

# The Child Sex Offender (CSO) Disclosure Scheme Guidance Document

## 1. Introduction

- 1.1 In June 2007 the Government published the Review of the Protection of Children from Sex Offenders. As a result the Disclosure Scheme was introduced in four forces to pilot a new approach to dealing with the disclosure of information relating to child sexual offences. The Disclosure Scheme aimed to fulfill action 4 of the review, which stated that the Government would:

*'Pilot a process where members of the public can register their child protection interest in a named individual. Where this individual has convictions for child sex offences and is considered a risk, there will be a presumption that this information will be disclosed to the relevant member of the public'.*

- 1.2 Warwickshire, Hampshire, Cambridgeshire and Cleveland all piloted the scheme for 12 months from September 2008.
- 1.3 The Disclosure Pilot was subjected to an independent evaluation by Leicester De Montfort University, a copy of the evaluation report can be found on the Home Office website, [www.homeoffice.gov.uk/rds/pdfs10/horr32c.pdf](http://www.homeoffice.gov.uk/rds/pdfs10/horr32c.pdf)

The key finding from management data provided by the forces was that:

- volumes of enquiries were manageable: on average each pilot force received around 12 enquiries per month of which 7 went on to become full applications resulting in 1 disclosure per month;

Key findings from the evaluation were:

- of the small number of applicants interviewed, most were largely satisfied with the pilot scheme, valuing timely contact and the professional conduct of staff. On the whole, applicants interviewed thought the pilot contributed to general levels of alertness about risks to and protection of children. Anxiety sometimes remained following applications when some individuals were left to cope with difficult situations. This highlights the need for appropriate follow-up support regardless of whether a disclosure is made;
- applicants understood the restrictions about disclosure and about confidentiality though they expressed some difficulties in keeping information to themselves. There was no evidence to suggest any serious or damaging breach of confidentiality during the evaluation, but procedures are being put in place to ensure that this is closely monitored in the future;
- police and offender managers interviewed perceived that the disclosure scheme formalised what they thought should be good practice in child protection. It was seen as providing greater clarity for staff by focusing on risk, focusing on the child, and permitting the sharing of information with members of the public. Police interviewees said the pilot had 'sharpened up' child protection work by tightening procedures and being explicit about what the public could expect. In terms of the Multi-Agency Public Protection Arrangements (MAPPA) though, these arrangements largely operated as they had done before the pilot;
- of the small group of Registered Sex Offenders (RSOs) interviewed, the most common initial reaction was anxiety about negative reactions from communities. As the pilot progressed this decreased and most saw it as an extension of existing controls. No changes in behaviour were reported by the RSO's interviewed, and practitioners working with RSO's did not perceive any changes in compliance with registration and probation supervision.

- 1.4 Action 1 of the Child Sex Offender Review (CSOR) called for a scheme to equip parents and carers with the knowledge required to safeguard their children:

*'Process a community awareness programme, in partnership with non-governmental organisations, to provide better child protection and develop messages to help parents and carers safeguard children effectively'.*

- 1.5 Both actions 4 and 1 support each other and for the Disclosure Scheme to be successful there needs to be an intrinsic link with public education. This Guidance will aim to draw these two threads together.

## 2. **Aims**

- 2.1 The principal aim of this scheme is to provide parents, guardians and carers with information that will enable them to better safeguard their children's safety and welfare. It is not an aim of this scheme to introduce a US-style Megan's Law or automatic disclosure of child sexual offender details to the general public, which could encourage offenders to go missing and therefore put children at greater risk of harm.

- 2.2 Under the CSO Disclosure Scheme anyone can make an application about a person (subject) who has some form of contact with a child or children. This could include any third party such as a grandparent, neighbour or friend. This is to ensure any safeguarding concerns are thoroughly investigated. A third party making an application would not necessarily receive disclosure as a more appropriate person to receive disclosure may be a parent, guardian or carer. In the event that the subject has convictions for sexual offences against children, poses a risk of causing harm to the child concerned and disclosure is necessary to protect the child, there is a presumption that this information will be disclosed. Under the CSO Disclosure Scheme, disclosure will only be made to a parent, carer or guardian but outside of the process, disclosure may be made to others. In any event disclosure may not always be to the original applicant.

- 2.3 This Guidance document provides:
- a set of minimum standards of information to be obtained from the applicant;
  - checks to be completed;
  - suggested forms of wording for communicating with the enquirer or where appropriate, the subject at each stage;
  - it will also seek to provide a recommendation of knowledge or experience of staff undertaking relevant stages of the process.

- 2.4 *It should be noted that the presumption to disclose (in the circumstances set out in paragraph 2.2 above) will only exist in cases where the subject has convictions for child sexual offences (see 3.1 of this document and Appendix G).* However, it is felt that to restrict disclosure to information regarding convicted child sexual offenders would severely limit the effectiveness of the scheme and ignore significant issues regarding offences committed against children. It is important to recognise that many sexual offences against children are committed by persons who are not Registered Sex Offenders. It is also important to recognise that there are often links between sexual and violent offending and that other types of offending behaviour should not be ignored. In terms of information held by the police it is clear that there will be many individuals who although not convicted child sexual offenders, would be deemed to pose risks to the safety of children owing to the nature of information that the police hold in relation to them.

- 2.5 In order to put a scheme in place that raises public confidence and increases the protection of children the Disclosure Scheme will therefore include routes for managed access to information regarding individuals who are not convicted child sexual offenders but who pose a risk of harm to children. This may include:

- persons who are convicted of other offences for example, serious domestic violence;
- persons who are un-convicted but whom the police or any other agency holds intelligence on indicating that they pose a risk of harm to children.

