

Third Party Material Request Form

Guidance for Third Parties



This guidance aims to support third parties upon receipt of a request for third party material from the police, which relates to a criminal investigation.

Please Note: When 'seeking consent' is referred to within this guidance, this relates to explicit consent under the Common Law duty of confidentiality, NOT consent under Data Protection.

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INTRODUCTION

1. Why am I receiving this request?

The police have contacted you to request access to information they believe you hold, which has been identified as a reasonable line of enquiry in an ongoing criminal investigation and is believed to be relevant to an issue in the case.

Police have a duty under the [Criminal Procedure and Investigations Act 1996](#) to pursue all reasonable lines of enquiry, whether these point towards or away from a suspect. What is reasonable in each case will depend on the particular circumstances. Where you possess potentially relevant material, which has not been obtained by the police, they are under a duty to inform you of the existence of the investigation and to invite you to retain the material in case they receive a request for its disclosure.

2. Can I decline or refuse access to the material requested?

Third parties are not legally obliged to provide material to the police without a court order.

Extract from British Medical Association guidance: “Although, in the absence of a court order, there is no obligation to disclose information to the police, healthcare professionals should be aware that they risk criticism if they fail to take action to avoid serious harm being caused to others. Guidance should be sought from the Caldicott guardian or defence body where there is any doubt as to whether disclosure should take place in the public interest.”

Where access is declined or refused, the material should be preserved in case the court orders disclosure of some or all of the information. Any retention must be in line with any retention periods you routinely comply with which should align with [UK GDPR](#).

Where you do not allow the prosecution access to the potentially relevant material, the prosecution or defence may apply to the court for a witness summons, which if granted would require you to attend court to produce the material to the court. Application for a witness summons will only be made where the prosecution or defence considers that the material sought is likely to be relevant evidence in the proceedings. You do have the right to make representations to the court against the issue of a witness summons.

3. What is the legal basis for disclosing health and social care data to the police?

Confidential patient information is subject to the [common law duty of confidentiality](#). This means a legal basis is required to ensure there is no breach of confidence.

It is the responsibility of the health and social care organisation disclosing the data to be satisfied that there is a legal basis for disclosing confidential patient information.







You should consider your own policies and procedures, and professional guidance regarding data sharing, any legal responsibilities you have to the individual, and any views provided by the individual.

In most circumstances, including these third party requests the appropriate legal basis will be the Common Law explicit consent of the person whose confidential patient information is sought. The Third Party Request form given to you by the requesting police officer will record whether Common Law consent has been obtained on your behalf. We have referred to ‘explicit consent’ as seeking agreement in the request form.

In some circumstances where there is a risk of serious harm or a serious crime, it may be justifiable, in the absence of Common Law consent, to rely on overriding public interest grounds to disclose confidential patient information to protect individuals or society from risks of serious harm or serious crime.

Disclosing confidential patient information may also be justified in the public interest if a disclosure would be likely to be necessary for the prevention, detection or prosecution of serious crime, especially crimes against the person. When victims of violence refuse police assistance, disclosure may still be justified if others remain at risk, for example from someone who is prepared to use weapons, or from domestic violence when children or others may be at risk.

Relevant professional guidance should be followed when sharing confidential patient information

<u>Mental Capacity Act Code of Practice</u> 	<u>NHS Guidance - Sharing Information with the Police</u> 	<u>Gillick Competence and Fraser Guidelines</u> 	<u>BMA Guidance - Children and young people under 16</u> 	<u>Confidentiality: good practice in handling patient information</u> 	<u>Disclosures for the protection of patients and others</u> 
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4. What should I consider for NON health and social care requests?

When police submit a request for third party material within a criminal investigation, they are doing so under the [Criminal Procedure and Investigations Act 1996](#), which places a legal duty on investigators to pursue all reasonable lines of enquiry, whether they point towards or away from a suspect.

However, policing has always sought to address the legal basis that third parties will rely upon to consider and respond to the request once received, in order to aid the process.

The [Information Commissioner’s Opinion 2022 ‘Who’s under investigation?’](#) explains that relying upon the consent of data subjects for lawful processing in the context of criminal investigations is unlikely to comply with Data Protection legislation. The main factors making it difficult to achieve valid Data Protection consent for victims’ data include:







- The limited capacity of victims to make fully informed, freely given, rational decisions during times of high trauma;
- The perceived power imbalance between the police and the victim being asked to provide access to their data, along with the perception that a refusal of consent may impact the ability of the case to continue. This suggests that consent may not be freely given; and
- The absence of the ability to withdraw consent in any real sense due to the legal requirements on the police and investigators to retain materials relevant to the investigation.

