

DOMESTIC VIOLENCE DISCLOSURE SCHEMES

(CLARE'S LAW): TEN YEARS ON

**Recommendations for Policing Policy
and Practice (England and Wales)**

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1. Background.

The first Domestic Violence Disclosure Scheme (DVDS, commonly referred to as Clare's Law) was rolled out across England and Wales in March 2014. This scheme was introduced in the aftermath of a highly vocal campaign led by Clare's Wood father. Clare Wood was murdered in February 2009 by a man she had met on an internet dating site who had a history of violence (SN2650: 2013). Despite ambivalent evidence at the time as to the efficacy of such a scheme (Duggan, 2012; Fitz-Gibbon and Walklate, 2017) interest in, and development of, these kinds of schemes has grown apace with such schemes now operative in various jurisdictions, including Northern Ireland, Scotland, Saskatchewan (Canada), Manitoba (Canada) and New South Wales (Australia). The Domestic Abuse Act (2021) for England and Wales also places DVDS on a statutory footing.

In the 10 years since the introduction of DVDS in England and Wales, these schemes have been subjected to considerable critical scrutiny (see inter alia, the Special Issue of *Feminists@Law* 2024; Grace, 2022; Fitz-Gibbon et al 2024). Arguably the title of the end of project report by Fitz-Gibbon et al 2024, *'Informed and safe, or blamed and at risk'*, captures some of the ongoing dilemmas in the delivery of this policy. In England and Wales concerns about the role of the police in DVDS reached a crescendo in November 2023 in the aftermath of media coverage of Wiltshire Police's response under Clare's Law and the inquest into the domestic murder of Terri Harris, her two children, and their friend. Yet despite considerable empirical work suggesting otherwise, the Home Office at the time maintained that Clare's Law works. Questions remain as to what this might mean.

Clare's Law is rooted in an assumption that providing victim-survivors with knowledge about a partner's previous history of violence (should there be a record of such) would encourage them to leave. In 2014 this was heralded as an important criminal justice asset in responding to domestic abuse. Such an assumption hides the complexities of interpersonal relationships in which a range of violence(s) may feature (see inter alia, Barlow et al 2023; Renehan et al 2024; Barlow et al 2024). Despite ongoing awareness of these complexities, the role of the police in acting both proactively and reactively as a conduit for such information sharing is key to the successful delivery of this policy. It has also been well-documented that not all police forces commit to and deliver on DVDS in the same way or indeed have the same resource base to do so (disparities in force delivery in relation to DVDS is regularly reported on in ONS statistics, with HMICFRS reporting in 2017 its 'disappointment' that records on DVDS had not increased in line with increased reporting of domestic abuse more generally).

In the light of these observations, the purpose of this policy briefing paper is to offer some recommendations, based on empirical research, as to how the role of the police in the delivery of DVDS might be best met.

2. What needs to be done.

Based on 10 years evidence and data in respect of the police role in the delivery of DVDS, five key issues remain for policing. Using the Home Office Guidance published in 2023 as a benchmark, these issues are discussed in turn below.

2.1 Clarity on the purpose of DVDS.

There are several problematic assumptions underpinning the intended purpose of the DVDS, in particular that it can protect or empower victim-survivors. Empirical work has demonstrated that both assumptions are problematic (Duggan, 2012; Fitz-Gibbon and Walklate, 2016, Greene and O'Leary, 2018; Hadjimatheou, 2022; Barlow et al 2024). The statutory guidance does little, if anything, to clarify the intended purpose of DVDS and in some respects serves only to obfuscate. Greater clarity on what is intended and/or can be achieved by DVDS above and beyond the already existing powers of police officers would assist in the implementation of this guidance.

2.2. Clarity on the role and motivation of different parties in requesting DVDS.

The failure in the guidance to recognize that different constituent parties may have different rationales and concerns in requesting information requires further explication. The guidance reflects a tendency to underplay the importance of when it is the victim-survivor themselves asking for information. When a victim-survivor does this she is doing so for a reason. She is concerned, regardless of how legitimate these concerns may or may not appear to be to an outsider, for her safety. Importantly empirical work has illustrated how problematic it can be either when the victim-survivor is not listened to and/or when she is offered information she has not requested (Barlow et al 2023). Responding to DVDS enquiries is time consuming and resource intensive. Understanding the role and motivation of the different parties permitted to request DVDS information needs more detailed consideration in order to, at a minimum, inform the resource allocation to this policy.

