Pre-Trial Therapy Protocol:

A service-level policy for therapy and support service providers

bluestar project

About the Bluestar Project

This protocol forms part of a suite of best-practice resources developed by Emma Harwood of Harewood Consultancy and Dr Gemma Halliwell on behalf of the Bluestar Project. The Bluestar Project was designed to understand the barriers and facilitators to accessing pre-trial therapy services among children and young people who have experienced sexual abuse.

The subsequent training and resources have been designed to apply to any practitioner or service working pre-trial with any victims/survivors of any form of abuse/crime.

Contact the Bluestar Project

All resources and information about our Training and Accreditation Programme can be found at www.bluestarproject.co.uk.

Contact the Team on: info@bluestarproject.co.uk.

About this guide

This template is designed to assist therapists, counselling and specialist support services in creating local pre-trial therapy protocols to operationalise the Crown Prosecution Service (CPS) Pre-trial Therapy Guidance (2022) and the statutory Victim Information Requests: Code of Practice (2026).

There is a set of principles to follow when providing victims with therapy before a criminal trial. These resources were originally developed in response to the CPS Pre-Trial Therapy Guidelines (2022), which have been temporarily withdrawn from publication while under review. Bluestar will update this resource when the revised CPS guidance is published.

Since 2024, these principles have been strengthened by the introduction of statutory duties under the Victims and Prisoners Act (2024) and further detailed in the Victim Information Requests: Code of Practice (2026), which place clear safeguards around how and when police and other authorised persons can request access to Third Party Materials (TPM Requests) which may include therapy, counselling and support records. Together, these frameworks support access to timely therapy while ensuring that any requests for information are only made where there is an exception to the presumption that therapy records are not necessary and proportionate, and where the records have substantial probative value.

Although the CPS Pre-Trial Therapy Guidance was developed for therapy services, this guide applies to all services providing therapeutic, health or advocacy support to victims and survivors of crime. The Victim Information Requests Code of Practice (2026) introduces enhanced statutory safeguards, including specific protections for services that fall within the legal definition of “counselling” services (see Glossary below), including ISVA/IDVAs.

These guidelines were produced after consultation with experts and voluntary sector providers.

Acknowledgements

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Contents

Definitions

'Pre-trial therapy' describes any therapeutic support given to children or adults during a criminal justice process. There are a set of principles to follow when providing victims with therapy during a criminal investigation and before a criminal trial, as described by the Crown Prosecution Service (CPS).

Guidance

The CPS first published guidance in 'Provision of Therapy for Vulnerable or Intimidated Adult Witnesses' in 2001 and at that time this was restrictive in terms of what kinds of support could be available to service users pre-trial, including discouraging talking about abuse within therapy and groups. The CPS Pre-trial Therapy Guidance published in 2022 sought to clarify and enable access for victims to therapy, counselling and groups, without impacting on criminal justice processes. This framework has been strengthened by the introduction of statutory duties under the Victim and Prisoners Act (2024) and Victim Information Requests: Code of Practice (2026).

The CPS Pre-Trial Therapy Guidance (2022) has been temporarily withdrawn from publication (as of May 2026). The legal authority for the principles it contained now sits within the Code of Practice (2026). Bluestar will update this resource when the revised guidance is published.

The CPS has made the following commitment to victims [i]: "*You may be having or thinking about having therapy or counselling to help you recover from your experiences. We are clear that you should receive, as soon as possible, effective treatment and therapeutic support to assist your recovery.* ***Therapy should not be delayed for any reason connected with a criminal investigation or prosecution.***"

i CPS *Our Commitment to Rape Victims* — www.cps.gov.uk/our-commitment-rape-victims

Victim

The term used for consistency in this document (rather than ‘complainant’, ‘survivor’ or ‘witness’) to refer to an adult, young person or child who has made an allegation that a crime has been committed against them. The term victim is used in this guide only when directly referring to or quoting the CPS guidelines.

Service user

An adult, young person or child who has made an allegation that a crime has been committed against them and for whom a referral has been received by a therapeutic service.

Therapist

Any professionally trained practitioner or one undergoing training who is providing therapy to victims.

Therapy

The range of psychological and emotional counselling and therapeutic approaches and support provided for difficulties that are associated with and/or exacerbated by a criminal offence.

Counselling Services

As defined in the Victim Information Requests: Code of Practice (2026), counselling services are remunerated or voluntary services which offer psychological, therapeutic or emotional support aimed at improving a victim's emotional, psychological and mental health. This includes both registered and unregistered practitioners. The Code provides a non-exhaustive list of who may fall within this definition, including those registered with statutory bodies such as the General Medical Council (GMC), Health and Care Professions Council (HCPC), Nursing and Midwifery Council (NMC), and Social Work England, those on voluntary registers accredited by the Professional Standards Authority for Health and Social Care (PSA), and unregistered practitioners including Independent Sexual Violence Advisers (ISVAs), Independent Domestic Violence Advisers (IDVAs), Independent Stalking Advocates (ISAs), ministers of religion, and other unregistered persons.

