

Section 25: Disclosure

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The principles of CPIA disclosure

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1. All members of the Service Police are aware that under Article 6 of the European Convention on Human Rights every person has a right to a fair trial. A trial can only truly be fair if the accused has access to all relevant material that is in the possession of the prosecution. It is the duty of all police officers, be they civilian or military, to carry out all investigations in a professional, honest and impartial manner. This means that any material in the possession of the police, or the prosecutor that could strengthen the case for the defence, or weaken the case for the prosecution must be disclosed.
2. The system created by CPIA (as amended by the Criminal Justice Act 2003) is designed to ensure that there is fair disclosure of unused material that might be relevant to an investigation. Furthermore, disclosure under CPIA is designed to prevent fishing expeditions by the defence. Instead, the accused is required to present a statement of his or her defence thereby allowing the prosecutor to make an informed decision about what unused material might assist in either weakening the prosecution case or strengthening the defence case.
3. The duty of disclosure continues as long as proceedings exist: from the point where enquiries that might lead to a formal investigation are undertaken up to and including any appeal. The interests of justice will mean that where material emerges after the conclusion of the proceedings that might cast doubt upon the safety of the conviction, there is a duty to consider disclosure. Any such material should be brought immediately to the attention of the Service Prosecuting Authority (SPA).
4. The provisions of the Code and CPIA only apply in those cases that have been investigated by the Service Police and/or those that are to be dealt with either at Courts Martial or at Standing Civilian Court. They do not apply to summary cases i.e. those dealt with by the CO because AFA 06 does not recognise a Summary Hearing as trial to which the code and CPIA apply.
5. The Service Police must at all times be fair and objective and they must work closely with the SPA to ensure that disclosure obligations are met. A failure by the prosecutor or the Service Police to comply with their respective obligations under the Act or the Code could have the following consequences:
 - a. The accused might raise a successful abuse of process argument at Courts Martial.
 - b. The accused might be released from the duty to make defence disclosure.
 - c. A Courts Martial may decide to exclude evidence because of a breach of the Act or Code, and the accused may be acquitted as a result.
 - d. The Courts Martial Appeal Court may find a conviction to be unsafe.
 - e. Disciplinary proceedings might be instituted against the prosecutor or a member of the Service Police.
6. Under CPIA, the accused also has responsibilities and failure to comply with them might also have consequences, including:
 - a. Loss of entitlement to make an application for disclosure of additional material.
 - b. The Court can draw inferences from any failure in deciding whether the accused is guilty of an offence.
7. If CPIA and the Code are properly applied, then only material required to be disclosed by the Act will be disclosed and there will be no question of 'blanket disclosure' taking place. In some instances, this will remove a considerable administrative burden from the Service Police and possibly reduce prosecution time and expense. It will most certainly limit the opportunity for 'ambush defences' to be provided at trial.

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References and sources

8. There are a number of different sources of material that will be referred to in this section. Some of the references directly relate to the Service Police whilst others are designed for the Home Department Police Force (HDPF) but still contain a considerable amount of guidance and advice for all practitioners, be they military or civilian.

- a. CPIA (as amended by the Criminal Justice Act 2003).
- b. CPIA Code of Practice for the Armed Forces (the Code).
- c. JSP 830 – Manual of Service Law.
- d. Armed Forces Act 2006.

Definitions

9. **Unused material.** Unused material is that which may be relevant to the investigation and that has been retained but does not form part of the case for the prosecution against the accused.

10. **Relevant material.** Relevant material is defined in the Code as anything that appears to an Investigator, or the Officer in Charge of an investigation or the Disclosure Officer to have some bearing on any offence under investigation or any person being investigated or on the surrounding circumstances unless it is incapable of having any impact on the prosecution or defence case.

11. **Non relevant material.** Material which is considered incapable of having impact is most likely to be non relevant and thereby the Service Police are under no obligation to reveal this to the prosecutor. However, non relevant material may become relevant as an enquiry progresses, possibly post charge or even post conviction, so great care should be taken not to destroy anything that has the potential of changing status. Retained material that is considered non relevant should be kept in a clearly marked folder at the rear of the case file.

