



2013 Protocol & Good Practice Model – Disclosure of Information in cases of alleged child abuse and linked criminal and care directions hearing.

Agreed Local Practice for North Yorkshire and York

Introduction & Scope of the Protocol

1. The signatories to this Local Practice are the City of York Council (CYC), North Yorkshire County Council (NYCC), North Yorkshire Police (NYP), Yorkshire and Humberside CPS (CPS).
2. This Local Practice document aims to assist the signatories to provide practical assistance and guidance with the local implementation of the 2013 Protocol and Good Practice Model- Disclosure of Information in cases of alleged child abuse and linked criminal and care and directions hearings.
3. The information exchange arrangements aim to support the completion of the Family Court public law proceedings no later than 26 weeks from the date of issue, and ensure criminal trials are fair and all relevant material is available.
4. The Local Protocol is in force from the 2014 and will apply to all cases where there is a new request for disclosure following that date.
5. The Local Protocol applies to all cases involving criminal investigations into alleged child abuse (victims aged 17 & under at the time of the offending) and/or public law family court proceedings concerning children (17 & under). Please see paragraph 8 below for information sharing in cases that are not covered by the Protocol, and do not require the Protocol forms to be used. The Local Protocol does not apply to private law family court proceedings.
6. The Single Points Of Contact (SPOC) for NYP and the CPS are included within Annex A to this document. The SPOCs for NYCC and CYC are included within Annex B to the Local Protocol.

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7. The Local Protocol is to be used proportionately and only to facilitate requests for material held that is relevant to the central issues in the case.
8. The CPS will give due priority to making timely charging decisions in cases falling within the Local Protocol.
9. The following requests for information between signatories can be made without the need for an Annex request form, or a Court Order:
 - a. NYP/CPS can obtain the text or summary of the whole or part of a judgment from family proceedings in accordance with Rule 12.73(1)(c) of the Family Procedure Rules 2010 and Practice Direction 12G. The Local Authority (LA) should provide this on request, alternatively it can be obtained directly from the Family Court (formal application not required).
 - b. LAs can continue to provide NYP with documents/information relating to family court proceedings where the officer is a Protection of Vulnerable Persons (PVP) officer carrying out their duties under Section 46 of the Children Act 1989, and the disclosure is for the purposes of child protection and not for the purposes of criminal investigation, in accordance with Rule 12.73(1)(a)(viii) of the Family Procedure Rules 2010. An Order from the Family Court is necessary before any onward disclosure of such information for the purpose of investigation or prosecution (including to the CPS).
 - c. Police requests to the LA for all other information for the purpose of the prevention or detection of crime, or the apprehension or prosecution of offenders, in cases where there is no criminal investigation into child abuse, nor any family court proceedings concerning children. For disclosure in these cases the “North Yorkshire Data Protection Act Disclosure Form” should be completed and the guidance contained within that form followed. A copy of this form is included at Local Annex J to this Protocol.
 - d. Disclosure in family court private law proceedings – this protocol does not apply to these cases.

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Definitions Section

ABE	Achieving Best Evidence – video recorded evidence of a child witness
CDU	Civil Disclosure Unit (within NYP)
CPS	Yorkshire and Humberside CPS
Criminal proceedings contemplated	For the purposes of this local protocol is when NYP take a written statement pursuant to Section 9 Criminal Justice Act 1967 or undertake a video interview of a witness
Criminal proceedings commenced	When the Defendant has been charged or requisitioned
CSC	Children’s Social Care
CYC	City of York Council
DI	Detective Inspector
Family Court	The Family Court and the Family Division of the High Court
Family proceedings Contemplated (as per Annex D)	The point at which Legal Services within CYC or NYCC are asked for advice and there is likely to be a need for public law family court proceedings in a case
LA	Local Authority
Local Protocol	North Yorkshire and York multi-agency agreement giving effect to the National Protocol.
LSCB	Local Safeguarding Children Board
MG3	Police advice request to CPS and response
MG6D	A list of sensitive unused material completed by the police which is then submitted to the CPS.
National Protocol	2013 Protocol & Good Practice Model – Disclosure of Information in cases of alleged child abuse and linked criminal and care directions hearing.

