

Domestic Abuse Bill 2020: Domestic Violence Disclosure Scheme

What are we going to do?

The Domestic Violence Disclosure Scheme (DVDS, also known as “Clare’s Law”) enables the police to disclose information to a victim or potential victim of domestic abuse about their partner’s or ex-partner’s previous abusive or violent offending.

We will put the guidance on which the DVDS is based into statute. This will place a duty on the police to have regard to the guidance and will strengthen the visibility and consistent operation of the scheme.

Key Quote

‘We endorse the Government’s decision to place the guidance to the police on the Domestic Violence Disclosure Scheme (DVDS), also known as Clare’s law, on a statutory footing. We believe this will increase awareness of the DVDS among the general public and so those who could benefit from it.’

Report of the Joint Committee on the Draft Domestic Abuse Bill, June 2019

How are we going to do it?

The Bill requires the Home Secretary to issue guidance to chief officers of police about the disclosure of information by police forces for the purposes of preventing domestic abuse.

The Bill does not change the legal basis under which the police can make a disclosure but places a duty on the police to have regard to the guidance about the DVDS.

This will make sure that the scheme is used and applied consistently across all police forces and will help increase the number of applications.

Background

The DVDS, often referred to as “Clare’s Law”, was implemented across all police forces in England and Wales in March 2014.

The scheme has two elements: the “Right to Ask” and the “Right to Know”. Under the scheme an individual or relevant third party (for example, a family member) can ask the police to check whether a current or ex-partner has a violent or abusive past. This is the “Right to Ask”. If records show that an individual may be at risk of

domestic abuse from a partner or ex-partner, the police will consider disclosing the information.

The “Right to Know” enables the police to make a disclosure on their own initiative if they receive information about the violent or abusive behaviour of a person that may impact on the safety of that person’s current or ex-partner. This could be information arising from a criminal investigation, through statutory or third sector agency involvement, or from another source of police intelligence.

A disclosure can be made lawfully by the police under the scheme if the disclosure is based on the police’s common law powers to disclose information where it is necessary to prevent crime, and if the disclosure also complies with established case law, as well as data protection and human rights legislation. It must be reasonable and proportionate for the police to make the disclosure, based on a credible risk of violence or harm.

Why do we need the DVDS when the police already have common law powers to make a disclosure?

It is true that the police already have common law powers to disclose information relating to an individual’s previous convictions or charges, where there is a pressing need for such a disclosure in order to prevent further crime.

The DVDS provides the police with a clear framework, with recognised and consistent processes, for the exercise of these powers in the context of domestic abuse.

Doesn’t the DVDS put people at greater risk following disclosure?

We recognise that one of the most dangerous times can be the point at when someone seeks to leave a relationship. However, we believe that potential victims should be empowered to make informed choices about whether to continue their relationships.

The guidance on the scheme is clear that all disclosures must be accompanied by a robust safety plan, tailored to the needs of the victim or potential victim and based on all relevant information available.

Isn’t the DVDS an infringement on civil liberties?

The police must satisfy several tests before a decision to disclose is made under the scheme – that the disclosure is necessary to protect the person from being the victim of a crime, that there is a pressing need for the disclosure, and that the interference with the perpetrator’s rights is necessary and proportionate for the prevention of crime.

Any decision to disclose under the scheme will be made based on the facts of each individual case, and the police will seek legal advice where necessary.

Wouldn't it be better to have a national "register" of domestic abuse perpetrators?

The police already maintain a number of databases which will hold details of domestic abuse perpetrators, for example the Police National Computer, Police National Database and the ViSOR Dangerous Persons

Database. We want to improve how these existing systems are used to record and share information about domestic abuse perpetrators rather than create new ones. We are also committed to improving how agencies identify, risk assess and manage perpetrators, for example through better use of the DVDS and multi-agency public protection arrangements (MAPPA).

Domestic Abuse Protection Orders under the Bill will provide an additional tool for managing the risk posed by perpetrators, by enabling courts to impose a range of conditions including notification requirements, positive requirements and electronic monitoring.

Key facts

In the year ending March 2019, 55% of the 7,252 "right to know" applications made resulted in a disclosure (4,008) (data from 36 forces).

In the year ending March 2019, 40% of the 6,496 "right to ask" applications made resulted in a disclosure (2,575) (data from 39 forces).