The Commissioner believes that there is a more appropriate alternative condition to Data Protection consent for processing victims’ data. Namely that the processing is necessary for the performance of a task carried out for the law enforcement purpose by a competent authority.

Investigators will therefore seek the individual's views and agreement where able, along with views of any other appropriate others. Where an individual does not want their information to be shared, their views and objections will be recorded on the request form, unless the individual does not wish them to be. Investigators and third parties will need to consider any concerns the individual has and whether the public interest in obtaining the material overrides the consequential impact on the individual's privacy.

Police have identified a legal lawful basis; however, **you must consider and agree your own lawful basis before sharing information with the police.** You may wish to seek your own independent advice or refer to the [Legitimate Interests Assessment](#) when doing so. If, despite the Information Commissioner's position, a third party feels the individual's consent is needed under Data Protection, it is their responsibility to obtain and manage it.

The following ICO toolkit provides guidance on whether data should be shared or not – [Can I share personal data with a law enforcement authority, such as the police? | ICO](#) – and further information can be found in the Information Commissioner's guidance on [Sharing personal data with law enforcement authorities](#).

Data Protection Act 2018	UK GDPR	Data (Use and Access) Act 2025	ICO Opinion	ICO Sharing Data with Law Enforcement	ICO Recognised Legitimate Interest Guidance
					

5. What if I would rather our own organisation's request form be used?

The Third Party Material Request Form has been designed to ensure that Police requests are compliant with the guidance and legislation that the police are governed by. Such as,

- [Requests for Victim Information Code of Practice](#)
- [Criminal Procedure and Investigations Act 1996](#)
- [Attorney General's Guidelines on Disclosure](#)
- [Data Protection Act 2018](#)
- [UK GDPR](#)
- [Information Commissioner's Opinion](#)

It provides a consistent approach and ensures that Policing considers the request for third party material correctly and includes all relevant information to assist you in turn in considering the request. **We would therefore request that you accept the Police Third Party Material Request Form for all policing requests.**

However, we appreciate there may be instances where you are unable to do so as a result of system requirements or internal policy and procedure. In these instances, where your request form does not contain the same level of content that the police form would, police will submit an Addendum form, to include this. The purpose of the addendum is not to duplicate; it is there to ensure that you are providing all relevant information as directed by the legislation and guidance that governs policing.

UNDERSTANDING THE POLICE REQUEST

6. Can the police request third party material as standard?

No. Third party material must never be requested automatically. It should never be assumed that because of the nature of an offence that is being investigated that particular types of material will need to be accessed. **The request must be necessary.**

- The personal data sought must be necessary to achieve the relevant purpose. In a criminal investigation context, this will be to prevent, detect, investigate or prosecute serious crime.
- There must be a logical link to that purpose. It must be a reasonable line of enquiry and relevant to an issue in the case, with a properly identifiable foundation for the enquiry, and there must be a clear reason why the police believe the individual's records contain relevant material. This cannot be based on simple assumption or speculation.
- Before requesting third party material, the police should also consider whether there are alternative less intrusive ways to obtain the information required. Any alternative methods that have been considered and excluded will be shared with you.

The request must be strictly necessary where the personal data reveals or relates to an individual's racial or ethnic origin, political opinions, health, religious or philosophical beliefs, trade union membership, sexual orientation, sex life, genetic data and biometric data (where used for identification purposes). This is because this kind of data is considered special category data, also known as sensitive personal data.

- The police will also need to meet one of the conditions set out in schedule 8 of the [Data Protection Act](#). The most likely conditions that will be met are:
 - necessary for the administration of justice.
 - necessary for the exercise of a statutory function and for reasons of substantial public interest.
 - necessary for the safeguarding of children and of individuals at risk.

7. Can the police request the entirety of the records I hold?

No. There are limits to what can be requested. The police must not make blanket requests or ask for the entirety of a third party's records as standard. **Requests must be proportionate.**

- The police need to balance ensuring a fair trial for the accused with any intrusion into the private life of an individual.
- Only the minimum relevant information that will meet the purpose of the request should be requested. To help focus the request, the police will apply clear parameters wherever possible, and they will set these out on the Third Party Material Request Form. For example, they may only ask for third party material within a certain date period or for information regarding a particular event / engagement with health or social care services.

