

# Bluestar Briefing

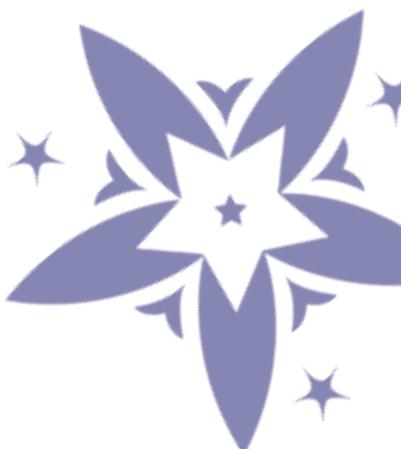
## New Victim Information Requests Code of Practice

# January 2026 Update

In January 2026, the government's new statutory Code of Practice for Victim Information Requests came into force, implementing Sections 44A-44C of the Police, Crime, Sentencing and Courts Act 2022 (as amended by the Victims and Prisoners Act 2024). At Bluestar we've been working closely with government, the National Police Chiefs Council, and the CPS since 2022 to shape this legislation and ensure that the rights and voices of victims and survivors are protected.

These new laws build on the existing CPS Pre-Trial Therapy Guidelines (2022) and transform them from best practice guidance into statutory requirements with legal force. The Code of Practice provides critical safeguards around how and when Police and other authorised persons can request access to therapy and counselling notes, including support services provided by ISVAs, IDVAs, and Independent Stalking Advocates (Third Party Material Requests).

At Bluestar, we believe that a survivor's voice is represented by their notes; their notes are their data; and they should have meaningful input into whether their notes are shared as part of the criminal investigation. Here's what these statutory changes mean for services supporting victims and survivors whose case is under Police investigation.



# What is now Law (*not just guidance*)

The following requirements are now statutory duties under Sections 44A-44C Police, Crime, Sentencing and Courts Act 2022 (as amended by the Victims and Prisoners Act 2024):

**Section 44A – When Police Can Request Notes:** Police and other authorised persons may only request therapy or counselling notes when all of the following conditions are met:

- ❖ **Reasonable line of enquiry:** The request must be relevant to a reasonable line of enquiry (not speculative or a “fishing expedition”);
- ❖ **Necessary and proportionate:** The information must be necessary to prevent, detect, investigate or prosecute crime, and there are no other less intrusive means of obtaining it;
- ❖ **Reason to believe information is held:** Police must have reason to believe the third party holds the specific information sought; and
- ❖ **For counselling notes only – Enhanced Protection:** The information must be likely to have “substantial probative value” to the investigation (a higher test than for other evidence).

**Section 44B – Victim Notification:** Police must give victims written notice about notes requests, specifying:

- ❖ **What information is being sought;**
- ❖ **Why it is being sought** (the reasonable line of enquiry and how it meets necessity/proportionality); and
- ❖ **How the information will be dealt with** (who will see it, how long it will be kept).

Police must also seek and record the victim’s views (though importantly, this is not the same as seeking “consent” – see Data Protection section below)

**Section 44C – Third Party Notification:** Requests to therapy and support services must be made in writing and specify the same information as provided to the victim.

# Changes from previous practice

## 1. Enhanced Protection for Counselling Services

The Code of Practice now provides significantly stronger protection for counselling and therapeutic notes than for other third-party material. This includes a statutory definition of “counselling services” that explicitly covers:

- Registered therapists and counsellors;
- Clinical and counselling psychologists;
- Mental health nurses and social workers;
- Independent Sexual Violence Advisors (ISVAs);
- Independent Domestic Violence Advisors (IDVAs);
- Independent Stalking Advocates (ISAs);
- Ministers of religion providing pastoral support; and
- Other unregistered counsellors providing psychological, therapeutic or emotional support.

Importantly, ISVAs, IDVAs and ISAs now have the same statutory protections as therapists.

## 2. Presumption Against Counselling Requests

Police must now start with the presumption that counselling notes are NOT necessary or proportionate to request. This presumption can only be rebutted if police can demonstrate:

- Compelling evidence the notes are likely to have substantial probative value;
- All less intrusive alternatives have been exhausted;
- Specific circumstances unique to the case justify access;
- Benefits outweigh privacy and wellbeing concerns; and
- Failure to obtain the notes might adversely affect the accused's right to a fair trial.

### 3. The “Substantial Probative Value” Test

For counselling information, police must meet a higher evidential threshold than for other material. “Substantial probative value” means the notes must:

- Add significant value to the investigation (beyond mere relevance);
- Relate to key aspects essential for advancing the reasonable line of enquiry;
- Have potential to substantially contribute to establishing or refuting critical facts; and
- Be likely to corroborate or contradict existing evidence meaningfully.

