



Home Office

## **Government consultation**

### **Police requests for Third Party Material**

This consultation begins on 16 June 2022

This consultation ends on 11 August 2022

## About this consultation

- To:** Policing organisations, CPS prosecutors, criminal justice representatives including judges and defence lawyers, civil society organisations representing victims of rape and sexual assault, victims of crime who have had third party material requested about them, third party organisations that may be asked to supply material about victims such as local authorities, education and health organisations, Independent Sexual Violence Advisors (ISVAs) and Independent Domestic Violence Advisors (IDVAs).
- Geographical regions:** England and Wales
- Duration:** Commencing on 16 June 2022 for 8 weeks, closing on 11 August 2022.
- Enquiries (including requests for the paper in an alternative format) to:** Police requests for Third Party Material consultation  
The Data and Identity Directorate  
2 Marsham Street  
London  
SW1P 4DF  
Email: [tpmconsultation@homeoffice.gov.uk](mailto:tpmconsultation@homeoffice.gov.uk)
- How to respond:** **Responses can be submitted online:**  
<https://www.homeofficesurveys.homeoffice.gov.uk/s/UP22YY/>  
Or by post to the address listed above
- Response paper:** A response to this consultation exercise will be published at: <https://www.gov.uk/government/consultations/police-requests-for-third-party-material>

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# Ministerial Foreword

The Government is committed to ensuring that victims of crime are treated fairly and respectfully, and that investigations are progressed swiftly to ensure that offenders are brought to justice.

Police requests for third party material, which can include education, medical or local authority records are sometimes necessary to further an investigation, but are not always dealt with appropriately. Sometimes requests are made for too much or unnecessary information, and this can make the victim feel like they are the one under investigation. This can be especially challenging for victims of rape and sexual assault where the material requested is often very sensitive. The length of investigations can also be traumatic for victims, and requests for third party material can contribute to slowing them down.

When someone reports a crime, they should feel confident that they can do so in the knowledge that their privacy will not be unnecessarily invaded, and that their case will not face lengthy delays as a result of such requests.

Through this consultation we want to gather more insight, evidence and data to gain a thorough understanding of the issues. We are also using the consultation to evaluate potential new duties on policing, which would be designed to ensure that police requests for third party material are made appropriately.

I welcome views on these issues and look forward to further discussion with stakeholders.



**Rachel Maclean MP**

**Parliamentary Under Secretary of State (Minister for Safeguarding)**

# Introduction

The purpose of this consultation is to gather information about law enforcement requests for third party material relating to victims of crime, and to test potential options for improving this process. Third party material is material held by a person, organisation, or government department other than the investigator and prosecutor, either within the UK or outside the UK. Third parties are not directly involved in the case in question, but may hold information relevant to it<sup>1</sup>. This might include medical, educational, or social service records but can encompass a broad range of material such as employment records or notes from counselling sessions.

It is sometimes necessary for police to request material from a third party about a victim where it is relevant to a reasonable line of enquiry. Where police make such a request, they must have a lawful basis to do so and ensure compliance with the wider legislative obligations (such as the Human Rights Act 1998, the Data Protection Act 2018 and UK GDPR). While the issues being explored in this consultation are especially relevant to rape and sexual offence (RASO) investigations, third party material can be relevant in a range of crime types, so the responses to and outcome of the consultation could have a broad impact.

The [Government's End-to-End Rape Review](#) highlighted a number of issues related to third party material, which our policy proposals seek to address. A primary issue is the necessity and proportionality of requests, meaning that police sometimes request too much information about a victim or that they might request information that isn't relevant. Requests might come directly from the police or may originate from the Crown Prosecution Service (CPS). Participants in research conducted as part of the Rape Review reported an increase in requests for third party material in recent years, making an already distressing process feel even more intrusive.

There is a concern that information requested about victims in RASO cases may be used to try to prove or disprove the victim's credibility using information that is not relevant to the investigation. For example, historic educational records from before the time when the alleged offence took place. This can have a severe negative effect on the victim. Such an approach might unnecessarily invade their privacy, make them feel like they are the ones under investigation and may be a significant factor that causes them to withdraw from the criminal justice process

Initial scoping work with police forces, victim groups and third parties has identified an inconsistent approach to what, and how, victims are informed in relation to third party material requests. The legal basis relied upon, the precise information required and how the material will be used are particular areas of concern.