There would not however be a presumption to disclose such information. It is important that the disclosure of information about previous convictions for offences which are not child sex offences **is** able to continue as it is not the intention of the Disclosure Scheme to make access to information concerning safeguarding children more restricted.

2.6 It should be stressed that the Disclosure Scheme builds on existing procedures (as outlined below) and will provide a clear access route for the public to raise child protection concerns and be confident that action will follow:

- Multi Agency Public Protection Arrangements (MAPPA) Guidance 2009 (Version 3), which is statutory guidance under Section 325(8) of Criminal Justice Act 2003<sup>1</sup>, explains how responsible authorities should approach the issue of disclosure;
- Working Together to Safeguard Children (2010) provides guidance on making disclosures in respect of an individual's sexual offending to safeguard children from harm;
- Section 327A of the Criminal Justice Act 2003 (inserted by section 140 of the Criminal Justice and Immigration Act 2008) places a duty on each MAPPA authority in every case managed by it concerning a convicted child sexual offender to consider disclosure to particular members of the public of that offender's convictions for child sexual offences. It creates a presumption that information about the offender's previous convictions will be disclosed where the responsible MAPPA authority has reason to believe that a child sexual offender poses a risk of causing serious harm to a particular child or children, and the disclosure of information to a particular member of the public is necessary for the purpose of protecting that child or children from serious harm caused by that offender.

2.7

**From the above if it is identified that urgent action is required due to immediate/imminent risk of harm to a child then ACTION MUST BE TAKEN IMMEDIATELY and existing safeguarding children procedures should be followed.** This may require joint working with children's services if it is identified as a section 47 enquiry. Please refer to Working Together to Safeguard Children (2010), chapter 5, paragraphs 5.51-5.55. This would also include notifying a supervisor and referring to local force policy and procedure.

### 3. **Principles**

3.1 The Disclosure Scheme is focussed on disclosure and risk management where the subject is identified as being convicted (including cautions, reprimands and final warnings) of child sexual offences (CSO). For the purposes of this scheme a **child sexual offence** will be defined as any offence listed under Schedule 34A of the Criminal Justice Act 2003 (See Appendix G of this guidance document for a copy of this schedule). In practical terms however the Disclosure Scheme will be broader and this process will be utilised for gaining information about ANY person who poses a risk of harm to children (as discussed in the aims section of this guidance document).

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<sup>1</sup>

<http://www.probation.homeoffice.gov.uk/files/pdf/MAPPA%20Guidance%202009%20Version%203.0.pdf>

There will be as wide an application as possible in terms of bringing information to the police in stages 1 (initial contact) and 2 (face to face) but the relevant information will be filtered at stage 4 (full risk assessment) into the appropriate response.

3.2 For the purpose of this scheme the application must be concerning a child or children who may be put at risk of serious harm by a subject who can be named or identified. For example, if a new person has moved into the child's life and the applicant would like to ensure that the subject does not have a known history of offending which would mean that they would pose a risk of serious harm to children, there does not need to be an evidenced concern to make an application. Therefore, the threshold for the enquiry is as low as possible.

3.3 No disclosures should be made to members of the public in respect of an individual's previous convictions or intelligence history without following all appropriate stages of this guidance document (unless there is an immediate/imminent risk of harm to the child or children).

3.4 **What is new?**

- Introduces a principle of "2-way" disclosure in that it invites people to ask about the history of a person who has some form of contact or connection to a child or children;
- enhances the previous arrangements whereby disclosure occurred largely in a reactive way when agencies came into contact with information about an offender having contact with a child;
- individual members of the public can now proactively seek information, with an expectation that the agencies responsible for safeguarding children will check to see whether relevant information exists and if it does, that consideration will be given to its disclosure where necessary to protect the child;
- encourages individuals to take responsibility for safety of their children and provides a way of getting more information on RSO's (and other individuals who pose a risk to children) who are in contact with children;
- there does not need to be any form of concern or suspicion to request information, previously a member of the public may have been turned away by police if requesting conviction information without any child protection concerns being present.

3.5 **What is the same?**

- Safeguarding Children and MAPPAs procedures around making a disclosure remain unchanged;
- disclosure must still be lawful. In particular the agencies must have the power to disclose the information (e.g. under the common law) and disclosure must comply with the Human Rights Act 1998 or Data Protection Act 1998.

3.6 It is important to all involved in delivering this scheme that children are protected from harm. By making a request for disclosure, a person will often also be registering their concerns about possible risks to the safety of a child or children. For that reason, it is essential to this process that police forces work closely with local authority children's social care and Local Safeguarding Children Boards (LSCB), to ensure that any possible risks of harm to the child or children are fully assessed and managed.

3.7 This scheme will not replace existing arrangements for Criminal Records Bureau (CRB) checks, Subject Access or Freedom of Information (FOI) requests, and the new Vetting and Barring Scheme managed by the Independent Safeguarding Authority. If it is identified at the initial contact that the request is one of these other types of enquiry then it should be directed down the existing route for this type of request.

### 3.8 **Engagement with Registered Sex Offenders**

Prior to implementation, it is vital that the remit of the Scheme is effectively communicated to RSOs residing in the area and those being released from prison into the area. The provision of information and reassurance about the Scheme's remit is vital to minimising the risk of their going 'underground' and not complying with their supervision requirements. RSOs should be regularly updated about the Scheme to ensure that key messages are continually embedded.

