assessment to determine if a disclosure is necessary and considering:
  - Does the subject have convictions or out of court disposals for domestic related violent offending?
  - Is other information held about the subject which may reasonably lead them to believe that the subject poses a risk of harm to the potential victim?
  - What is the subject's domestic violence history, including where no formal action was required?;
- Determining if the available information discloses an imminent risk of harm to a potential victim and, if so, initiating immediate action to mitigate the risk;
- If there is no information we hold that can be disclosed to the applicant or potential victim which indicates a risk of harm, endorsing the OEL and tasking staff accordingly; and
- Reviewing additional information provided as a result of the referral to Multi Agency Risk Assessment Conference (MARAC) partners and determining if it indicates a risk of harm to a potential victim and:
  - If no risk of harm is identified and a disclosure is not required to protect a potential victim, then tasking the staff member dealing to carry out the actions outlined below.
  - If a risk of harm is identified and a disclosure is required to protect the potential victim, then endorsing the log and tasking the staff member dealing to arrange a **face-to-face meeting** with the requestor **within ten days of the initial call being received**.

### Staff responsibilities

SGU or DAT staff are responsible for:

- Creating/pushing a Niche occurrence – Domestic Clare's Law;

- Adding whether the request is a right to know or right to ask in the summary box on Niche;
  - Notifying CCC that SGU/DAT are now dealing with it so they can close the log;
  - Checking police and other (Interpol) systems regarding the applicant, potential victim and subject as soon as possible to identify any immediate risk, but in any event within 24 hours, unless the Storm log indicates this has already been done; and
  - Endorsing the Niche occurrence with the result of the research tasking it back to the supervisor for review.
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**Face-to-face meeting**

SGU or DAT staff are responsible for:

- Conducting a face-to-face meeting with the applicant (right to ask) within ten working days. This can be facilitated via the use of GoodSAM if appropriate. The purpose of the face-to-face meeting is to:
  - Establish that the enquiry is genuine and not malicious;
  - Obtain more detail about the application in order to further assess risk and to inform a decision around disclosure;
  - Provide safety information and advice to safeguard the potential victim;
  - Confirm the previously supplied details of the applicant, potential victim (if different) and subject;
  - Complete a Form 294 (DVDS (Clare's Law) – Initial interview with applicant record);
  - Obtain details of any children in the household; and
  - Ask the applicant for proof of identity (see supporting information);
- Approaching the face-to-face meeting with an investigative mindset to fully consider the wider safeguarding of involved parties;
- Supplying the applicant with a notice warning that:
  - If they wilfully or maliciously provide false information to us in order to try and get a disclosure they are not entitled to, they may risk prosecution (e.g. under Section 5(2) of the Criminal Law Act 1967 (wasting police time));
  - If they disclose evidence of an offence while registering a concern, it may not be possible to maintain their confidentiality;
  - Information disclosed by us must only be used for the purpose for which it has been shared, i.e. in order to safeguard a potential victim; and
  - The application will be dealt with confidentially, but confidentiality can only be guaranteed pending the outcome of the process, as we must consider whether representations should be sought from the subject, if a disclosure is considered, or be informed that a disclosure has been made;
- Discussing and confirming the reason for the application, the history of relationship between the subject and potential victim and endorsing these on the Form 294;
- Completing a DASH risk assessment where the applicant is the potential victim. If the applicant appears to be disclosing a domestic abuse incident



this must be recorded on Niche and responded to in line with the Domestic Abuse policy;

- Informing the applicant that the person to whom the disclosure is made will be asked to sign an undertaking, on the Form 294, that they agree that the information is confidential and they will not disclose this information further.

**NB** If this confidentiality is breached it could result in legal proceedings being taken against them under s55 of the Data Protection Act 1998. If the applicant is not willing to sign the undertaking, then we will need to reconsider if disclosure should take place;

- Signposting the applicant to more information about the Domestic Violence Disclosure Scheme and local support services. If the subject is not aware that a request has been made, individuals must advise the applicant about the potential impact of them finding these and that any leaflets should be kept confidentially or disposed of securely; and
- Advising the applicant that their request will be submitted to a Multi-Agency Decision-making Body (MDB) for a decision and that they will be informed of the outcome within 28 days of the date of the initial application.

**No information to be disclosed**

SGU/DAT staff are responsible for:

- In all cases where there is no information we hold that can be disclosed:
  - Notifying local MARAC partners of the receipt of the enquiry and informing them that we hold no information which requires disclosure;
  - Asking them to review information held by their agency in relation to the parties involved and notifying the SGU/DAT within three working days of any relevant information held by them which may indicate a risk of harm to a potential victim; and
  - After three working days, endorsing the occurrence with any relevant information received from partners and tasking the occurrence to a supervisor for review;
- Visiting the applicant and serving a Form 297 (DVDS (Clare’s Law) – Non-disclosure document (letter format)) notifying them that no disclosure is to be made, or following the GoodSAM SOP to use video technology to deliver a non-disclosure where appropriate. The applicant must be informed that the absence of information/intel to disclose does not mean there is no risk of harm. They must be provided with information to help safeguard themselves in the future and signposted to information on the WYP website and support agencies;
- If the subject is not aware that a request has been made, advising the applicant of the potential impact of the correspondence and leaflets etc. being found and that they should be kept confidentially or disposed of securely; and
- Endorsing the OEL with the action taken, attaching a copy of the Form 297 and tasking the occurrence to a supervisor for finalisation.