NYCC	North Yorkshire County Council
NYP	North Yorkshire Police
OIC	Officer in the Case (within NYP), or other officer undertaking the disclosure role in a particular criminal investigation/prosecution
PVP Officer/Unit	Protecting Vulnerable Persons Officer/Unit (within NYP)
Sealed Court Order	Order of the Family Court which has been finalised and stamped with the official Court seal.
SPOC	Single Point of Contact
Unsealed Court Order	Order which has been judicially approved but not yet stamped with the official Court seal.

Index to Annexes

- Annex A** – Single point of contact within the police force
- Annex B** – Single point of contact within the local authority
- Annex C** – Protection of children request (from police to LA)
- Annex D** – Standard request form for disclosure for police information
- Annex E** – Notice to LA from Crown Prosecutor that material satisfies CIPA disclosure test
- Annex F** – Notice from LA: representations on disclosure
- Annex G** – Undertaking re: Video evidence of child witness
- Annex H** – Disclosure direction to police
- Annex I** – Linked criminal and care directions
- Annex J** – North Yorkshire Data Protection Act Disclosure Form S29(3)
- Annex K** – Charge Result Form

Index to Processes

The National Protocol requires the signatories to take action at specified stages throughout the Family and Criminal cases. A list of these stages is included below. Each of these stages has a corresponding process box outlining the actions to be taken and by whom.

Where Family Proceedings are contemplated or issued

LA disclosure request to the police.(Annex D) Box 1 Page 6

Where a Criminal investigation is commenced. Police disclosure request to the LA (Annex C)

Box 2 Page 9

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BOX 1

Request for police disclosure where Family Court Proceedings are Contemplated/Issued – Annex D Process

Timescales – When a request for disclosure is made by the LA on Annex D, the LA shall specify a reasonable timescale for compliance, not to exceed 14 days. The signatories to the Local Protocol anticipate that this process will follow a default timescale, which is set out below. Where the LA specify a shorter timescale, all signatories to the Local Protocol will use best endeavours to shorten the default timescales and to comply with the request.

As soon as practicable after LA Legal become involved in a case falling within the National Protocol, and in any event on the issue of family proceedings, Annex D (and Annex G if applicable) shall be completed by the LA Legal Officer and sent to the CDU via email. Annex D should be completed in contemplation of proceedings and the request for disclosure should be as specific as possible and focused on the relevant issues in the case.



By Day 1 – The CDU will log, acknowledge and send the completed Annex D to the PVP mailbox & Detective Inspector (DI) for the area, together with the name of the CDU Legal Officer allocated to the case. The CDU Legal Officer will start to collate electronically held information.



By Day 2 - PVP staff/DI will allocate the work to the Officer in the Case (OIC) or other appropriate Officer in the OIC's absence.



By Day 3 – The OIC will scan the LA's Annex D (and any Annex G) onto Niche. If a victim statement/video interview has been given, or the suspect has been charged, the OIC will send the Annex D and details of the views of the OIC on disclosure to the CPS SPOC. If the CPS have not previously been involved in the case the OIC will additionally send an MG3, to include any available evidence. If the OIC believes objections should be made, it will be made clear on the MG3 that this is subject to advice from the CDU. CPS will provide any comments on disclosure as soon as practicable and in any event in advance of the deadline set for disclosure within the Annex D.



EITHER: A - NO OBJECTIONS TO DISCLOSURE

By Day 9 - If there are no objections to disclosure, the OIC will complete the second part of the Annex D form and send that, together with any requested hard copy information, to the CDU Legal Officer.



By Day 14 – The Legal Officer in the CDU will consider the information, make appropriate redactions and send it with the completed Annex D to the LA Legal Officer. Disclosure should be sent by secure email facilities where possible. No ABE's will be disclosed to the LA without a completed Annex G.

OR : B – OBJECTIONS TO DISCLOSURE

By Day 9 – In the event of wishing to object to disclosure the OIC should, in the first instance, refer to Box 9 on page 16 for further guidance about appropriate circumstances in which to object to disclosure. The OIC shall then seek advice from the allocated Legal Officer within the CDU.



