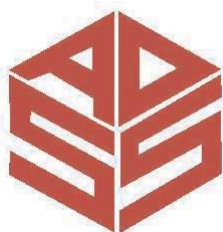


# Joint Letter



Llywodraeth Cynulliad Cymru  
Welsh Assembly Government



We are pleased to publish the first model protocol, on the exchange of information in the investigation and prosecution of child abuse cases. Recognising the importance of working together to investigate thoroughly, and to prosecute those responsible for abusing children, the model protocol has been developed by the Crown Prosecution Service, Association of Chief Police Officers, Local Government Association of England, and Association of Directors of Social Services. It is endorsed by the Home Office, the Department for Education and Skills, and the National Assembly for Wales.

We are acutely aware of the strength of public feeling about investigating and prosecuting child abuse cases, and how these cases can affect people's lives. All signatory organisations recognise the need for investigating authorities to work together and to share information and best practice. We acknowledge that people want to be confident that we are doing all that we can to co-ordinate our efforts and to co-operate with each other in the best interests of children and of achieving justice.

This model protocol provides a framework within which the Crown Prosecution Service, the police and local authority social services and education departments can co-operate to share information in child protection investigations for the purpose of criminal prosecutions. The protocol has been drafted to be in accordance with domestic and European law.

We encourage Chief Crown Prosecutors, Chief Officers of Police and Chief Executives of Local Authorities to adopt this model in their area, tailored as necessary, to suit local circumstances. We believe that local protocols will encourage better understanding, closer working relationships and greater consistency between those involved in the investigation and prosecution of child abuse cases. Also that its introduction will help ensure the signatory organisations work in partnership for the benefit and protection of children and to improve public confidence in the criminal justice system.

October 2003



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Head of Children and Families Division  
Welsh Assembly

**Philip Geering**  
Acting Director, Policy  
Crown Prosecution Service

**Councillor Alison King**  
Chair of the Social Affairs and Health  
Committee  
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**David Behan**  
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**Mark Ormerod**  
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**Peter Housden**  
Director General for  
Schools  
Department for  
Education and Skills

**Jim Barker-McArdle**  
Deputy Chief  
Constable  
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# A PROTOCOL BETWEEN THE CROWN PROSECUTION SERVICE POLICE AND LOCAL AUTHORITIES IN THE EXCHANGE OF INFORMATION IN THE INVESTIGATION AND PROSECUTION OF CHILD ABUSE CASES

## 1. PARTIES

The parties to this protocol are the [name of the Local Authority], [name of Police Force] and the Crown Prosecution Service.

## 2. AIM

The aim of this protocol is to provide an agreed framework between the parties for the sharing and exchange of relevant information in child protection investigations for the purposes of criminal prosecutions in [specify Area]

## 3. OBJECTIVES

The objectives of this protocol are:

- To provide guidance in obtaining and sharing information between the Parties in order to protect the welfare of children by investigating and prosecuting offenders through the criminal justice system;
- To provide guidance that enables the Parties to apply a consistent approach to information sharing locally; and
- To foster a greater understanding between the Parties of their respective roles within the criminal justice system.

## 4. INTRODUCTION

- 4.1 Good practice calls for effective co-operation between the parties; working in the best interests of the child; and careful exercise of professional judgment based on thorough assessment and analysis of relevant information. This protocol is addressed to those who work in the investigation and prosecution of offenders in relation to child abuse cases.
- 4.2 The Parties recognise the fundamental importance of inter-agency working in combating child abuse. The Parties are committed to share information and intelligence between them where this is necessary to protect children as set out in The Government's Guidance entitled *Working Together to Safeguard Children* (1999).
- 4.3 This protocol recognises:
- Social Services and Education departments of Local Authorities will always seek to act in the best interests of the children with whom they are involved; and
  - The Police and the Crown Prosecution Service are bound by a duty to protect the confidentiality of material held by Local Authorities (dealing with the appropriate Social Services or Education department) and will not disclose to third parties, except with the leave of the court, or with the consent of the Local Authority, any material obtained directly or indirectly as a result of having access to material held by Local Authorities.