8. What should the police consider when requesting a victim's counselling records?

You should consider your own policies and procedures, and professional guidance regarding data sharing, any legal responsibilities you have to the individual, and any views provided by the individual.

It is important that victims feel able to access counselling and therapy in respect of the crime they have been subjected to. Therefore, there are additional requirements that police must meet in order to submit a request for a victim's counselling records.

For the purposes of section 44A(5) of the Police, Crime and Sentencing Act 2022, the specified counselling services for the purposes of a counselling information request is a service, remunerated or voluntary, registered and unregistered, which offers psychological, therapeutic or emotional support aimed at improving a victim's emotional, psychological and mental health.

Below is a non-exhaustive list of individuals who may undertake activity that falls within the definition of counselling.

Registered on a statutory register:	Unregistered:
<ul style="list-style-type: none"> • Person registered with the General Medical Council • Person registered with the Health and Care Professions Council • Person registered with the Nursing and Midwifery Council, or • Person registered with Social Work England, or • Registered on an accredited voluntary register • Person registered on a voluntary register accredited by the Professional Standards Authority for Health and Social Care. 	<ul style="list-style-type: none"> • Independent domestic violence adviser (IDVA) • Independent sexual violence adviser (ISVA) • Independent stalking advocate, or • Minister of religion • Other unregistered persons

Ahead of any third party material request taking place, the police must:

1. Have reason to believe that the third party holds the information required.
2. Have a properly identifiable foundation for the reasonable line of enquiry and a clear reason why they believe the individual's personal records contain information relevant to an issue in the case. This cannot be based on simple assumption or speculation.
3. Be satisfied that the request is necessary, or strictly necessary where the request relates to sensitive personal data, and proportionate to achieve the purpose of preventing, detecting, investigating, prosecuting serious crime.

However, for a victim's counselling records request, the police must also:

4. **Start with the assumption that requests for victim counselling information are not necessary and proportionate.** Contesting this presumption is the exception and compelling reasons or factors specific to the case must be provided.
5. **Satisfy a further test of "substantive probative value" to a reasonable line of enquiry.** This refers to the meaningful evidential significance of the counselling records, and the likelihood that the evidence will add significant value to the point being investigated.

Robust rationales as to how these additional requirements are met must be included on the Third Party Material Request Form. The following alone are not sufficient grounds:

- That the records exist and relate to counselling, the incident, or the victim's account, or that records were created close in time to the incident or the date the crime was reported.
- Hypothetical relevance to the investigation, including credibility or reliability assumptions based solely on the victim receiving counselling.
- Suggestions that the records may concern the victim's reputation, sexual activity (with anyone, including the accused), or unrelated abuse allegations involving others.

[Victim Information Requests: Code of Practice](#) sections 79 – 91 outline full details of the additional requirements and what the police must consider ahead of any request for a victim's counselling records.

Owing to the significant sensitive nature of victim counselling records, these types of requests require a higher level of police authorisation. Instead of a Police Inspector, a Police Chief Inspector / Police Staff equivalent or above must review and authorise any request for a victim's counselling records. This rank is 3 levels higher than the Investigating Officer.

(Police Investigator > Police Sergeant > Police Inspector > Police Chief Inspector).

9. What is the lawful basis for the police requesting and processing third party material?

Within criminal investigations, the lawful basis for **requesting** the third party material is the legal duty on the police under the [Criminal Procedure and Investigations Act 1996](#) to pursue all reasonable lines of enquiry, whether these point towards or away from a suspect. **If the police have made a third party material request, it is because they believe you hold information that is relevant to a reasonable line of enquiry and an issue in the case.**

A reasonable line of enquiry is an action that helps the police to establish what has happened – whether it supports the idea that someone is guilty or shows they might not be. Police Investigators must be fair and objective. What is reasonable in each case will depend on the particular circumstances. E.g.

- If the suspect says they were somewhere else, it's reasonable to check if there's proof – like phone data or witness statements.
- If a victim says they received threatening messages, it's reasonable to look at their phone or social media to find those messages.
- If the suspect says someone else had access to their account, it's reasonable to check login history or device data.