By Day 14 - If the NYP position after advice from CDU is to object, the CDU will return the Annex D to the LA, completed with detailed reasons as to why information is being withheld, and details of the approximate date when disclosure can be made. In cases where the CPS are consulted, the OIC shall discuss the detailed reasons with the CPS before the Annex D is completed. If there is a difference of position in respect of disclosure between NYP and CPS, the OIC will notify CPS.



The LA will then approach the Family Court for determination of the issue if there are objections to disclosure from NYP and/or CPS, and then the Court Order process in Box 5 on page 13 is to be followed.

Annex D Points to Note

1. All signatories to the Local Protocol agree that any information disclosed in accordance with the Annex D process may be shared by the LA (before the issue of, or during, family proceedings) with the professionals and parties in the family proceedings only, unless the permission of the Family Court is obtained to disclose material to others in addition.
2. If Family Court proceedings are issued at any stage throughout the Annex D process the LA will notify NYP and provide full details of parties, representatives and the future timetable of the Family Court proceedings. If the CPS are involved, NYP will also forward this information to them. This notification will normally be made by the LA forwarding the Case Management Order duly redacted so that only the relevant disclosure order and timetable for the proceedings are disclosed.¹
3. If the LA subsequently obtain an Order from the Family Court against NYP in respect of information already disclosed by NYP under the Annex D

process, then this will be served on NYP in accordance with the process outlined in Box 5, page 10.

4. Any requests by the LA for updated information from NYP within 6 months of the original Annex D disclosure being made can be made to the CDU via email. Any requests for updates after 6 months from the original disclosure request will need to be submitted to the CDU on a new Annex D form. Any such update requests must be very specific and clearly state the disclosure received previously to avoid any duplication.

5. Appropriate adjustment can be made to the internal timescales to accommodate working days. However, this should not impact on the overall timescales of 14 days.

BOX 2
Criminal Investigation Commenced – Annex C Process

Timescales – This process should be completed within a reasonable timescale and as expeditiously as possible. When the OIC is making the request they must take into account the stage/nature of the investigation and/or prosecution and ensure the timescale is appropriate. The actions and timescales at working days 1-7 below are the maximum allowed under the National Protocol, and a default timescale for the remaining required actions is set out below for guidance. Where an Annex C request specifies a shorter timescale for compliance, all signatories to the Local Protocol will use best endeavours to shorten the default timescales below, to comply with the Protocol.

Day 1 – A relevant criminal investigation commences



By Day 4 - The OIC will complete the Annex C, scan it onto Niche and send the completed form to the CDU. The OIC shall include a specific request for disclosure, which must be as prescriptive as possible and only request information necessary for the pursuit of reasonable lines of enquiry. The request will include either the written consent of the data subject or reasons why either lack of consent is being overridden or consent has not been obtained.



By Day 5 – The CDU will log the Annex C and forward it on to the LA SPOC.



By Day 6 – The LA SPOC will forward the Annex C to the relevant caseworker within Children’s Social Care (CSC) and to the relevant LA Legal Officer (if different from the SPOC)



By Day 7 – The LA Legal Officer will forward the completed Annex C to the Family Court.

Between day 7 and Day 17 –

- a. The LA SPOC/officer will identify and collate material in accordance with 10.1 to 10.4 of the National Protocol in liaison with CSC and Local Authority Education Services will also provide to the police the identity of the school(s) attended to enable the police to make separate disclosure requests to the relevant school(s) The Annex C to be copied to the Local Authority SPOC.
- b. CSC will consider the Annex C and if necessary take legal advice before reaching a decision about whether to disclose the information.

EITHER: A – WHERE THERE ARE NO LA OBJECTIONS TO DISCLOSURE

By Day 17 -CSC will confirm to the LA Legal Officer that there are no objections to the requested disclosure



By Day 20 – The LA Legal Officer shall confirm the position to the CDU together with the name of the CSC Caseholder (NYCC) and Service Manager (CYC). The LA Legal Officer will open a file and retain the Annex C to assist with any future PII considerations.