## 5. THE LEGAL FRAMEWORK

- 5.1 The duties of the Parties are set out in the legal framework at Annex A. This also sets out the legal obligations, on which this protocol is based, of the Parties in relation to exchanging and sharing of information.

## 6. PROCEDURE

- 6.1 As soon as the Police investigating a suspected crime believe material exists within the Social Services and Education files which may be relevant to the investigation, they will notify the Local Authority by means of a written notice.
- 6.2 The Police will appoint, as appropriate, a suitably trained disclosure officer who will carry out the examination of

relevant material on Social Services and Education files held by the Local Authority and whose task it will be to liaise with the Local Authority.

- 6.3** The written notice used by the police disclosure officer will include: (see attached draft letter at Annex B)
- The identity and contact details of the police disclosure officer;
  - The identity and contact details of the officer in the case;
  - A summary of the case and the details of the offences being investigated;
  - A statement of the relevant information which is sought from the records in order to pursue all reasonable lines of enquiry, and why that information is thought likely to be relevant to the investigation;
  - A statement of how failure to disclose relevant information would prejudice or delay the investigation.
- 6.4** Upon receipt of a request from the Police under 6.3, the Local Authority will appoint a suitably trained disclosure officer from the legal department who will liaise with the Police disclosure officer throughout the enquiry. The Local Authority disclosure officer will identify and collate relevant material from the Social Services/Education files which it is necessary to disclose for the purposes of the police investigation, in the light of the information provided by the Police in 6.3 above.<sup>1</sup> The review by the police will usually take place on Local Authority premises but may be elsewhere by agreement between the disclosure officers.
- 6.5** The Local Authority will ensure that documents filed in family court proceedings are not included in the files to be seen by the police and/or Crown Prosecution Service. Where there are documents filed in family court proceedings, the Local Authority will provide a list of that material without describing what it is, in order for the police, if appropriate, to apply to the Family Court for disclosure.
- 6.6** The Local Authority will not reveal to the police relevant medical reports or other medical information without the consent of the author of that material. Where there is such material, the Local Authority will seek consent from the author to reveal it to the police. Where consent is refused, the Local Authority will inform the police that the material exists. The police and the Crown Prosecution Service may seek consent from the author of the material and/or apply for a witness summons to obtain the material.
- 6.7** When the Local Authority voluntarily discloses material to the defence they will reveal it to the police and/or Crown Prosecution Service. In addition, when the defence request material from the Local Authority under the Data Protection Act 1998, the Local Authority will notify the police and/or Crown Prosecution Service of the fact of that request.
- 6.8** The Police disclosure officer will be given priority to review the material within a specified period of time.<sup>2</sup> If there are difficulties in complying with the agreed timescale or if the material is ready for review more quickly, the Local Authority disclosure officer will notify the Police disclosure officer immediately.
- 6.9** Where the Police review the material, the Local Authority will accept that the Police may take notes or copies of the material as appropriate, as they require for the purposes of their investigation. The Police will accept that any material they read and any notes or copies they take are to be regarded as sensitive material which is subject to public interest immunity.
- 6.10** Any material identified by the Police disclosure officer during the review as being relevant to the issues in any criminal proceedings which may undermine the prosecution case or may reasonably assist any apparent defence case, must be brought to the attention of the Local Authority disclosure officer with a view to the Police disclosure officer obtaining a copy of the relevant documents. Any copy documents provided by the Local Authority to the Police will be treated as sensitive material which is subject to public interest immunity.
- 6.11** When the Police submit a full file to the Crown Prosecution Service, including all correspondence between the Police

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<sup>1</sup> At this stage, the local authority will disclose to the police information that is relevant for the purposes of the police investigation. This does not mean that the local authority, by so doing, is agreeing that the information disclosed to the police should in due course be disclosed to the defence. Such disclosure will be decided either by agreement between the local authority and the CPS or in default of such an agreement, an order of the court made under the CIPA.

<sup>2</sup> To be agreed between local signatories.

and the Local Authority, the Police disclosure officer will identify all unused material on the appropriate (MG) forms and in particular material that is viewed and obtained from the Local Authority. It will be the duty of the Police disclosure officer to identify any material which might undermine the prosecution case or might reasonably assist the defence case.

