



NOTTINGHAMSHIRE  
**POLICE**  
PROUD TO SERVE

PG 042 Care Proceedings and Information Disclosure  
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Form Annex C (formerly Annex B)

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## SECTION 1 VERSION CONTROL

Version No.	Date	Post Holder/Author	Post	Reason for Issue
1.0	June 2014	Liz Rogers		National protocol change requiring local guidance
1.1	Oct 2014	Liz Rogers		Inclusion of final 4 para at s 3.1 covering use of MG6D

## SECTION 2 BACKGROUND

The revised Public Law Outline is now in operation and imposes a 26-week deadline for child care and supervision proceedings. This includes applications for care orders, supervision orders and any variations to those orders.

A national protocol has been introduced and adopted within Nottinghamshire to facilitate the expedient disclosure of prosecution material in child abuse cases (including historic cases), material held by the local authorities (LA's) that may support criminal prosecutions and material held by the CPS.

### SECTION 3 AIMS / OBJECTIVES

Aims and Objectives;

- Early notification to the Local Authority and to the Family Court that a criminal Investigation has been commenced.
- Timely notification to the Local Authority and to the Family Court of the details and timescales of a criminal prosecution.
- To facilitate timely and consistent disclosure of information and documents from the police, and CPS into the Family Justice System.
- To provide notification to the police and CPS of an application to the Family Court for and order for disclosure of prosecution material into the Family Justice System.
- To facilitate timely and consistent disclosure of information and documents from the Family Justice System to the police and/or the CPS.
- To provide a timely expeditious process for the Local Authority to respond to a request from the police for material held by the Local Authority which would assist in a criminal investigation.
- To provide a standard process for applications by the police and/or the CPS for the permission of the Family Court for disclosure of material relating to Family Court proceedings.

### SECTION 4 DETAILS

#### IMPORTANT:

The form G 802 Annex C – Protection of Children: Request for disclosure of material is to be used for requests made by **Police to the Local Authority**. This replaces the form G802 Annex B and is found on NCFForms>CAIU and Safeguarding folder. There is now an expectation that the Annex C will be submitted at the **commencement** of a child abuse investigation (historic or otherwise), rather than at the point of charge or advice.

This is intended as a guide, recognising the most pertinent points for the police and routine child abuse investigations. The full national protocol can be found on the attached link and should be referred to for complex issues.

[http://www.cps.gov.uk/publications/docs/third\\_party\\_protocol\\_2013.pdf](http://www.cps.gov.uk/publications/docs/third_party_protocol_2013.pdf)

**All the forms required including the Annex C (formerly Annex B) disclosure form and G2076 Annex G are available on NCFForms in the CAIU folder.**

#### 1/ POLICE REQUESTING INFORMATION HELD BY LOCAL AUTHORITY

Within 5 days of the commencement of a child abuse investigation. Police must submit an Annex C. This should be sent by secure email to both the Nottingham City and Nottinghamshire County Local Authorities as a child may have lived in both areas.

City - <mailto:childrenandadultslegal@nottinghamcity.gcsx.gov.uk>

County - <mailto:alison.walker@nottscc.gcsx.gov.uk>

### **1.1 Action at point of charge**

At the point of charge an updated Annex C should be submitted referencing the first submission. A copy of the MG5 should also be sent with the request. Where a person is not charged then the police or CPS must inform the Local Authority of the reasons for no prosecution.

### **1.2 Action 8 weeks before trial**

Approximately eight weeks before trial, the OIC should ensure that the Local Authority do not hold any new information that has not previously been available to the police and could impact on the trial and/or disclosure issues.

### **1.3 Local Authority action on receipt of Annex C**

Upon receipt of the form Annex C, the Local Authority will collate relevant material and identify the schools attended by the children subject to the investigation. This will enable the police to approach the school directly, or alternatively the Local Authority may collate educational files for police examination. This will be dependent on whether the school is managed by the local authority so clarity will need to be sought.

Documents relating to Family Court proceedings are not included in files to be examined. Therefore where they exist, the Local Authority will provide a list of the material (without describing what it is) to the police. This will enable the police and/or CPS to apply to the Family Court for disclosure. The text or summary of a judgement given in Family Court proceedings can be included in the files to be examined by the police.

This does not prevent the Local Authority providing to the police documents or information relating to Family Court proceedings where;

a) The police officer is carrying out duties under section 46 Children Act 1989 or serving in a child protection unit.

**and**

b) Disclosure is for the purposes of child protection and not for the purposes of the criminal investigation.

Where information is disclosed in accordance with the above, the police cannot make onward disclosure (including to CPS) of any documentation or information for the purposes of investigation or prosecution without the express permission of the Family Court. Such material must not be disclosed to the CPS. The police will reveal the existence of the material on the MG6D without describing it. The CPS will seek permission of the Family Court to access the material.