Counselling services are subject to enhanced statutory protections, including a higher threshold for requesting information.

Therapy Notes

Throughout this guide we use the term **Therapy Notes** to refer to sessional notes taken by practitioners delivering any recovery support services. It is important to note that a TPM request can cover any material held about a client – including session notes, assessment tools, letters to referrers, correspondence with other agencies, drawings and artwork created in sessions, and phone or email records. Services should keep a clear delineation between record types in their case management system to make it easier to identify what is held, what is relevant, and what requires redaction when a request arrives. Process notes and supervision notes should be kept separately and are unlikely, although permitted, to be requested for the purposes of a TPM request.

Key Messages

Key messages for pre-trial therapy

- Therapists and victims are encouraged to jointly agree on what type of therapy is best and when is the right time for such therapy. Neither the police nor the CPS may decide this.
- If a victim decides therapy would be helpful for them, it should not be delayed for any reason connected with a criminal investigation or prosecution.
- There are benefits of therapy for victims engaging in the criminal justice process.
- Certain therapeutic approaches may present challenges for the criminal justice process and victims should be informed of this by their therapist – the victim's wellbeing should take precedent over whether to access the service. All forms of therapy are permitted pre-trial.
- Therapy records are presumed not to be necessary or proportionate to request. They can only be requested if there is an exception to that presumption, the records are likely to have substantial probative value.
- Therapists, investigators and prosecutors must comply with data protection and safeguarding legislation when processing therapy notes.
- Only in rare and very specific circumstances can a Witness Summons order the release of notes against the wishes of the victim (or their parent/carer).

Key Messages

Key messages from Victim Information Requests: Code of Practice

- Requests for therapy, counselling and support records are subject to statutory duties under the Victim Information Requests Code of Practice.
- All requests must be necessary and proportionate and based on a reasonable line of enquiry to the investigation.
- For counselling services, a higher threshold applies – requests should only be made where the information is likely to have substantial probative value and be authorised at Chief Inspector level or above. This applies whether the service is medical or non-medical. The key difference is that for medical records, police must obtain the service user's consent before approaching the service; for non-medical records, police must notify the service user and record their views and agreement. The full framework is set out in the Responding to Notes Requests section.
- Police must inform the victim of the request, seek and record their views, and inform them of their right to object. In addition, medical notes require police to seek consent.
- The starting presumption under the Code is that counselling records are not necessary and not proportionate to request. The burden is on the police to demonstrate why an exception applies.
- Requests should arrive on the NPCC Third Party Material Request Form. If a request arrives without this form or without all required elements, services are within their rights to return it and ask for resubmission.
- TPM requests are voluntary. Services are only legally obliged to respond via a formal witness summons. Bluestar's preferred position is a client-centred approach that supports the client to make an informed choice.

Referral into Service

When a referral is received for a child or an adult who has alleged abuse (i.e., the service user), it is important that the therapist is aware of any ongoing criminal investigations, and explores the potential for future criminal investigations, so that they can apply the protocol for pre-trial therapy. Services should include a relevant question in the referral in process, such as:

- **Are there any ongoing criminal investigations related to the reason for referral?**
- **At what stage in the criminal justice process is the case?**

There is variation across England and Wales in how services approach this. Some services request a Summary of Allegation before starting therapy, so they can identify whether any new or additional disclosures relate to the incident under investigation. This can be particularly helpful when working with assessment for harmful sexual behaviour, as it reduces the need for the service user to re-tell their story and supports the principle of data minimisation.

In practice, most voluntary and community sector therapy and support services do not have access to a Summary of Allegation before or during therapy and have limited contact with the police or officer in the case (OIC). A Summary of Allegation may not be available to you. In most cases a service user will have been referred specifically for their experience of trauma and you do not need a Summary of Allegation to proceed with support.

If you do wish to request one, seek consent from the service user first. You can then request it from the original referrer – for example a Sexual Assault Referral Centre (SARC) or Independent Sexual Violence Adviser (ISVA) service – or contact the OIC directly. See the example template (Appendix 1). Where a Summary of Allegation is not available, it is advisable to request at minimum the name of the charge under investigation, which can be sought via your referral form.

