



"Clare's law": the Domestic Violence Disclosure Scheme

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Section Home Affairs Section

The Home Office announced on 25 November 2013 that it would introduce a national domestic violence disclosure scheme, which would involve disclosing information about an individual's history of domestic violence to a new partner. The scheme will provide a framework for police to disclose to individuals details of their partners' abusive pasts. It will be extended to police forces across England and Wales from March 2014.

This follows a period of consultation and piloting. Proposals for action came following a campaign for a so-called "Clare's law", named after Clare Wood who was murdered in February 2009 by a man she had met on an internet dating site who had a history of violence.

On 5 March 2012, the Government published its response to the consultation, and announced that it would pilot the scheme. There had been mixed reactions to the proposal. A clear majority of respondents supported introducing a scheme, but some major domestic violence organisations and Liberty were strongly opposed, arguing that it represented a waste of resources which would be better spent improving the basic police response to domestic violence. Other domestic violence organisations welcomed the proposals, albeit with qualifications in some cases, as did the Association of Chief Police Officers and Clare Wood's father.

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1 The murder of Clare Wood

The Home Office has been consulting on the possibility of introducing a national domestic violence disclosure scheme, which would involve disclosing information about an individual's history of domestic violence to a new partner.

The consultation came following a campaign for a so-called "Clare's law", named after Clare Wood who was murdered in February 2009 by George Appleton, a man she had met on an internet dating site. Appleton was found hanged a few days later. He had convictions for the harassment and assault of former partners. In the months preceding her murder Ms Wood had contacted Greater Manchester Police alleging Appleton had caused criminal damage, harassed her, threatened to kill her and sexually assaulted her. At her inquest, the Coroner, who recorded a verdict of unlawful killing by strangulation, reportedly backed a call by the Association of Chief Police Officers (ACPO) for partners to have information about violent offenders disclosed to them.¹

The Independent Police Complaints Commission (IPCC) investigated how Greater Manchester Police had dealt with the case and found, in a report published in 2010, that there had been failings.²

2 The ACPO review

The previous Government had asked the Association of Chief Police Officers (ACPO) to review powers to deal with domestic violence perpetrators:

We have also asked Chief Constable Brian Moore, Association of Chief Police Officers (ACPO) lead on domestic violence, to undertake a full review of what additional powers the police may need to control the activities of perpetrators – particularly serial offenders who move from one abusive relationship to another.

The review will also look at what additional measures may be needed to tackle perpetrators of 'honour' -based violence, female genital mutilation and forced marriage.

Aiming to report back by autumn 2009, the review will consider a range of issues including:

- Tracking serial perpetrators

How can we exploit the use of new technology, such as the ability to identify repeat offenders through the introduction of the new Police National Database which is being developed following the Bichard Report? How can the police and other local agencies best track perpetrators who offend serially, for example in successive relationships and sometimes across geographical boundaries? Who needs to share what information and what information should be made available to the public where they may be at risk?³

ACPO duly produced a report later that year which made the following proposals:

¹ "Clare Wood coroner in domestic violence 'right to know' call", *BBC News*, 24 May 2011 (accessed 9 March 2012)

² IPCC Press Release, *IPCC find failings in GMP dealings with Clare Wood prior to her murder*, 10 March 2010. The report is available from [the North Region Inspection Report page](#) of the IPCC website (accessed 9 March 2012)

³ Home Office, *Together we can end violence against women and girls*, March 2009, p7

Proposal 2. Persons at risk of violence have the ‘right to know’ about relevant information in the possession of the State.

ACPO is keenly aware of public concern about how some personal data is collected and used by the State. Nevertheless, we consider it important for the safety and well-being of individual members of the public who are in a relationship with a dangerous person that the potential victim has the ‘right to know’ about relevant information so that informed choices about personal safety can be made. Clearly there is a need to balance the ‘right to know’ with other rights, such as a right to privacy. We do not commend ‘right to know’ as an absolute entitlement.