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## Multi-Agency Decision-Making Body (MDB)

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- SGU/DAT role** Where there is any information which indicates a potential need to disclose, the SGU/DAT staff are responsible for:
- Referring the application to the MDB using Form 295 (DVDS (Clare’s Law) – Referral to Multi-agency Decision-making Body (MDB));
  - Based on their assessment of the information obtained from the face-to-face meeting, indicating if the SGU/DAT supervisor considers if:
    - This is a case for concern where a disclosure should be made; or
    - There are no concerns and no disclosure is appropriate;
  - Forwarding the referral as soon as possible to MDB members to allow them to research their records for information on the relevant parties;
  - As soon as possible, agreeing a date for the decision about disclosure to be made by but, in any event, this must be no longer than 28 days from the date of referral; and
  - Reviewing the occurrence, before finalisation, to ensure that all safeguarding action in respect of potential victims, offender management and child protection have been considered and appropriately actioned.

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- Multi-Agency Decision-Making Body** The MDB is responsible for:
- Recording its considerations and decisions for both disclosures and non-disclosures on Form 295 and forwarding these to the police to retain and scan on to the occurrences;
  - Considering if representations should be sought from the subject – they must consider whether there are good reasons not to seek representation from the subject if it will put the victim at further risk. If the police decide to seek representation from the subject, then the applicant must be advised and given the opportunity to withdraw their application;
  - Considering whether the subject should be referred to an appropriate local framework for managing perpetrators. It may include MAPPAs, Offender Management, or DA perpetrator intervention; and
  - Where a disclosure is to be made, ensuring that the level of information that is agreed to be disclosed is necessary, relevant and proportionate, only disclosing the minimum amount of personal data necessary to achieve the purpose. The specific wording of the disclosure must contain sufficient information to allow the victim to make an informed choice with regards to their relationship. Sufficient information can include the circumstances in which a previous offence was committed. The disclosure must be accompanied by a safety plan tailored to their needs and the needs of any children, ensuring the victim has support from partners.

Please note: The final decision on disclosure remains with the police. The decision must be delivered by the police, however consideration should be given to having other agencies present, ie an IDVA.

- Non-disclosure** The nominated person is responsible for:
- Informing the applicant that there is no information to disclose given the information/details they have provided and the result of checks made on these details;
  - Informing the applicant that the lack of information to disclose does not mean that there is no risk of harm, and the applicant should remain vigilant and report any future concerns. (This contact presents an opportunity to provide safeguarding information and signposting to relevant support services, if appropriate);
  - Informing them that the subject will not be notified as no disclosure has been made to them (applicant);
  - If it is safe to do so, serving the Form 297 (DVDS (Clare's Law) – Non-disclosure document (letter format)) on them for their information; and
  - Ensuring that all paperwork is scanned to the occurrence, the Clare's Law Finalisation template is completed and updating the summary box on Niche to state 'Not Disclosed'.
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- Disclosure** The nominated person is responsible for:
- Making the disclosure and explaining that the disclosure must only be used for the purpose for which it has been shared, i.e. in order to safeguard the potential victim. It is recommended that a disclosure is given in person, or via video technology. The risk of technology facilitated abuse must be considered when deciding how to make a disclosure. For right to know it is strongly recommended that a face-to-face approach to disclosure is followed;
  - Following the GoodSAM SOP if the disclosure is being given via video technology;
  - If the victim is not willing to sign the confidentiality agreement, explaining that we will need to reconsider if disclosure should take place. The outcome must be recorded and considered in the risk assessment, decision making process and safety plan recorded on the Niche occurrence;
  - Using Form 296 (DVDS (Clare's Law) – Disclosure document) to convey a disclosure. What the person is told will be recorded verbatim on this form, signed and retained by WYP.  
**NB** It must not be given to the person in any circumstances;
  - Not sending out or leaving any written correspondence concerning the specifics of the disclosure as there would be a potential risk to intelligence sources, victims and perpetrators if this written information got into the wrong hands;
  - Advising them how to safeguard themselves/a potential victim in the future. This must as a minimum be a leaflet explaining the Domestic Violence Disclosure Scheme and support agencies available or signposting to the information on the WYP website; and

- Ensuring that all paperwork is scanned to the occurrence, the Clare's Law Finalisation template is completed and updating the summary box on Niche to state 'Disclosed'.
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## Additional Information

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### **Compliance**

This policy complies with the following legislation, policy and guidance:

- Data Protection Act 2018
  - Human Rights Act 1998
  - Rehabilitation of Offenders Act 1974
  - Home Office – Domestic violence disclosure scheme (DVDS) guidance
  - APP Major investigation and public protection
  - Domestic Abuse policy
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### **Supporting Information**

The supporting information for this policy can be accessed online.

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