

Practice advice

Taking a trauma informed approach to third party notes requests

The Victim Information Requests Code of Practice (2026), implementing Sections 44A-44C of the Victims and Prisoners Act 2024, sets out the statutory duties and safeguards concerning how and when third party material requests can be made. These requirements build on the principles established by the CPS Pre-Trial Therapy Guidance (2022), which has been temporarily withdrawn from publication while under review (as of May 2026). This practice advice sheet outlines a step-by-step approach for officers when approaching victims and support services, taking a trauma-informed approach. It is aligned with Op Soteria best practice and draws on guidance from the Code of Practice (2026), the Information Commissioner's Office and the Attorney General's Guidance on Disclosure.



Fundamental principles

- Pre-trial therapy refers to any therapeutic support given when a report has been made to the police, a criminal investigation is underway and before the case has gone to trial. The Code of Practice (2026) applies to any support service, not just therapy.
- The CPS confirms that all therapies and counselling services can be accessed pre-trial; victims have a right to choose which service is right for them. The right to access therapy pre-trial is now a statutory entitlement and cannot be delayed for any reason connected with a criminal investigation.
- Therapy and counselling notes can only be requested by the police if the request meets the substantial probative value test; it is a necessary and proportionate part of a reasonable line of inquiry; it has been authorised by a Chief Inspector.
- For medical counselling services e.g. NHS psychologist, consent is required; whereas for non-medical counselling services e.g. voluntary sector counsellor or ISVA, the victim's views are required.
- Support services have a duty under UK GDPR to be assured that the request meets the statutory tests before sharing any notes.
- Responding to a TPM request is voluntary. Services are only legally obliged to share information via a formal witness summons. Bluestar's preferred position is a client-centred approach that supports the client to make an informed choice.
- Best practice should allow time for conversations between police, victims and support services, so that the victim has a choice whether to agree to share their notes and is informed that they have a right to refuse.
- If the victim does not agree to their session notes being shared, only a formal Witness Summons from the Crown Court can compel the support service to produce the notes.
- Support services, investigators and prosecutors must all comply with data protection legislation when processing therapy notes.



Disclosure guidance

The Criminal Procedure and Investigations Act (1996) states that police are obliged to follow all reasonable lines of inquiry, but it will only be a reasonable line of inquiry if there is some reason to believe that the notes will contain material relevant to the case. Just knowing that a victim has had therapy or support services is not enough.

The Victim Information Requests Code of Practice (2026) is clear that notes cannot be accessed on a speculative basis. This means:

- Police must take Early Investigative Advice from the CPS
- Police and other authorised persons may only request therapy or counselling notes where there is a clear reasonable line of enquiry and the request is not speculative.
- Requests must be necessary and proportionate and should not be made where the information can reasonably be obtained by other means.
- Police must have a reasonable belief that the third party holds the information being requested; and be able to clearly articulate what information is being sought, during what time period.
- For counselling and therapy notes (including ISVAs, IDVAs, ISAs notes), a higher threshold applies and requests should only be made where the information is likely to have substantial probative value and with authorisation from a Chief Inspector.
- Police must inform the victim of the request, seek and record their views, and ensure they are aware of their right to object.
- For medical counselling records (e.g. NHS psychologist, SARC), police must obtain the victim's consent before approaching the service. A higher requirement than seeking views.

The following do not, on their own, establish substantial probative value:

- That the record exists;
- That the victim received counselling;
- That the notes merely contain an account of the incident under investigation given by the victim (Code of Practice, paragraph 91(c);
- 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.

This is supported by the Attorney General's Guidance on Disclosure (2022), which outlines a three-step approach for the OIC and CPS when requesting notes:

- Establishing a reasonable line of enquiry (giving a clear rationale to the therapy or support service and not seeking a speculative request of notes)
- Establishing relevance (detail what is believed to be in the notes and limit the request to the relevant section/time period)
- Balancing rights (aim to maintain the victim's rights to privacy in line with Article 8 of the European Court of Human Rights)

If notes do not meet the applicable threshold – substantial probative value for counselling records, or reasonable line of enquiry for all other records – services should not release notes to the police and are within their rights to do so.

Remember: the notes belong to the victim and the therapy/support service are data processors with a duty to follow data protection legislation when processing therapy notes.



