

CONSULTATION RESPONSE

TO	Home Office
FROM	Independent Office for Police Conduct (IOPC)
REGARDING	Requests for Victim Information: Draft Code of Practice Published 8 April 2025

Our interest in this matter

1. The IOPC oversees the police complaints system in England and Wales and has a statutory duty to secure and maintain public confidence in it. We are independent and make decisions independently of the police, government, and interest groups. We investigate the most serious complaints and incidents involving the police. We also conduct reviews of police investigations into death or serious injury matters and where members of the public are unhappy with the way the police have handled their complaint. In addition, we have a broader role in sharing learning to help the police service develop and improve.
2. We recognise it is imperative that victims' personal data is handled appropriately. We are required to manage requests for third-party material relating to victims, as are other authorised persons who fall within the IOPC's remit (e.g. police officers and staff).

Response to consultation

Comments on earlier draft of the Code

3. We provided comments in relation to an earlier version of the draft Code (version 3) in August 2023. In our feedback, we welcomed the guidance it provided and the provisions around centring the needs of vulnerable people within the process.
4. We note that some of our comments on that version have not been incorporated into the latest draft of the Code. We think that these are still important and relevant to this version of the Code, particularly our suggestions that relate to:

- supporting the victim, notifying them of the third-party material request and seeking their views, and offering reassurance around handling their data.
 - amending the 'Sign-off for a TPM request' section so that it reflects the fact that authorised persons also includes non-police or military organisations that will not share the same ranking structures. Guidance could be included on the level of seniority that is expected for sign-off in non-police organisations.
 - ensuring that third parties (some of whom may have limited knowledge of processes within the criminal justice system) understand what their obligations are, and that they are signposted to relevant resources to support their decision making.
5. We have included our response to the previous version of the draft Code at Annex A for reference.

Annex materials

6. We note that the annex to the Code will include the third-party material request form, FAQs for the authorised person and FAQs for the victim. We understand that these documents are not yet available for review but that they will be available alongside the final publication of the Code.
7. We think these documents are very important tools to aid the handling of victim information requests. The design and wording of these materials will play a critical role in helping authorised persons request only what is necessary and proportionate, and in supporting victims to understand and engage with the process. Given their importance, we believe there should be consultation on the annex materials before they are finalised. This will help ensure that they strike the right balance between investigative needs and victim safeguarding.

Necessity and proportionality

8. We note that paragraph 75 says: “...it is highly unlikely that a request for the lifetime records of a victim will meet the necessity and proportionality test ...”. We agree with this statement. However, we think that this section should be strengthened. We would suggest that the Code should:
- state explicitly that it is likely to only be necessary and proportionate to request information related to a specific, relevant time period; then
 - explain why requesting more than this is highly unlikely to meet the necessity and proportionality test.

Requests for counselling information

9. We note this section outlines the factors to consider in order to rebut the presumption that requests for counselling information are not necessary and proportionate. Paragraph 82 says: *“By making the above considerations, authorised persons should be able to determine whether a request for counselling notes is necessary and proportionate as part of a reasonable line of enquiry. It is recommended a record of these considerations is kept”*.
10. We believe that keeping a record of the considerations that informed any decision in this regard should not just be a recommendation but a requirement and expected practice. Any decision to seek sensitive information in relation to a victim who may not wish their data to be obtained has the potential to cause distress to the victim and also has the potential to be challenged. We therefore think that the importance of accurately and transparently recording the rationale for all areas of decision-making relating to requests for third-party material should be emphasised throughout the Code.

Definition of counselling services

11. The consultation includes several questions around the definition of “counselling services” and what this should entail. We think other respondents may be better placed to provide more detailed answers to those questions. However, we agree that it is important to have a clear definition.

Written notice

12. This part of the draft Code relates to the provision of information to the victim about whom the information is being requested. It states that an authorised person must notify a victim in writing of the request (unless certain exceptions apply). We think that it would be good practice to offer the victim a single point of contact, should they wish to discuss the notification or request. We suggest that this is added to this section of the Code.