#### 4. **Definitions**

- 4.1 Initial contact – anyone who makes an enquiry with the Police with regard to making a disclosure application.
- 4.2 Application – those enquiries that go on to be processed as formal CSO disclosure applications, excluding applications that are not 'true' disclosure scheme applications i.e. vetting and barring, intelligence giving opportunities.
- 4.3 Applicant – the person making the application. The disclosure should only be made to a person who is in a position to use that information to safeguard the child(ren). This will usually be the parent, guardian or carer of the child and may not always be the original applicant.
- 4.4 Subject – the person who the applicant is seeking information about who has some form of contact with a child or children.
- 4.5 Convicted of CSO, for the purposes of this scheme means anyone convicted of, or cautioned, reprimanded or warned for of an offence listed under Schedule 34A of the Criminal Justice Act 2003 (a copy of this schedule can be found at Appendix G of this guidance document).
- 4.6 Child – the individual who is under 18 years of age (U18) with whom the subject has some form of contact or has the potential to have some form of contact.
- 4.7 Some form of contact – although the term 'contact' is used, actual 'contact' may not be confirmed. However, the safeguarding agencies must consider whether the likelihood of actual contact is sufficient to satisfy the test for disclosure. There must be sufficient access to or connection with the child by the subject to pose a real risk of harm and therefore justify disclosure. This contact does not necessarily need to be for a prolonged period of time as abuse can happen in a relatively short space of time.
- 4.8 Disclosure – includes both the disclosure of information about the subject's convictions for CSO and any other relevant information deemed necessary to protect a child(ren) from harm i.e. serious domestic violence. The disclosure should only be made to the person who is in a position to use that information to safeguard the child(ren). This will usually be the parent, guardian or carer of the child and disclosure to anyone else will, in any event, fall outside this scheme. The recipient of the information may not always be the original applicant.
- 4.9 Applications that **Cross Force Boundaries.**

There is the possibility that there will be the following forces involved in any one application.

Force A - receiving force. Area in which the applicant lodges their enquiry; may be where they reside, but may be elsewhere (will only ever be one)

Force B - co-ordinating force. Area where the applicant resides (if different to above and will only ever be one).

Force C - responding force, area where the child(ren) reside. Could be several areas in cases where there are estranged families.

Force D - responding force, area where subject resides. Could be several areas if itinerant subject or multiple subjects.

Force E - responding force, area where there is a place of interest and not a particular person resides ie: church, nursery, college etc.

#### Receiving force

The force area where the applicant makes an enquiry (force A). This could be the area where they reside or another force area. If the applicant does not reside in the receiving force then this force area should obtain the initial contact details, complete the initial checks, ascertain the risk and then pass to the force area where the applicant resides. This should be done via an incident log to the communications department / call centre of the co-ordinating force as soon as practicable.

#### Co-ordinating force

The force area where the applicant resides (force B). This force would oversee the enquiry and act as coordinator for any other force areas involved. If the applicant also makes their application to this force area then they will be responsible for obtaining the initial contact details, completing the initial checks and ascertaining the risk. They will then be responsible for making contact with and initiating action in any other force area involved (ie: where the child(ren) / subject live). Where there is a potential immediate risk then this should be done via an incident log to the communications department/call centre of the responding force(s) as soon as practicable. Where there is no potential immediate risk identified, this should be done via auditable means i.e. incident log, e-mail, fax or ViSOR activity log and a response ensured.

#### Responding force

The force area within which any party, other than the applicant, lives (forces C, D and E) that takes responsibility for actions in relation to this party (ie: subject, child(ren), premises). It will be necessary for the receiving/co-ordinating force and the responding force(s) to work in close consultation to consider and address the risks posed in an individual case.

All police forces and agencies involved should work in close consultation to consider and address the risks posed in each case. Every effort should be made to reach an agreement between all force areas and other agencies involved.

In the unlikely event that an agreement cannot be reached and there is a need for a final decision to be made, this will be the responsibility of:

In cases where the subject of the enquiry is a MAPPA subject, the MAPPA area that owns the subject will have primacy. The logic of this is that they are responsible for minimising all risks associated with the subject including the risk of offending against the named children. They will have responsibility for hosting the final disclosure decision-making conference. This process will not be used to refer individuals to MAPPA other than where they are already MAPPA nominals or where the strict criteria is met.

For non-MAPPA cases, the force that 'owns' the children named in the application will have primacy as they hold responsibility for those children's welfare. They will have responsibility for hosting the final disclosure decision-making conference, which will come under the remit of local safeguarding children procedures.

In all cases it will be the responsibility of the applicant's home force to maintain liaison with the applicant and to make such disclosures to them as are considered appropriate. Where as a result of enquiries it is decided to make a disclosure to a third party (for example the parents of children who were referred by a concerned-but-not-related applicant), the home force of that third party will be responsible for making the disclosure (as a responding force).

While it is accepted that primacy in any process will reside in a single force, there will nevertheless be a need for the other forces and agencies involved to fully engage with the process and if necessary send representatives (or provide teleconferencing presence/other contribution) to the decision-making conference, be it under the auspices of MAPPA or safeguarding children procedures.

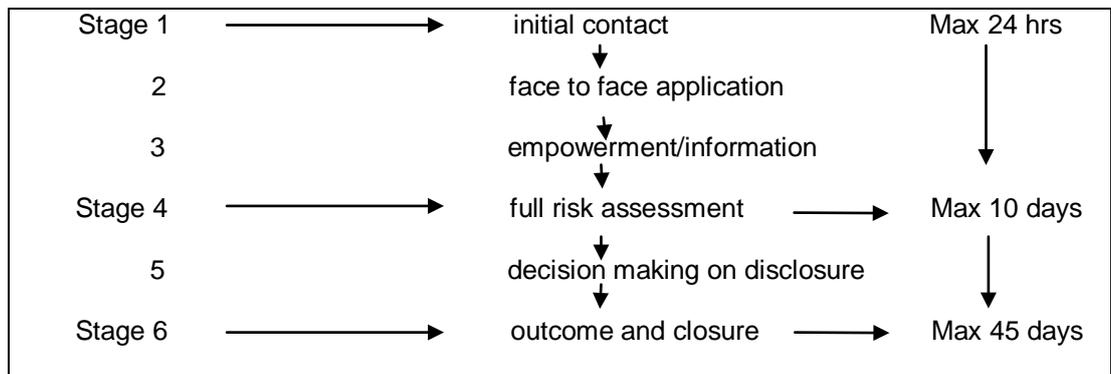
In relation to 'other agencies', primacy for social care should always rest with the social care team for the area in which the children principally reside. This will on occasion be different to the force that holds primacy, i.e. in MAPPA cases.

