EXPLANATORY MEMORANDUM TO

THE POLICE, CRIME, SENTENCING AND COURTS ACT 2022 (VICTIM INFORMATION REQUESTS: CODE OF PRACTICE) REGULATIONS 2025

2025 No. 1260

1. Introduction

1.1 This Explanatory Memorandum has been prepared by Home Office and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Jess Phillips, Minister for Safeguarding and Violence Against Women and Girls at the Home Office confirms that this Explanatory Memorandum meets the required standard.

2.2 Alex J.G. Macdonald, Deputy Director for Data & Identity Directorate, at the Home Office confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Alex J.G. Macdonald at the Home Office Data & Identity Directorate can be contacted by email at the following address with any queries regarding the instrument: alex.macdonald@homeoffice.gov.uk, or by phone at: 07917 215158.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument brings into force a statutory Code of Practice which provides guidance to authorised persons (including police officers and service police (i.e. the Royal Navy Police, the Royal Military Police or the Royal Air Force Police) on making requests for third party material (TPM) about victims of crime. It outlines the legal duties placed on authorised persons when requesting victim-related information held by third parties. These duties, set out in section 44A to 44C of the Police, Crime, Sentencing and Courts Act 2022 (as amended by the Victims and Prisoners Act 2024) require that requests must be necessary and proportionate and made in pursuit of a reasonable line of enquiry. Authorised persons must have reason to believe that the third party holds relevant information. Victims must be informed about the request unless specific exceptions apply, and third parties must be provided with clear information about the request and its legal basis. The Code introduces safeguards for counselling records, recognising their sensitivity. Under section 44D(2) requests for counselling information must meet a higher threshold and can only be requested where it is likely to hold substantial probative value and the presumption such a request would not be necessary is rebutted. The Code provides guidance to authorised persons on these measures.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales. Insofar as the provisions relate to the service police, the extent is whole of the United Kingdom.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales. Insofar as the provisions relate to the service police, they apply to the whole of the United Kingdom.

5. Policy Context

What is being done and why?

5.1 When investigating a crime, the police and other law enforcement authorities can request information about a victim from a third party to support a reasonable line of enquiry. This information is commonly referred to as 'third party material' or 'TPM' and may include, but is not limited to, any relevant medical, education or social service records.

5.2 The previous Government's (2019-2022) End to End Rape Review found that requests for third-party material are sometimes unnecessary, disproportionate, and focused on assessing victim credibility. Responses to the 'Police Requests for Third Party Material Consultation' (June to August 2022) further corroborated these findings and demonstrated support for legislative clarification. Subsequently, the Government committed to legislate to ensure that any third-party material requested by an authorised person is both necessary and proportionate to the investigation, and to establish a code of practice to ensure consistency in such requests.

5.3 The code of practice sets out the conditions authorised persons (including the police, British Transport Police and the National Crime Agency), the service police and the Service Police Complaints Commissioner (SPCC), must satisfy before making the victim information request.

5.4 Under the Police, Crime, Sentencing and Courts Act 2022 (as amended by the Victims and Prisoners Act 2024), authorised persons (as defined in Schedule 3 of the Act) may request victim-related information only where it is necessary and proportionate in pursuit of a reasonable line of enquiry. The code of practice explains what constitutes necessary and proportionate' and sets out the criteria for making such requests. Authorised persons must also notify the victim , whose information is being sought, or another relevant person (such as a parent, guardian or appropriate adult), in cases involving children, missing persons or vulnerable persons), that the request is being made. The notice must be in writing, explaining what information is being requested, why it is needed, and how it will be used unless doing so is impracticable, could interfere with an investigation, or might risk causing serious harm to the victim or another person. The authorised persons must have regard to the code of practice, ensuring that requests for victim information are necessary and proportionate.

5.5 When considering a request for victims' counselling records (a specific type of TPM of particular sensitivity), an authorised person will only be able to make such a request where the records sought are likely to have substantial probative value to a reasonable line of enquiry being pursued or to be pursued. Additionally, the code (i) explains that there is a rebuttable presumption that requests for counselling records by authorised persons are not necessary and proportionate and (ii) prescribes the steps to rebut that presumption. Lastly, the Secretary of State must review the operation of Chapter 3A of the Police, Crime, Sentencing and Courts Act 2022 covering requests

for victim-related information in relation to counselling information requests during a three-year review period starting when the provisions in Chapter 3A come into force. The Secretary of State may delegate the preparation of this report, but must ensure that it is published and laid before Parliament as soon as practicable after the review period ends

What was the previous policy, how is this different?

5.6 Previously, requests for victim information were inconsistent and sometimes excessive. There is no single legal framework which applies to request for TPM, instead there are several laws and guidance which are applicable and should be considered by the police when making requests. This led to inconsistent practices. The new code sets out, in a single place, the statutory duties authorised persons must adhere to.