12. **Revelation.** Revelation refers to the police alerting the prosecutor to the existence of relevant material that has been retained in the investigation. This is done by means of the completion of the relevant forms. Revelation to the prosecutor does not mean automatic disclosure to the defence.

13. **Disclosure test.** Disclosure refers to providing the defence with copies of, or access to, any material which might reasonably be considered capable of undermining the case for the prosecution against the accused, or of assisting the case for the accused, and which has not previously been disclosed; this is known as 'the disclosure test'.

14. **Service investigation.** A Service investigation is an investigation conducted by the Service Police which, when passed to the SPA is considered by them as to:

- a. Whether a person should be charged with an offence under Service Law, and
 - b. May be referred by them to a court to establish whether that person is guilty of that offence.
15. Service Investigations will include:
- a. Investigations into Service offences that have been committed.
 - b. Investigations to establish whether a Service offence has been committed.

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16. **Investigator.** An investigator is any member of the Service Police involved in the conduct of a Service investigation. All investigators have a responsibility for carrying out the duties imposed on them under the Code, including in particular recording information, and retaining records of information and other material. They must also ensure that all reasonable lines of enquiry have been pursued; whether they point toward or away from the suspect.

17. **Officer in Charge of an investigation (OIC).** The OIC of an investigation is the senior Service Police officer in the unit responsible for directing a Service investigation. They are also responsible for ensuring that proper procedures are in place for recording information and retaining records of information and other material in the investigation.

18. **Disclosure Officer.** The Disclosure Officer is the individual responsible for examining material retained by the Service Police during the investigation; revealing material to the Prosecutor during the Service investigation and any proceedings in a Service court resulting from it, and certifying that he or she has done this.

19. **Prosecutor.** The prosecutor is the authority responsible for the conduct, on behalf of the Crown, of proceedings resulting from a Service investigation.

20. **Material.** Material is material of any kind, including information and objects, which is obtained in the course of a Service investigation and which may be relevant to the investigation. This includes not only material coming into the possession of the investigator (such as documents seized in the course of searching premises) but also material generated by him or her (such as interview records). Material may be relevant to an investigation if it appears to an Investigator, or to the OIC, or to the Disclosure Officer, that it has some bearing on any offence under investigation or any person being investigated, or on the surrounding circumstances of the case, unless it is incapable of having any impact on the case.

21. **Sensitive material.** Material is sensitive if disclosure would, in the opinion of the Disclosure Officer and those organisations involved with its protection, give rise to a real risk of serious prejudice to an important public interest. CPIA Codes of Practice provides an example list of material that, dependant on the circumstances, may qualify¹:

- a. Material relating to national security;
- b. Material received from the intelligence and security agencies;
- c. Material relating to intelligence from foreign sources which reveals sensitive intelligence gathering methods;
- d. Material given in confidence;
- e. Material relating to the identity or activities of informants, or undercover police officers, or witnesses, or other persons supplying information to the police who may be in danger if their identities are revealed;
- f. Material revealing the location of any premises or other place used for police surveillance, or the identity of any person allowing a police officer to use them for surveillance;
- g. Material revealing, either directly or indirectly, techniques and methods relied upon by a police officer in the course of a criminal investigation, for example covert surveillance techniques, or other methods of detecting crime;
- h. Material whose disclosure might facilitate the commission of other offences or hinder the prevention and detection of crime;

¹ CPIA Codes of Practice para 6.12 refers.

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- i. Material upon the strength of which search warrants were obtained;
- j. Material containing details of persons taking part in identification parades;
- k. Material supplied to an investigator during a criminal investigation which has been generated by an official of a body concerned with the regulation or supervision of bodies corporate or of persons engaged in financial activities, or which has been generated by a person retained by such a body;
- l. Material supplied to an investigator during a criminal investigation which relates to a child or young person and which has been generated by a local authority social services department, an Area Child Protection Committee or other party contacted by an investigator during the investigation;
- m. Material relating to the private life of a witness.