Recommendation – This Review recommends a policy that persons at risk of violence have the ‘right to know’ about relevant information in the possession of the State.

Proposal 3. Register and ‘track’ serial perpetrators of violence against women and girls.

The intention is that following conviction, and on application by the Crown in certain circumstances, a suspected serial perpetrator of violence against women and girls would be required to register relevant addresses and change of identity to the police in order that the ‘right to know’ process, as detailed within Proposal 2, can be implemented and managed effectively.

Recommendation – This Review recommends that the law be changed to permit the registration and ‘tracking’ of serial perpetrators of violence against women and girls.⁴

3 The Government’s consultation

The Government published a consultation document, *Domestic Violence Disclosure Scheme: a Consultation*, published on 25 October 2011, and the consultation ran until 13 January 2012. The document made it clear that the current law already allows the police to disclose information about an individual’s history in certain circumstances:

The police already have common law powers to disclose information relating to previous convictions or charges to the public where there is a pressing need for disclosure of the information concerning an individual’s history in order to prevent further crime. It therefore follows that currently:

- any member of the public can already ask the police for information about a third-party’s violent history;
- the police have discretion on whether to disclose the information if there is a need to prevent a further crime.⁵

The document asked for views on three options.

- **Option 1: continue current arrangements under existing law** where the police already have common law powers to disclose information relating to previous convictions or charges to A where there is a pressing need for disclosure of the information concerning B’s history in order to prevent further crime.

⁴ Association of Chief Police Officers, *Tackling perpetrators of violence against women and girls: ACPO review for the Home Secretary*, 2009.

⁵ Home Office, *Domestic Violence Disclosure Scheme: a Consultation*, 25 October 2011, p6

- **Option 2: a “right to ask” national disclosure scheme** which enables A to ask the police about B’s previous history of domestic violence or violent acts where the police would undertake full checks to inform a risk assessment and disclosure. A precedent upon which suitable adaptations could be made exists with the Child Sex Offender Disclosure Scheme;

- **Option 3: a “right to know” national disclosure scheme** where the police would proactively disclose information in prescribed circumstances to A relating to B’s previous history of domestic violence or violent acts (as envisaged in the ACPO report of 2009).⁶

The last of these options was based on the recommendation in ACPO’s report that information on B’s history should be proactively disclosed in some circumstances.

The document made it clear that any new scheme would be piloted:

If either option 2 or 3 emerges as the preferred way forward, we will work the preferred option in to a detailed disclosure model which will then be piloted. We envisage that the pilot will take place from Spring 2012⁷

A Regulatory Impact Assessment explained why the Government was considering introducing legislation even though the police already have the discretion to disclose:

Although existing common law already gives the police discretion to disclose such information to A, it would be possible to go further and place a duty on the police to disclose information through primary legislation. Setting the duty out in primary legislation would bring two benefits: firstly, it would ensure that the circumstances where disclosure should be made are clearly specified; secondly, it would ensure that the necessary safeguards are in place to ensure compatibility with all appropriate law - for example, the Data Protection Act 1998, Human Rights Act 1998, Rehabilitation of Offenders Act 1974.⁸

It assessed the potential costs and benefits of the “right to ask” (option 2) and the “right to know” (option 3) as follows:⁹

Table H.1 Costs and Benefits		
Option	Costs	Benefits
2	£0.39m	£260m
	Police officer and IDVA time required to deal with 500 cases per year.	Domestic violence reduced by 0.2% per year
3	£1.57m	£650m
	Police officer and IDVA time required to deal with 1,000 cases per year.	Domestic violence reduced by 0.5% per year

⁶ Ibid

⁷ Ibid p13

⁸ Home Office, *Domestic violence disclosure pilots: Impact assessment*, October 2011

⁹ Ibid, p12

4 The response to the consultation

The Government received 259 responses, and published a response document on 5 March 2012.¹⁰ 24 responses favoured continuing the current arrangements under the existing law. These included response from two major national organisations specialising in domestic violence, Refuge and Women's Aid. The latter argued that would not be an effective use of resources:

We believe that the police have adequate powers to disclose information to victims/survivors and that therefore there is no requirement for any legal or regulatory changes to implement a register or other administrative processes to facilitate domestic violence disclosure, and indeed that this would not be an effective use of resources.¹¹

Refuge's response was similar. They argued that the laws were sufficient, but that police forces were not implementing them well enough:

Refuge does not support the proposal for a "Right to ask" national disclosure scheme. We believe that resources should be spent on improving the basic police response to domestic violence – not introducing new laws.¹²

The human rights organisation Liberty was also opposed

Liberty does not see how a new statutory disclosure scheme will effectively address the problems [of police dealing with domestic violence incidents] which successive IPCC investigations have identified nor effectively protect individuals from potentially violent partners.¹³

By contrast, 35 respondents stated that option two was their favoured option, and 50 favoured option 3, with a further 135 favouring either option 2 or option 3.

One of these was Eaves, a London based charity providing support and housing to vulnerable women, which on balance, favoured a duty to disclose:

In short, Eaves welcomes a proposal to institute a formal duty to disclose even if it has only relatively limited preventative effect. It is of course just another of many tools at the authorities' disposal but we believe it could increase the vigilance and accountability of the police and send a strong message as to how seriously VAW is taken. However, we continue to urge constant training, improved implementation of existing policies and funding to the women's sector and trust these measures would be an addition not a substitution or a distraction.¹⁴

The National Society for the Prevention of Cruelty to Children argued that:

Current arrangements are not applicable to violent offenders who require inter-agency management at Level 1, and they do not provide a response which protects the potential adult and child victims, and which prevents domestic violence. For this reason the current arrangements are inadequate and should be enhanced. We support either option 2 or option 3 as these would bring improvements to the current arrangements,

¹⁰ Home Office, *Domestic Violence Disclosure Scheme- A consultation: Summary of Responses*, March 2012

¹¹ Women's Aid, *Domestic Violence Disclosure Scheme Response to consultation from Women's Aid Federation of England*, January 2012

¹² Refuge, *Disclosure scheme consultation response*, January 2012

¹³ Cited in Home Office, *Domestic Violence Disclosure Scheme- A consultation: Summary of Responses*, March 2012, [p6

¹⁴ Eaves, *Domestic Violence Disclosure Scheme - a Consultation*, January 2012

whilst recognising that there are significant practical and financial obstacles which may mean that option 2 is the most viable.¹⁵

The Government's document summarised the responses as follows:

A clear majority of these respondents wished to see some form of process for disclosing information introduced - either a "right to ask" (n=35), a "right to know" (n=50) or both (n=135) - total: 220.

A common theme articulated, however, was that a "right to ask" or "right to know" mechanism should not be regarded as a "silver bullet" that solves domestic violence problems. Many respondents flagged other key issues and risks that the Government should consider further, which are summarised as follows:

1. that there are consistent police procedures across the country for:
 - a. investigating domestic violence incidents;
 - b. safety planning and supporting victims after a domestic violence incident has occurred;
2. that there is sufficient capacity amongst Independent Domestic Violence Advisers (IDVAs) to accommodate the increased demand following the introduction of "right to ask" or "right to know";
3. that the mechanism is based on a multi-agency picture of risk. Some respondents argued that relying on police information alone about an alleged perpetrator (P) is insufficient as P may not be known to the police but to other agencies;
4. the safety of the potential victim after disclosure has been made;
5. the privacy concerns particularly over the "right to know" option (to prevent "spying"; stigmatisation of alleged perpetrators);
6. the bureaucratic burden on police and agencies;
7. that if a "right to know" option is pursued, whether the local Multi-Agency Risk Assessment Conference (MARAC) is the appropriate organisation to manage the disclosure;
8. the jurisdiction and enforceability of the scheme across the United Kingdom.¹⁶