Once in possession of the third party material, the police will process the personal data / sensitive personal data in accordance with [Part 3 of the Data Protection Act 2018](#) (DPA), which allows the police to process personal material when it is necessary for a law enforcement purpose.

The law enforcement purposes are defined under section 31 of the DPA 2018 as: 'The prevention, investigation detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security.'

The processing of personal records may include, taking possession, reviewing, making records, and further sharing where necessary, for example when legally required within criminal proceedings.

THE INDIVIDUAL THE RECORDS RELATE TO

10. Who might the individual in question be in context to the request?

The individual to whom the record relate may be:

- A victim of crime, sometimes referred to as a 'complainant'.
- A witness.
- Someone accused of committing a crime, who will be referred to as a 'suspect' if they have not yet been charged, or a 'defendant' where they have been charged.

11. Considering the views of the individual (or other appropriate person):

When it has been deemed appropriate for the police to obtain views of the individual these will be outlined on the Third Party Material Request Form for your consideration. Seeking an individual's views on the request ensures they have an active role in the process, which is especially important for victim counselling records.

Police will also seek views from others where it is legally required or appropriate, such as:

- Person with parental responsibility / formal authority to make the decision on behalf of the individual (e.g. lasting power of attorney / court appointed deputy).
- Anyone engaged in caring for the person or interested in their welfare (e.g. primary carer / next of kin).

- Allocated social worker.
- Anyone named by the individual as someone to be consulted on the TPM request.

The request form supports this, and the Investigating Officer will ensure there is no conflict of interest – for example, the person must not be a suspect, involved in the case, or connected to the suspect.

You should consider your own policies and procedures regarding data sharing, any legal responsibilities you have to the individual, and any views provided.

12. Can I contact the individual about the request?

Unless unable to do so, for example where it would prejudice the investigation, the Police Investigator will seek views and agreement / Common Law consent from the individual. During this process, they will explain that you may wish to contact the individual to discuss the request. **The individual's preference in this respect will be recorded on the request form.**

13. Why have views and agreement / Common Law consent not been obtained?

The Third Party Material Request Form should be used for all third party material requests within a criminal investigation where an expectation of privacy applies. Therefore, a broad range of request types and third parties may apply.

In some instances, it may not be appropriate for the police to discuss the request with the individual to whom the request relates, or an appropriate other. For example, where:

- this would be likely to prejudice the investigation (particularly where the individual is the suspect).
- there is an identifiable basis for believing that to do so might risk causing serious harm to the victim or another person.
- to do so would reveal sensitive police tactics that could hinder the detection of crime.

In some instances, police may not be able to discuss the request with the individual. For example:

- The individual is a suspect / defendant and policing powers have been utilised (police have recognised broad common law powers to carry out their duty of detecting and investigating crime, including seeking access to information in support of their policing purposes).
- To do so might interfere with the investigation or enquiry for which the information is sought, or any other investigation or enquiry which is being pursued, or will be pursued in the future.
- The individual has been contacted and did not wish to provide their views.
- The individual cannot be located or contacted, and it's not reasonably practicable to wait for them to be located before requesting the TPM
 - A third party may need to make a judgement about the likely wishes of the person at the time they went missing in relation to the disclosure of information to the police and / or whether a disclosure in the public interest is justifiable.
- The individual is a child under 16yrs who is not competent or young person 16-17yrs who lacks capacity and, although reasonable attempts have been made, a person with parental responsibility could not be located.
- The individual is an adult over 18, lacks capacity, and after all reasonable efforts have been made, a person with formal authority could not be located.
- The individual is deceased – Third parties will need to apply appropriate considerations here. Where the Common Law duty of confidentiality applies, the third party will need to decide whether there is an overriding public interest.

THIRD PARTY CONSIDERATIONS

14. What should I consider if the individual is a child under 16yrs / young person aged 16-17yrs?

You should consider your own policies and procedures regarding data sharing, any legal responsibilities you have to the individual, and any views provided by the individual. You should consider your own policies and procedures, and professional guidance regarding data sharing, any legal responsibilities you have to the individual, and any views provided by the individual.

Where the child is cared for (and even instances where not in Local Authority care but actively open to the Local Authority, e.g. CP plan) - there should be consideration to a joint visit between the police officer and allocated social worker.

Within the [Mental Capacity Act Code of Practice](#) and [Victim Information Requests: Code of Practice](#):

- ‘Children’ refers to people aged below 16.
- ‘Young people’ refers to people aged 16–17.

