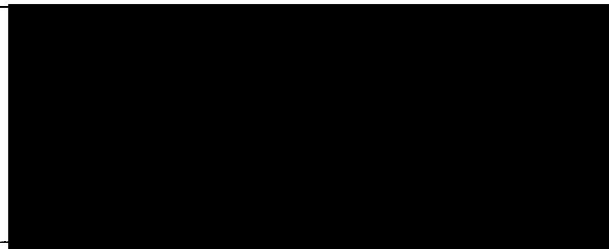


**IN THE MATTER OF THE ROYAL COMMISSION  
INTO FAMILY VIOLENCE**

**ATTACHMENT DW-12 TO STATEMENT OF DAVID WATTS**

Date of document: 31 July 2015  
Filed on behalf of: the Applicant  
Prepared by:  
Victorian Government Solicitor's Office  
Level 33  
80 Collins Street  
Melbourne VIC 3000



This is the attachment marked '**DW-12**' produced and shown to **DAVID WATTS** at the time of signing his Statement on 31 July 2015.

Before me: ...



An Australian legal practitioner  
within the meaning of the  
Legal Profession Uniform Law (Victoria)

## UK Domestic Violence Disclosure Scheme – Clare’s Law

### Background

Clare Wood was murdered in February 2009 by her former partner, George Appleton, who had convictions for harassment and assault of former partners, which included two prison terms. Partly in response to campaigning by Ms Wood’s father and national attention, the UK government implemented a 14-month pilot disclosure scheme in 2012. In March 2014 the UK Government rolled out across England and Wales the Domestic Violence Disclosure Scheme (DVDS), otherwise known as ‘Clare’s law’.<sup>1</sup>

The DVDS scheme introduces a framework with recognised and consistent processes to enable the police to disclose information about previous violent offending by a new or existing partner where this may help protect a person from further violence.

### Objectives

The main objectives of the UK disclosure scheme are to:

- strengthen the ability of the police and other multi-agency partnerships to provide appropriate protection and support to victims at risk of domestic violence and abuse
- reduce incidents of domestic violence and abuse
- reduce the health and criminal justice related costs to domestic violence and abuse.<sup>2</sup>

### How does Clare’s Law work?

The scheme introduces two types of processes for disclosing this information: a ‘Right to Ask’ and a ‘Right to Know’.<sup>3</sup>

#### Right to Ask

The Right to Ask scheme enables an individual (A) who has concerns about their partner (B), or a third-party who has concerns on their behalf (C), to ask police about the partner’s previous history of domestic violence and abuse or violent acts where the police would undertake full checks to inform a risk assessment and disclosure. This scheme is modelled on the UK Child Sex Offender Disclosure Scheme.<sup>4</sup>

#### Process

- **Step 1:** after an initial enquiry by A or C to the police, the police undertake an initial check on the Police National Database to identify whether any information is held on B
- **Step 2:** A or C is met face-to-face to confirm their identity and that of B and to confirm the relationship between A and B, and to enable them to complete a formal application for disclosure
- **Step 3:** the police conduct full checks on police database systems to inform a risk assessment for A
- **Step 4:** The police refer information about B to a locally-determined decision making forum, who would then make a decision on whether to disclose the information to A. Such a decision would be informed by the risk assessment and whether appropriate safety measures can be put in place for the applicant. If disclosure is approved, then the

<sup>1</sup> Metropolitan Police Domestic Violence Disclosure Scheme (2015) <http://content.met.police.uk/Article/Domestic-Violence-Disclosure-Scheme---Clares-Law/1400022792812/1400022792812>

<sup>2</sup> UK Domestic Violence Disclosure Scheme Factsheet (2015) <http://www.haveyoursay.nsw.gov.au/assets/Uploads/DVDS-UK-Fact-sheet-Clares-Law.pdf>

<sup>3</sup> UK Domestic Violence Disclosure Scheme Factsheet (2015) <http://www.haveyoursay.nsw.gov.au/assets/Uploads/DVDS-UK-Fact-sheet-Clares-Law.pdf>

<sup>4</sup> UK Home Office Domestic Violence Disclosure Scheme Impact Assessment (2013) [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/260899/DVDS\\_IA.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/260899/DVDS_IA.pdf). Note the Impact Assessment notes that the UK Child Sex Offender Disclosure Sch

disclosure would be made by the police with an Independent Domestic Violence Adviser (IDVA) present in order to provide support to A if required.<sup>5</sup>

The DVDS Impact Assessment states that information is not automatically disclosed following a request. The police conduct checks and risk assessments on requests before potentially making a referral to a local multi-agency decision-making forum, where a decision is made about whether to make a disclosure. The forum must justify that there is 'pressing need' to make a disclosure, and that a disclosure is lawful and proportionate to protect the potential victim from future crime. If at any stage of the process the police identify that the potential victim is at immediate risk of harm and there is a pressing need to disclose which is lawful, proportionate and necessary, they can bypass the decision-making forum stage and make a disclosure straight away.<sup>6</sup>

### **Who may an individual disclose information to?**

DVDS Guidelines state that disclosures must be treated as confidential. Information must not be shared without consent from Police or the person who provided the information.