- 6.12** In the event of further relevant material coming into the possession of the Social Services and Education departments, the Local Authority disclosure officer will disclose to the Police disclosure officer that material and will provide a continuous opportunity to review and take copies of that material. Further, it is accepted by the Local Authority that as an enquiry develops, the material may have to be re-visited.
- 6.13** On receipt of the full file the Crown Prosecution Service will review the unused material in accordance with its statutory duties under the Criminal Procedure and Investigations Act 1996 (CPIA).
- 6.14** The Crown Prosecution Service shall treat all material disclosed by the local Authority as sensitive material.
- 6.15** Where any Local Authority material reviewed by the Crown Prosecution Service falls within the statutory disclosure tests under the CPIA, the Crown Prosecution Service shall write to the Local Authority disclosure officer, within a number of days<sup>3</sup> of review, setting out the reasons why the material falls to be disclosed and informing them of that decision. Within a number of days<sup>4</sup> of receipt of that notification, the Local Authority disclosure officer shall be given an opportunity to make any representations in writing to the Crown Prosecution Service on the issues of disclosure.
- 6.16** The Crown Prosecution Service will not disclose any material to the defence unless by agreement with the Local Authority or by order of the court following a public interest immunity application.
- 6.17** If the Local Authority agrees with the Crown Prosecution Service to disclose material identified by the Crown Prosecution Service which falls within the statutory disclosure tests under the CPIA, the Crown Prosecution Service will disclose the material to the defence.
- 6.18** If the Local Authority asserts public interest immunity and objects to disclosure, to the defence, of any material identified by the Crown Prosecution Service which falls within the statutory disclosure tests under the CPIA, the Crown Prosecution Service will make a public interest immunity application to the court as soon as reasonably practical. The Crown Prosecution Service will notify the Local Authority of the date and venue of the public interest immunity application and inform the Local Authority of their rights to make representations to the court under the Crown Court (Criminal Procedure and Investigations Act 1996) (Disclosure) Rules 1997 and the Magistrates' Court (Criminal Procedure and Investigations Act 1996) (Disclosure) Rules 1997.
- 6.19** Following receipt of a defence statement, the Police disclosure officer will send a copy of the defence statement to the Local Authority disclosure officer.
- 6.20** The Local Authority disclosure officer will reconsider the relevance of the material held by the Local Authority in the light of the defence statement. Where the Local Authority identify further material to be revealed, the Local Authority disclosure officer will notify the Police disclosure officer of that material.
- 6.21** The Police disclosure officer will review that material held by the Local Authority and any material previously revealed to the Police for the purposes of carrying out secondary disclosure. The Local Authority disclosure officer will arrange for the material to be available for further review by the Police disclosure officer within a number of<sup>5</sup> working days of receiving a written request. The Local Authority disclosure officer will retain a copy of the defence statement.
- 6.22** In the event of the Defence making an application under section 8 of the CPIA for further disclosure of material held by the Local Authority and already considered by the Police and/or the Crown Prosecution Service in the criminal

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<sup>3</sup>To be agreed between local signatories

<sup>4</sup>To be agreed between local signatories

<sup>5</sup>To be agreed between local signatories

proceedings, the Crown Prosecution Service will liaise with the Police and Local Authority disclosure officers prior to the hearing of the application.

- 6.23** Where the defence apply for a witness summons against the Local Authority for disclosure of material not in the possession of the Police or the Crown Prosecution Service, the Local Authority will inform the Police disclosure officer and the Crown Prosecution Service of the time and place of the hearing of the witness summons and the nature and grounds of such an application.
- 6.24** The Prosecutor has a duty to keep under continuing review the question of whether there is any unused material, which might undermine the prosecution case or might reasonably assist the defence case. The Parties recognise that they may need to review the material again if other issues become relevant during the course of the criminal proceedings.
- 6.25** In the event that there are no criminal proceedings, or the proceedings are discharged, or the accused is acquitted, the police and/or Crown Prosecution Service will return all material in their possession belonging to the Local Authority.