6. Legislative and Legal Context

How has the law changed?

6.1 The Police, Crime Sentencing and Courts Act 2022, as amended by the Victims and Prisoners Act 2024, introduced statutory duties for authorised persons when requesting victim information. The code of practice is issued under section 44D and provides practical guidance on complying with these duties.

6.2 The new code sets out statutory duties and procedural safeguards to improve consistency and clarity in how third-party material is requested. Authorised persons are required to complete a formal request form that clearly sets out the legal basis for requesting the information. Requests involving counselling information are subject to enhanced safeguards, reflecting the special nature of such material under the legislation. Counselling records are recognised as particularly sensitive and personal, and the law required a higher threshold for access. To ensure compliance, requests for counselling records must be reviewed and approved by an officer of appropriate seniority. This includes a chief inspector in civilian police forces, or, in the case of the service police, an Authorising Service Police Officer of or above the rank of Lieutenant Commander (Royal Navy), Major (Army or Royal Marines), Squadron Leader (Royal Air Force), or their Chief Inspector equivalent.

Why was this approach taken to change the law?

6.3 This is the only possible approach to make the necessary changes. The duties were introduced in primary legislation. A non-legislative approach was considered but rejected due to inconsistent practices and lack of enforceability. The code of practice provides a single and clear framework for authorised person to follow. It explains how to meet the statutory duties under Chapter 3A of the Police, Crime Sentencing and Courts Act 2022 (as amended), ensuring that requests are lawful, necessary and proportionate. The code sets out safeguards including a rebuttable presumption against requesting counselling records, to protect victims' rights and privacy.

7. Consultation

Summary of consultation outcome and methodology

7.1 A public consultation ran from May to July 2025, receiving 81 responses. Victims' groups submitted coordinated feedback, expressing concern about notification timing

and counselling record requests. Police, CPS, and legal stakeholders also contributed with a range views, which are described in the government response[1].

7.2 The code was revised to reflect feedback, including clarifying thresholds and expanding guidance on vulnerable victims. Key changes made following the consultation include clarification that counselling records must meet a higher threshold of "substantial probative value". The code also strengthens guidance on notification timing and victim engagement. It was revised to improve clarity and accessibility, including through an expanded Key Terms and Definitions section and additional footnotes to aid navigation, which are available in the Annex of the Code.[2].

7.3 A government response to the consultation will be published on GOV.UK at the time of laying.[3]

8. Applicable Guidance

8.1 The code of practice will be published on GOV.UK before the lay date. Additional guidance, including sample request forms and FAQs for victims and authorised persons, will be available in the Annex of the Code of Practice. These documents are designed to support operational implementation and ensure compliance with the statutory duties.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 An Economic Note (EN) is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

9.2 The EN estimates familiarisation and training costs for police and CPS staff between £1.7 million and £25.9 million, with a central estimate of £6.6 million. These costs relate to staff time spent reading and implementing the new Code of Practice.

9.3 While benefits could not be monetised, the intervention is expected to reduce unnecessary and disproportionate requests for victim information—particularly counselling records—leading to fewer delays in investigations, improved victim engagement, and reduced withdrawals from the criminal justice process.

9.4 The measure is also expected to improve victim experience, reduce trauma, and support equality outcomes, especially for vulnerable groups such as women and survivors of sexual violence.

Impact on businesses, charities and voluntary bodies

9.5 There is no, or no significant, impact on business, charities or voluntary bodies because the instrument applies only to public sector bodies (e.g. police forces and the Crown Prosecution Service) and does not impose new obligations on external organisations.

9.6 The legislation does not impact small or micro businesses.

[1] https://www.gov.uk/government/consultations/victim-information-requests-code-of-practice
[2] https://www.gov.uk/government/publications/victim-information-requests-code-of-practice
[3] https://www.gov.uk/government/consultations/victim-information-requests-code-of-practice

9.7 The impact on the public sector is limited to familiarisation and training costs, estimated at £6.6 million. These costs are associated with police and CPS staff reviewing and implementing the new Code of Practice. The costs are expected to be offset by improved investigative efficiency, reduced delays, and better victim engagement.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is that the Code will be reviewed after 12 months, with input from police forces, CPS, and victims' groups. The Home Office will monitor compliance through audits, stakeholder engagement, and case file reviews. Any necessary revisions will be made following the review.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Jess Phillips MP has made the following statement "The instrument does not include a review clause because it does not impose regulatory requirements on businesses.".

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts"). It does not relate to the withdrawal of the United Kingdom from the European Union. The instrument is made under **domestic legislation**: the Police, Crime Sentencing and Courts Act 2022, as amended by the Victims and Prisoners Act 2024. There is **no connection** to retained EU law, future relationship provisions, or withdrawal-related powers.