5 The pilots

In a written ministerial statement on 5 March 2012, the Home Secretary Theresa May said that while a clear majority of those who had responded favoured the introduction of a national disclosure scheme, the consultation had raised important issues which needed to be addressed. She announced that pilots would be introduced in four police areas, Manchester, Gwent, Nottinghamshire and Wiltshire and would involve the police using their existing legal powers:

Domestic violence is a dreadful form of abuse. The fact that two people are killed by their current or former partner each week in England and Wales shows just how urgent is the need for action. The Government are committed to ensuring that the police and

¹⁵ NSPCC, *Domestic violence disclosure scheme*, 15 December 2011

¹⁶ Home Office, *Domestic Violence Disclosure Scheme- A consultation: Summary of Responses*, March 2012, pp 4-5

other agencies have the tools necessary to tackle domestic violence to bring offenders to justice and ensure victims have the support they need to rebuild their lives.

Today, I am announcing that a one-year pilot will take place from the summer of 2012 to test out a domestic violence disclosure scheme in the police force areas of Greater Manchester, Gwent, Nottinghamshire and Wiltshire. The pilot will test a process for enabling the police to disclose to the public information about previous violent offending by a new or existing partner where this may help protect them from further violent offending. The pilot will test two types of process for disclosing this information. The first would be triggered by a request by a member of the public ("right to ask"). The second would be triggered by the police where they make a proactive decision to disclose the information in order to protect a potential victim ("right to know"). Both processes can be implemented within existing legal powers.

The pilot follows the consultation I published in October 2011 where I sought views on whether the protection available to victims of domestic violence could be enhanced by establishing a national disclosure scheme with recognised and consistent processes for the police to disclose information to potential victims. While a clear majority of respondents favoured the introduction of a national disclosure scheme, the consultation raised important issues on the scope and proportionality of the information that should be disclosed to potential victims and the safeguards that will be needed against malicious applications. I believe that it is right that these issues are addressed and tested in a pilot to ensure that the disclosure scheme is compatible with all relevant law.

We will consider the outcomes from the pilot very carefully. I want to ensure that the public have confidence that a clear framework exists with recognised and consistent processes for disclosing information that supports their needs.

A copy of the summary of responses to the consultation will be placed in the Library of the House¹⁷

Home Office guidance, last updated in March 2013 [Domestic violence disclosure scheme guidance](#) is available for use in the pilot areas.

6 Reactions

The Association of Chief Police Officers welcomed the pilots:

ACPO lead on domestic abuse, Chief Constable Carmel Napier, said:

"ACPO is fully supportive of these pilots as a positive step in protecting women in domestic situations from harm. People should enjoy seamless safety and at all times be protected. A right to know and a right to ask will empower women to make informed decisions to protect themselves and their children when getting involved with a new partner.

"A national review of serial perpetrators of domestic abuse estimated that around 25,000 offenders of domestic violence had abused two or more different victims with violence or threats of violence in a three year period. Of those 2,500 had abused three or more victims and one force had an offender who had committed violence against eight different victims.

"If we hold this information and determine there is a risk of harm then we have a duty of care to disclose and inform to stop women from being victims in the first place."¹⁸

¹⁷ [HC Deb 5 March 2012 cc53-4WS](#)

Clare Wood's father, Michael Brown (who has been campaigning for the change) also welcomed the announcement:

Speaking to BBC Radio 4's Today programme, Mr Brown said: "I believe that, if my daughter had known of the past of her partner, she would have dropped him like a hot brick and scampered out of there."¹⁹

Co-ordinated Action Against Domestic Abuse (CAADA) was also broadly in favour:

Diana Barran, Chief Executive of Coordinated Action Against Domestic Abuse said: "As a national UK charity supporting a multi-agency response to domestic abuse, CAADA supports the spirit of the proposed new Clare's Law and the principle that information sharing should be enabled to keep victims safe. However, we believe that information from a range of voluntary and statutory agencies should be shared with the highest risk victims on a Right to Know basis, this includes not only police information but also relevant information from probation, specialist domestic abuse services and health agencies. There are two benefits to this approach: it gives victims the most complete view of the risk that they face (given that many abusers do not have criminal records) and it enables victims who are at highest risk of harm or murder to automatically receive specialist support through an Independent Domestic Violence Advisor."²⁰

By contrast, Refuge was very critical:

"We are at an absolute loss as to why the government is introducing the new disclosure scheme," said Sandra Horley the charity's chief executive.