#### What does not establish substantial probative value:

- That the record exists;
- That the victim received counselling;
- That the notes relate to the incident under investigation;
- Speculation about credibility based solely on receipt of counselling;
- That the notes relate to the victim’s reputation or sexual history; and
- That the records were made close in time to the complaint.

### 4. Chief Inspector Sign-Off Required

All requests for counselling notes must be signed off at Chief Inspector level or above (significantly elevated from Inspector level for other third-party material). This ensures senior oversight and proper consideration of the enhanced protections.

## 5. Victim's Views (Not Consent)

The law recognizes that due to the power imbalance between police and victims, true “consent” cannot be freely given. Instead, police must seek the victim’s views and carefully consider any objections. Victims should be clearly informed that:

- ★ Objecting to a notes request will not result in automatic case discontinuation;
- ★ Their views will be recorded and taken into account;
- ★ Police may still proceed if necessary to safeguard them or ensure a fair trial; and
- ★ They have the right to object at any time.

## 6. Written Notice Requirements

Police must provide written notice to victims (and can only omit this if it would interfere with the investigation or cause harm). Best practice is to give advance notice so victims have time to consider and reflect. The notice should explain:

- ★ What a third party material request is;
- ★ Why the victim’s consent is not being sought (due to power imbalance);
- ★ What less intrusive methods were considered; and
- ★ How any collateral information will be managed.

# What this means in practice

## For therapy and counselling services (including ISVAs/IDVAs/ISAs):

- ★ You should expect significantly fewer blanket requests for “all notes”;
- ★ Police requests should now clearly articulate:
  - The specific reasonable line of enquiry;
  - Why the notes are likely to have substantial probative value;
  - What less intrusive alternatives were considered; and
  - Evidence of Chief Inspector sign-off
- ★ You have stronger legal grounds to challenge inappropriate requests that don’t meet the statutory tests; and
- ★ Services should continue to:
  - Use the Bluestar Notes Request Form to ensure all requirements are met;
  - Check that the victim understands and agrees to sharing;
  - Review notes with the victim before sharing (if they wish); and
  - Redact appropriately and provide a cover letter with context.

## For victims/survivors:

- ★ Therapy should not be delayed for any reason connected with a criminal investigation – this is now a statutory entitlement;
- ★ Police must inform you if they are requesting your notes and explain why;
- ★ You will be asked for your views (not consent) and these must be recorded;
- ★ Police must start from the assumption your counselling notes are not necessary to request;
- ★ Counselling notes can only be requested in rare circumstances where they have substantial probative value;
- ★ Your Article 8 right to privacy must be balanced against the needs of the investigation; and
- ★ ISVA, IDVA and Independent Stalking Advocate notes now have the same protections as therapy notes

## Data Protection Considerations

The Code clarifies that therapy and counselling notes are “sensitive data” under the Data Protection Act 2018. They can only be processed if:

- ★ The victim agrees to share (though this cannot be called “consent” due to power imbalance); or
- ★ Processing is “strictly necessary for law enforcement purposes” (the notes contain detail of a criminal offence); or
- ★ There is a safeguarding risk requiring information sharing

Police must comply with all data protection principles, ensuring information requested is adequate, relevant, and not excessive.

## Bluestar's continued support

The Bluestar Project resources remain fully aligned with this new statutory framework. Our tools and training have anticipated these changes since we began working with government in 2022. The tools, resources, and best practice guidance available free at the Bluestar Project continue to support services in responding to notes requests appropriately.

Our resources are supported by the National Police Chiefs Council and the CPS. We are currently funded by the Ministry of Justice and NHSE to develop resources and provide training to the voluntary sexual violence sector across England and Wales.

## Resources available include

★ Responding to **Notes Requests Guide** containing:

- Email template to send to Police when you receive a notes request;
- Notes Request Form for Police to complete (updated for new Code requirements);
- Cover Letter Template to send back to Police with your notes; and
- Guidance on how to redact notes appropriately

★ **Pre-Trial Therapy & Support Leaflets** for Adults and Children to share with Police Officers and victims explaining their rights.

★ **Guide to Running Groups Pre-Trial** with contracting templates and note-keeping guidance.

★ **Training on Pre-Trial Support Services** covering the statutory framework, note-keeping, responding to requests, and working with police.

