

PUBLIC LAW PROCEEDINGS

When parties seek an order for police disclosure, please ask the following questions:

1. HAS THE LOCAL AUTHORITY CONSIDERED RECORDS HELD BY THEM AND SOUGHT PERMISSION FROM THE POLICE TO DISCLOSE THOSE DOCUMENTS TO THE PARTIES AND THE COURT?

Note: If a Child Protection Case Conference (CPCC)/Multi Agency Risk Assessment Conference (MARAC) has been convened in respect of the child(ren), the local authority will have been provided a report from the police containing information dating back 5 years from the initial meeting. This document is not to be shared unless the police have provided permission via the protocol route.

2. HAS THE LOCAL AUTHORITY SUBMITTED AN ANNEX 1 REQUEST FOR DISCLOSURE TO THE POLICE? IF SO, WHEN WAS THE REQUEST SUBMITTED?

If the protocol has been invoked, the police must be allowed the relevant time period in which to respond and provide disclosure (that being up to 20 business days) unless in cases of exceptional circumstances.

If parties have not submitted a request, they must be instructed to do so using the Application for disclosure of Police Information (Annex 1).

An order directing the police to provide disclosure should not be made.

3. WHAT INFORMATION HAS BEEN REQUESTED FROM THE POLICE?

Parties must ensure that they use the application proportionately having regard to what is reasonable, directly relevant, and necessary when seeking disclosure.

Section 4: LEDS records **subject's convictions/cautions/warnings;*

Section 5: summary report **in cases where the parties are not aware of the subject's criminal history or they require a report detailing allegations made to police over a set period of time;*

Section 6: investigation reports only. **Parties must be able to provide crime reference numbers or specific dates of when allegations were made. Wide reaching requests will be rejected.*

Section 7: additional information about specific investigations. **Parties should initially request the relevant investigation report(s) and once reviewed, should submit a redefined request for specific documents.*

Section 8: permission to share police information held by the local authority.

4. WHAT RESPONSE HAS BEEN RECEIVED FROM THE POLICE?

PRIVATE LAW PROCEEDINGS

When parties seek an order for police disclosure, please consider the following:

1. LEGAL REPRESENTATIVES MUST BE INSTRUCTED TO COMPLETE THE ANNEX 1 FORM.

THE COURT MUST DOCUMENT THE REQUEST ON THE ANNEX 5.

AN ORDER DIRECTING THE POLICE TO PROVIDE DISCLOSURE SHOULD ONLY BE MADE IF THE PROTOCOL HAS BEEN INVOKED, THE REQUEST FOR INFORMATION IS PROPORTIONATE AND THE POLICE HAVE BEEN GIVEN A REASONABLE TIME IN WHICH TO COMPLY.

2. FOR LITIGANTS IN PERSON A DIRECTION FOR DISCLOSURE MUST BE MADE USING THE ANNEX 5. THE COURT ORDER MUST PROVIDE SUFFICIENT DETAILS TO ENABLE POLICE TO PROCESS THE REQUEST FOR DISCLOSURE

LITIGANTS IN PERSON ARE NOT PERMITTED TO COMPLETE THE ANNEX 1 FORM.

3. WHAT INFORMATION SHOULD BE REQUESTED FROM THE POLICE?

Parties must ensure that they use the application proportionately having regard to what is reasonable, directly relevant, and necessary when seeking disclosure.

Section 4: LEDS records **subject's convictions/cautions/warnings;*

Section 5: summary report **in cases where the parties are not aware of the subject's criminal history or require a report detailing allegations made to police over a set period of time;*

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4. WHAT RESPONSE HAS BEEN RECEIVED FROM THE POLICE?

SAMPLE DIRECTIONS

Failure to comply with the Annex 1 application for disclosure

The [police] shall disclose to [NAME] by [X DATE] the information requested as part of the Application for disclosure of Police Information (Annex 1). There is leave to the [police] to apply to the court to vary this order upon notice to the parties, by [X DATE].

Digital evidence belonging to the parties

The [police] shall disclose to [NAME] by [X DATE] the [detail nature of digital evidence] of [NAME] for the relevant time period of [X DATE – X DATE] in an unredacted format, the court being satisfied that this information is necessary evidence required to be before the court. There is leave to the [police] to apply to the court to vary this order upon notice to the parties, by [X DATE].

Digital evidence belonging to third parties

The [police] shall disclose to [NAME] by [X DATE] the [detail nature of digital evidence] of [NAME] for the relevant time period of [X DATE – X DATE], the court being satisfied that this information is necessary evidence required to be before the court. The Police shall serve [Third party NAME] with notice of this direction by [X DATE], and there is leave to [Third party NAME] to make an application to vary this order upon notice to all parties. Should [Third party NAME] intend to make an application to vary this order, [s]he shall do so by [X DATE].

Ongoing disclosure

Upon receipt of written confirmation from the local authority that updating disclosure is required, the [police] are hereby directed to provide updated disclosure including [insert what is required] on [insert specific dates] up to the listed fact-finding or final hearing on [insert date].

To note

Post charge matters: Any directions the court considers necessary for disclosure must be made against the Crown Prosecution Service and police.

Indecent images: In the course of an investigation, the police may seize material including actual or alleged indecent images of children (under 18). If relevant and necessary, a request should seek the police description of those images to be provided, or a further and better description, not the images themselves. Access to such images will not be granted without an order of a Family Court judge. A judge who is being asked to consider an order facilitating access to the images themselves should be addressed on the provisions of s.160 of the Criminal Justice Act 1988 and ss.1 to 7 of the Protection of Children Act 1978, in particular the offence of “making an indecent photograph of a child” and the statutory defences and exceptions, and should only be asked to consider ordering police-facilitated, controlled access (including access which permits a party to have confidential discussion with their legal representatives). The same considerations apply to any other images where dissemination is prohibited.