In all cases the co-ordinating force are responsible for oversight of the enquiry, co-ordinating the actions of the responding forces and maintaining the anticipated level of service with the applicant.

The responding force(s) are responsible for dealing with actions in relation to the child/subject/third party that resides within their force area once informed about the enquiry by the co-ordinating force (i.e.: actions specific to this process, actions relating to existing Safeguarding Children Procedures or where applicable actions relating to MAPPA).

5. **The Process**

An overview of the entire Disclosure Scheme is summarised in Appendix A: Disclosure Scheme Decision Tree. The following outlines a summary of the maximum time scales for the process:



These timescales are best practice and every effort should be made to meet these. They are also maximums and therefore each stage should be completed as soon as practicable. However, it is accepted that stages 4 (full risk assessment) and 6 (outcome and closure) may take longer in some circumstances due to checks that are required i.e. foreign enquiries or other unforeseen circumstances i.e. applicant on holiday.

**What happens in areas not yet implementing the Scheme?**

Although this particular process is being rolled out on a phased basis, anyone who has concerns about the safety of a child can and should go to any police force at any

time about their concerns – every force already has a public protection team to deal with these issues.

In all areas (whether covered by the scheme or not) the authorities involved in MAPPA are under a duty to consider the disclosure of previous convictions of any child sexual offender that they manage to members of the public. The police's ability to make the disclosure is not dependent on a request from the public. Anyone can raise concerns with the police about a named individual that has some form of contact with children under safeguarding children procedures and those procedures may result in the convictions of a child sexual offender being disclosed to them.

## 5.1 **Stage 1 – Initial Contact with Police/Register an Interest**

- 5.1.1 Appendix B provides a template form which may be used at this stage of the process and also provides the minimum standard of information to be obtained and checks to be completed at the initial contact stage.
- 5.1.2 Initial contact by the person asking for information and/or reporting concerns about a subject via the Disclosure Scheme may take the form of:
- Individual attending a police station;
  - street encounter with a police officer/member of police staff;
  - contact as part of a call to an incident;
  - telephone call;
  - on-line reporting (if available).
- 5.1.3 **Any person can make an application** about a person (the subject) who has some form of contact with a child/children. Therefore, the applicant could be a grandparent, neighbour or friend. This is to ensure any safeguarding concerns are thoroughly investigated. The applicant would not necessarily go on to receive disclosure as the more appropriate person to safeguard the child(ren) may be a parent, guardian or carer and the disclosure should only be made to a person who is in a position to use that information to safeguard the child or children. This may not always be the original applicant. For example the parent, carer or guardian who was the original applicant may be estranged from the family and not in a position to protect the child or children concerned therefore disclosure may be made to the other parent or a carer or guardian who is in a position to protect the child.
- 5.1.4 If notifications are made to partner agencies raising concerns about harm to a child, normal procedures for handling this type of request should apply. However, if it is an enquiry under the Disclosure Scheme then the informant will be referred to the police. First contact can be made with the police by any of the above methods (5.1.2). Other agencies may, of course, facilitate contact if it is appropriate. Agencies should not advise this as a route to report child abuse or make a referral.
- 5.1.5 Persons registering an interest or applicants visiting a police station in person must be allowed the opportunity to make their referral in private, as they may feel uncomfortable doing so in hearing of other members of the public.
- 5.1.6 The member of staff receiving initial contact must ascertain how, where and when the person registering an interest can be contacted in the future as they may be making this check on a person they live with, without that person's knowledge. It may be more appropriate that the subject is not present when details are taken from the applicant as their presence may hinder or frustrate the process.
- 5.1.7 The evaluation has highlighted the need for clear communication of this scheme and relevant timescales to all parties. This increases public confidence and satisfaction by not artificially raising expectations.

At this stage the applicant will be informed that:

- this does not replace existing procedures that are currently in place for Criminal Records Bureau (CRB) checks, subject access or Freedom of Information (FOI) requests and the new Vetting and Barring Scheme managed by the Independent Safeguarding Authority;
- disclosure, if appropriate will only be made to the person who is in the best position to safeguard the particular child or children from harm;
- checks will be completed to ascertain that there is no immediate or imminent risk of harm to the particular child or children as soon as possible but in any case this will be within 24 hours;
- the applicant will be required to undertake a face to face meeting within the next 10 days;
- at this meeting the applicant will be required to provide proof of their identity. Ideally this will be photographic identification. If they are a parent, guardian or carer they will also be required to provide proof of their relationship to the particular child or children;
- the police will aim to complete the enquiry within 45 days but there may be extenuating circumstances that increase this timescale. The applicant will be informed if this is the case. Likewise if there were any immediate risks identified at any stage then immediate action would be taken;
- the applicant will be asked if they consider themselves to be at risk of harm from the subject.

5.1.8 A checklist of questions should be asked to establish any immediate/imminent risks of harm, to include details of the initial enquiry and risk factors (see Appendix B: Initial Contact form, section 4).