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<sup>1</sup> Attorney\_General\_s\_Guidelines\_2020\_FINAL\_Effective\_31Dec2020.pdf (publishing.service.gov.uk), p.9

## Police requests for Third Party Material

While the existing legal framework requires the police to act in a way which appropriately respects individuals' privacy, we consider there is merit in considering whether additional legislative and non-legislative measures could help to address the inconsistent approaches being adopted. We are considering a number of proposals to address these issues. The duties we are seeking input on are as follows:

- A statutory duty on policing to seek third party material only when necessary and proportionate.
- A statutory duty on policing to provide full and clear information to both the person about whom the third party material is being requested and the third party who is being asked to provide the information.
- A code of practice to accompany these duties and clarify their use in practice.

A further issue is the amount of time it takes for third parties to return requests for material, and the impact this can have on slowing down a case. As part of this consultation, we are interested to find out more about whether or not this is a significant factor in elongating investigation timeframes, why third parties might struggle to return material quickly, and whether by ensuring requests are only made where necessary and proportionate this will have a positive effect on timeliness. Lengthy investigations are traumatic to victims, especially in relation to RASO. If requests for third party material are causing significant delays, this is also something we want to address.

We invite responses to this consultation from all those who are involved in police investigations that include requests for third party material, especially in RASO cases as this was identified as a particular issue in the Rape Review. This includes policing organisations, CPS prosecutors, criminal justice representatives including judges and defence lawyers, civil society organisations representing victims of rape and sexual assault, victims of crime who have had third party material requested about them, third party organisations that may be asked to supply material about victims such as local authorities, education and health organisations, Independent Sexual Violence Advisors (ISVAs) and Independent Domestic Violence Advisors (IDVAs).

# Questionnaire

This survey is divided into three sections. Section 1 is for law enforcement, prosecutors and defence lawyers, section 2 is for third parties, victim groups and victims and section 3 is for all respondents. It is noted at the beginning of each section who the questions are aimed at.

## Section 1: Questions for law enforcement, prosecutors and defence lawyers

In this section, we'd like to establish some basic information about third party material: what it is and why and how often it is requested.

**1. What kind of material do you think constitutes third party material? Check all that apply.**

- a. Medical records
- b. Mental health records
- c. Counselling/therapy notes
- d. Independent sexual violence/domestic violence advisor notes
- e. Employment records
- f. Local authority records
- g. Education records
- h. Prison records
- i. Closed Circuit Television recordings ('CCTV')
- j. Other, please specify

**2. About whom is third party material typically requested? Check all that apply.**

- a. Victim
- b. Witness
- c. Suspect

**3. In what types of investigations do you request third party material? Check all that apply.**

- a. Rape and Sexual Offences (RASO)
- b. Domestic Abuse
- c. Child Sexual Exploitation
- d. Assault or Violent Crimes
- e. Homicide

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- f. Economic Crime
- g. Drug trafficking
- h. Acquisitive crime
- i. Modern slavery
- j. Other (please specify)

**4. We understand that requests for third party material can be a particular issue in Rape and Sexual Offence (RASO) investigations. In your experience, in roughly what proportion of RASO investigations is third party material requested? Select one response.**

- a. <25%
- b. 26 – 50%
- c. 51 – 75%
- d. 76 – 100%

**5. Why is third party material requested? Select one response and include additional information if needed.**

- a. To support or refute a reasonable line of enquiry
- b. It is a routine request/internal policy to do so in certain types of investigation
- c. Asked to do so by a supervisor or colleague
- d. Asked to do by the CPS or other external party
- e. Other/additional information

**6. How do you decide what and how much material to request from third parties? Select one response and include additional information if needed.**

- a. All potentially useful material is requested in case it is needed
- b. Lines of enquiry are considered, and specific material is requested to support or refute them
- c. Other/additional information



**7. In your view, what are unnecessary and disproportionate requests for third party material driven by? Check all that apply.**

- a. Police lack the necessary training and expertise
- b. Police predict that the CPS will require a lot of third party material and therefore request an unnecessary/disproportionate amount
- c. The CPS ask for an unnecessary/disproportionate amount of third party material via the police
- d. Defence lawyers ask for an unnecessary/disproportionate of third party material via the police
- e. Requests take a long time to be fulfilled and so all possible material is requested in case it is needed
- f. Requests are always necessary and proportionate
- g. Other/additional information

We know that it can sometimes take a long time for requests for third party material to be returned. In this section, we would like to understand more about this, including why material can take a long time to be returned and what kinds of solutions could be appropriate to mitigate this