## **7. SCHOOLS AND OTHER ORGANISATIONS INVOLVED IN THE CARE OF CHILDREN**

- 7.1** Where the Police investigating a suspected crime believe material exists with Schools the Police should contact the Local Authority to identify the status of the school. Where the Local Authority identifies the school as an Independent School, it should inform the police, so that the police may approach the school directly to obtain the material.
- 7.2** The Parties to this protocol would encourage other organisations that are involved in the care of children, to follow the provisions laid down in this protocol in the sharing of information with the Police and Crown Prosecution Service in criminal proceedings.

## **8. MISCELLANEOUS PROVISIONS**

- 8.1** In some cases to which this protocol applies a child concerned may be (or have been) the subject of court proceedings in the family jurisdiction. Nothing in this protocol authorises the disclosure of any document filed with the court in such proceedings or any information relating to them. This applies whether the proceedings are concluded or still pending. If material is identified that falls into this category then leave must be obtained from the court in which the family proceedings are being (or were) conducted.
- 8.2** This protocol does not diminish the existing legal rights of the Parties. Specifically, it will not operate to restrict the right of any Party to claim public interest immunity in connection with any material which has come within the ambit of the police investigation.
- 8.3** All signatories to this protocol accept that the protocol is entered into in good faith and on that basis all signatories will use their best endeavours to comply with their terms and the spirit of the protocol.
- 8.4** Effect should be given to this protocol locally by a suitable service level agreement between the Parties, and any other organisation that the Parties think appropriate.
- 8.5** Any disagreement over the workings of this protocol or local arrangements will be referred to the agreed level of management for early and informal resolution, wherever possible.
- 8.6** The Parties will at an agreed interval, monitor the workings of this protocol and any local agreement with a view to improving the efficiency and the well being of local professional working arrangements.

# ANNEX A

## LEGAL FRAMEWORK

### INTRODUCTION

1. Professionals can only work together effectively to protect children if there is an exchange of relevant information between them. This has been recognised by the courts. In *Re G (a minor) [1996] 2 AER 65* Butler Sloss LJ said:

*“The consequences of inter-agency co-operation is that there has to be a free exchange of information between social workers and police officers together engaged in an investigation...The information obtained by social workers in the course of their duties is however confidential and covered by the umbrella of public interest immunity... It can however be disclosed to fellow members of the child protection team engaged in the investigation of possible abuse of the child concerned”.*

2. Any disclosure of personal information to others must always have regard to both common law and statute law. This framework sets out the legal position of the local authority, police and the Crown Prosecution Service in relation to exchanging and sharing of information.

### THE COMMON LAW OF CONFIDENTIALITY

3. Personal information about children and families held by the agencies is subject to the legal duty of confidence, and should not normally be disclosed without the consent of the subject. The law permits the disclosure of confidential information where a countervailing public interest can be identified. Such a public interest might relate to the proper administration of justice and to the prevention of wrongdoing. The court in *R v Chief Constable of North Wales Police, ex parte Thorpe [1996] QB 396* Lord Bingham CJ considered that where a public body acquires information relating to a member of the public which is not generally available and is potentially damaging, the body ought not to disclose such information save for the purpose of and to the extent necessary for performance of its public duty or enabling some other public body to perform its public duty.
4. There is a public interest in the prevention and detection of crime and in the apprehension or prosecution of offenders. Both domestic case law and the Data Protection Act 1998 recognise that it may be necessary for a local social services authority or education authority to disclose confidential material in its possession to the police for the purposes of a police investigation or criminal proceedings. The material to be disclosed must be both relevant and necessary for the purposes of the police investigation.
5. The information the Parties to this protocol possess will have usually come to the local authority from the individual him/herself and a range of other sources. There is no publication to any member of the public. The purpose of disclosure is to facilitate the more effective administration of justice, either by providing further evidence of criminal conduct or by revealing the hopelessness of cases that might otherwise have reached the trial stage. Therefore, disclosure of material between the Parties to this protocol is permitted both by the general law on confidentiality and in particular by the law governing such disclosures by public bodies.
6. It is acknowledged that the law in the disclosure of confidential information is complex. There are restrictions on the sharing of information between the parties under the Data Protection Act and the Human Rights Act. However, the sharing of information is not necessarily contrary to these Acts.