Decision to commence therapy pre-trial

Therapists are encouraged to explain the options and jointly agree with each service user on what therapy is best and when is the right time for that therapy, ensuring that the needs of the service user are prioritised. These decisions are not for the police or CPS to make. The therapist has a unique relationship with the service user and can provide reassurance in the pre-trial period by explaining the impact of the criminal justice process on therapy and confidentiality.

The role of the therapist is to:

- Discuss suitable therapeutic options with the service user, agreeing on the type(s) of therapy and when to proceed.
- Advise on the potential implications of certain therapies, including guided imagery, dream interpretation, free association and hypnotic age regression, which can be viewed by some as leading to false memories.
- Support the service user if the police and CPS seek consent to access their notes.

The service user is encouraged to inform the OIC that they are accessing therapeutic support. The therapist can play a vital role in informing the OIC and CPS of the benefits of pre-trial therapy and providing reassurance that they will be following the CPS guidance. The service user, therapists and therapy services are under no legal obligation to let the OIC know that therapy has commenced.

Benefits of pre-trial therapy

After traumatic events, such as sexual abuse, a child or adult's brain can struggle to sequence events, access memories and recall language, all of which are essential to giving evidence and being cross-examined in a criminal trial. The changes to the brain can include:

- Under-activation of the 'thinking brain' (pre-frontal cortex), resulting in difficulties concentrating and processing.
- Under-activation of the 'emotional regulation centre' (anterior cortex), resulting in difficulties managing emotions and in being more reactive or subject to triggering.
- Over-activation of the 'fear centre' (amygdala), resulting in difficulty feeling safe, being calm and sleeping.

Difficulty accessing memories can be more pronounced in children, whose memories are organised differently and can be affected by language abilities and social understanding. Children have generally had fewer experiences than adults and can find it harder to interpret or understand abuse experiences.

Memories of traumatic events can be challenging to recall, as the raw information received at the time of the event is processed by the amygdala (fear centre) in the brain and is therefore not stored by the brain in an organised way for easy recall. For more information you can watch a video from the London Trauma Specialists, 'The Brain Model of Post-Traumatic Stress Disorder (PTSD)':

Pre-trial therapy allows a service user to talk about their emotions and feelings and what triggers them and to develop the skills and confidence to articulate a narrative of their experience. The National Institute for Health and Care Excellence (NICE) guideline for post-traumatic stress disorder (PTSD)[ii] states:

> '***Do not delay or withhold treatment for PTSD solely because of court proceedings or applications for compensation***.
> *Discuss with the person the implications of the timing of any treatment to help them make an informed decision about if and when to proceed, in line with Crown Prosecution Service guidance on pre-trial therapy.*'

ii *National Institute for Health and Care Excellence (2018). Post-Traumatic Stress Disorder Guideline — www.nice.org.uk/guidance/ng116*

Contracting at the start of pre-trial therapy

An important part of therapeutic contracting pre-trial includes introducing the service user to the concepts of record keeping, information sharing, confidentiality and disclosure of notes as part of the criminal justice process.

The therapist should explain to the service user that pre-trial therapy is the provision of therapy while a criminal investigation is still underway and before an allegation has gone to trial. Key facts to share about pre-trial therapy are in **Box 1**.

Box 1: Key facts about Pre Trial Therapy

If a service user wants to talk about their abuse in therapy, they should not be stopped.

However, they should be reminded that any new information about the allegation under investigation or new disclosures will be recorded, primarily as good safeguarding practice not solely for criminal justice purposes.

As part of the criminal justice process, therapy notes can only be requested if they meet the substantial probative value test, with Chief Inspector authorisation, and on the NPCC TPM form.

Confidentiality applies unless there is a safeguarding concern or a lawful reason for information to be shared – for example, a police request that meets the required legal threshold. We will always tell you if this happens.

The therapist will check that the service user understands the process. For medical records, police must have obtained consent before approaching the service. For non-medical records, police must have notified the service user and recorded their views – this is the responsibility of the police, not the therapist.

Service users do not have to share their notes if the police ask, they have a right to say no. The police can only compel release of notes via a formal witness summons.

These approaches to therapy may present challenges for the criminal justice process, including hypnotic age regression, deliberate attempts to recover forgotten memories, leading questions and recovered memory therapies. If the service user wants to access these therapies they should not be stopped, but should be informed of the risks.

After providing information about pre-trial therapy, the service user's written agreement should be sought at their first appointment, before therapeutic support commences. In some instances, it will be helpful to offer this information in an easy read format. Article 9 (2) (a) of the General Data Protection Regulation (GDPR), on special category data, requires therapists to gain explicit consent[iv] for collecting, using, and storing special category data. This information is usually set out in a service's privacy notice or an 'Agreement for Service', which can be created to include a section on notes for pre-trial therapy. See **Box 2** and **Box 3** for suggested content.