5.1.9 **An initial risk assessment should be completed at this initial contact stage to establish if urgent action is required due to immediate/imminent risk of harm to a child (or any other person). It must be determined at this stage whether the subject has some form of contact with a child or children that means they may present a risk to before the minimum checks are undertaken.**

5.1.10 Following an initial risk assessment, minimum checks should be undertaken. The minimum standard of checks at this stage will be: PNC, VISOR (if the subject has a ViSOR marker on PNC) and local force intelligence systems to establish any information known about the applicant, child (or children) concerned and the subject. **These checks must not be made in the presence of the applicant. This is to avoid any inappropriate or accidental disclosure to the person at this stage. No disclosure should be given by the staff member taking the initial contact details at this stage.**

5.1.11 It is recognised, depending on the method of initial contact and the information known by the applicant, that it may not be possible to complete the above fully. Efforts should be made to complete the above as far as is possible. Risk assessments will be revisited at every stage in the process when further information may become available.

5.1.12

**From the above if it is identified that urgent action is required due to immediate/imminent risk of harm to a child then ACTION MUST BE TAKEN IMMEDIATELY and existing safeguarding children procedures should be followed.** This may require joint working with children's services if it is identified as a section 47 enquiry. Please refer to Working Together to Safeguard Children (2010), chapter 5, paragraphs 5.51-5.55. This would also include notifying a supervisor and referring to local force policy and procedure.

5.1.13 As part of the initial contact form the consent of the applicant should be sought to agree to the police sharing personal data with other agencies (e.g. children's social

care). It should be explained that this might happen without consent if concerns about the safety or welfare of a child are identified.

5.1.14 **A maximum time scale to complete stage 1 (initial contact with police, including conducting the initial risk assessment and making the required initial checks) will be no more than 24 hours. In practice this stage should be completed as soon as possible.**

## 5.2 **Stage 2 – Face to Face Application**

5.2.1 Appendix C provides a template form which may be used at this stage of the process and also provides the minimum standard of information to be obtained and checks to be completed at the face to face stage.

5.2.2 The applicant must now be seen in a face to face meeting. This is to ensure that the request is genuine and not malicious in any way and to establish further details about the application in order to assess any risk.

5.2.3 It is recommended best practice that police officers or members of police staff that complete this stage of the process have experience of managing sex offenders and/or child protection enquiries. This is because experience in these areas will assist relevant questioning and the identification of behaviours that will inform any subsequent risk assessment.

5.2.4 The applicant should be warned at this stage that if they wilfully or maliciously provide false information to the police in order to try and get a disclosure they are not entitled to, that they may risk prosecution e.g. if they have provided false details in an attempt to make a malicious application they may have committed an offence of wasting police time.

5.2.5 When completing the form the applicant must:

- give their own full particulars (name, date of birth, address etc) that must be verifiable (see below for acceptable forms of ID). If the informant wishes to remain anonymous they will not qualify for the Disclosure Scheme but the information given will be handled by way of an intelligence submission or via usual safeguarding children procedures if applicable;
- give all the details known about the subject. It is not necessary to know full details of the subject to progress an application as only partial details may be known and details used by the subject may be false;
- give the details of any children concerned and the applicant's relationship/connection to those children. This should be verified as far as possible to avoid false or malicious applications. If specific children are not identified then the information will not form part of the Disclosure Scheme and will be submitted as intelligence;
- be allowed the opportunity to dictate how where and when they can be contacted in the future as they may be making the checks on a person they live with. This is particularly important if the subject is not aware that an application has been made.

5.2.6 Verification of applicant identity

The person completing the form with the applicant should seek some credible proof of identity from the applicant. Acceptable forms may include:

- passport;
- driving licence;
- other trusted form of photo identification;
- birth certificate;
- household utility bill (electricity, gas, council tax, water);
- bank statement;

- child or other benefit book.
- 5.2.7 Recommended best practice is that photo identification with confirmation of date of birth and address is required. However, it is accepted that some of the vulnerable individuals who may make applications may not have the above forms of identification. In these cases it may be possible to refer to another agency to confirm the individual's identity (e.g. social worker, health visitor).
- 5.2.8 In the event that the applicant's identity cannot be verified, checks should be made on the information given about the subject. It will not be possible to make disclosure under the terms of the scheme without verification of identity but if concerns are identified by the checks then the referral may result in an intelligence submission or use of existing child protection procedures to address the concerns.
- 5.2.9 The applicant should be assured that the enquiry will be dealt with confidentially. There should however be a caveat placed on this, that confidentiality can only be guaranteed pending the outcome of the process. It should be explained that in the event of 'concerns' arising and a resultant disclosure being made to them, then the subject of the disclosure may have to be informed that a disclosure has been made to the applicant.
- 5.2.10 The applicant should also be warned that if they disclose evidence of an offence whilst registering a concern it may not be possible to maintain their confidentiality.
- 5.2.11 The applicant should also be informed at this stage:
- that the information disclosed by the police must only be used for the purpose for which it has been shared i.e. in order to safeguard children.
- 5.2.12 The person to whom the disclosure is made will be asked to sign an undertaking that they agree that the information is confidential and they will not disclose this information further. A warning must be given that legal proceedings could result if this confidentiality is breached and that it is an offence under Section 55 of the Data Protection Act 1998 for a person to knowingly or recklessly obtain or disclose personal data without the consent of the data controller (i.e. the agency holding the information that will be disclosed, which in most cases will be the police). *This should be explained to the person and their signature obtained on this undertaking.* If the person is not willing to sign the undertaking the police will need to consider if disclosure should still take place. The outcome should be recorded and considered in the subsequent risk assessment and decision making process.
- 5.2.13 **Best practice is that the risk assessment (as detailed in stage 1) should be revisited at this stage by the person completing the form in order to establish if urgent action is required due to immediate/imminent risk of harm to a child (or any other person).** This should include revisiting: (particularly if further information has now been established and to ensure that none of the persons have come to notice since the original check).
- Checks made on PNC, VISOR and local force systems to establish any information known about the applicant, child (or children) concerned and the subject.
  - **INI checks must be completed at this stage.** Further checks that are discretionary for forces **if relevant** are international enquiries and the Child Exploitation Tracking System (CETS). These checks can be accessed through CEOP.
  - A number of questions will be asked to try and establish any immediate/imminent risks of harm. (See appendix C: Face to Face form, section 4)
- 5.2.14 At this stage it may be possible to fill any gaps in information obtained in the initial contact and therefore it is important to revisit the above with the additional information