Sharing of information outside of the CPS

13. Paragraph 111 of the draft Code says: *“Victims should be made aware that the TPM may be shared with the CPS, and that they will be informed if this is shared with anyone outside of the CPS. This may include the defendant defence counsel, suspect, and the court.”*
14. We included a comment about this in our consultation response from 2023, and think it is relevant to raise again. The wording of paragraph 111 appears to impose a significant ongoing duty for the authorised person to notify the victim when their information is shared with anyone outside the CPS. However, we do not think it is

clear from the draft Code whether the proposed duty to notify the victim when their information is shared would apply:

- once, the first time that any information is shared with a new organisation or person outside the CPS; or,
 - more than once, whenever any information is shared with an organisation or person outside the CPS. For example, if information was provided in stages to a court during the course of criminal proceedings, would a notification to the victim be required every time?
15. We think that either interpretation goes beyond the statutory duty to inform victims of the third-party material request. If this remains in the Code, we think further clarification is needed as to which interpretation is correct.
16. We recognise that in some circumstances, it may be good practice to update the victim when their information is shared outside of the CPS, particularly if the victim has indicated the information is very sensitive and they are concerned about who has access to it. Conversely, this approach could potentially result in multiple notifications being sent, and it is possible that a victim may not wish to receive such updates, or there may be safeguarding issues.
17. For these reasons, our view is that this section of the Code would benefit from a more flexible approach. We suggest this should include amending the draft Code to say that:
- the victim must be made aware of the possibility of disclosure to anyone outside the CPS from the outset, when they are first notified of the information request.
 - the authorised person should further consider, on a case-by-case basis and informed by the victim's wishes, whether, when, and how it is appropriate to notify the victim if their information is shared with anyone outside the CPS. For example, this could form part of broader updates to the victim about the investigation or proceedings, rather than separate notifications being required every time.
18. We think this would strike a balance between the statutory duty to notify the victim at the outset, while allowing for some flexibility to keep them updated if their information is shared more widely later, if appropriate.

Initial enquiries prior to making a request

19. We note that the draft Code sets out that the authorised person should give written notice to the victim that a request in relation to their information is being made, on or before the date on which the third-party request is made.

20. In practice, there may be circumstances where an authorised person considers it appropriate to contact a third party before giving notice to victims under section 44B. This could be to satisfy themselves that the requirements outlined in paragraph 66 of the draft Code are met before giving notice and making a request. Paragraph 66 says:

66. A TPM request about a victim must only be made where the authorised person:

(a) has reason to believe that the information sought is held by the person to whom the request is made (section 44A(3)(a))

(b) which is being pursued, or is to be pursued, by the authorised person or another authorised person; (section 44A(3)(b))

(c) is satisfied that the request is necessary and proportionate to achieve the purpose of preventing, detecting, investigating, or prosecuting crime (section 44A(3)(c))

21. We recognise that any initial enquiries should not go as far as making the request before the victim has been notified, and their views sought and considered (unless any of the exceptions to notifying the victim in paragraph 112 are met). However, we cannot see anything in the draft Code that suggests an authorised person would be prevented from making some initial enquiries that are limited to what is necessary to satisfy themselves that the requirements above are or are likely to be met, prior to notifying the victim. We think it would be helpful for the draft Code to be clear on this point.
22. Similarly, there may be circumstances where we consider it appropriate to request information about a victim prior to contacting a victim, for safeguarding purposes or in order to plan effective engagement with them. For example, this could include a telephone conversation with an officer in the Professional Standards Department of a police force who made a referral to the IOPC, or a conversation with social services or another agency involved with the welfare of the victim.
23. We may ask about any concerns the police / other agencies have about the victim's welfare, prior to us contacting the victim ourselves. In some circumstances, we may ask an agency that already has a relationship with the victim (for example, social services) to contact the victim on our behalf.
24. It is important to note that the police have these sorts of conversations with other agencies as well, often in multi-agency meetings. Given that IOPC investigations don't typically involve these sorts of meetings, our equivalent enquiries often take

place over the telephone. These discussions are important as they help us understand any safeguarding risks.

25. Our view is that these types of preliminary discussions fall outside the victim information request process, but it would be helpful for the draft Code to be clear on this point.
26. We also note there appears to be a drafting error in relation to paragraph 66. Part (b) does not follow on from the start of the sentence.

Other comments on drafting

27. Paragraph 106 says: *“It is best practice for authorised persons to encourage and support victims to share and record their views regarding the request. If the victim raises any objections ...the **police** should discuss this with the victim...”*. Given that authorised persons includes police and non-police organisations, we think “police” should be replaced with “authorised person” in this paragraph.
28. The hyperlink associated with footnotes 11, 14, 32 and 33 (regarding guidance from the Attorney General’s Office) is not working.

Independent Office for Police Conduct

July 2025

Annex A

IOPC response to the 2023 consultation on the draft Code of Practice:

[Consultation response to Home Office - review of Requests for Victim Information Code of Practice - August 2023 | Independent Office for Police Conduct \(IOPC\)](#)