By Day 22 – The CDU will inform the OIC and update the CDU file accordingly. The OIC will then make contact directly with the Caseholder (NYCC) Service Manager (CYC) in CSC to arrange an appointment for the OIC to attend to view the files within a reasonable timescale. NYP may make notes and/or be provided with copies of the material. The CSC caseholder will provide the LA Legal Officer with a copy of any documents disclosed to NYP.

OR: B – WHERE THERE ARE OBJECTIONS TO DISCLOSURE

Between Day 7-17 – In the event of wishing to object to disclosure, the CSC caseholder should, in the first instance, refer to Section 2 in Box 9, Page 16 for further guidance about appropriate circumstances in which to object to disclosure. The CSC caseholder may also seek advice from LA Legal.



By Day 17 - If the position after advice is to object to the request for disclosure of non family court material (see Point 1 below for information about family court material), LA Legal will notify NYP in writing of the existence of withheld material, indicating the reasons why the material is not being made available to NYP.

Annex C – Points to Note

- 1.** Family proceedings material (other than a judgment and any documents that existed prior to proceedings) should not be examined by NYP under the Annex C process – although the LA shall provide NYP with a list of such material without describing what it is. The LA will provide to NYP/CPS a Court case number and details of the parties and their representatives, to enable a court application to be made by NYP/CPS in respect of those documents.
- 2.** Information disclosed to NYP by the LA should not be used by NYP as evidence or disclosed to the defence in the criminal proceedings without there being further consultation with the LA, or an Order of the court. (see for example Box 8)
- 3.** If material (not including family proceedings material) is being withheld by the LA on the basis of confidentiality the CPS will consider applying for a witness summons.
- 4.** The LA will contact NYP (via email to the CDU) and/or CPS if further relevant material comes to light after the initial examination of material.
- 5.** Where new issues arise in a criminal case NYP will submit a new Annex C requesting access to material not previously examined.
- 6.** Information and documents relating to Family Court Proceedings and disclosed to the PVP or under s46 CA1989 where disclosure is for the purposes of child protection MAY NOT be disclosed onwards, including to the CPS without the express permission of the court (see 10.6 of the National Protocol) and Box 7 for the application procedure.

BOX 3
Charging Decision by Police/CPS

In all cases falling within the National Protocol the LA must be contacted by NYP following the point of charge/other disposal.

The OIC shall complete the Charge Result Form (Local Annex K to the Local Protocol) and send to the CDU mailbox within 5 working days of the point of charge/other disposal, together with details of any concerns about this information being shared with the professionals and parties in family proceedings.



The CDU shall update the CDU file accordingly, then send the completed form to the LA SPOC within 1 working day of receipt from the OIC.



The LA SPOC will forward this information to the Family Court within 2 working days of receipt if there are any Family Court Proceedings.

BOX 4
Case Management Hearing in the Crown Court

CPS shall send the following information to the LA SPOC within 5 working days of the Case Management Hearing in the Crown Court (this includes Preliminary Hearings and Plea and Case Management Hearings):

- Date of the Hearing
- Details of the future timetable of the criminal proceedings
- Details of any directions relevant to the LA or the Family Proceedings



Within 2 working days of receipt of this information the LA SPOC shall send this to the Family Court if there are any Family Court Proceedings.

BOX 5

Applications for Family Court Orders for Disclosure Against NYP (see Box 6 for Orders against the CPS)

Orders may be made against both NYP and the CPS, and in these circumstances NYP and the CPS will liaise to ensure each organisation is aware of the actions the other is taking and that the Order will be complied with.

Section 1 applies where there is a standalone application for a Family Court Order for disclosure by the LA or any other party in the family proceedings against NYP.

Section 2 applies where an Order is made by the Court on the papers, without formal notice to NYP, which gives leave to the parties to apply to vary the Order.

SECTION 1 –APPLICATIONS & ON NOTICE ORDERS

Timescales – The timescales at working days 1-3 (of both sections A and B) are the maximum allowed by the National Protocol. If NYP wish to object to the application then a default timescale is set out below for guidance, however, will be subject to any directions made by the Family Court.

A – Application Made

Day 1 –An application is made to the Family Court for an Order for disclosure against NYP.



By Day 3 – The LA Legal Officer shall notify the CDU that the application has been made and provide details of the date and time of the hearing at which disclosure will be determined by the Family Court.