Box 2: Suggested content for an 'Agreement for Service'

An agreement, contract or consent agreement for therapy should explain:

- How information shared by the service user will be stored and used.
- That there may be times when the service cannot keep information confidential.
- That if the service user (or another person) is at risk and needs safeguarding, the service will need to share this information with partner agencies.
- That if, during pre-trial therapy, the service user shares something for the very first time that has never previously been reported to the police, this will be recorded accurately. This does not mean the notes will automatically be shared.
- How the service will respond to a disclosure of notes request from the police or CPS, including seeking consent or views of the service user to share.
- That the police must use the NPCC TPM form and any note request must meet the substantial probative value test.
- That, in rare circumstances, a Crown Court can produce a witness summons to access notes.

iv *Explicit consent is not formally defined in the UK GDPR. Consent that is inferred from a person's actions, such as their attending an appointment, cannot be treated as explicit consent. Explicit consent must be expressly confirmed in words. A consent statement does not have to be written by a service user in their own words; it can be written by a therapist in a privacy statement or agreement to service. However, the therapist must make sure that the service user can clearly indicate that they agree to the statement, for example by signing their name or ticking a box next to it.*

Box 3: Easy read

What am I consenting to? You are consenting to us keeping a record of your care and agreeing to who we can share the notes with.

Why is it important? Your notes are kept confidential. If we are worried about your safety or someone else's, we may have to share some information to keep you safe. In very rare circumstances, some information may be shared with the police. We will always talk to you first.

The therapist should spend time explaining the agreement to the service user to ensure that they understand the content. Each service user (or their parent/carer) should be asked to sign the agreement to access therapy pre-trial.

Where the therapist has access to the Summary of Allegation, the therapist should explain to the service user that a 'Summary of the Allegation' has been provided (or requested) from the OIC and that the therapist will not, therefore, be asking the service user to recall the detail of the abuse during sessions.

Types of therapy

Trauma-focused therapy can enable the processing of traumatic events and reduce the likelihood of dissociation in court. It may lead to additional memories of the incident being recalled or to the ordering of fragmented and disorganised memories into a more coherent shape. Therapists can provide service users with the skills to manage their emotions with less regular or less severe dissociation, to help them communicate their needs, to identify when they are dissociating and to make sense of any explicit memories they have about their trauma. For more information about dissociation, visit Beacon House resources. For children, the central purpose of the therapy should be to help them make sense of what has happened. Cognitive and behavioural therapies work well alongside creative therapies, including art, music and dance.

Therapists have a role in providing assurance to the police and CPS colleagues of the benefits of pre-trial therapy.

All therapeutic support should begin with an assessment of need, listening to the hopes of the service user and enabling a formulation-based approach. The offer of therapeutic support should be decided jointly between therapist and service user on the basis of the assessment. The assessment process may require more than one session, and it will be necessary to consider initial stabilisation work, including resources and signposting to other support where available, especially when there is a long wait to start therapy. The lengthy delays for charging decisions and trial that occur in the criminal justice system can also become part of the trauma; it may be important to reflect on this in therapy.

Certain therapies may present challenges to the criminal justice process, however if service users want to access these therapies they should not be stopped as their wellbeing must take precedent, but they do need to be informed of the risks.

Table 1: Summary of therapeutic options

Beneficial therapies	Child-focused therapies	Present challenges for CJS
Narrative exposure therapy (NET) Prolonged exposure (PE) Trauma-focused Cognitive behaviour therapy (TF-CBT) Sensorimotor and body-oriented therapies Eye movement desensitisation and reprocessing (EMDR) Group therapy – taking care to avoid sharing case information	Psychoeducation, including safety, sexual health and relationships Relaxation and grounding techniques Recognition and expression of feelings Empowerment Addressing psychological consequences of abuse, e.g. guilt, shame and difficulty trusting others Assertiveness and communication skills Trauma-focused therapy to process traumatic memories Wishes, hopes, and fears for the future Group therapy – taking care to avoid sharing case information	Recovered memory therapy, which involves victims identifying memories of childhood abuse that they had no prior recollection of Explain to victims that techniques associated with an increased risk of false memories, including guided imagery, dream interpretation, and hypnotic age regression – can be viewed by some legal professionals as leading to false memories Deliberate attempts to recover forgotten memories Leading questions, suggesting to a victim what may have happened

Group therapies which focus primarily on disclosing or sharing experiences related to a criminal offence can present difficulties to the criminal justice process. This is because there is a risk that defence teams can argue that hearing the accounts of others can change or influence a service user's memory. The following options can enable service users to access the evidence-based benefits of a group setting [v] [vi] [vii] [viii], whilst minimising the risk of impacting the criminal justice process:

- Workshops and courses for service users that provide psychoeducation, peer friendships and managing the impact of the trauma of sexual violence and abuse.
- Workshops and courses for parents of children who have experienced sexual abuse, providing psychoeducation to equip parents to support their children.