### DATA PROTECTION ACT 1998

7. The Data Protection Act 1998 (the 1998 Act) requires that personal information is obtained and processed fairly and lawfully; only disclosed in appropriate circumstances; is accurate, relevant and not held longer than necessary; and is kept securely. The Act allows for disclosure without the consent of the subject in certain conditions, including for the purposes of the prevention or detection of crime, or the apprehension or prosecution of offenders, and where failure to disclose would be likely to prejudice those objectives in a particular case.
8. When disclosing personal information, many of the data protection issues surrounding disclosure can be avoided if the consent of the individual has been sought and obtained. Where consent of the individual is not sought, or is

sought but withheld, there can be an exchange of information between the Parties where there is an overriding public interest or justification for doing so. The Act contains general non-disclosure provisions, but sections 27-31 provide a number of specific exemptions. Section 29 covers crime. In the context of social services and education material, personal data processed for the purposes of prevention or detection of crime and the apprehension or prosecution of offenders is exempt from the first data principle (except to the extent to which it complies with the requirements of the second and third schedules of the 1998 Act.)

9. Section 35 of the 1998 Act allows for disclosure by exempting data from the non-disclosure provisions (except to the extent to which it complies with the requirements of the second and third schedules of the 1998 Act), where disclosure is required by any enactment, rule of law, or an order of the court and, where disclosure is necessary for the purpose of, or in connection with, any legal proceedings (including prospective legal proceedings), or for the purpose of obtaining legal advice or is necessary for the purposes of establishing, exercising or defending legal rights.
10. This means that the exchange of relevant information between the Parties in this protocol is not restricted under the Act because it will nearly always be the case that the exemptions constitute an overriding public interest in favour of sharing the information.

## CRIMINAL PROCEDURE AND INVESTIGATIONS ACT 1996

11. The Criminal Procedure and Investigations Act 1996 (the 1996 Act), the Code of Practice made under section 23 of the 1996 Act, and the Attorney General's Guidelines on the disclosure of information in criminal proceedings, published November 2000, govern the disclosure of unused prosecution material to the defence. Guidance to the police and the Crown Prosecution Service is contained in the Joint Operational Instructions. The 1996 Act applies to all criminal investigations begun on or after 1 April 1997 and applies to a two-stage disclosure process. As soon as reasonably practicable after a not guilty plea in the Magistrates' Court, or service of the prosecution case, committal or transfer to the Crown Court, the prosecution must disclose to the defence any prosecution material that has not been previously disclosed and which might undermine the prosecution case (primary disclosure).
12. In Crown Court cases, the defence is required to provide, within 14 days of primary disclosure by the prosecution, a statement setting out in general terms their defence and particulars of any alibi witnesses. On receipt of the defence statement, the prosecution must as soon as reasonably practicable disclose any further material which may reasonably be expected to assist the accused's defence, as disclosed by the defence statement (secondary disclosure).
13. In magistrates' court cases, the defence may give a defence statement to the prosecutor. The requirements of a defence statement voluntarily given in Magistrates' Court cases are the same as those in Crown Court cases.
14. Throughout the proceedings, the prosecution is under a continuing duty to keep under review whether material should be disclosed to the defence. After the defence has provided a defence statement, the 1996 Act enables them to apply to the court for an order requiring the prosecution to disclose material if the defence considers that the prosecution has failed to comply with secondary disclosure.
15. Where the prosecution holds relevant sensitive material that meets the criteria for disclosure under the 1996 Act, then a public interest immunity application should be made to the court to withhold this material from the defence. Any decision to withhold such material is a matter for the court to determine.
16. Public interest immunity (PII) enables the courts to reconcile two conflicting public interests — the public interest in the fair administration of justice and the need to maintain the confidentiality of information the disclosure of which would be damaging to the public interest. PII is an exception to the general rule that all material which falls within the tests for disclosure must be disclosed. Special care needs to be taken in deciding where the balance lies between the two competing public interests.
17. Local authority social services files are no longer a "class" of material to which PII automatically applies. Each case, and each document should be considered individually. Where PII can, or may apply, the local authority may itself conduct the balancing exercise and agree that, in an individual case, the conflicting public interest in the investigation and prosecution of crime overrides the PII interests in confidentiality *R v Chief Constable of West Midlands Police ex parte Wiley* [1995] 1 AC 274.