For confidential health information requests a child or young person 12 years or over is generally presumed to have the competence to give or withhold Common Law consent to the release of their information.






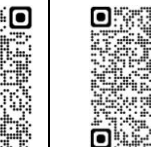

Where a child is deemed competent, police should seek and record their views, agreement / Common Law consent or objections. However, each case must be judged on its own merits.

For 16-17 year-olds there is a presumption that they have the capacity to state their views and give or withhold agreement / Common Law consent to the release of their information. Where a person intends to take steps on the basis that the young person lacks capacity, that person must be able to explain why the young person lacks capacity.

For a child under the age of 16 who lacks competence, or a young person aged 16 or 17 years old who lacks capacity anyone with parental responsibility can give or withhold agreement / Common Law consent to the release of information on their behalf (provided the decision is in the best interests of the child / young person). In these cases, the views, agreement / Common Law consent, or objections of someone with parental responsibility should be sought and recorded.

A person with parental responsibility could be:

- a parent (noting that not all parents will have parental responsibility).
- a guardian appointed by a court.
- a local authority, shared with anyone else with parental responsibility, while the child is subject to a care or supervision order (foster parents rarely have parental responsibility).

Mental Capacity Act Code of Practice	ICO Guidance on Children's Rights	FOR HEALTH & SOCIAL CARE REQUESTS				
		NHS Guidance - Sharing Information with the Police	Gillick Competence and Fraser Guidelines	BMA Guidance - Children and young people under 16	Confidentiality: good practice in handling patient information	Disclosures for the protection of patients and others
						

Capacity / Incapacity: All people aged 16 and over are presumed in law to have capacity. A 16 or 17 year old lacks capacity if, at the time the decision needs to be made, they are unable to make or communicate the decision because of an ‘impairment of or a disturbance in the functioning of the mind or brain’ e.g. mental illness, learning disability, or brain damage.

Competency: Gillick competency applies mainly to medical advice, but it is also used by practitioners in other settings. Gillick it is often used in a wider context to help assess whether a child or young person under 16 has the maturity to make their own decisions and to understand the implications of those decisions.

15. What should I consider if the individual is an adult over 18yrs who lacks capacity?

You should consider your own policies and procedures, and professional guidance regarding data sharing, any legal responsibilities you have to the individual, and any views provided by the individual.

For an adult who lacks capacity the processes for decision making set out in relevant [mental capacity legislation](#) should be followed. This would include identifying and seeking the views of anyone with formal authority to decide on their behalf, such as an attorney appointed by a Health and Welfare Lasting Power of Attorney, or a court appointed deputy.

Where no health and welfare attorney, or court appointed deputy has been appointed, disclosure can take place if it is in the best interests of the person lacking capacity. A 'next of kin' has no legal status, whilst views can be sought, they cannot give or withhold agreement / Common Law consent to the release of information of an adult who lacks capacity.

Where police have been able to seek the views of the adult without capacity, have regard to these, considering the conditions that affect their capacity.

Capacity / Incapacity: All people aged 16 and over are presumed in law to have capacity. A person lacks capacity if, at the time the decision needs to be made, they are unable to make or communicate the decision because of an 'impairment of or a disturbance in the functioning of the mind or brain' e.g. mental illness, learning disability, dementia, or brain damage.

Mental Capacity Act Code of Practice	FOR HEALTH & SOCIALCARE REQUESTS		
	NHS Guidance - Sharing Information with the Police	Confidentiality: good practice in handling patient information	Disclosures for the protection of patients and others
			

16. What do I need to consider when reviewing the material I hold?

You should consider your own policies and procedures, and professional guidance regarding data sharing, any legal responsibilities you have to the individual, and any views provided by the individual.

Data minimisation should be a priority for both the Police and the third party to avoid excessive sharing of information. The review should therefore be undertaken in line with the police request and parameters set.

Upon reviewing the records, you may find that:

1. You do not hold any of the information requested and therefore have nothing to disclose.
2. You only have some of the information requested.
3. You may have all of the information requested.
4. There may be specific legal restrictions on the disclosure of certain information.

Police request that you confirm the outcome of your view within the green section of the Third Party Material Request Form; however, this is optional, and you may wish to select ‘we decline to confirm if we hold any of the requested information or not’.