Each workshop/course needs to have a clear contracting process with ground rules, including that the attendee will not share details of their (or their child's) abuse.

The CPS advises minimal note keeping in these scenarios, limiting the record to the topic of the session and confirmation of the attendance of the service user. Even with stronger protections around TPM requests, the principles that remain best practice are data minimisation, the privacy of all group members, and the principle that third-party information about others should never be in group records. See the Bluestar Project Guide to Running Groups Pre-Trial for further information.

The previous CPS Guidelines discouraged services from delivering groups pre-trial. The new guidelines are clear and no longer say 'don't do groups', but do recommend certain types of groups. If service users want to access pre-trial therapy groups they should not be dissuaded if this is the right option for them, but they do need to be made aware of the risks.

v *Allen, S.N., & Bloom, S.L. (1994). Group and family treatment of post-traumatic stress disorder. Psychiatric Clinics of North America, 17, 425–437*

vi *Charuvastra, A., & Cloitre, M. (2008). Social bonds and post-traumatic stress disorder. Annual Review of Psychology, 59, 301–328*

vii *Harney, P.A., & Harvey, M.R. (1999). Group psychotherapy: An overview. In B.H. Young & D.D. Blake (Eds.), Group treatments for post-traumatic stress disorder (pp.1–13). New York: Brunner/Mazel*

viii *Litwack, S.D., Beck, J. G., & Sloan, D.M. (2015). Group treatment for PTSD. In U. Schnyder & M. Cloitre (Eds.), Evidence based treatments for trauma-related psychological disorders. A practical guide for clinicians (pp. 433–448). New York: Springer*

Note keeping in sessions

Note keeping in sessions should follow existing organisational and professional guidance on record keeping [ix] [x] [xi] [xii] [xiii], information sharing and information security, as well as the current legal framework.[xiv] [xv] [xvi] In addition, there should be a particular focus on ensuring notes are factual, accurate and timely and do not include the therapist's self-reflections or interpretations. The note-keeping guide published alongside this protocol provides an easy read summary of best-practice note keeping during pre-trial therapy.

Good note keeping exists first and foremost to protect clients, reflect their voice, and fulfil safeguarding and data protection responsibilities, not to anticipate a criminal justice process. The practical effect of the new higher threshold is that most therapy notes will never be requested. The main exception may be a verbatim first disclosure. Bluestar recommends recording first disclosures on a separate disclosure template at the time (see Appendix 2), rather than embedding them in a full session note, to simplify any future review and minimise risk of inadvertently sharing material that does not meet the threshold. However, sharing therapy notes should not be the first course of action – a statement from the service may be more appropriate and the principle of data minimisation still applies.

ix *British Psychological Society (March 2019). Electronic Records Guidance*

x *https://www.hcpc-uk.org/standards/meeting-our-standards/record-keeping/*

xi *British Association of Art Therapy. Therapy Note Writing and the Law*

xii *British Association of Counselling and Psychotherapy. Confidentiality and Record Keeping Within the Counselling Professions*

xiii *British Association of Counselling and Psychotherapy. Good Practice in Action 070: Working in the counselling professions with the CPS guidance on pre-trial therapy with adults in the criminal courts*

xiv *EU General Data Protection Regulation*

xv *Freedom of Information Act* and *Mental Capacity Act*

xvi *Ministry of Justice, Criminal Procedure and Investigations Act 1996 (section 23(1)) Code of Practice (March 2015)*

Case notes

Session notes should be **simple**, **factual**, and **succinct**, including only:

The presentation of the child, parent, or adult service user, including any factor necessitating risk management or safety planning, e.g. self-harm

Who was present in the session and the time/date

Topics discussed or the overall theme of the session

Resources used, e.g. sand tray, conversation cards or paint

Strategies discussed, e.g. de-escalating, distraction or dissociation

Simple formulation, presented as fact

Next steps, including onward referrals where relevant

Session notes **should not** include:

Exact or verbatim detail of what was said, unless a new or additional disclosure is being recorded (see section 8 below)

Statements that suggest misplaced guilt and shame, e.g. 'I blame myself' or 'I feel very guilty for what happened'

Jargon or generalisations, e.g. 'Jim has attachment issues'

The therapist's self-reflections or hypotheses (as if they were factual)

The therapist's interpretations (as if they were factual)

If the service user makes statements or gives factual information that is recorded, this must be made clear by the use of quotation marks or some other means, e.g. 'the client said that...'. If the client's words are recorded in the notes, they must always be accurately quoted, especially where dates, places, times or names are included.