18. The position of PII with respect to social services files has recently been summarised in *Re R (Care: Disclosure: Nature of Proceedings)* [2002] 1 FLR 755. Any person advancing a claim to PII in respect of material held by a local authority should set out with particularity the harm that it is alleged will be caused to the public interest. Before embarking on a claim for PII, consideration should be given to the question whether the material passes the threshold test for disclosure under the Criminal Procedure and Investigations Act 1996, and if so why.

## THE EUROPEAN CONVENTION ON HUMAN RIGHTS

19. The Human Rights Act 1998 gives effect to the rights and freedoms guaranteed under the European Convention on Human Rights. Article 6 ensures that every accused has the right to fair trial. It states that in the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Article 8 protects the right to respect for private and family life, home and correspondence.
20. Article 6 is a “special” right which means that it cannot be balanced against other public interests. On the other hand, Article 8 is a “qualified” right which means that it can be interfered with where it is in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.
21. The court will order disclosure of information regarding sexual and physical abuse of children (social service and education records) where it is necessary for an accused to have a fair trial (Article 6). The court will also order disclosure of the information where it is necessary for the protection of health or morals, for the protection of the rights and freedoms of others and for the prevention of disorder or crime (Article 8 (2)). Disclosure should be appropriate for the purpose and only to the extent necessary to achieve that purpose.

## JOINT INVESTIGATIONS

22. Section 26 of the 1996 Act provides that a person other than a police officer, who is charged with a duty of conducting an investigation with a view to it being ascertained, whether a person should be charged with an offence, or whether a person charged with an offence is guilty, shall have regard to any of the provisions in the Code of Practice made under the 1996 Act. Material obtained by social services in the course of an investigation under section 47 of the Children Act 1989, which may be obtained jointly with the police, but not in the possession of the police, is not subject to section 26. However, it is acknowledged that where such material is obtained jointly with the police, the local authority should as a matter of good practice, have regard to the Code of Practice.
23. Relevant material acquired during the course of a joint investigation should be given to the police disclosure officer and listed on a sensitive or non-sensitive MG form. If there is any disagreement between the police and the local authority on the material, then this will be resolved by the Court by way of a public interest immunity application (see section 16 of the 1996 Act). Where material which has been jointly obtained is in the possession of the police, then that material is subject to the provisions of the Criminal Procedure and Investigations Act 1996.
24. In most cases social workers will be involved where the police are investigating allegations of sexual or physical abuse of children. In addition to complying with the 1996 Act, they should also adopt the Attorney General's guidelines and have regard Article 6 of the European Convention on Human Rights.

## NON-JOINT INVESTIGATIONS

25. Where a person subject to a criminal investigation has not been charged, it is often the case that the investigating police officer will require to know about the background of the complainant, family and associates. Such information may be helpful in assessing the veracity of any complaint and the likelihood of conviction. Occasionally, if the local authority had disclosed material to the police at an earlier stage the person under investigation would not have been charged.
26. In these circumstances, the only mechanism to enable the investigators to make application to the court for the disclosure of such material is to consider whether it is appropriate to make an application for Special Procedure Material, under Schedule 1 of the Police and Criminal Evidence Act 1984. However, this is not a satisfactory

approach because it goes against the ethos and spirit of the Parties exchanging and sharing information where it is necessary to protect children.

