

# SCOTTISH PROSECUTION COLLEGE

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# 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”

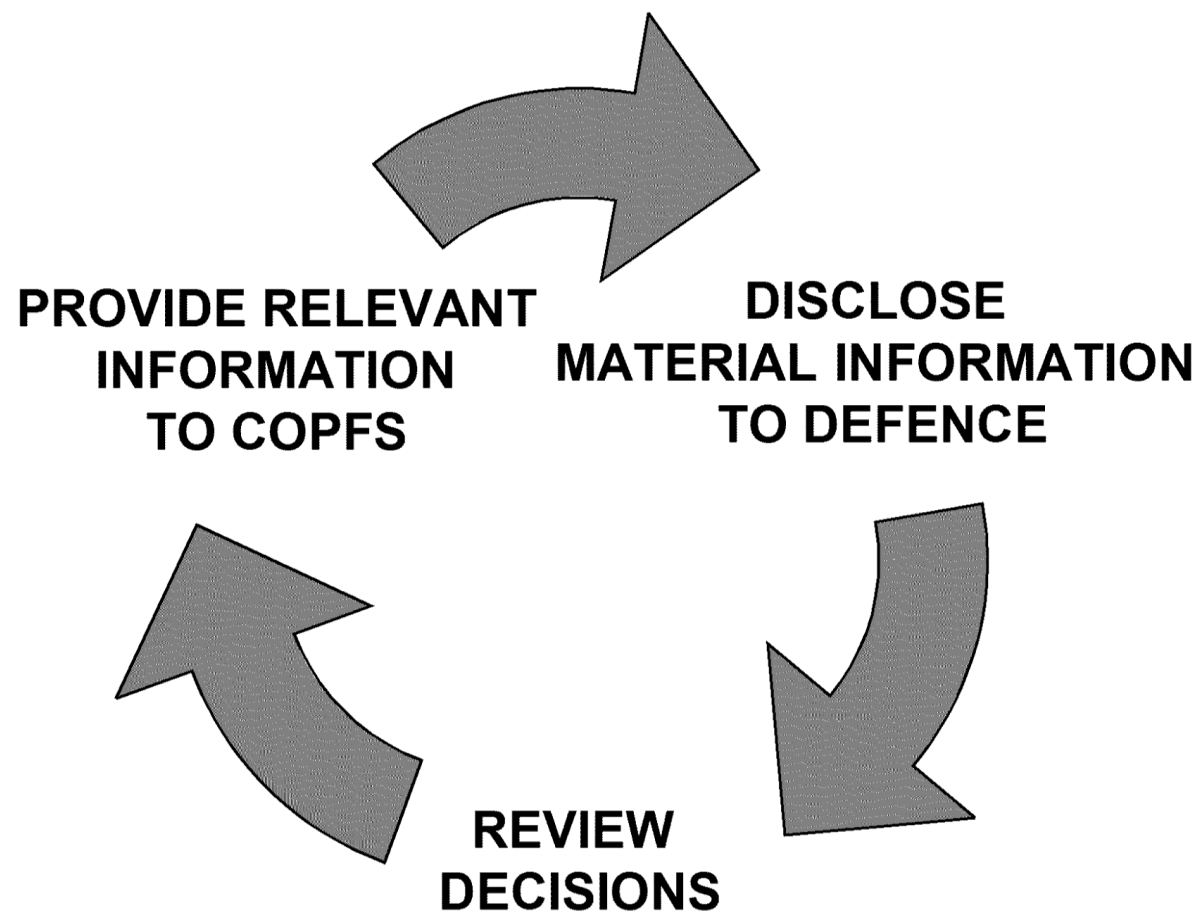
# What must the Crown do?

- 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?**