Additional information

These documents **may be requested** to share when relevant:

Assessment tools, e.g., RCADs, PDQ, TSCC and GAD. These require professional interpretation and may need explanatory cover notes if requested by the police or CPS

Letters to referrers and the professional network. Care should be taken in letters and reports to differentiate between the therapist's hypothesis and interpretations from factual information. Any third-party information (e.g. information about another family member) must be redacted

These documents are **unlikely to be within scope of most TPM requests but can be requested**:

Additional information, e.g. a service user's often highly sensitive personal comments and drawings/artwork

Third party email correspondence or meeting notes from conversations with other agencies

Process notes, i.e. the therapist's written observations and impressions

Supervision notes and case management, which are clearly defined as the therapist's opinions and hypotheses

New or additional disclosures made during therapy

Therapy can enable descriptions of incidents that were previously blocked, for example, by shame or self-blame, to come to mind and be shared. A detailed and accurate recording of new disclosures is always good safeguarding practice, regardless of whether a criminal investigation is underway. What we write down exists first and foremost for the benefit of service users and to fulfil our safeguarding and data protection responsibilities. Bluestar recommends using the separate disclosure template (Appendix 2).

Having ensured they are familiar with the summary of the allegation before the session (if using), the therapist should be aware of any new or additional disclosure about the case or any new incident as it is being shared. If the therapist suspects a service user is making a new or additional disclosure, they should commence taking detailed notes – verbatim where possible – of what is said by the service user and by the therapist. It is important to confirm with the service user whether the disclosure is new or additional and whether the police have been informed.

The therapist should explain that they are taking detailed notes so that the information can be recorded accurately, but that they are still listening carefully. They should also ask them to confirm the notes for accuracy and inform them if the information will be shared and of the likely next steps.

Immediately following the session, the therapist should finalise the session notes, adding any further details, including times and location. Adult victims should be supported to report new disclosures to the police via 101, if that is in line with their wishes. Therapists have a duty to report any new or additional disclosure made by a child directly to social care for safeguarding reasons if the child or other children are at continued risk. In these cases follow your local/service-level safeguarding procedures.

A **first disclosure**, where a service user tells the therapist something for the very first time that has never previously been shared with the police or anyone else, is one of the limited scenarios that may meet the substantial probative value threshold. This is because of the evidential primacy of an original account. If you believe a service user is telling you something for the very first time, accurate verbatim recording is especially important.

An **additional disclosure** about the incident that the police already know about does not meet the threshold and would not be shared through the TPM process.

Training and supervision of staff

All staff working in services supporting victims of alleged sexual abuse should receive training in pre-trial therapy, including appropriate types of therapeutic support, responding to new or additional allegations, the notes request process and note keeping.

Supervision can be used for the ongoing review of notes quality and content and include the chance to reflect on notes through the eyes of a defence barrister. Services should seek advice from the OIC or local CPS when developing a local protocol.

Responding to notes requests

During criminal investigations, the starting presumption is now that counselling records are not necessary and not proportionate to request. The burden is on the police to demonstrate an exception to this presumption and so services should expect to receive substantially fewer note requests. TPM requests are voluntary and services are only legally obliged to respond via a formal witness summons.

Under the Victim Information Requests Code of Practice (2026), all requests for third party material must be based on a reasonable line of enquiry and be necessary and proportionate. For counselling services, a higher threshold applies. It is important to keep lines of communication with the OIC and CPS open to understand more about each request.

The CPS advises that the police must only collect material from services if:

- It is strictly necessary as part of a reasonable line of enquiry that points towards or away from a suspect;
- The request is specific, necessary and proportionate; and
- It is not being made on a speculative basis, or for entire sets of notes.

The new Code of Practice (2026) strengthens the thresholds which apply to different types of notes. Table 2 below sets out those differences and how they apply to notes kept by a range of services. Guidance is still to be confirmed on the position for doctors, nurses, social workers, education records. However, where doctors, nurses, social workers or education practitioners are providing psychological, therapeutic or emotional support aimed at improving a victim's emotional, psychological and mental health, there is a likelihood that they could fall within the definition of counselling services and be able to make the case for the enhanced protections to apply. If you are in this category and are unclear, seek legal advice or support from your data protection lead.

