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<b>Title:</b>	<b>Common Law Police Disclosure - Previously (Notifiable Occupations)</b>	
Practice / Business Area:	Protecting Vulnerable People	
Department Responsible:	Information Management	
First Published:	Jan 2010	
Last Reviewed:	31/10/2019	
Next review Date:	October 2022	This document applies to employees of the:
Version Number:	05	Chief Constable
<b>SOUTH WALES POLICE PROCEDURE OBJECTIVE:</b>		
<p>To keep South Wales safe by protecting children and the vulnerable by directing all staff towards the safe handling of intelligence arising out of a nominal's conduct where the nominal's occupation brings them into contact with children and the vulnerable.</p>		
<b>GUIDANCE:</b>		
<p>All aspects of this guidance and procedure are mandatory therefore please refer to procedure.</p>		
<b>GENERIC RISK ASSERSMENT:</b>		
<p>No health and safety risk assessment required</p>		
<b>PROCEDURE:</b>		
<b>Common Law Powers</b>		
<p>The police have a Common Law power to share information with third parties where a policing purpose is established (with each case being considered on its own merits). A policing purpose is defined under the MoPI Code of Practice as:</p>		
<ul style="list-style-type: none"><li>• Protecting life and property; preserving order; preventing the commissioning of offences; bringing offenders to justice; and any duty or responsibility of the police arising from common or statute law.</li></ul>		
<p>The general position is that the police should maintain the confidentiality of personal information, but legal opinion supports the disclosure of information about an individual to their Employer or Qualified Regulatory Body (QRB) where an urgent pressing social need can be established and the public interest outweighs the duty of confidentiality.</p>		
<p>This procedure is in addition to the arrangements for the Disclosure and Barring Service (DBS) and third party disclosures considered by the Protect (PPU) Investigations.</p>		
<p>Investigating officers and Custody Services will be responsible for the accurate identification and recording of the occupation, or voluntary work, of a person who has been arrested or subject to the VA process. Vigilance should be used, and enquiries made, to</p>		

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not only establish the occupation of the nominal, but further identify work capacity and location of where they work. This information is extremely important and **MUST** be recorded on NICHE.

A decision to disclose will be made on a case by case basis but as a general rule information will only be disclosed when it is relevant, necessary and proportionate to do so having regard to all the circumstances in the case and the identified risk to the public. Disclosures will be in compliance with Article 8 of the Human Rights Act.

It is the responsibility of all staff to notify the appropriate governmental department, professional regulatory/ disciplinary body and/or the employer of the arrest and subsequent method of disposal when staff are of the opinion that the Common Law urgent pressing social need threshold is met. This judgement is a subjective one as there is no definitive definition of a pressing social need. Where it is intended to make a disclosure to an employer, it is good practice to advise the individual at the time as this will allow them to make representations and consider informing their employer themselves.

Where notification is deemed to be appropriate, officers dealing with the subject should notify the Common Law Police Disclosure Coordinator (CLPDC), in the Data Management Unit – (DMU), via email, or via the Notifiable Occupations task box. The department will also review those persons arrested, or subject to the VA process, for the preceding 24 hour period. The CLPDC may confer with investigating officers to determine who is the most suitable person to action the notification as the issue may be of a sensitive nature and a standard letter which would normally be sent by the CLPDC may not be the most appropriate course of action

When Custody Services identify a person in custody, who is employed in a certain capacity with safeguarding implications, then they should notify the CLPDC by selecting the envelope marker on the custody record which will then self-populate an email to the relevant internal contact. .

The CLPDC will then make judgement as to whether it is appropriate to progress a disclosure and record the decision made on a Quality Assurance Framework, (QAF), and document. In those case where a disclosure is appropriate, a disclosure letter will be prepared, endorsed by DMU management, before being sent to the relevant regulatory authority or in specific circumstances the employer. Any disclosure made will be sent, either through a secure email facility or recorded delivery.

In matters of extreme urgency, or where an immediate safeguarding threat exists, direct verbal contact should be made with the governing body by the investigating officers because the DMU only operates within office hours. Any such action **MUST** be recorded on the occurrence so the CLPDC is aware that a notification has been made, and therefore preventing duplication. This will also provide an audit trail.

The DMU will create a folder on their database for each nominal when a QAF is prepared. Apart from the QAF, any disclosure letter and subsequent correspondence will also be saved in this folder for auditing or reference purposes.

There will be instances where there are safeguarding concerns and it will not be possible for the CLPDC to notify the employer. As an example, when the subject is employed by

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non-regulatory organisation, such as a small company, and there is no information sharing pathway in existence, the CLPDC will refer the matter to the investigating officer for them to progress safeguarding measures locally. On such occasions, officers are reminded to ensure that any disclosure made should be to a senior manager, of the company or organisation who is employing the subject, so the information disclosed can be dealt with in a confidential manner to ensure the safeguarding of the subject concerned. Such examples would include when a person has been arrested on suspicion of committing offences under the Sexual Offences Act where extreme sensitivity is required.

Officers and staff should be reminded that any decision to disclose police information must balance the rights and interests of the individual who is the subject of the disclosure against those of the public in general paying due regard and consideration to the impact of disclosure on the private life of the individual concerned. Decisions should also take into account of any adverse impact disclosure might have on the prevention and detection of crime.

Disclosure to an employer or volunteer organisation does not preclude simultaneous disclosure to a regulatory or licensing authority as it cannot be guaranteed that the employer will notify them. The purpose of making the disclosure is to allow the recipient to mitigate risk and the regulator may possess wider powers to implement such mitigation.

All Managers/Supervisors/Staff: It will be the responsibility of all employees to ensure that they possess a basic understanding of the process and the role they play in helping South Wales Police to comply with its requirements.

All employees must also ensure that:

- Information is accurate and kept up to date
- They undertake their functions in accordance with the MoPI Code of Practice and guidance.

#### **LEGISLATION & REGULATION:**