**8. On average, how long does it take to issue a request for third party material?**

**Police requests for Third Party Material**

**9. Does this differ by type of investigation? Select one.**

- a. Yes
- b. No

**10. If YES, please specify average time spent on issuing a request for third party material for:**

- a. Rape and Sexual Offenses (RASO).....
- b. Domestic Abuse.....
- c. Child Sexual Exploitation.....
- d. Assault or Violent Crimes.....
- e. Homicide.....
- f. Economic Crime.....
- g. Drug trafficking.....
- h. Acquisitive crime.....
- i. Modern slavery.....
- j. Other/Additional information

**11. In your experience, do third parties from whom you have requested information generally:**

**[Select one response and include additional information if needed.]**

- a. Fail to provide the requested material
- b. Provide only what is requested
- c. Provide more than what was requested
- d. Ask you to attend premises to search for relevant material
- e. Other/additional information

**12. In your experience, does the quantity of third party material requested affect the amount of time taken for the material to be returned? Select one response and include additional information if needed.**

- a. Yes, if more material is requested it will take longer to receive it

- b. No, the amount of material requested is not related to the amount of time it might take to receive it
- c. Other/additional information

**13. In your experience, do third parties generally return requests for material within a satisfactory timeframe (i.e., to ensure timely progression of the investigation)? Select one response and include additional information if needed.**

- a. Yes
- b. No
- c. Other/additional information

**14. Why do you think it can take a long time for some third parties to respond to requests for third party material? Check all that apply.**

- a. It is not a priority for them to do so
- b. They are unfamiliar with these types of requests and do not know how to handle them
- c. They do not have a dedicated member of staff or team to handle these requests
- d. The requests from police are not clear, and do not provide specific information needed to process the request
- e. Other/Additional information

15. How far do you agree with the following statements:

- a. Delays in returns for third party material is a significant single factor in slowing down an investigation. Select one.

| Strongly agree | Agree | Neither agree nor disagree | Disagree | Strongly disagree |
|----------------|-------|----------------------------|----------|-------------------|
|                |       |                            |          |                   |

- b. When third party material is requested early in an investigation, it is less likely to cause a delay. Select one.

| Strongly agree | Agree | Neither agree nor disagree | Disagree | Strongly disagree |
|----------------|-------|----------------------------|----------|-------------------|
|                |       |                            |          |                   |

16. Aside from ensuring that requests for third party material are necessary and proportionate, is there any other action – legislative or non-legislative – you would like to see to improve the timeliness of returns for third party material?

Thank you for completing this section. Please progress to Section 3.

**Section 2: Questions for providers of third party material, victim groups and victims**

17. In your experience, how much third-party material is typically requested about a victim? Select one response and include additional information if needed.

- a. None
- b. Requests seem to be specifically tailored to reasonable lines of enquiry for the investigation
- c. A lot of material is requested that doesn't seem to relate specifically to the alleged offence
- d. Other/additional information

**18. On average, how long does it take to process and answer a request for third party material?**

**19. Does this differ by type of investigation? Select one.**

- a. Yes
- b. No

**20. If YES, please specify average time spent on processing and answering a request for third party material for:**

- a. Rape and Sexual Offenses (RASO).....
- b. Domestic Abuse.....
- c. Child Sexual Exploitation.....
- d. Assault or Violent Crimes.....
- e. Homicide.....
- f. Economic Crime.....
- g. Drug trafficking.....
- h. Acquisitive crime.....
- i. Modern slavery.....
- j. Other/Additional information

## Police requests for Third Party Material

**21. Thinking about those cases which are quick to respond to, how long do they take from your experience?**

**22. Thinking about those cases that take the most time to respond to, how long do they take from your experience?**

**23. In your experience, what prevents the timely return of third party material?  
Check all that apply.**

- a. There is no-one trained to handle such requests
- b. The requests are unclear and need to be clarified before they can be completed
- c. The requests are for a large quantity of documents and therefore take a long time to fulfil
- d. Other/additional information

**Thank you for completing this section. Please progress to Section 3.**

## Section 3: Questions for all respondents

Police should only be requesting third party material when necessary and proportionate, in line with a reasonable line of enquiry. This is clearly laid out in the Criminal Procedure and

Investigations Act (1996) and the Attorney General’s Disclosure Guidelines. However, we are aware that this approach is not consistently followed. We want to avoid disproportionate requests for information about victims that constitute ‘fishing expeditions’ where the purpose is to explore whether or not the victim is credible.