Table 2: TPM Guidance for accessing Counselling and Non-counselling notes

	Counselling notes*	Non-counselling notes
Medical services	**For example: NHS psychologist** ✲ Police must obtain consent before approaching the service ✲ Substantial probative value threshold applies ✲ Chief Inspector sign-off required	**For example: GP records, SARC** ✲ Police must obtain consent before approaching the service ✲ Standard reasonable line of enquiry test applies
Non-medical services	**For example: Counsellors, ISVAs, IDVAs, school therapists** ✲ Police must notify the service user and seek their views ✲ Substantial probative value threshold applies ✲ Chief Inspector sign-off required	**For example: School records, employer records** ✲ Police must notify the service user and seek their views ✲ Standard reasonable line of enquiry test applies

**Counselling records refers to records held by a remunerated or voluntary service which offers psychological, therapeutic or emotional support aimed at improving a victim's emotional, psychological and mental health. The Code provides a non-exhaustive list of who may fall within this definition, including those registered with statutory bodies such as the General Medical Council (GMC), Health and Care Professions Council (HCPC), Nursing and Midwifery Council (NMC), and Social Work England, those on voluntary registers accredited by the Professional Standards Authority for Health and Social Care (PSA), and unregistered practitioners including Independent Sexual Violence Advisers (ISVAs), Independent Domestic Violence Advisers (IDVAs), Independent Stalking Advocates (ISAs), ministers of religion, and other unregistered persons.*

For counselling services, a higher threshold applies – requests should only be made where the information is likely to have substantial probative value and be authorised at Chief Inspector level or above. This applies whether the service is medical or non-medical.

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

- That the record exists
- That the victim received counselling
- That the records merely relate to the incident under investigation, or contain an account of the facts of the offence given by the victim (Code of Practice, paragraph 91(c))
- That the relevance of the records to the investigation is purely speculative or conjectural
- Speculation about credibility based solely on receipt of counselling
- That the notes relate to the victim's reputation
- That the notes relate to the victim's sexual activity with any person, including the accused
- That the records may reveal allegations, unrelated to the offence under investigation, of abuse to the victim by a person other than the accused
- That the records were made close in time to the offence, or to when the victim reported it

The burden is on the police to demonstrate why a request meets the threshold – not on the service to justify why it does not.

Services should expect:

- The request to arrive on the NPCC Third Party Material Request Form, with confirmation that early CPS advice has been sought; alongside a copy of the NPCC Guidance for Third Parties;
- For counselling records: A clear articulation of how the substantial probative value test is met and Chief Inspector authorisation;
- For medical records: Evidence of consent; and
- For non-medical records: Evidence that the victim has been notified and their views recorded.

Therapists are encouraged to seek the above information before commencing the information-sharing process. The therapists should critically assess whether the request demonstrates an exception to the presumption against disclosure and has substantial probative value and should seek legal advice from their employer or elsewhere if they are unsure (for more detail, read our Responding to Notes Requests Guide). If the service user has not been involved in the process, the notes should not be released; it is the responsibility of the OIC to first obtain the service user's consent (for medical records) or to notify the service user and record their views and agreement (for non-medical records). The decision about what to redact rests with the practitioner, based on professional duty and data protection obligations. Once redacted, the service user should be offered the opportunity to review the notes and confirm their agreement to share them – they do not determine what is included or excluded.

Before extracting notes, consider whether a targeted statement addressing the specific reason for the request, rather than the records themselves, would meet the police's evidential need. A short statement may be all that is required, rather than extracting and redacting a full set of notes. This is now explicitly encouraged by the 2026 Code of Practice, police should trust practitioners' professional judgment.

Services can provide handling instructions when sharing material with the police, indicating that some or all of it should not be passed on to the defence. This is optional, and there is a box for it on the NPCC TPM Request Form. It tells the police to treat that material in confidence, and it will be treated as Sensitive under the Criminal Procedure and Investigations Act 1996. Most material should never reach the defence at all. Only material that could undermine the prosecution's case or assist the defence needs to be considered for onward sharing in the first place. Where it does, and it has been marked Sensitive, a judge decides whether it should be disclosed, at a Public Interest Immunity hearing. Services will be notified of any such hearing and can make representations, but the decision rests with the court, not the service (For more information see NPCC Third Parties Guidance Sections 20-21). Because this involves a formal legal process, services should seek their own legal advice before relying on handling instructions to protect sensitive material.

Services should be alert that sometimes service users are asked to make a Subject Access Request to access notes via that route. This is not permitted. Services should add a question to their SAR process to ensure that service users have not been asked to access their information to circumvent the TPM process.

Therapists and service managers should undertake a series of checks before releasing notes:

- On receipt of the notes request, confirm for which notes and which time period the police/CPS are seeking access, as well as the rationale for requesting the notes and that there is authorisation from a Chief Inspector. Critically assess whether the threshold for substantive probative value has been met.