2.3. Data gathering and DVDS.

The guidance recommends police forces gather data on who accesses DVDS, and the response received. This is a welcome development. However for such data gathering to be meaningful in a way which enables practitioners, and others, to know who is using the scheme and who is not, such data gathering needs to be robust. Simply asking questions around gender and ethnicity, as suggested in the guidance, is not sufficient. Data gathering on sex, sexuality, ethnicity, as well as data on physical and mental capacity, (for example, women living with disability are particularly marginalized by the responses to their experiences of violence, see McCulloch et al 2021), and whether English is a first language, are all important facets of understanding who is accessing DVDS and what its reach might be.

Translating this part of the Home Office guidance into practice requires (at least) two further considerations in respect of data gathering.

- 2.3.1. Force level data gathering: how information on DVDS is collated, what variables are kept about the request, the requester, and the response, and how long any responses take. Data gathering at this level would permit a fuller understanding of any similarities and differences in data sharing and DVDS practices between forces and partner organisations.
- 2.3.2. Frontline/delivery level data gathering: what factors determine whether information is shared, who shares what information with whom, and how that information is delivered to victim-survivors and by whom, what the process looks like after information has been shared. This level of data would facilitate how practices operate across different force areas.

2.4. Time taken for information disclosure to take place.

The Home Office guidance recommends that time taken for disclosure to occur to be shortened (from 35 days to 28 days). This is welcome but is not sufficient. Returning again to the point made under 2.2 above, if it is the victim-survivor who has requested the information herself, then she is concerned for her safety and/or the safety of her children. Whilst the resource implications of improving the time taken to ensure all the appropriate checks and balances have been taken into consideration in respect of information sharing practices is considerable, there is practice evidence to suggest that disclosures can and do take place much more quickly (achieved for example by Lancashire Constabulary using the Vanguard methodology some time ago). Further consideration should be given to shortening this time frame further.

2.5. The delivery of the information (if available)

In England and Wales, DVDS is a police-led response. There are broader considerations as to whether the police are best placed to deliver information about a partner's violent history (if available), particularly for marginalized victim-survivors. In Manitoba (Canada), for example, the DVDS is led by specialist domestic abuse support services. In the Home Office guidance, there is a lack of clarity on what constitutes best practice in the delivery of information via the DVDS. This is particularly pertinent if there is no information to disclose, as an absence of information does not mean that there is nothing for the victim-survivor to be concerned about (Greene and O'Leary, 2018) and this needs to be clearly communicated to victim-survivors. Some forces in England have trialed delivering information with the support of an Independent Domestic Violence Advisor. Empirical work suggests that victim-survivor would welcome this approach (Barlow et al, 2023), however this requires necessary funding and resource.

3. Recommendations.

Based on the issues outline above we would make the following recommendations.

3.1 For the College of Policing

- 3.1.1. To lead a national conversation on the purpose of DVDS. The purpose of this conversation would be to shift the dial away from protection and empowerment to safeguarding. Such a conversation shift would offer a better fit with current policing practice in relation to domestic abuse more generally and would offer a more specific understanding of what the police can and cannot do in the light of such requests.
- 3.1.2. To lead a national conversation on the prioritization of requests putting to the fore those made by victim-survivors themselves regardless of their risk status. This would be in line with all the empirical evidence, would prioritize victim-survivors voices in the process, and arguably ensure their further engagement with the criminal justice process.
- 3.1.3. To lead a national conversation on force level data gathering on DVDS and what can be learned from ensuring that such data gathering pays sufficient attention to who is and who is not accessing DVDS and why.
- 3.1.4. To lead a national conversation on further shortening the time frame between a request for information and the delivery of that information should there be anything to share. This is especially important if the victim-survivor herself has requested the information and regardless as to whether or not there is information to share, to ensure due care is paid to further safeguarding opportunities being made available to the victim-survivor concerned.
- 3.1.5. To lead a national conversation on who is best placed to deliver information via the DVDS and consider the more central role of IDVAS and specialist domestic abuse services within this process.

3.2. For Individual Police Forces.

- 3.2.1. To consider prioritizing requests for information when such requests emanate from the victim-survivor herself rather than a third party.
- 3.2.2. To ensure whether or not there is information to be shared, any victim-survivor is provided with appropriate support after disclosure in the interests of safeguarding herself and her children.
- 3.2.3. To enhance their own data gathering processes in relation to DVDS to have a better understanding of who is and who is not accessing the scheme above and beyond data on ethnicity and gender.
- 3.2.4. To enhance their own data gathering processes to ensure data on DVDS requests are appropriately linked with data on repeat victimization, repeat offenders and repeat locations.
- 3.2.5. To ensure their own frontline officers are suitably trained to be aware of the dangers of victim-blaming when responding to requests for information.

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