It may also be the case that for some or all of the information requested, you are unable to provide details of this material. Again, the green section of the Third Party Material Request Form will allow you to confirm this. This may be the case where you are in possession of family court material for example, and your policy and procedure dictates that police approach the family court for this disclosure.

DISCLOSURE TO THE POLICE

17. What if my organisation does not have the capacity to review under the parameters set?

Data minimisation should be a priority for both the Police and the third party controller to avoid excessive sharing of information.







Disclosing more than necessary may violate the individual’s reasonable expectations and privacy rights, damaging trust between your organisation and the person concerned. Victims or data subjects may feel betrayed, leading to complaints, legal claims, or withdrawal from services. It may also discourage victims from seeking support in the future. Oversharing sensitive or irrelevant details (e.g., health, social care, or personal history) can also cause secondary victimisation, or emotional distress.

Discuss your capacity concerns with the Police Investigator and consider alternative options. For example, sifting digitalised material and applying key word searches (consultation with the individual in question may be advisable in this respect). It may also be possible to allow the police to attend and review material on site in line with the parameters as outlined in the Third Party Material Request Form, however this would not be appropriate in some circumstances, such as for clinical settings.

18. How much material should I provide?

Data minimisation should be a priority for both the Police and the third party controller to avoid excessive sharing of information. All Police requests for third party material should explain exactly what is needed and apply appropriate parameters, so they do not receive extraneous materials from the third party. **Third parties should only share relevant and necessary / strictly necessary information within the parameters of the police request.** If you are unclear as to what information you can provide, then seek advice.

Disclosing more than necessary may violate the individual’s reasonable expectations and privacy rights, damaging trust between your organisation and the person concerned. Victims or data subjects may feel betrayed, leading to complaints, legal claims, or withdrawal from services. It may also discourage victims from seeking support in the future. Oversharing sensitive or irrelevant details (e.g., health, social care, or personal history) can also cause secondary victimisation, or emotional distress.

Data Protection Act 2018	UK GDPR	Data (Use and Access) Act 2025	ICO Opinion	ICO Sharing Data with Law Enforcement	ICO Recognised Legitimate Interest Guidance
					

19. Can I redact material before sending it to the police?

Yes, data protection obligations to remove irrelevant personal and / or sensitive personal data, or any other details you do not consider appropriate to share with the police continue to apply. Information which may cause serious harm to the individual or another person should also be removed or redacted.

Information about other people within the requested material: If relevant suspect / witness / other related individual's details appear in the material and the Investigating Officer wishes for them to remain, they will state as much on the Third Party Material Request Form so that you can consider this when applying redactions – Information about individuals that are not relevant should be redacted in accordance with data protection obligations.

20. Can I provide handling instructions if I choose to share material with the police?

Yes, if you wish to. The handling instructions can provide the Police Investigator clear direction on how to manage the third party material once it is received. This is important because depending on the circumstances of the case and the category the third party material falls into; it may fall to be shared onwards to the defence. This is explained in the section below.

If you do not consider some or all of the third party material that you are sharing with the police to be appropriate for onward sharing with the defence where needed, please make this clear on the Third Party Material Request Form return. This will ensure the Police Investigator is aware and can treat the material in confidence – It will be considered Sensitive under the [Criminal Procedure and Investigations Act 1996](#), which means there would be a real risk of serious prejudice to an important public interest if the existence of that material were revealed to the defence.

21. Other than the police, who else may see the third party material if I share it?

There is no automatic entitlement for anyone to see the third party material, should you share it with the police. This will depend on the circumstances of the case and the category the material falls into. The material will only be shared with other parties when fulfilling a legal obligation. Within the context of this criminal investigation, those parties will likely be the Crown Prosecution Service, defence, counsel and courts.

Any third party material that the police receive will be referred to as 'material' and will fall into one of the following categories:

1. **Evidence:** This is material that the prosecution will use in court in order to prove the criminal offence.
2. **Relevant Unused Material:** This is any material that is not being used as evidence, but that appears to the Police Investigator or Disclosure Officer to have some bearing on an offence under investigation, any person being investigated, or on the surrounding circumstances, unless it is incapable of having any impact on the case.
3. **Disclosable Unused Material:** This is any relevant unused material that has been identified as being capable of undermining the prosecution case or assisting the defence case or their bail application.
4. **Irrelevant Unused Material:** This is everything else that does not fit in the other categories. This material should not be shared with the defence, Crown Prosecution Service, or the court.

