

Guidance for Maracs

Domestic Violence Disclosure Scheme

The Domestic Violence Disclosure Scheme (DVDS), previously known as 'Clare's Law', was implemented following the tragic murder of Clare Wood by her ex-partner in 2009. Clare had been unaware that her ex-partner had three previous domestic violence-related convictions. Following public consultation and a 12 month pilot period across four police force areas, the scheme will be implemented across England and Wales from March 2014.¹

What is the purpose of the Domestic Violence Disclosure Scheme?

The purpose of the scheme is twofold: to provide a set of recognised procedures for sharing information with a victim, or potential victim, of domestic violence and abuse; and to provide consistency in the way disclosures are managed. Existing information sharing legislation will support disclosure under the DVDS and therefore no new legislation has been introduced.

The role of the Marac

While SafeLives supports the principle that the Marac is the natural place to discuss such information due to its multi-agency attendance and risk-led safety action planning process, it is important that a victim has already been identified as being at **high risk of harm** before such a referral is made. This will ensure that the legal constraints around information sharing are respected and the resources of the Marac are appropriately used.

If, at the risk assessment stage of the DVDS process the risk is assessed as 'high', the normal Marac referral process should be implemented, including an immediate referral to the Idva service. Positive action should then be taken to address the risks to the victim and safety plan with them. At the Marac the police would be the referring agency and present the case at the meeting, sharing that the victim has requested information about the risks posed to them (in cases of the 'right to ask'). If a decision to 'disclose' is made this will be part of the agreed action plan. Making the disclosure to the victim needs to be managed safely and the importance of domestic abuse specialist support is critical.

Disclosure may also include other potential parties at risk and it would be necessary to address these as well. The basis for these decisions by the Marac must be the risk posed to the individuals concerned. Thus, potentially relatives, a nanny, any children or others may be at risk and disclosures should be made as appropriate. However, different levels of disclosure may be appropriate and in all cases disclosure must be proportionate to the risks faced.

For each referral discussed at the Marac we would encourage you to consider whether a disclosure was appropriate as part of the action plan.

What if the case is not assessed as 'high risk'?

An individual not assessed as high risk would not meet the threshold for information sharing without consent and therefore not be referred to a Marac meeting. In this situation we would recommend that a multi-agency safeguarding forum is held as the decision making meeting for disclosure. At this meeting (as per the Home Office guidance) there should be a minimum of three agencies represented, including the police, probation and the local Idva Service. Practically local areas may choose to discuss these cases after the Marac meeting with a subset of attendees.

¹ For additional Home Office guidance on the Domestic Violence Disclosure Scheme visit: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/224877/DV_Disclosure_Scheme_Guidance_-_REVISED_W.pdf

Under what circumstances would a disclosure not be made?

If the Marac or local decision-making forum makes a decision not to disclose information because it judges that there is a no risk of harm that warrants a disclosure, then the forum should follow the actions laid out on page 26 of the Home Office guidance document.

Having followed the decision making process and decided there is a 'concern' (as per the Home Office guidance definition), there would need to be a compelling reason to not disclose information. For example, if it was identified that a disclosure would endanger the applicant. If the applicant does not have the mental capabilities to understand the consequences of the disclosure, disclosure should be made to the person best able to safeguard the applicant (e.g. relative, social worker).

The ability of the local decision-making forum (whether the Marac or a multi-agency safeguarding forum) to disclose information under the Domestic Violence Disclosure Scheme must be done on a case-by-case basis. The forum must consider that it is lawful, necessary and proportionate to justify the disclosure being made.

Are there any timeframes for disclosure?

Yes, and these vary depending on whether the case is 'right to ask' or 'right to know'. In addition to the lists below, please see page 13 of the Home Office guidance document and the flowchart overleaf for further information.

Right to ask

1. Initial contact checks should be completed within 24 hours of the initial contact being made by the applicant.
2. A face-to-face meeting should take place within 10 working days of step 1.
3. A full risk assessment should be completed within five working days of step 2.²
4. Cases should then be referred to the local decision making forum within 20 working days of step 3.

Right to know

1. Minimum checks should be made within 5 working days of receipt of the information.
2. A full risk assessment should be completed within 5 working days of the minimum checks being completed.³
3. Cases should then be referred to the local decision making forum.

As these timings may not fit with the Marac meeting timetable there may be a need for the decision making forum to meet outside of the normal Marac.

How do we record disclosures?