By Day 4 – The CDU shall notify the PVP mailbox/DI for the relevant area, of the application & the name of the Legal Officer allocated in the CDU. The Legal Officer shall start to collate electronically held information.



By Day 5 - PVP staff/DI shall allocate the work to the OIC (or another appropriate officer in the OIC's absence).



By Day 7 – The OIC shall confirm to the allocated Legal Officer in the CDU if there are likely to be any objections to the disclosure requested. The OIC should consider the guidance in Section 1 of Box 9 on Page 16 about appropriate circumstances in which to object to disclosure. If there are no objections, the OIC shall collate any requested hard copy information in anticipation of the receipt of the Order.



By Day 14 or other date specified in the Order – If NYP wish to object to the application for disclosure, the Police Lawyer (Civil Disclosure) shall make written representations to the Family Court and the LA, explaining why disclosure might reasonably be considered capable of prejudicing the investigation and/or prosecution. If attendance at the hearing is directed, the Police Lawyer (Civil Disclosure) shall attend with the OIC.

B – Order Made

Day 1 - Order for disclosure made by the Family Court on notice to NYP following the LA's application



By Day 3 – The LA Legal Officer shall serve the Order on the CDU. NYP will accept an unsealed Order in the first instance, providing the LA SPOC later also forwards a sealed Order within 2 working days of this being received by them from the Court.



By Day 14 - the OIC shall send any remaining hard copy information to the CDU



By Day 28 - (or other deadline specified in the Order) – The CDU Legal Officer shall consider the information, make appropriate redactions and send the disclosure to the LA Legal Officer. Disclosure should be sent by secure email where possible.

SECTION 2 - ORDER MADE WITHOUT FORMAL NOTICE TO NYP

Timescales – The timescales at working days 1-3 are the maximum allowed by the National Protocol. In accordance with the form of Order in Annex H to the National Protocol, a default timescale of 28 days for compliance with the Order has been set out below. Where a different timescale is specified in the Order, all signatories will use their best endeavours to amend the default timescales below and to comply with the Order.

Day 1 – An Order for disclosure is made against NYP by the Family Court



By Day 3 – The LA Legal Officer shall serve the Order on the CDU. NYP will accept an unsealed Order in the first instance, providing the LA SPOC later also forwards a sealed Order within 2 working days of this being received from the Court.



By Day 4 – The CDU shall notify the PVP mailbox/DI for the area, of the application & the name of the Legal Officer allocated in the CDU.



By Day 5 - PVP staff/DI shall allocate the work to the OIC (or another appropriate officer in the OIC's absence).



By Day 7 – The OIC shall confirm to the allocated Legal Officer in the CDU if there are likely to be any objections to the Order for disclosure. The OIC should consider the guidance in Section 1 of Box 9 on Page 16 about appropriate circumstances in which to object to disclosure. If no variation to the Order is sought, the OIC shall start to collate any hard copy information requested and the Legal Officer in the CDU shall start to collate electronically held information.



By Day 14 (or other date specified in the Order) - If NYP wish to seek a variation of the Order for disclosure, the Police Lawyer (Civil Disclosure) shall make written representations to the Family Court and the LA, outlining the variation to the Order sought by NYP and explaining why disclosure might reasonably be considered capable of prejudicing the investigation and/or prosecution. If attendance at a hearing to determine the issue is directed, the Police Lawyer (Civil Disclosure) shall attend with the OIC.



By Day 18 – The OIC shall send any hard copy information requested to the Legal Officer in the CDU.



By Day 28 (or other deadline specified in the Order) – The CDU shall send the disclosure to the LA Legal Officer. Disclosure should be sent by secure email where possible.

BOX 6

Applications for Family Court Orders for Disclosure Against CPS (see box 5 for Orders against NYP)

Orders may be made against both NYP and CPS, and in these circumstances NYP and the CPS will liaise to ensure each organisation is aware of the actions the other is taking and that the Order will be complied with.

Section 1 applies where there is a standalone application for a Family Court Order for disclosure by the LA or any other party to the family proceedings against CPS.

Section 2 applies where an Order is made by the Court on the papers, without formal notice to CPS, which gives leave to the parties to apply to vary the Order.