obtained from completion of the form. However, it is recognised that dependant on the information known by the applicant that it may not be possible to complete the above fully. Efforts should be made to complete the above as far as is possible. Risk assessments will be revisited at every stage when further information may become available.

5.2.15

**From the above if it is identified that urgent action is required due to immediate/imminent risk of harm to a child then ACTION MUST BE TAKEN IMMEDIATELY and existing safeguarding children procedures should be followed.** This may require joint working with children's services if it is identified as a section 47 enquiry. Please refer to Working Together to Safeguard Children (2010), chapter 5, paragraphs 5.51-5.55. This would also include notifying a supervisor and referring to local force policy and procedure.

5.2.16 *It is imperative that NO disclosure is made to the applicant at this stage (unless an urgent safeguarding children enquiry has been initiated due to the risk assessment and some form of disclosure is unavoidable to deal with this. In these circumstances advice would be sought from a duty supervisor in relation to the enquiry).*

### 5.3 **Stage 3 – Empowerment / Education**

After the face to face meeting the applicant will be given an information pack on the Disclosure Scheme. This will include what they can do in the interim to better safeguard their children's welfare. This will be available either in paper form or online via

<http://www.homeoffice.gov.uk/publications/crime/communications-guidance/a5-booklet?view=Binary>

(for booklet) or:

<http://www.homeoffice.gov.uk/publications/crime/communications-guidance/a5-leaflet?view=Binary>

(for leaflet).

### 5.4 **Stage 4 – Full risk assessment**

5.4.1 Appendix D provides a disclosure decision making guide which may be used to record the risk assessment and determine the disclosure decision.

5.4.2 Staff conducting the full risk assessment will have a list of questions for consideration to help them make an assessment of risk and will be trained to have an understanding of child abuse and offending behaviour.

5.4.3 It is recommended best practice that the police officer or member of police staff that completes this stage has experience of managing sex offenders or child protection enquiries to ensure a skilled and more consistent approach to this sensitive area of policing.

5.4.4 This stage should include revisiting the information obtained in the initial contact and face to face stages and checks on PNC, VISOR, force local intelligence systems and Impact Nominal Index (INI). Research and checks should aim to fill any gaps in information and this stage should ensure all available information known to police on the individuals concerned with the enquiry has been established.

5.4.5 Checks will also be completed with other agencies where appropriate. This will include:

- children's social care (where the applicant has given consent on the referral form or where the circumstances of the enquiry dictate this is necessary without consent);

- probation service (where appropriate);
- any other agency that can provide information to inform the risk assessment.

#### 5.4.6

**From the above if it is identified that urgent action is required due to immediate/imminent risk of harm to a child then ACTION MUST BE TAKEN IMMEDIATELY and existing safeguarding children procedures should be followed.** This may require joint working with children's services if it is identified as a section 47 enquiry. Please refer to Working Together to Safeguard Children (2010), chapter 5, paragraphs 5.51-5.55. This would also include notifying a supervisor and referring to local force policy and procedure.

5.4.7 As a result of the risk assessment and decision making form it will be possible to categorise the application as either one raising '**concerns**' or '**no concerns**' (see stage 5 below).

5.4.8 This stage of the process should be reached within 10 days from the initial enquiry. However, this is a maximum and in practice this stage should be reached as soon as possible. It is recognised that in extenuating circumstances i.e. applicant on holiday, awaiting foreign enquiry checks etc, these time limits may not be met.

### 5.5 Stage 5 – Decision Route 'concerns' or 'no concerns'

5.5.1 As a result of the risk assessment and decision making form it will be possible to categorise the application as either one raising '**concerns**' or '**no concerns**'.

5.5.2 The following guide to terminology should be followed for '**concerns**' and '**no concerns**'

5.5.3 The application will be one raising '**concerns**' where the subject has:

- (i) convictions for child sexual offences;
- (ii) other convictions relevant to safeguarding children (e.g. adult sexual offences, violence, drugs or domestic abuse);
- (iii) there is intelligence known about the subject relevant to safeguarding children (e.g. cases not proceeded with or intelligence concerning sexual or violent offences, or previous concerning behaviour towards children);
- (iv) there is concerning behaviour relevant to safeguarding children now being displayed by the subject or child, that has been disclosed as part of the disclosure application, e.g. grooming/unusual behaviour that indicates sexual harm to children might be likely or sexual harm may have occurred.

5.5.4 In the event of a decision to make a disclosure then this would only be made to the person who is best placed to use the information to safeguard the child or children concerned. This may not always be the parent, guardian or carer who was the applicant (see 5.6.8 to 5.6.18 for information on how to decide whether to disclose).

5.5.5 The application will be one raising '**no concerns**', where the subject has no convictions which raise child safeguarding concerns and there is no other intelligence held by the police indicating the same. In addition, the application has not revealed any concerning behaviour relevant to safeguarding children.