All material obtained from the Local Authority will be listed by the police on the sensitive disclosure schedule MG6D. The lists of material not disclosed by the Local Authority to the police will also be included on the MG6D.

**There is further guidance regarding applications by the police and the CPS to the family court for disclosure of material relating to family proceedings in Section 11 of the national protocol. At the stage prior to the service of prosecution papers, applications will generally be made by the police. After this applications will generally be made by the CPS.**

#### **1.4 Police examination of LA records**

The police will examine and review the material collated by the Local Authority. This will usually take place on local authority premises. The police may make notes and/or take copies of the material. The material should not be disclosed to the defence without further consultation with the local authority or order of the court.

#### **1.5 Further evidence becoming available**

Where further relevant Local Authority material comes to light after initial police examination, the Local Authority will contact the police and/or the CPS to arrange an examination of the new material by the police.

Where new issues arise in the criminal case (e.g. receipt of defence statement), the police will submit a further Annex C requesting material not previously examined.

## **2/ LOCAL AUTHORITY REQUESTING DISCLOSURE FROM POLICE**

The Local Authority on issue of proceedings will submit a form Annex D to the police. This will be emailed securely to the Public Protection Information sharing officers (ISO) located in the MASH. This is a request for information, and should only be for information **relevant to the central issues in the case**. In general, information dating back to 2 years is deemed sufficient.

#### **2.1 Police Action - Responsibility for evidence gathering for disclosure**

Information Sharing Officers will identify if there is an OIC for the criminal child abuse investigation. If OIC is identified then they are responsible for the gathering and disclosure of material. If the Annex D does not relate to a specific child abuse investigation then the ISO will gather and disclose material. The police have up to, **but not exceeding 14 days to disclose**.

#### **2.2 Police Action - What to disclose**

Where criminal proceedings have commenced there should be consultation with the CPS about what to disclose to the local authority.

Unless disclosure is required for the immediate safety of a child, police will not disclose material which may prejudice the investigation and/or prosecution. Where information is not disclosed, police should aim to give a date by which disclosure can be made. Alternatively, the police can state on the Annex D return that a disclosure will be made in the event that the local authority get a Family Court Order stating that the material will not be disclosed to named individuals (typically suspects and witnesses).

Police should return the completed Annex D to the requester by secure email.

**Where visually recorded evidence of a child is disclosed, then the local authority must sign a written undertaking, Annex G.**

### **3/ FAMILY COURT REQUESTS**

The family court may request disclosure from the Local Authority of material relating to the criminal case which has been disclosed by police (The Family Court is a separate body to the Local Authority). When this occurs, the local authority must notify CPS where criminal proceedings have commenced, or notify the police where criminal proceedings have not commenced. Where the police and CPS object, they must make timely representations to the family court explaining why disclosure may prejudice criminal proceedings.

#### **3.1 Family Court Orders for disclosure against the police and/or the CPS**

The Local Authority shall notify (within 2 working days of application) the police and CPS of any application to the Family Court for the disclosure of prosecution material. The Local Authority shall notify the police and/or the CPS of the date and time of the Family Court hearing at which the disclosure will be determined. Any order by the Family Court for disclosure will be in the form at Annex H to the protocol.

Where directed the police and/or CPS shall attend the Family Court hearing to explain the implications for a criminal trial when orders for disclosure are being considered by the court. In any event, the police and/or the CPS shall provide written representations to the Family Court and Local Authority where disclosure is opposed (explaining why disclosure might reasonably be capable of prejudicing the investigation and/or prosecution).

#### **The police and the CPS will comply with any court order.**

The national protocol states that the 'list' of material not available for the police to view (material relating to Family Court Proceedings), should be recorded on the MG6D. Disclosure Officers (in most cases the OIC) should be mindful of the declaration that is signed on the MG6E.

Nottinghamshire Police advises that where such a 'list' is recorded on the MG6D, the following statement is made next to the item.

***'The above list of potential third party material is recorded for CPS awareness in accordance with national protocol. As the Disclosure Officer I am not applying the MG6E certifications to this particular item or any material referred to therein.'***

The Disclosure Manual 2005 states that the existence of third party material should be explained on the MG6, therefore the disclosure officer/OIC should reference the existence of Family Court material on the MG6 also.

### **LEGISLATIVE COMPLIANCE**

This document has been drafted to comply with the general and specific duties in the Equality Act 2010; Data Protection Act; Freedom of Information Act; European Convention of Human Rights; Employment Act 2002; Employment Relations Act 1999, and other legislation relevant to policing.