SECTION 1 –APPLICATIONS & ON NOTICE ORDERS

Timescales – The timescales at working days 1-3 (in both sections A and B) are the maximum allowed under the National Protocol. If the CPS wish to object to the application then a default timescale is set out below for guidance, however, will be subject to any directions made by the Family Court.

A – Application Made

Day 1 –An application is made to the Family Court for an Order for disclosure against CPS.



By Day 3 – The LA Legal Officer shall notify the CPS SPOC that the application has been made and provide details of the date and time of the hearing at which disclosure will be determined by the Family Court.



If the CPS do not object to the application, they shall begin to collate the information in anticipation of receipt of the Order. If CPS wish to object to the application for disclosure the CPS representative shall make appropriate and timely written representations to the Family Court in accordance with Paragraph 7.2 of the National Protocol and any directions made by the Family Court. If attendance at the hearing is directed, the CPS representative shall attend, together with the OIC from NYP if required.

B – Order Made

Day 1 - Order for disclosure made on notice to CPS following the LA's application.



By Day 3 – The LA Legal Officer shall serve the Order on the CPS SPOC. The CPS will accept an unsealed Order in the first instance, providing the LA SPOC later also forwards a sealed Order within 2 working days of this being received by them from the Court.



By Day 28 - (or other deadline specified in the Order) – The CPS shall send the disclosure to the LA Legal Officer.

SECTION 2 - ORDER MADE WITHOUT FORMAL NOTICE TO CPS

Timescales – The timescales at working days 1-3 are the maximum allowed by the National Protocol. In accordance with the form of Order in Annex H, a default timescale of 28 days for compliance with the Order has been set out below. Where a different timescale is specified in the Order, all signatories will use their best endeavours to amend the default timescales below and to comply with the Order.

Day 1 – An Order for disclosure is made by the Family Court against the CPS.



By Day 3 – The LA Legal Officer shall serve the Order on the CPS SPOC. CPS will accept an approved but unsealed Order in the first instance, providing the LA also forwards a sealed Order within 2 working days of this being received from the Court.



If CPS wish to seek a variation of the Order for disclosure, the CPS representative shall make appropriate and timely written representations to the Family Court in accordance with Paragraph 7.2 of the National Protocol and any directions made by the Family Court. If attendance at the hearing is directed, the CPS Lawyer shall attend, together with the OIC from NYP if required.



By Day 28 (or other deadline specified in the Order) – The CPS shall send the disclosure to the LA Legal Officer.

BOX 7
NYP/CPS Applications in the Family Court for an Order for Disclosure of Family Proceedings Material

Before Making an Application

NYP and/or CPS may ask LA Legal, if appropriate, to request that the Family Court considers the issue of disclosure to NYP/CPS at the next hearing. The LA shall put the other parties to the proceedings on notice and will provide the Court with details of the officer to whom disclosure is to be made and the purpose for which it is to be made.

Police Applications

Prior to the service of prosecution papers pursuant to Section 51 of the Crime and Disorder Act 1998 for Crown Court proceedings, or prior to the receipt of the upgraded file by the CPS for Magistrates Court proceedings, NYP will make any application for disclosure of Family Court material. Applications should seek leave to disclose to the CPS/defence and contain the named NYP officer to whom release is sought.

CPS Applications

After the service of prosecution papers or receipt of the upgraded file, the CPS will make any application for disclosure of Family Court material. Applications must specify the purpose and use to which the material is intended to be put and should seek leave to share the material with the police/defence.

Applications by Either Party

Applications shall be made on Form C2 and served on all parties to the family proceedings. The Application will be determined at a hearing in the Family Court, but the CPS and/or Police will not attend unless directed to do so by the Court.

If practicable to do so, the Police and/or CPS should seek prior written consent to disclosure from all parties to the family proceedings and lodge a draft consent order.

BOX 8
Handling of LA material by NYP/CPS – ANNEX E & ANNEX F

All material disclosed by the LA and/or withheld by the LA will be listed by NYP on the MG6D for the CPS to consider. The MG6D should also include any family court judgment obtained by NYP. In respect of any material obtained by NYP following an application to the Family Court, NYP must confirm whether or not leave was granted for the information to be shared with the CPS and the defence.