All decisions (and processes leading to those decisions) to disclose or not disclose must be recorded to a standard whereby they will stand the scrutiny testing of a judicial review.

Where can I get further guidance on the Domestic Violence Disclosure Scheme?

For full guidance including who can apply for disclosure under the scheme and how such decisions should be reached please see:

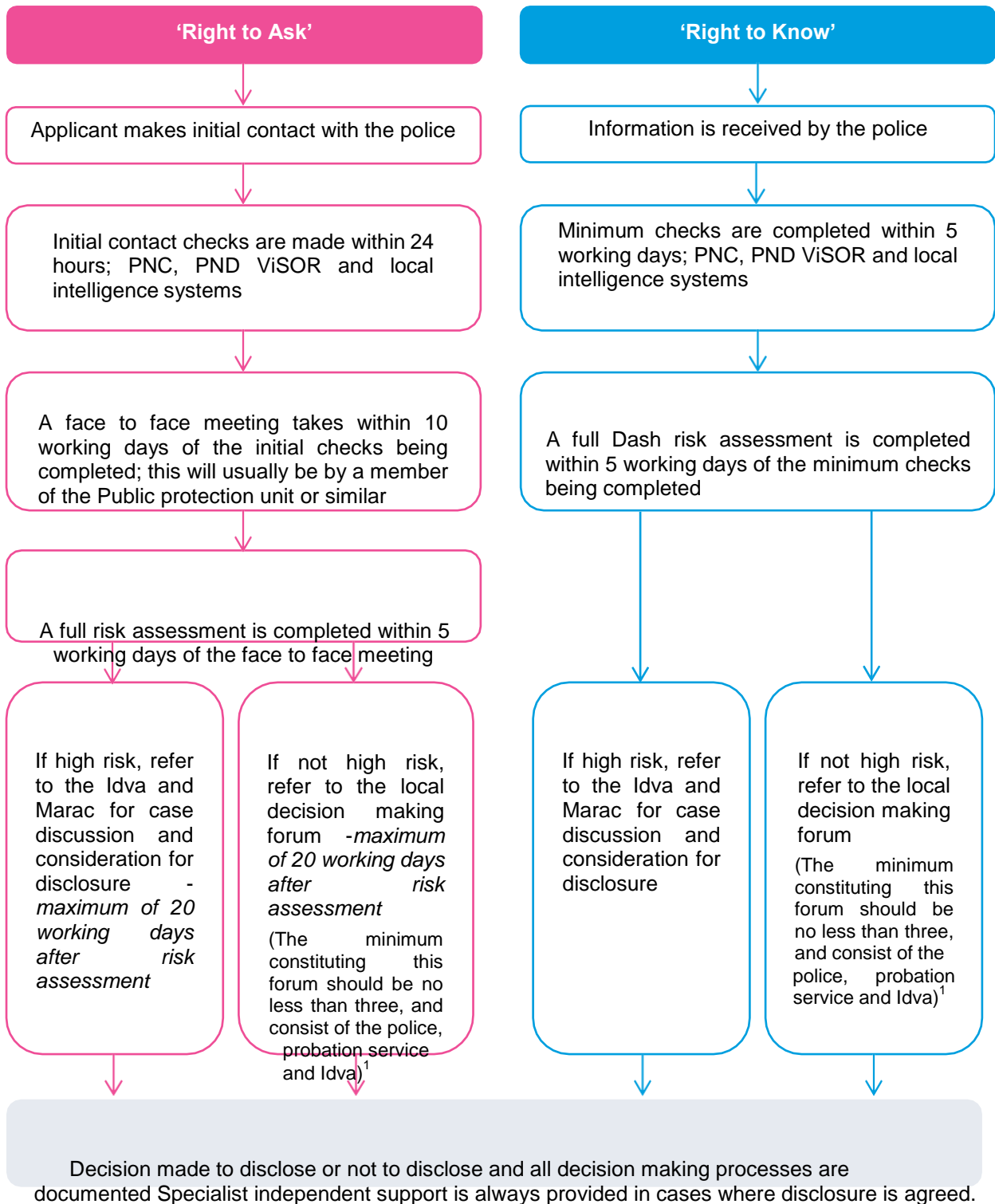
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/224877/DV_Disclosure_Scheme_Guidance_-_REVISED_W.pdf

² If at any point throughout this process it is identified there is an immediate/imminent risk of harm then action must be taken to safeguard those at risk

³ As above.

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¹ Please see point 67, page 23 of the Home Office guidance.