If the police receive irrelevant material, they should delete it wherever possible, and as soon as possible in line with the force's Privacy Notice. However, there may be occasions when this is not possible if it is intrinsically linked to material that falls into the first two categories and impossible to separate.

Before the suspect is charged with an offence:











- The suspect may be told about or be shown aspects of third party material where this falls as evidence. This usually happens in a recorded suspect interview, so that the suspect can respond to the evidence.
- In certain cases, parts of material will be shared with the Crown Prosecution Service where this falls as evidence or disclosable unused material, in order for them to decide whether the suspect should be charged with an offence.

After the suspect is charged with an offence (where they become the ‘defendant’):

- The defendant and the Crown Prosecution Service will see material that falls as evidence.
- The Crown Prosecution Service will also see any material that the police consider to be disclosable unused material.
- Where the Crown Prosecution Service lawyer agrees the status of disclosable unused material, this material will be shared with the defence, unless it is deemed Sensitive under the [Criminal Procedure and Investigations Act 1996](#) (unsafe to disclose or your handling instructions prevent this).
 - Any disclosable unused material that is shared with the defence will be edited to ensure that personal details or other irrelevant information are not unnecessarily revealed (e.g. phone numbers and addresses, events, medication, operations, or personal feelings).
- Where disclosable unused material is deemed Sensitive under the [Criminal Procedure and Investigations Act 1996](#), even with edits applied, a judge will become involved and will make the final decision as to whether or not it should be shared with the defence. This takes place in what is called a ‘Public Interest Immunity Hearing’.
 - Where you have an interest in that material, the prosecution will notify both you and the individual of any Public Interest Immunity application. You both have a right to make representations to the court, if you wish.
 - If a court, on hearing an application for Public Interest Immunity, determines that the material in question should be disclosed to the defence, the interests of justice may require the prosecution to terminate the proceedings rather than make such disclosure.

ADDITIONAL INFORMATION

Please also find relevant additional information below.

Data Protection Act 2018 	UK GDPR 	Requests for Victim Information Code of Practice 	Mental Capacity Act Code of Practice 	Criminal Procedure and Investigations Act 1996 Code of Practice 
Data (Use and Access) Act 2025 	ICO Opinion 	ICO Sharing Data with Law Enforcement 	ICO Guidance on Children’s Rights 	ICO Recognised Legitimate Interest Guidance 

Disclosure between Family & Criminal Agencies & Jurisdiction's	Attorney General's Guidelines on Disclosure	FOR HEALTH & SOCIAL CARE REQUESTS		
		NHS Guidance - Sharing Information with the Police	Gillick Competence and Fraser Guidelines	BMA Guidance - Children and young people under 16
				

GLOSSARY OF KEY TERMS

Authorising Officer: A police supervisor responsible for reviewing and either authorising or rejecting third party material requests submitted by a Police Investigator. The required rank varies depending on the sensitivity of the material requested.

- General requests – Inspector / Police Staff equivalent or above
- Victim counselling record requests – Chief Inspector / Police Staff equivalent or above

Confidential Patient Information: The term 'confidential patient information' is a legal term defined in section 251 (10) and (11) of the National Health Service Act 2006. It is information about any patient, alive or dead, that meets the following requirements. It meets the definition if the information:

- is identifiable or likely to be identifiable, for example from other data likely to be held by the person or organisation receiving the data - if a patient could be identified from it.
- was given in circumstances where the individual is owed an obligation of confidence.

Patients are entitled to expect an obligation of confidence from the health and social care services they receive. Section 251's definition of patient has been expanded to include people who might more often be called service users or customers - those receiving adult social care from, or which is arranged by, a local authority.

Chief Inspector (or Police Staff Equivalent): The minimum rank required to authorise requests for victim counselling records, due to the highly sensitive nature of such material. A Chief Inspector is three management ranks higher than the Investigating Officer.

Police Investigator > Police Sergeant > Police Inspector > Police Chief Inspector.

Counselling Services: The specified counselling services for the purposes of a counselling information request is a service, remunerated or voluntary, which offers psychological, therapeutic or emotional support aimed at improving a victim's emotional, psychological and mental health.

Counselling services may be offered by both registered and unregistered individuals. While registration with a professional body can indicate adherence to certain standards and guidelines, it is not a requirement for all counselling providers. ([Code of Practice for Victim Information Requests](#))

Disclosure: The process where relevant material is provided from one person / organisation to another.

