

Domestic Violence and the Law: The Domestic Violence Disclosure Scheme (Clare's Law)

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July 2012 has seen the pilot to test the Domestic Violence Disclosure Scheme (DVDS), often known as 'Clare's Law'. Police in Gwent and Wiltshire will be the first to start piloting the scheme, with forces in Nottinghamshire and Greater Manchester commencing in September. The pilot will end in September 2013.

The scheme is an initiative which developed after Clare Wood was murdered by her former partner in Greater Manchester in 2009. The case brought to the attention of the general public the issue of disclosing an individual's history of domestic violence to a new partner. Clare's former partner had three previous convictions under the Protection from Harassment Act 1997, and the coroner's report in to the murder reported;

'subject to appropriate risk assessment and safeguard, I recommend that consideration should be given to the disclosure of such convictions and their circumstances to potential victims in order that they can make informed choices about matters affecting their safety and that of their children.'

Under the new scheme an individual can ask the police to check whether a new or existing partner has a violent past ('right to ask'). If police checks show that a person may be at risk of domestic violence from their partner, the police will consider disclosing the information. The pilot will also look at how the police can proactively release information ('right to know') to protect a person from domestic violence where it is lawful, necessary and proportionate to do so.

The first entry route, 'the right to ask' is modelled closely on the existing Child Sex Offender Disclosure Scheme, and is triggered when a person makes a direct application to the police for information on a suspected perpetrator. The process is as follows;

The right to ask may be implemented by a partner of the suspected perpetrator or a third party who has some form of contact with a person believed to be the victim, including a parent, neighbour or friend. It must be noted that a third party may not receive the disclosure if it is deemed more appropriate to disclose to the assumed victim.

The partner/victim or the third party will have initial contact with the police expressing concern. If the police decide that the disclosure application should be pursued the person who made the application must be seen in a face to face meeting to ensure the request is; genuine and not malicious, to establish further details about the application in order to further assess risk and to inform a decision around disclosure, to provide information and safeguard the victim.

Once a face to face meeting has taken place a risk assessment will be completed using the Domestic Abuse, Stalking and Harassment and Honour Based Violence (DASH) form. The risk

assessment will also reflect on the initial contact, face to face stage, information on the Police National Computer and Police National Database, VISOR and local intelligence systems.

The decision to disclose the information will be made on a case-by-case basis by the local MARAC (multi-Agency Risk Assessment Conference). The following services would attend the MARAC; police, probation, prison service, health, housing, education, social services, Independent Domestic Violence Advocate (IDVA), women's support service, victim support service, male support service and perpetrator programmes. If this is not possible a decision making forum will be made from at least Police, probation service and an Independent Domestic Violence Advisor (IDVA).

Alternatively the second entry route is 'the right to know.' This route works on the police receiving indirect information that may impact the safety of the victim, and which has not been conveyed to the police via the 'right to ask' process. 'Indirect information' is likely to be received from an investigation into a criminal act where, as part of the investigation, the police may believe a person is at risk, alternatively information on alleged violent is received from; partner agencies, intelligence sources, or through the police coming in to contact through routine operational duties. From this point a referral is made to the local decision making Forum who will decide whether there is 'concern' or 'no concern.' If it is deemed there is concern information will be disclosed.

Although the Domestic Violence Disclosure Scheme is being piloted in four areas initially, anyone who has concerns about the safety of a person at risk of domestic violence should go to the police at any time about their concerns. Every police force has a public protection team to deal with these issues. In all areas the police have a common law power to disclose information where it is necessary to prevent a crime.

Although only a brief introduction, it gives an insight in to the vast field of the Domestic Violence Disclosure Scheme. For more information please visit www.martintrainingandconsultancy.co.uk or contact Luke Martin by e-mail martintandc@gmail.com.