  If the threshold does not appear to be met. You can:

  - ***Seek legal advice***
  - ***Go back to the police to explain why you believe the threshold is not met, and ask for the request to be reviewed by the Chief Inspector or CPS***
  - ***Propose an alternative, such as a brief statement addressing the specific reason for the request, or narrower parameters***
  - ***Tell the police that you will only provide the records on receipt of a witness summons***
  - ***You do not have to extract or share notes because a request has been made***

- If the threshold is met and the request is compliant, before extracting notes, consider whether a targeted statement addressing the specific reason for the request, rather than the records themselves, would meet the police's evidential need

- Confirm with the service user that they agree to the police/CPS requesting their notes and that they understand why this is necessary

- Extract the notes requested, e.g., session notes and letters/reports, and if relevant any correspondence among the professional network and supervision notes

- Redact the notes as needed, e.g., to remove notes relating to third parties

- Finalise the redacted notes with service manager and advice from information governance or legal team, as required

- Complete the third-party response section of the NPCC TPM form, noting your decision, the legal basis for sharing, any handling instructions, and what has been redacted and why

- Offer the service user the opportunity to review the redacted notes before they are shared, and confirm their agreement to share

- Provide additional support sessions to the service user (as required)

- Provide the redacted notes to the police/CPS via secure email

Disclosure of Notes

Once therapy or support records have been obtained by the police, having met the higher threshold set out above for counselling records, the same rules apply as for any other third-party material.

Disclosure of therapeutic notes to the defence should only occur if the notes meet the disclosure test – capable of undermining the prosecution's case or assisting the defence case.

The Attorney General's Guidelines on Disclosure describe this as a balance between two rights: the right to a fair trial (Article 6 of the ECHR) and the right to privacy (Article 8 of the ECHR). Where notes meet the disclosure test but raise privacy concerns, this is dealt with through public interest immunity. The service can make representations to the court about this; if you included Handling Instructions at the point of sharing information on the TPM Form this is one of the ways in which your views would be considered.

A victim should be informed which notes have been disclosed to the defence, so there are no surprises at trial.

Responding to Witness Summons

Where consent to share is not granted by a service user (or the parent/carers of a service user), the service has a legal duty to share information following a Witness Summons. A Witness Summons may be received from police as part of a criminal investigation or from a solicitor as part of a family court or civil proceeding. A Witness Summons is a formal court order specifically naming the service and requiring it to produce records. Only a witness summons naming the service creates a legal obligation to comply. Services will be informed before the matter goes to court and have an opportunity to put their views in writing or attend the hearing. The process of note sharing in this instance is similar to the process following a police or CPS request (described above).

The therapist/service should:

- Confirm that the request is from the police/solicitor's office and that the accompanying court order relates to the service user
- Confirm the exact details of notes requested and the date for submission of the notes
- Contact the organisation's IG lead and/or legal team for assistance with a timely response and advice on redactions
- Extract the notes requested
- Redact the notes as necessary, ensuring a valid rationale for redaction with a supporting legal framework
- Provide the redacted notes to the service manager for review
- Provide the redacted notes to the IG lead and/or legal team for review and sign off
- Offer the service user a session with the therapist to read the notes before they are sent to the solicitor's office
- Provide the redacted notes to the police/solicitor via secure email

Appendix 1 – Template

Summary of Allegation

Name of victim: Firstname Lastname	**Date of birth:** DD/MM/YYYY
Name of alleged perpetrator: Firstname Lastname	**Has the alleged perpetrator been charged?** Please select – Y/N
Details of charges or counts faced by the alleged perpetrator: *(Please include the current stage reached in criminal proceedings.)*	
Summary of allegations made by the victim: *(Please note, this summary should provide enough information for the therapist working with the service user to recognise a variation from the original allegations made or to distinguish a new disclosure.)*	
Dated: DD/MM/YYYY	**Signed:**
Name of officer: Firstname Lastname	
Email: Officer Email address	
Telephone: Officer telephone number	

Appendix 2 – Template

Recording a New or Additional Disclosure

To be completed by the therapist.

Name of service user: Firstname Lastname	**Date of birth:** DD/MM/YYYY
Date of therapy session: DD/MM/YYYY	**Time:** HH:MM
Location of therapy session: Location	**Name and role of therapist:** Firstname Lastname, Role
Any other person(s) present and their role(s): Firstname Lastname, Role	
What was the disclosure? *(Record verbatim where possible, using speech marks to denote exact wording.)*	
What did the therapist say in response? *(Record verbatim where possible, using speech marks to denote exact wording.)*	
What action was taken by the therapist in response to the disclosure?	
Any additional observations?	

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