'It seems to have ignored the concerns of the leading domestic violence organisations and those of Liberty. The new disclosure scheme simply isn't supported by any of us with the expertise to judge its chances of success.'

Ms Horley added that most abusers were not known to police and when they were, legislation was already in place to give police powers to disclose information about previous convictions or charges to prevent further crimes from taking place.

'How many women at risk of abuse will actually use the scheme and would it make any difference to them if previous convictions were disclosed?' she continued.

'The government's own impact assessment suggests that at best the scheme will only result in an annual reduction of a half per cent in domestic violence.'²¹

7 Announcement of a national scheme

On 25 November 2013 Theresa May announced the roll out of a national scheme in a written ministerial statement:

I am announcing today my intention to roll out nationally both domestic violence protection orders and the domestic violence disclosure scheme across England and Wales from March 2014. This follows the successful conclusion of two pilots to test these provisions. Tackling domestic violence and abuse is one of my key priorities. I am determined to see reductions in domestic violence and abuse and the government's updated violence against women and girls action plan sets out our

¹⁸ ACPO press release, [ACPO comment on domestic violence disclosure scheme pilots](#), 5 March 2012

¹⁹ [Father of domestic killing victim: "Clare's Law would have saved my daughter"](#), *Telegraph*, 9 March 2012

²⁰ [CAADA press release](#), 5 March 2012

²¹ ["Clare's law condemned by domestic violence and civil liberty charities"](#), *Metro*, ,

approach for achieving that. The government is committed to ensuring that the police and other agencies have the tools necessary to tackle domestic violence, to bring offenders to justice, and ensure victims have the support they need to rebuild their lives.

Domestic violence protection orders are a new power introduced by the Crime and Security Act 2010, and enable the police to put in place protection for the victim in the immediate aftermath of a domestic violence incident. Under DVPOs, the perpetrator can be prevented from returning to a residence and from having contact with the victim for up to 28 days, allowing the victim a level of breathing space to consider their options, with the help of a support agency. This provides the victim with immediate protection. If appropriate, the process can be run in tandem with criminal proceedings.

The domestic violence disclosure scheme introduces a framework with recognised and consistent processes to enable the police to disclose to the public information about previous violent offending by a new or existing partner where this may help protect them from further violent offending. The DVDS introduces two types of process for disclosing this information. The first is triggered by a request by a member of the public ('right to ask'). The second is triggered by the police where they make a proactive decision to disclose the information in order to protect a potential victim ('right to know'). Both processes can be implemented within existing legal powers.²²

The accompanying Home Office Press Release noted the success of the pilot as follows:

[The roll out] follows a successful 14-month pilot in four police force areas, which provided more than 100 people with potentially life-saving information.²³

The Government also announced the national extension of Domestic Violence Protection Orders from March 2014, in order to provide further protection to vulnerable victims.²⁴

The announcement was broadly welcomed, but there were some critical voices. Liberal Democrat Baroness Hamwee cautioned against believing that Clare's Law was the complete answer to domestic violence.²⁵ Others argued that the Law in itself was a minor development and that what was needed was an increase in police resourcing to deal with domestic violence.²⁶

²² [HC Deb 25 November 2013 c6WMS](#)

²³ "[Clare's Law to become a national scheme](#)" 25 November 2013 Home Office

²⁴ See Standard Note 6337 [Domestic Violence](#) for background on Domestic Violence Protection Orders

²⁵ "Women win right to ask police to check partner" 26 November 2013 *Independent*

²⁶ "Will Clare's law help?" 26 November 2013 *Guardian*