Subject to the condition that the information is kept confidential, a person may:

- use the information when making decisions about your safety
- use the information to make decisions about keeping any children involved in the situation safe
- use the information to seek further support from Police and other agencies
- seek advice on how to keep yourself and others safe.

Police may take action against a person if the information is disclosed without their consent. It is an offence (under Section 55 of the *Data Protection Act 1998*) for a person to 'knowingly or recklessly obtain or disclose personal data without the consent of the data controller'.<sup>7</sup>

### **Right to Know**

The Right to Know scheme involves police proactively disclosing information in prescribed circumstances to potential victims relating to a subject's previous history of domestic violence and abuse or violent acts.<sup>8</sup> Under this scheme, police proactively disclose information on B which is held on police records (via the UK Police National Database) to the locally-determined decision making forum, who would then consider whether to disclose the information to A and other third-parties. If disclosure is approved, then the disclosure would be made by the police with an Independent Domestic Violence Adviser (IDVA) present in order to provide support to A if required.

The DVDS Impact Assessment states that information is not automatically disclosed to A. The police conduct checks and risk assessments on requests before potentially making a referral to a local multi-agency decision-making forum, where a decision is made about whether to make a disclosure. The forum must justify that there is 'pressing need' to make a disclosure, and that a disclosure is lawful and proportionate to protect the potential victim from future crime. If at any stage of the process the police identify that the potential victim is at immediate risk of harm and there is a pressing need to disclose which is lawful, proportionate and necessary, they can bypass the decision-making forum stage and make a disclosure straight away.<sup>9</sup>

<sup>5</sup> UK Home Office *Domestic Violence Disclosure Scheme Impact Assessment (2013)* [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/260899/DVDS\\_IA.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/260899/DVDS_IA.pdf)

<sup>6</sup> UK Home Office *Domestic Violence Disclosure Scheme Impact Assessment (2013)* [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/260899/DVDS\\_IA.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/260899/DVDS_IA.pdf)

<sup>7</sup> Metropolitan Police (2014) *Domestic Violence Disclosure Scheme – Guidance for Applicants* <http://content.met.police.uk/Article/Domestic-Violence-Disclosure-Scheme--Clares-Law/1400022792812/domesticviolence>

<sup>8</sup> The scheme is based on Chief Constable Moore's recommendation in his 2009 report *Tackling Perpetrators of Violence against Women and Girls*. UK Home Office *Domestic Violence Disclosure Scheme Impact Assessment (2013)* [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/260899/DVDS\\_IA.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/260899/DVDS_IA.pdf)

<sup>9</sup> UK Home Office *Domestic Violence Disclosure Scheme Impact Assessment (2013)* [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/260899/DVDS\\_IA.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/260899/DVDS_IA.pdf)

### Legislative basis

No new legislation or powers have been introduced to enable police to disclose information. The DVDS Impact Assessment states that police officers already have the 'common law' power to disclose any information that is necessary to prevent and detect future crime.<sup>10</sup>

### Enforcement, monitoring and evaluation

The Impact Assessment states that oversight of this policy will be the responsibility of police and public protection agencies.<sup>11</sup> Monitoring and evaluation is to be conducted by the Home Office, which has regular contact with the police and the specialist women's sector. The Home Secretary chairs the *Violence against Women and Girls Inter Ministerial Group* which meets on average every 3 months and consists of representatives from all government departments – other stakeholders (such as the specialist women's sector) attend every other meeting. Other plans for reviewing the scheme are in consideration.<sup>12</sup>

---

<sup>10</sup> UK Home Office *Domestic Violence Disclosure Scheme Impact Assessment* (2013)  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/260899/DVDS\\_IA.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/260899/DVDS_IA.pdf)

<sup>11</sup> UK Home Office *Domestic Violence Disclosure Scheme Impact Assessment* (2013)  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/260899/DVDS\\_IA.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/260899/DVDS_IA.pdf)

<sup>12</sup> UK Home Office *Domestic Violence Disclosure Scheme Impact Assessment* (2013)  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/260899/DVDS\\_IA.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/260899/DVDS_IA.pdf)