### 5.6 Stage 6 – Disclosure and Non Disclosure

#### 5.6.1 **Non Disclosure – 'no concerns'**

5.6.2 Appendix E provides a recommended form of wording in a template letter which may be used to convey a non-disclosure.

- 5.6.3 This decision route would be taken when there are no concerns in relation to the information provided in the disclosure request. See the above section on terminology for an explanation of the term '**no concerns**' (5.5.5).
- 5.6.4 Recommended best practice is that each applicant will be visited in person. It has been shown that a personal visit increases public satisfaction and confidence and provides a forum in which reassurance, education etc. can be given.
- 5.6.5 However, it is accepted that the above message may be conveyed to the applicant/carer by letter if appropriate. Care should be taken about where the letter is sent to (particularly where the subject is living with the applicant/carer). Appendix E provides the recommended form of wording to be used for a non-disclosure. It has been devised so it can be sent as a letter (if appropriate) or used in a personal visit to make no disclosure.
- 5.6.6 The applicant/carer will be told that there is no information to disclose given the information/details provided by the applicant and the result of checks made on these details. ***It is important that the applicant/carer are told that just because there is no information this does not mean that there is no risk of harm to the child and that they should continue to take steps to safeguard their child(ren).***
- 5.6.7 The applicant/carer should be referred back to the information to empower them to safeguard children in the future. This will involve referring them back to information given at the face to face stage. It will also involve giving advice on what to do in the event of future concerns and providing general safeguarding children advice. The enquiry will be closed in a citizen focussed way (ensuring that there is follow up support and advice) to ensure engagement in the Disclosure Scheme has been positive and the applicant/carer is left feeling that they know how to better safeguard children in the future.
- 5.6.8 The subject will not be notified where no disclosure is made to the applicant.
- 5.6.9 **Disclosure 'concerns'**
- 5.6.10 Appendix F provides a template form which may be used to convey a disclosure. What the applicant is told should be recorded verbatim on this form. **This form MUST be retained by the police and not left with the applicant in any circumstances.**
- 5.6.11 This decision route would be taken where there are concerns in relation to the information provided in the disclosure request. See the above section on terminology for an explanation of the term '**concerns**' (5.5.3).

5.6.12

In this set of circumstances engagement of usual safeguarding children procedures should be considered if there is an immediate or imminent risk of harm to a child or children (i.e. a section 47 enquiry).

5.6.13 **The forum in which disclosure decisions should be made**

As described previously the decision whether to make a disclosure should be a multi-agency one. This decision would ordinarily be taken during a MAPPa meeting for those subjects who meet the MAPPa criteria. For those subjects who do not meet MAPPa criteria then this would ordinarily be via safeguarding children procedures at a strategy meeting/discussion or case conference. There may be other professional meetings or situations for making the decision where circumstances do not dictate a MAPPa meeting or safeguarding meeting but these should be the exception to the rule. The decision making tree (Appendix A) and decision making form (Appendix D) guides officers/police staff toward the appropriate action to be taken in response to

there either being 'concerns' or 'no concerns' raised. Following this process will guide the staff member to the appropriate type of meeting where the disclosure decision should be considered.

- 5.6.14 MAPPA or another multi-agency body making the decision to disclose or not may decide that it is appropriate to disclose convictions for other types of offending or intelligence that is held by police i.e. where a subject is known for other matters that raise safeguarding children issues. They must ensure that the 3 stage test set out below (5.6.14) is satisfied before a decision to disclose any information is made.
- 5.6.15 There is a general presumption that details about a person's previous convictions are confidential. The police will only be disclosing convictions or indeed intelligence lawfully under the CSO Disclosure Scheme if:
- (i) they have the power to disclose the information. If they are relying on their common law powers, the police must be able to show that it is reasonable to conclude that such disclosure is necessary to protect the public from crime. In the context of this scheme, the police would have to conclude that disclosure to the applicant is necessary to protect a child from being the victim of a crime (most probably, sexual abuse committed by the subject of the request);
  - (ii) that there is a pressing need for such disclosure; and
  - (iii) interfering with the rights of the offender (under Article 8 of the European Convention of Human Rights) to have information about his/her previous convictions kept confidential, is necessary and proportionate for the prevention of crime (or in the interests of public safety or for the protection of morals or the rights and freedoms of others). This involves considering the consequences for the offender if his/her details are disclosed against the nature and extent of the risks that offender poses to the child or children. The police should also consider the risk of driving the offender to become non-compliant where he/she may pose a greater risk to other children. This stage of the test also involves considering the extent of the information which needs to be disclosed e.g. you may not need to tell the parent the precise details of the offence for that parent to be able to take steps to protect the child.
- 5.6.16 Information about a person's previous convictions is also sensitive, personal data under the Data Protection Act 1998 and therefore the police must also be satisfied that disclosure is in accordance with the eight principles set out in that Act (see Appendix H for details of these principles and guidance on how they can be practically applied).
- 5.6.17 There may be concerns that relate to the subject's current behaviour towards a child or children within the disclosure application e.g. sexually inappropriate behaviour or grooming. In this case even though there is no information held by the police or other agencies to disclose to the applicant/carer, they will still be contacted to talk about their concerns over the subject's current behaviour towards their child/children. This discussion would cover steps they should take in relation to these concerns to safeguard their child or children from the risk of harm posed by the subject.
- 5.6.18 The applicant/carer should be given information to empower them to safeguard children in the future. This will involve referring them back to information given at the face to face stage. It will also involve giving advice on what to do in the event of future concerns and providing general safeguarding children advice. The enquiry will be closed in a citizen focussed way (ensuring that there is follow up support and advice) to ensure engagement in the Disclosure Scheme has been positive and the applicant/carer is left feeling that they know how to better safeguard children in the future.