The CPS will review the material and only material which meets the statutory disclosure test under the Criminal Procedure and Investigations Act 1996 (CPIA) will fall to be disclosed (information which could reasonably be considered capable of undermining the prosecution case against the accused or of assisting the case of the accused).



If no LA material falls for disclosure under the CPIA the CPS will notify the LA SPOC accordingly.

OR

Where LA material reviewed by the CPS falls to be disclosed under the CPIA, the CPS will send a completed Annex E (including reasons why the material falls to be disclosed) to the LA SPOC within 2 working days of review. The CPS will also provide proposals for editing or summarising the information.



The LA has 5 working days from the receipt of the Annex E to make written representations to the CPS on the issue of disclosure on Form Annex F.



Where, exceptionally, the LA is unable to meet this timescale, the LA will contact the CPS to discuss whether the timescale can be extended in the particular circumstances of the case.



Within those 5 days, the LA SPOC will forward the Annex E to the CSC for instructions on completion of Form Annex F providing advice and assistance as required.



The LA & CPS must negotiate to explore whether disclosure can be made in edited form or by summarising in another document issues arising in the material.



In highly exceptional cases, the CPS may need to make disclosure to the defence of the edited/summarised document without the consent of the LA.

↓
If a PII application is appropriate the CPS will make the application to the criminal court as soon as is reasonably practicable.

↓
The CPS will notify the LA of the date and venue of the PII application and of their right to make representations to the criminal court.

Points to Note

1. PII applications in the criminal court will be rare and will only be made where the Prosecutor has identified material that fulfils the disclosure test, disclosure of which would create a real risk of serious prejudice to an important public interest.
2. Where a confidential document (not relating to family proceedings) is withheld by the LA, the CPS will consider whether it is appropriate to seek a witness summons in the criminal court. The CPS will serve any such application on the criminal court and the LA (identifying the LA SPOC as the person required to produce the documents). If the Crown Court directs, the application will also be served on the person to whom the document relates.
3. If material that is the subject of a PII application relates to a confidential document where consent of the subject has not been obtained, the CPS must notify that person of the date and venue of the PII application and their right to make representations.
4. Disclosure of documentation which has been created under the auspices, and for the purposes, of the LSCB, can only be made with the prior consent of the LSCB Chair.
5. Any material disclosed by the LA in accordance with Rule 12.73(1)(a)(viii) of the Family Procedure Rules 2010 must not be disclosed to the defence without the express permission of the Family Court. Please see Paragraph 9(b) of the Introduction section to the Local Protocol for further information in respect of this provision.

BOX 9
Objections to Disclosure - Guidance to Practitioners

1. NYP/CPS Objections to LA Requests/Court Orders for Disclosure

- Unless disclosure is required to ensure the immediate safety of a child, NYP will not disclose material under the Annex D process that might prejudice the criminal investigation and/or prosecution (or where on the grounds of confidentiality it is necessary to obtain the consent of persons providing statements).
- Redacted disclosure should be made wherever possible if this will avoid the information being withheld completely.
- NYP can request that the LA obtain a Court Order stating that information disclosed by NYP will not be disclosed to named individuals (e.g. suspects in the criminal proceedings).
- If objecting, NYP would need to show that disclosure might reasonably be considered capable of prejudicing the investigation and/or prosecution.

The following are not generally considered to be valid objections to disclosure:

- Delay in obtaining a charging decision
- Long bail dates/suspects and witnesses not challenged on material and not likely to be until a bail date in the future.
- Lack of resources to collate the information in the specified timescales.

2. LA Objections to NYP Annex C Requests for Disclosure

- The LA should object only in exceptional circumstances as it must be recognised that the material will be treated as sensitive by NYP and the CPS.
- No Family Court documents (other than a judgment and any documents that existed prior to proceedings) should be examined by NYP under the Annex C process, the LA will provide a list of that material without describing what it is, in order for the police and/or the CPS to consider applying to the Family Court for Disclosure

NOT PROTECTIVELY MARKED

NOT PROTECTIVELY MARKED