

Lincolnshire Police

Policy Document



Common law police disclosures to employers' policy PD 199

Policy document information

Reference number: PD 199

Policy sponsor: ACO

Policy owner: Head of IMU, HQ – Jennifer Johnson

Author: DBS Disclosure Manager IMU, HQ – Sally Wood

Publication date: March 2025

Review date: March 2027

Version history

Version	Date	Reason for issue
5	March 2017	Annual review
6	May 2018	New legislative compliance GDR and DPA 2018 link
7	September 2018	Amendments by DP & FOI Manager
8	March 2019	Biennial Review
9	May 2019	Staff updates
10	January 2021	Biennial Review
11	February 2023	Biennial Review
12	February 2025	Biennial Review

Code of Ethics

All staff involved in carrying out functions under this policy and associated procedures and appendices will do so in accordance with the principles of the Code of Ethics. The aim of the Code of Ethics is to support each member of the policing profession to deliver the highest professional standards in their service to the public.

Legislative compliance

This document has been drafted to comply with the principles of the Human Rights Act. Proportionality has been identified as the key to Human Rights compliance, this means striking a fair balance between the rights of the staff and those of the rest of the community. There must be a reasonable relationship between the aim to be achieved and the means used.

Equality and Diversity issues have also been considered to ensure compliance with the Equality Act 2010 and meet our legal obligation in relation to the equality duty. In

addition, Data Protection, Freedom of Information and Health and Safety Issues have been considered. Adherence to this policy or procedure will therefore ensure compliance with all relevant legislation and internal policies.

Other legislation/law which this policy has been drafted to comply with:

- [Human Rights Act 1998 \(in particular A.14 – Prohibition of discrimination\)](#)
- [Equality Act 2010](#)
- [Crime and Disorder Act 1998](#)
- [H&S legislation](#)
- [Data Protection Act 2018](#)
- [Freedom Of Information Act 2000](#)

Security classification

Policy to be published on Intranet: Yes

Policy to be published on Force Website: Yes

Authorised Professional Practice (APP)

This Policy has been checked against APP. Lincolnshire Police has adopted the APP provisions, with supplementary information contained herein, which reflects local practice and the needs of the communities served by Lincolnshire Police.

Those provisions are shown in the links below and can be accessed via the home page of the APP website:

Sharing police information on the College of Policing APP website

1. Policy aims (Purpose)

- 1.1. This policy aims to outline the narrow scope for the police to use their professional judgement to make common law-based disclosures in circumstances where they consider this to be necessary to support public protection. This compliments but remains separate from the statutory DBS arrangements.

2. Policy statement (Key information)

- 2.1. This policy relates to the circumstances in which the police use common law powers to disclose police information concerning an individual. Such disclosure is intended to enable a third party to consider risk mitigation measures in respect of an employment or voluntary role believed to be undertaken by that individual. It supersedes the guidance contained in Home Office Circular 06/2006 which has been withdrawn.
- 2.2. The police have a common law power to share information with third parties when a policing purpose is established (with each case being considered on its own merits). The general presumption is that the police should maintain the confidentiality of personal information, but legal opinion supports the disclosure of individuals' sensitive personal information to relevant parties where a "pressing social need" can be established. A pressing social need might be the safeguarding or protection from harm of an individual, a group of individuals, or society at large.
- 2.3. Each working day the a staff member of IMU will research the daily CLPD business objects search results for information on arrested individuals and those who have been voluntarily interviewed who may pose a risk to children and/or vulnerable adults through their employment and consider whether the information should be disclosed by the Chief Officer or Delegate. When information is received either by searching the daily business objects search results, or via an internal source, the Imu staff member will follow the steps as detailed on the process map as at Appendix A.
- 2.4. At the time of disclosure or request the IMU staff member will review all information held on an individual and update the designated systems accordingly with any information that is useful to the corporate knowledge of Lincolnshire Police, and which is not currently known.
- 2.5. The Home Office review of the Notifiable Occupation Scheme (NOS) identified that a significant number of the regulatory bodies in receipt of NOS notifications were unwilling or unable to act on non-conviction

information. This guidance does not provide for the disclosure of convictions as: -

- It is unlikely that the urgent and pressing requirements will then be fulfilled due to the elapse of time, and
- Employers and regulators can be made aware of convictions via the statutory disclosure route provided by Part V of the Police Act 1997 and use of the DBS Update Service.