Please consider whether you think the proposals below would help to address these issues. If there are any other solutions you would like considered, you can outline these in the final question of this section.

**24. Please state how much you agree or disagree with the following:**

- a. Engaging in Early Advice with the Crown Prosecution Service in rape cases helps to ensure requests for third party material are necessary and proportionate, in pursuit of a reasonable line of enquiry. Select one.**

| Strongly agree | Agree | Neither agree nor disagree | Disagree | Strongly disagree |
|----------------|-------|----------------------------|----------|-------------------|
|                |       |                            |          |                   |

- b. There should be a statutory duty on policing to only request third party material that is necessary and proportionate, in pursuit of a reasonable line of enquiry for an investigation. Select one.**

| Strongly agree | Agree | Neither agree nor disagree | Disagree | Strongly disagree |
|----------------|-------|----------------------------|----------|-------------------|
|                |       |                            |          |                   |

- c. There should be a statutory duty on policing to provide full information to the person about whom the third party material is being requested. This could include details about the information being sought, the reason why and how the material will be used, and the legal basis for the request. Select one.**

| Strongly agree | Agree | Neither agree nor disagree | Disagree | Strongly disagree |
|----------------|-------|----------------------------|----------|-------------------|
|                |       |                            |          |                   |

- d. There should be a statutory duty on policing, in their requests for information to third parties, to be clear about the information being sought, the reason why, how the material will be used and the legal basis for the request. Select one.**

| Strongly agree | Agree | Neither agree nor disagree | Disagree | Strongly disagree |
|----------------|-------|----------------------------|----------|-------------------|
|                |       |                            |          |                   |

**Police requests for Third Party Material**

- e. There should be a code of practice to accompany the duties outlined in points b - d to add clarity on the expectations on policing and promote consistency in practice. Select one.**

| <b>Strongly agree</b> | <b>Agree</b> | <b>Neither agree nor disagree</b> | <b>Disagree</b> | <b>Strongly disagree</b> |
|-----------------------|--------------|-----------------------------------|-----------------|--------------------------|
|                       |              |                                   |                 |                          |

- 25. Please provide further details for your answers and responses to the policy proposals outlined in questions 15 b-e.**

- 26. Are there any other actions – legislative or non-legislative – you would like to see to reduce the number of disproportionate and unnecessary requests for third party material?**

**Thank you for completing this questionnaire.**



# About you

Please use this section to tell us about yourself

|  |   |
|--|---|
| <b>Full name</b>   |   |
| <b>Job title</b> or capacity in which you are responding to this consultation exercise (for example, member of the public) |   |
| <b>Date</b>  |   |
| <b>Company name/organisation</b> (if applicable)   |   |
| <b>Address</b>   |   |
| <b>Postcode</b>  |   |
| If you would like us to acknowledge receipt of your response, please tick this box   | <input type="checkbox"/><br>(please tick box) |
| Address to which the acknowledgement should be sent, if different from above   |   |
|  |   |
|  |   |

**If you are a representative of a group**, please tell us the name of the group and give a summary of the people or organisations that you represent.

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# Contact details and how to respond

**Responses can be submitted online:**

<https://www.homeofficesurveys.homeoffice.gov.uk/s/UP22YY/>

**Enquiries (including requests for the paper in an alternative format) to:**

**Email:** [tpmconsultation@homeoffice.gov.uk](mailto:tpmconsultation@homeoffice.gov.uk)

**Or by post to:**

Police requests for Third Party Material  
The Data and Identity Directorate  
2 Marsham Street  
London  
SW1P 4DF

## Help and support

The purpose of this consultation is to gather information and evidence to support Government policy proposals regarding police requests for third party material. If you have been affected by any of the issues in this consultation and require help or support, information about available services is available here: [How to get support | VAWG \(campaign.gov.uk\)](https://www.campaign.gov.uk). If you are in immediate danger or want to report a crime, call 999 and ask for the police.

## Complaints or comments

If you have any complaints or comments about the consultation process you should contact the Home Office at the above address.

## Extra copies

Further paper copies of this consultation can be obtained from the above address and it is also available online at <https://www.gov.uk/government/consultations/police-requests-for-third-party-material>

Alternative format versions of this publication can be requested from [email/telephone number of sponsoring policy division].

