

SCOTTISH PROSECUTION COLLEGE

Disclosure

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The Disclosure Duty....



**THE CROWN MUST
DISCLOSE ALL
INFORMATION FOR
OR AGAINST THE
ACCUSED**

The Crown's Disclosure Obligations

Leading Disclosure Cases

- *McLeod* (guiding authority)
 - *McDonald* (reaffirms *McLeod*)
 - *Holland & Sinclair* (specific refinements to *McLeod*)

What is “Information”?

- Information is ALL relevant information obtained during the investigating or prosecuting process held by the PROSECUTING AUTHORITIES
- Includes information held by the CROWN or any reporting agency.

What must the SRA do?

- Record ALL relevant information obtained
- Provide the Crown with all relevant information
- Pursue all “reasonable lines of enquiry”

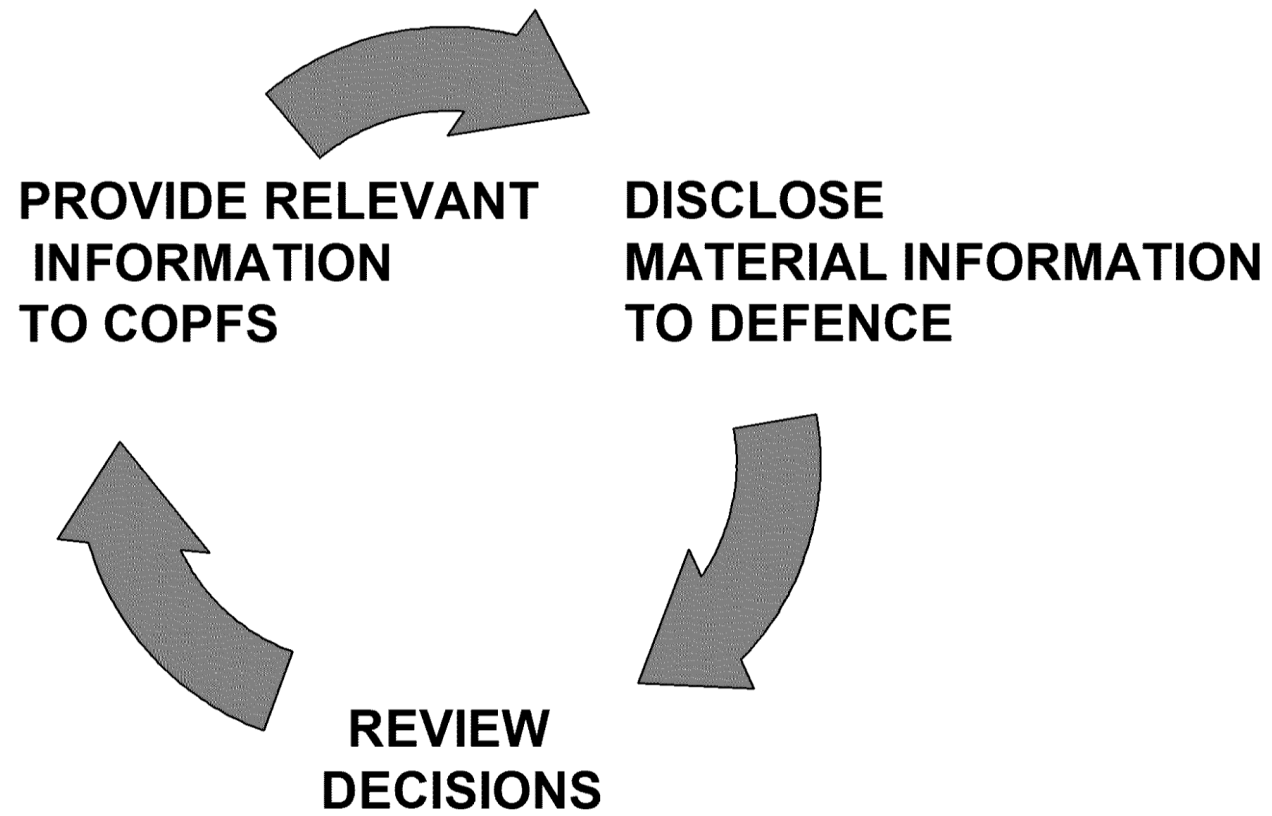
What must the Crown do?

- Consider ALL relevant information and assess whether it meets the disclosure test. i.e. is the information for or against the accused ?
- Disclose ALL information that meets the disclosure test

ONGOING DUTY

- Disclosure is an ONGOING duty throughout and beyond the life of the case.
- Any decision that information is NOT relevant must be kept under review
- Any decision that information does NOT meet the disclosure test MUST be kept under review

Ongoing Duty cont/d



Consequences of Non-Disclosure

- Unnecessary trials
- Unnecessary delays
- **MISCARRIAGES OF JUSTICE**

What next for Disclosure

- Lord Coulsfield's recommendations
- Legislation and Code of Practice
- Schedules in Solemn cases
- Public Interest Immunity
- Joint Working with ACPOS
- Training

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Any Questions?



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