Disclosure Officer: The disclosure officer is the person responsible for examining material retained by the police during the investigation; revealing material to the prosecutor during the investigation and any criminal proceedings resulting from it, and certifying that they have done this; and disclosing material to the accused at the request of the prosecutor.

The functions of the investigator, the officer in charge of an investigation and the disclosure officer are separate. Whether they are undertaken by one, two or more persons will depend on the complexity of the case and the administrative arrangements within each police force. Dedicated Disclosure Officers are generally only utilised for serious and complex cases, such as investigations within Major Crime Teams, Complex Abuse Units, or Economic Crime.

Evidence: Material that the prosecution will use in Court to prove the offence.

Inspector: The minimum rank required to authorise most third party material requests. An Inspector is two management ranks higher than the Investigating Officer.

Police Investigator > Police Sergeant > Police Inspector.

Law Enforcement Purposes: The prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security.

Material: This is material of any kind, including information and objects, which is obtained or inspected in the course of a criminal investigation, and which may be relevant to the investigation. This includes not only material coming into the possession of the Police Investigator (such as documents seized in the course of searching premises) but also material generated by them (such as interview records). In relation to medical material, this includes medical records or other confidential patient information held by healthcare organisations. However, it excludes blood and tissue samples.

Personal Data: Any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural, or social identity of that natural person.

Police Investigator: Often referred to as the officer in charge of an investigation or Officer in the Case (OIC). A Police Investigator may be a Police Constable (PC), a Detective Constable (DC), or a civilian Investigating Officer (IO). The Police Investigator is responsible for directing a criminal investigation. Ensures general policies are upheld and that the Police Investigator pursues all reasonable enquiries. Makes sure that proper procedures are in place for recording information and retaining records of information and material obtained during the investigation.

Processing: Any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure, or destruction.

Reasonable Line of Enquiry (RLOE): A reasonable line of inquiry is that which points either towards or away from the suspect. What is reasonable will depend on the circumstances of the case and consideration should be had of the prospect of obtaining relevant material, and the perceived relevance of that material.

Third party material should only be requested in an individual case if it has been identified as relevant to an issue in the case. This will depend on the circumstances of the individual case, including any potential defence, and any other information informing the direction of the case. Access to third party material should never occur as a matter of course. It should never be assumed that because of the nature of an offence that is being investigated that particular types of material will need to be accessed. There will be cases where no investigation of third party material is necessary at all, and others where detailed scrutiny is needed. There must be a properly identifiable foundation for the inquiry, not mere conjecture or speculation. ([Attorney General's Guidelines on Disclosure](#))

Relevancy / Relevant Material: Material may be relevant to an investigation if it appears to a Police Investigator, or to the officer in charge of an investigation, or to the disclosure officer, that it has some bearing on any offence under investigation or any person being investigated, or on the surrounding circumstances of the case, unless it is incapable of having any impact on the case.

Special Category Data (also known as Sensitive Personal Data): Special category data is defined in UK GDPR as personal data revealing an individual's racial or ethnic origin, political opinions, health, religious or philosophical beliefs, trade union membership, sexual orientation, sex life, genetic data, and biometric data, where used for identification purposes. It does not include personal data about criminal offences, allegations, or convictions.

Sensitive processing:

- (a) the processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs or trade union membership.
- (b) the processing of genetic data, or of biometric data, for the purpose of uniquely identifying an individual.
- (c) the processing of data concerning health.
- (d) the processing of data concerning an individual's sex life or sexual orientation.

Substantive Probative Value: "Substantial probative value" refers to the meaningful evidential significance of the information contained within the counselling records. This test focuses on the likelihood that the evidence will add significant value or substance to the point being investigated. It goes beyond just relevance to assess the weight and worth of that evidence in the context of the investigation, imposing a higher threshold than for other types of material and going beyond the relevance test set out by the CPIA Code of Practice. Assessing the "substantial probative value" of counselling records is inherently fact-sensitive and requires a careful consideration of the specific circumstances and objectives of the investigation. ([Code of Practice for Victim Information Requests](#))

Third Party Material: Material held by a person, organisation, or government department other than the police and prosecutor, either within the UK or outside the UK. Third parties are not directly involved in the case in question but may hold information relevant to it.

Third Party: Anyone other than the Police and the Crown Prosecution Service (CPS). For example, NHS, GPs, Schools, and Social Services.