

SFJCI301

Retain, record, review and reveal material as the appointed Disclosure Officer



Overview

The Criminal Procedure and Investigations Act 1996 (CPIA) and related codes of practice, rules, guidelines and manuals require that material discovered or created as part of a criminal investigation which does not form part of the prosecution's case should be revealed to the prosecutor and considered for disclosure to the defence if it may reasonably be considered capable of undermining the prosecution's case or assisting the case for the defence.

The officer in charge of the investigation – the Lead Officer (Lead Officer/Senior Investigating Officer) – must appoint a Disclosure Officer and, in large and/or complex cases, Deputy Disclosure Officers to ensure that the disclosure requirements under CPIA are fulfilled.

This unit describes the functions that must be carried out by Disclosure Officers and Deputy Disclosure Officers in relation to specific investigations.

There are two elements

1. Retain and record material
2. Review and reveal material

Target Group

Disclosure Officers and Deputy Disclosure Officers working on investigations.

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Performance criteria

You must be able to:

Retain and record material

- P1 ensure you are fully briefed on the **terms of reference** of the investigation and your role and responsibilities as Disclosure Officer, clarifying any aspects that may be unclear
- P2 prepare and implement a disclosure strategy for the investigation in consultation with the SIO
- P3 gather all material already available that may be relevant (ie may have an impact on the case)
- P4 in liaison with the Lead Officer (LO/SIO), identify and appoint Deputy Disclosure Officers to work on specific areas of the enquiry, if required
- P5 examine, inspect, view or listen to all material that is discovered or created as part of the investigation but is not intended to be used as part of the prosecution case and retain all relevant material
- P6 create and maintain separate schedules for non-sensitive and sensitive/highly sensitive material, fully describing the material in line with current guidelines and codes of practice
- P7 seek advice from the Lead Officer (LO/SIO), case lawyer or disclosure specialists, as appropriate, to confirm the status of **unused material**
- P8 draw to the attention of the Lead Officer (LO/SIO) any reasonable lines of enquiry which have not been pursued
- P9 liaise regularly with other members of the investigation team to ensure you are aware of all material that may be relevant
- P10 continuously review the status of **unused material**
- P11 attend regular case conferences with the case lawyer throughout the investigation, trial and any appeals process

Review and reveal material

You must be able to:

- P12 review the status of **unused material** in the light of the defence case statement and any changes in circumstances
- P13 analyse all unused material to identify whether it is likely to satisfy the disclosure test and draw this to the attention of the case lawyer
- P14 submit schedules and copies of disclosable material to the case lawyer
- P15 disclose material to the defence when directed by the case lawyer
- P16 ensure the security of any sensitive/highly sensitive material
- P17 where sensitive/highly sensitive material is disclosable, agree its redaction in order that it can be disclosed as non-sensitive material
- P18 make the case to the Lead Officer (LO/SIO) and the case lawyer for public interest immunity in respect of sensitive/highly sensitive material that should not be disclosed to the defence

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- P19 participate in public interest immunity hearings as required
- P20 certify that you have revealed all unused material to the case lawyer, in line with legal requirements

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Knowledge and understanding

You need to know and understand:

Legal and organisational requirements

- K1 current, relevant legislation, policies, procedures, codes of practice, guidelines and manuals relating to conducting criminal investigations
- K2 current, relevant legislation, guidelines and codes of practice relating to the disclosure of unused material in criminal proceedings
- K3 current, relevant legislation and organisational requirements in relation to race, diversity and human rights

Criminal investigations

You need to know and understand:

- K4 the terms of reference of the investigation
- K5 the roles and responsibilities of the Lead Officer (LO/SIO), Disclosure Officer and other key positions within the investigation
- K6 how to identify and obtain all available material that may be relevant to the investigation
- K7 why it is important to liaise regularly with other members of the investigation team, and how to do so effectively

Disclosure of unused material in criminal cases

You need to know and understand:

- K8 the duty of the Disclosure Officer to retain, record and reveal all non relevant and relevant unused material to the case lawyer
- K9 how to develop and implement a disclosure strategy
- K10 why it is important to continuously review the status of unused material
- K11 how to determine whether unused material is relevant (i.e. may have an impact on the case) or not
- K12 the differences between non-sensitive and sensitive/highly sensitive material and how each type of material should be handled and recorded
- K13 people to go to for advice to help you decide the status of unused material
- K14 why it is important that all reasonable lines of enquiry are pursued, how to identify neglected lines of enquiry and draw these to the attention of the Lead Officer (LO/SIO)
- K15 the importance and relevance of the defence case statement to determining what unused material should be disclosed to the defence
- K16 how to determine whether unused material is likely to satisfy the disclosure test
- K17 the documentation that needs to be completed and how to complete it correctly
- K18 how to redact sensitive/highly sensitive material in order that it can be

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disclosed as non-sensitive material

- K19 the principle of public interest immunity and how to make the case that sensitive/highly sensitive material should not be disclosed to the defence
- K20 the purpose of case conferences and how you can contribute effectively to these

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Additional Information

Scope/range related to performance criteria

Retain and record material

1. **terms of reference**
 - 1.1 fit with strategic objectives and priorities
 - 1.2 objectives and outcomes
 - 1.3 scope
 - 1.4 timing
 - 1.5 resources
 - 1.6 responsibilities
 - 1.7 constraints

2. **unused material**
 - 2.1 not relevant to the case
 - 2.2 relevant to the case

Review and reveal material

3. **unused material**
 - 3.1 not relevant to the case
 - 3.2 relevant to the case

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