## Publication of response

A summary of responses to this consultation and details of the action that the Government will take, or has taken, will be published at

<https://www.gov.uk/government/consultations/police-requests-for-third-party-material>

## Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

## Privacy notice

The Home Office consults the public as part of its open policy making process. We publish our consultations on [GOV.UK](https://www.gov.uk). You can respond:

- online
- by email
- by post

The way in which your data is handled varies depending on how you submit your response, but all information submitted to us will be treated in accordance with data protection principles.

This privacy notice sets out:

- how we process your personal data when you respond to our consultations
- the rights you have under the General Data Protection Regulation (UKGDPR)

For information you submit online:

- the Home Office is the data controller
- Smart Survey is the data processor

[Smart Survey](#) provides and operates the platform for online responses, and [their privacy policy](#) explains how they collect, safeguard and process your data on behalf of the Home Office.

For information you submit by email or post:

- the Home Office is the data controller
- the Home Office is the data processor

### Your data

#### Purpose

We collect your personal data as part of the consultation process:

- for statistical data, for example the types of individuals and groups participating

## Police requests for Third Party Material

- to know that you are a real person
- to follow up with you about your consultation response if necessary

### The data we collect

We request the following personal data as part of this consultation:

- your name
- your job title
- the company/organisation you work for
- your postal address and post code
- any personal data you volunteer by way of evidence or example in your response to the consultation

If you respond online we will also collect:

- your Internet Protocol (IP) address, and details of which version of web browser you used
- information on how you used the site, provided by cookies and page tagging techniques

### Legal basis for processing your personal data

The legal basis for processing your personal data is to perform a task carried out in the public interest, that of consulting the public.

### Why we need it

We collect your details so that we:

- know you're a real person

We also collect data in order to:

- gather information about the types of individuals and groups participating

If you respond online we use Google Analytics software to collect information about how you use the site. We do this to help make sure the site is meeting the needs of its users and to help us make improvements.

Google Analytics stores information about:

- the pages you visit
- how long you spend on each page
- how you got to the site
- what you click on while you're visiting the site

Google Analytics does not collect or store your personal information (for example your name or address) so this information cannot be used to identify who you are. See the [GOV.UK cookie policy](#).

## What we do with your data

We will not:

- share your personal data with other organisations
- sell or rent your data to third parties
- share your data with third parties for marketing purposes

We will share your data if we are required to do so by law, for example by court order, or to prevent fraud or other crime.

## How long we keep your data

We will only retain your personal data for as long as:

- it is needed for the purposes of the consultation
- the law requires us to

In general, this means that we will only hold your personal data for 7 years.

## Children's privacy protection

This consultation is not designed for, or targeted at, children aged 13 or less. It is not our policy to intentionally collect or maintain data about anyone aged 13 or less.

## Your rights

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right to request:

- information about how your personal data are processed
- a copy of the personal data you submitted in an accessible format
- that anything inaccurate in your personal data is corrected immediately
- that any incomplete personal data are completed, including by means of a supplementary statement
- that your personal data are erased if there is no longer a justification for them to be processed
- in certain circumstances (for example, where accuracy is contested) that the processing of your personal data is restricted

You can also:

- object to the processing of your personal data where it is processed for direct marketing purposes
- lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law

## Changes to this notice

We may modify or amend this privacy notice at our discretion at any time. When we make changes to this notice, the last modified date at the top of this page will be updated. Any modification or amendment to this privacy notice will be applied to you and your data as of

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that revision date. If these changes affect how your personal data is processed, the Home Office will take reasonable steps to make sure you know.

### How to contact us

#### Home Office

Contact our Data Protection Officer (DPO) with any concerns about how we or our services handle your personal information:

Home Office Data Protection Officer  
Home Office  
2 Marsham Street  
London  
SW1P 4DF

Email: [DPO@homeoffice.gov.uk](mailto:DPO@homeoffice.gov.uk)

If you would like to make a data subject request, please contact:  
[tpmconsultation@homeoffice.gov.uk](mailto:tpmconsultation@homeoffice.gov.uk)

### Independent advice on data protection and privacy

Contact the Information Commissioner for independent advice about data protection, privacy and data-sharing issues:

- online through [their website](#)
- by phone on 0303 123 1113
- by textphone on 01625 545860
- by email at [casework@ico.org.uk](mailto:casework@ico.org.uk)
- through this [contact form](#)
- by post at:

Information Commissioner's Office, Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

If you make a complaint to the Information Commissioner it doesn't prejudice your right to seek redress through the courts.

# Consultation principles

The principles that government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<https://www.gov.uk/government/publications/consultation-principles-guidance>







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