## What we're monitoring

As this new Code of Practice is implemented across England and Wales, we will be:

- ★ Monitoring whether police forces are consistently applying the enhanced protections for counselling services;
- ★ Tracking whether ISVA, IDVA and ISA services are receiving the same protections as therapy services;
- ★ Ensuring victims are receiving written notice and having their views sought;
- ★ Working with police and CPS to ensure Chief Inspector sign-off is happening; and
- ★ Advocating for continued improvement in victim experience and reduction in inappropriate requests.

We expect to see continued reduction in notes requests to services, particularly blanket or speculative requests. If you experience police requests that do not meet the statutory requirements, please document these and share with us so we can support system-wide improvement.

# Key principles remain unchanged

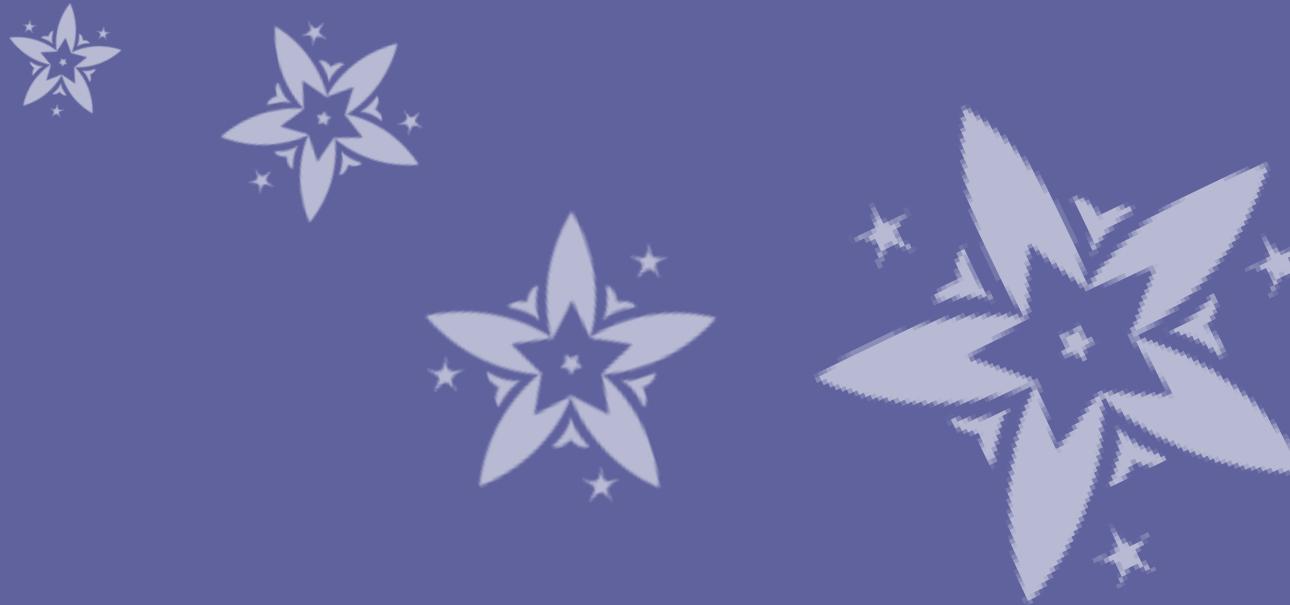
While the legal framework has strengthened, Bluestar's core principles remain:

- ❖ **Choice creates agency** – victims should have meaningful input into what is shared;
- ❖ **Notes are the client's voice** – thoughtful note-keeping protects victims and supports investigations;
- ❖ **Notes can support the case** – when victims choose to share relevant information, it can strengthen investigations; and
- ❖ **Services should not breach confidentiality** – police and CPS must only seek notes where there is genuine justification meeting all statutory tests

Practitioners continue to have an important role in ensuring police and CPS only seek notes where there is a reasonable line of enquiry meeting all statutory requirements, with informed victim input, so that confidentiality of therapeutic spaces is protected.

## References

- ❖ *Victim Information Requests Code of Practice (January 2026)*
- ❖ *Police, Crime, Sentencing and Courts Act 2022, Sections 44A-44C (as amended by Victims and Prisoners Act 2024)*
- ❖ *CPS Pre-Trial Therapy Guidance (2022)*
- ❖ *Attorney General's Guidelines on Disclosure (2024)*
- ❖ *The Victims' Code (2024)*



## Questions?

If you have any questions about the new statutory Code of Practice or need support responding to police notes requests, please get in touch with us:

Email – [info@bluestarproject.co.uk](mailto:info@bluestarproject.co.uk)

Website – [www.bluestarproject.co.uk](http://www.bluestarproject.co.uk)