The NPCC Third Party Material Request Form

All requests to therapy and support services must be made on the NPCC Third Party Material Request Form. The form requires the requesting officer to set out: the specific reasonable line of enquiry; why the notes are likely to have substantial probative value (for counselling records); what less intrusive alternatives were considered; and evidence of Chief Inspector sign-off. Services are within their rights to return a request that arrives without the correct form or without all required elements and ask for resubmission.

When responding, services complete the third-party response section of the form, recording their decision, the legal basis for sharing, any handling instructions, and what has been redacted and why.



The legislation on information sharing

Material generated as a result of therapy or support services constitutes 'sensitive data' and sensitive data can only be processed if: the service user gives their views and agreement (non-medical records) or consent (medical records); processing is strictly necessary for law enforcement purposes and the relevant threshold is met; there is a safeguarding risk requiring information sharing; there is a public interest in disclosure that outweighs the individual's right to privacy; or it is in the client's best interests – for example, a victimless prosecution in a domestic abuse case. The Information Commissioner's Office has advised that in criminal justice processes, consent cannot be regarded as freely given. When police request notes during a police investigation, the lawful basis for data processing under the Data Protection Act (2018) is 'Strictly necessary for law enforcement purposes' and not 'Consent'. But for this legal basis to apply, the notes requested must form a reasonable line of inquiry and the information requested must be relevant and proportionate to the investigation.

Taking a trauma-informed approach, regardless of the legal basis for the data request, the CPS is clear that police should seek the views of the victim and inform them of their right to object at any time. This is because the data within the notes belongs to the victim, and support services and police officers can empower them to make choices about what information is shared to support the investigation.

A final element for officers to consider is ensuring that the victim has the time, information and capacity to make decisions about their agreement to share notes. The Mental Capacity Act (2005) reminds officers that the victim must be able to: (a) understand the information relevant to the decision; (b) retain that information; (c) use or weigh that information as part of the process of making the decision; and (d) communicate their decision. The Bluestar Project has created Pre-Trial Therapy Leaflets for support services and for police to use when explaining to adult and child victims what they can expect when a notes request is received.



A trauma informed notes request

This section details a step-by-step guide for police officers taking a trauma-informed approach to notes requests. At the start of therapy/support, the support service will have explained to the victim what will happen if a notes request is received as part of a criminal investigation. Notes of new disclosures can provide useful evidence and give victims a voice in the criminal justice system if they want to share them. Therapy notes belong to the victim, they are their voice and it must be their choice whether their data is shared.

A trauma-informed notes request process for the police:

- Seek early investigative advice from CPS to determine reasonable lines of enquiry and confirm the substantial probative value test is met.
- Ensure that any request is necessary and proportionate and should not be made where the information can reasonably be obtained in another way.
- Before approaching the victim or their support service, obtain Chief Inspector authorisation for any request relating to counselling notes. This is a statutory requirement under the Code of Practice (2026).
- For counselling notes, be able to clearly articulate how the substantial probative value test is met. Such as a verbatim first disclosure never previously shared with police or anyone else
- Complete the NPCC Third Party Material Request Form and seek the victim's consent (medical records) or views (non-medical records) on the request being made, discuss what evidence could be in their notes to support the investigation, and give the victim the choice to refuse. Share the Bluestar Pre-Trial Therapy Leaflet with them to take away and revisit. For medical counselling records (e.g. NHS psychologist, SARC), require consent rather than simply seeking the victim's views.
- Offer a phone call to the support service to explore what relevant evidence could be in the victim's notes – such as a first disclosure or new information never previously shared with police. Note: a disclosure about something the police already know does not meet the substantial probative value test.
- Allow time for the support service to consider the request, consult with the victim, collate and redact notes. The support service may respond with a witness statement confirming therapy took place and whether relevant material is held, rather than sharing notes.
- If a service reviews records and advises that nothing meets the required threshold, this should be believed. Services have a legal duty under UK GDPR to satisfy themselves that a request is lawful before sharing – their assessment is a professional and legal judgement, not an obstruction.
- If a victim chooses to refuse to share their notes, only a formal Witness Summons from the Crown Court can compel production.

For more information about supporting victims pre-trial and the notes request process, visit the Bluestar Project for free online resources or contact info@bluestarproject.co.uk.