5.6.19 Before disclosure is made either about the subject's convictions or other offending or intelligence then consideration should be given to whether it is necessary to inform the subject of the disclosure that it is taking place. The MAPPA meeting/safeguarding strategy meeting/discussion or case conference should make a decision on this when deciding whether disclosure should occur (see below section on informing the subject that a disclosure has taken place (5.6.22 – 5.6.25).

5.6.20 Where a disclosure is going to be made, contact would be made with the parent, guardian or carer best placed to use any disclosure information to safeguard the child or children, to make the disclosure in person (see below section on the format a disclosure should take).

#### 5.6.21 **The format a disclosure should take**

Disclosure to any person about a subject's previous convictions (or other relevant intelligence/information held on them) will only be made where the 3 stage test set out in 5.6.14 is satisfied). A decision will be taken as to whom it is necessary to disclose the information to. This may be the original applicant or another person. For example the parent, carer or guardian who was the original applicant may be estranged from the family and not in a position to protect the child or children concerned therefore disclosure may be made to the other parent, or the guardian or carer who is in the best position to protect the child. The disclosure must only be made to persons who have a need to know the information to be able to safeguard a child or children from the risk of harm. MAPPA guidance and supporting legislation under section 327A of the Criminal Justice Act 2003 is however wider than this and does cater for disclosure to third parties who are not parent, guardians or carers where necessary to protect a child from the risk of serious harm. It may be therefore that disclosures are made to other third parties if necessary under existing arrangements.

5.6.22 It is recommended best practice that this disclosure meeting is made with a member of childrens services present. This helps to provide the applicant/carer with the confidence and relevant contact with other agencies for ongoing support.

5.6.23 If disclosure is made then it must be delivered in person with the following warning:

- that the information must only be used for the purpose for which it has been shared i.e. in order to safeguard children;
- the person to whom the disclosure is made will be asked to sign an undertaking that they agree that the information is confidential and they will not disclose this information further;
- a warning should be given that legal proceedings could result if this confidentiality is breached. **This should be explained to the person and they must sign the undertaking.**

If the person is not willing to sign the undertaking, the police will need to consider if disclosure should still take place. The outcome should be recorded and considered in the risk assessment and decision making process. It should also be reiterated and information given as to who to speak to and what to do if the applicant feels that further children are at risk and further disclosure is required i.e. that they should talk to the police so that they can make any further decisions about whether the information needs to be disclosed to others.

5.6.24 At no time will written correspondence be sent out or left with the applicant/carer in relation to the **disclosure of information**. There would be a potential risk to informants; children and subjects should such written information get into the wrong hands. Appendix F: Disclosure Form sets out the minimum standard of information to be recorded. It will be read through with the applicant/carer, signed and then retained by police following the disclosure.

- 5.6.25 There may be occasions when it may not be appropriate to inform the subject that the disclosure is taking place (premised on an assessment of risk). On occasion, it may also be appropriate to involve the subject in 'self-disclosure'. This may be by the subject making the disclosure to the applicant/carer in the presence of the officer/police staff member. Alternatively it may involve the subject making the disclosure to the applicant/carer themselves and the officer/staff member then confirming the relevant facts have been disclosed with the applicant/carer. *Involving the subject in the disclosure may facilitate their understanding of the risk they pose of causing harm to a child and allow the subject to be part of their own offender management. It also enables the subject to object and provide reasons why the information should not be disclosed.*

Any decision in relation to self-disclosure must be recorded. The disclosure decision making guide contains a section to consider and record this (Appendix D: Disclosure Decision Making Guide, section 3).

- 5.6.26 However, there will be cases where informing the offender that disclosure is taking place could increase the potential risks to others (e.g. the applicant/carer) and in those cases the offender may not always be informed. The issue will have to be considered on a case by case basis, assessing the possible risks of telling the subject against the risks posed if the subject is not told.
- 5.6.27 If a subject is to be told about an enquiry this must be in person accompanied by information about the scheme and implications for the subject.
- 5.6.28 In any case where disclosure is made about a subject a community risk assessment must be considered to address any risks that are now posed to the subject as a result of the disclosure. The disclosure decision making guide contains a section to consider this (Appendix D, section 3). Again this should be considered at the forum where the disclosure decision has been made i.e. the MAPPa meeting/safeguarding strategy meeting/discussion or case conference.
- 5.6.29 The maximum time scale for completion of the decision route taken in stage 5 will be no more than 35 days. This is to allow for a MAPPa meeting to take place, which could take up to 28 days (if convening an urgent meeting is not justified). The 35 days then allows a further 7 days for disclosure to be completed and closure to take place. This will result in a total maximum time scale of 45 days from start to finish for the entire Disclosure Scheme. All time scales are maximums and in practice all stages should be completed as soon as possible.

## 6. **Maintaining a record of the Disclosure Scheme**

- 6.1 At the closure of **every** enquiry (whatever the outcome and at any stage in the process) a final intelligence report **must** be submitted onto the force's intelligence system to record the request, outcomes and details of all parties involved. This should serve as a piece of valuable intelligence, which will be retrievable to all police forces via the INI / PND system. It would allow any patterns where a subject has many disclosure requests made against them to be identified to help safeguard children.
- 6.2 Although 6.1 provides the only requirement for a formal retrievable record it is important that any decisions made as a result of this scheme are recorded in a format that would stand scrutiny of any formal review.
- 6.3. It is also crucial that any relevant information coming to light as part of this process is shared as appropriate with all relevant agencies.