2.6. NPCC will maintain a list of Regulators and Licensing Authorities (together with contact details) that are able to demonstrate that they can and do take immediate action on receipt of non-conviction police information.

2.7. It is vital that common law-based disclosure decisions are processed by the police without unnecessary delay in order that the recipient can respond effectively to the urgent risk identified.

2.8. Any decision to disclose police information will need to balance the rights and interests of the individual, subject of the disclosure, against those of the public in general or any specific member or members of the public. This will involve considering the impact of disclosure on the private life of the individual concerned, also considering any adverse impact disclosure might have on the prevention or detection of crime. More generally, any decision to disclose information should have regard to:

- Data Protection Act 2018 GDPR
- Human Rights Act 1998
- Rehabilitation of Offenders Act 1974.

2.9. The “pressing social need” threshold for making a disclosure under common law powers is the same as that required for the disclosure of “approved information” in accordance with the provisions of Part V of the Police Act 1997 (as amended). This principle was established by the Supreme Court ruling in *R (on the application of L) (FC) (Appellant) v Commissioner of Police of the Metropolis* (2009). It is therefore recommended that Chief Officers apply the joint NPCC/DBS agreed

“Quality Assurance Framework” methodology in determining what, if any, information will be disclosed.

- 2.10. Recent judicial decisions in the Police Act 1997 disclosure arena have highlighted the importance of seeking the subject’s representations regarding any proposed disclosure prior to it being made. The use of common law powers of disclosure under this guidance is restricted to where there is an URGENT pressing social need only. As such the very raison d’être of making the disclosure could be thwarted by any delay. It is therefore recommended that representations should only be sought from the disclosure subject at the time they are in police detention in connection with the allegation(s) that is/are the basis of the proposed disclosure. The seeking of such representations MUST NOT interfere with the proper investigation of the allegation(s). Representations should therefore only be sought after the initial investigative processes in accordance with the Police and Criminal Evidence Act 1984 have been concluded, and never as part of the evidential interview.
- 2.11. Consideration should also be given to what action a recipient might take in relation to the relevant information. Information should be provided to recipients setting out requirements in terms of its sensitive handling and use, as well as highlighting any potential responsibility to consider forwarding the information to a relevant regulatory body and/or to the DBS as a discretionary barring referral.
- 2.12. It is recognised that in cases of extreme urgency it may be necessary for a police officer, or a member of police staff, to disclose information on their own initiative and without referring the matter to the chief officer or chief officer delegate (COD). In such cases the disclosure and the justification for it should be reported to the chief officer or COD as soon as practicable.

3. Other related documents and appendices

3.1. Appendices:

- Appendix A – Flow Chart re process
- Appendix B – Letter to regulatory Body/Employer (notification letter)

- Appendix C – Letter detailing costs of documents requested
- Appendix D – Documents enclosed letter
- Appendix E – Letter re response re further requests
- Appendix F – Forces Notification Letter

4. Monitoring and review

4.1 Monitoring - Audit Process:

Letters Monitoring and authorisation by Head of IMU acting as Chief Officer Delegate or another staff member with COD authorisation.

- 4.2. The Head of IMU will be responsible for reviewing the policy every two years, unless there are any changes in legislation which require amendments to the policy.

5. Who to contact about this policy

- 5.1. This policy is owned by the Head of IMU HQ. Any enquires about this policy should be directed to Head of IMU on Tel: 07799 079921.