27. Therefore, where full details of the nature of the investigation and the reasons for requiring such material are given to the local authority and that the material is treated as confidential, then it is in the interests of justice for there to be disclosure of relevant material before charge. This would be considered “necessary” in accordance with Schedule 3 of the 1998 Act.
28. Where a person has been charged with an offence and the social services and/or education departments of a local authority have not been involved in the investigation, but holds or is believed to hold material that could be relevant, then the local authority fall within the category of a third party. The procedure for the police in obtaining such information should be in accordance with this protocol.
29. Schedule 2 of the 1998 Act allows disclosure of non-sensitive material. Such material should be listed on a non-sensitive material form which will be sent, together with the material, to the police disclosure officer who will forward it to the Crown Prosecution Service.
30. The majority of the material held by a local authority will be of a confidential nature. Where the conditions are met in Schedule 3 of the 1998 Act, material should be revealed to the police disclosure officer and the Crown Prosecution Service. The material should be listed on a sensitive material schedule and this together with the documents should be given to the police disclosure officer and the Crown Prosecution Service. Where the local authority assert public interest immunity then section 16 of the 1996 Act provides that the court must not make a disclosure order unless a person claiming an interest in the material is given the opportunity to be heard.
31. Paragraphs 30-33 of the Attorney General’s Guidelines refer to material held by other agencies, which includes a local authority. If it is believed by the investigator, the police disclosure officer or the prosecutor that it is reasonable to seek production of material held by the local authority and the request is refused then application should be made for a witness summons requiring production of the material to the court. The prosecution should be pro-active in such circumstances.

## CONCLUSION

32. The aim of the protocol is to provide an agreed framework between the Parties for the sharing and exchange of relevant material in child protection investigations. While there is a difficult balance between the local authority complying with their duty of confidentiality, and the police and the Crown Prosecution Service obtaining relevant material from the local authority at the earliest stage possible in any criminal investigation, there are no legal reasons why the Parties should not exchange the material expeditiously, as outlined in this protocol. This would benefit everyone involved in any criminal child protection investigation and promote the efficiency of the criminal justice system.

## ANNEX B

### DRAFT NOTICE FROM THE POLICE DISCLOSURE OFFICER TO THE LOCAL AUTHORITY LEGAL DEPARTMENT

#### IN CONFIDENCE

Date:

Heading

Dear Sir/Madam

**PROTECTION OF CHILDREN: REQUEST FOR DISCLOSURE OF MATERIAL HELD BY \_\_\_\_\_**  
**[INSERT NAME OF COUNCIL]**

\_\_\_\_\_ Police are conducting a criminal investigation into allegations made against \_\_\_\_\_  
**[name of the alleged offender]** of \_\_\_\_\_ **[address of alleged offender]**, \_\_\_\_\_ **[date of birth]**.

The allegations being investigated are, in general terms, that \_\_\_\_\_  
**[set out the circumstances of the offence(s) being investigated and the charges if any.]**

The following child is the alleged victim of the offences:

**Name of the child:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Date of Birth:** \_\_\_\_\_

**Social worker/office previously involved:** \_\_\_\_\_

**Relationship to the alleged offender (if any):** \_\_\_\_\_

**Name and dates of the school attended (if appropriate):** \_\_\_\_\_

**Other children in the family:** \_\_\_\_\_

In addition, we have obtained evidence from the following child/children:

**Name of child:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Date of Birth:** \_\_\_\_\_

**Social worker/office previously involved:** \_\_\_\_\_

**Relationship to the alleged offender (if any):** \_\_\_\_\_

**Name and dates of the school attended (If appropriate):** \_\_\_\_\_

I believe that your Authority may hold material relating to the alleged offender or the above-mentioned child/children, which may be relevant to our investigation.

**[Set out the nature of the material sought and the reasons why it may be relevant to the criminal investigation]**

I should be grateful if you would ascertain whether or not your Authority holds material any such material.

**[Set out any prejudice or delay to the investigation, which may be caused by the material not being disclosed.]**

Any material obtained by us in the course of our investigation will be treated as sensitive and dealt with in accordance with the Criminal Procedure and Investigations Act 1996.

I should be grateful if you were able to reply by \_\_\_\_\_ **[date]**.

I should be grateful if you would reply to me at the above address. If you wish to discuss this request, or any further information, please do not hesitate to contact either myself or \_\_\_\_\_ **[name of officer]** on \_\_\_\_\_ **[telephone number]**.

Thank you in advance for your assistance.

Yours faithfully,

**Officer in charge of the Investigation/Disclosure Officer**