22. **Prosecution disclosure.** Prosecution disclosure refers to the duty of the prosecutor under CPIA to disclose material which is in his or her possession or which he or she has inspected in pursuance of this Code, and which might reasonably be considered capable of undermining the Prosecution case, or of assisting the case for the accused. References to the disclosure of material to a person accused of a Service offence include disclosure of material to his or her legal representative.

The sequence of events under CPIA

23. CPIA as amended by the CJA 2003 has marked differences to both Common Law and the original CPIA. The basic sequence of events is:

- a. Investigation commences.
- b. Investigator recovers evidence during the investigation.
- c. Disclosure Officer is appointed from the outset of the enquiry and is briefed on the investigation.
- d. Disclosure Officer examines all material in the case file and compiles a Service Police Disclosure Form 6A - List of Unused Material - Non-Sensitive² for use when submitting a file to SPCB³ for electronic archiving on CRIMES or in summary dealings to reveal material to a Commanding Officer under our AFA 06 and common law disclosure obligations.
- e. Disclosure Officer draws up the Schedules of Unused Material (comprising Service Police Disclosure Form 6C - Schedule of Non-Sensitive Unused Material and Service Police Disclosure Form 6D - Schedule of Sensitive Unused Material) and signs them together with the Service Police Disclosure Form 6E - Disclosure Officer's report.
- f. Case papers and Schedules submitted for checking.
- g. Service Police Form 6A is sent to SPCB with a complete copy of all material as detailed on the form. Service Police Form 6A without the material sent with case papers to the relevant CO and legal advisory branch. If in all likelihood the case will be dealt with at Courts Martial, the OIC can make the decision not to send out the Form 6A to the CO and legal but to await the formal SPA request for disclosure.

² All up to date Disclosure Forms are available on the RAF Police website.

³ The 6A need not be signed by a trained Disclosure Officer but must be sent with all interim, addendum and final reports to SPCB. RAFF Policing Policy Info Note 4/14 refers.

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- h. Case file and schedules called forward by the SPA following receipt of the file. Service Police Disclosure Forms 6C - 6E forwarded accordingly.
- i. Prosecutor examines schedules and decides what if any of the material detailed on the schedules and the Disclosure Officer's report is to be disclosed to the defence.
- j. Defence receives copy of the Schedule of Non-Sensitive Unused Material and any item the prosecutor feels it appropriate to disclose.
- k. Defence submits Defence Statement.
- l. Prosecutor passes a copy of the Defence Statement to the Disclosure Officer via the OC of the Service Police unit investigating.
- m. Disclosure Officer examines the case papers once more in view of the Defence Statement and if further material has become relevant a revised Schedule of Non-Sensitive Unused Material and the Disclosure Officer's report are completed. If there is material that might now meet the 'Disclosure Test' this is annotated on the Disclosure Officer's report accordingly. If there is no further material to pass to the prosecutor, the Disclosure Officer makes a certificate to this effect on the Disclosure Officer's report which is then returned to the prosecutor.
- n. The Disclosure Officer via the OC of the investigating unit has a duty to continually review the case papers and reveal relevant material to the prosecutor if new information is forthcoming or new evidence is obtained.

The disclosure process key roles

- 24. The Code identifies four key roles in the disclosure process:
 - a. The investigator.
 - b. The Disclosure Officer.
 - c. The Officer in Command (OIC).
 - d. The prosecutor.

Case file information

- 25. Every case file must show the name of:
 - a. The investigator (should the investigator change during the enquiry, the name(s) of any subsequent Investigators).
 - b. The Officer in Charge of an investigation.
 - c. The Disclosure Officer.
 - d. Any deputy Disclosure Officer employed in the case.

Division of roles

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26. An investigator, a Disclosure Officer and an Officer in Charge of an investigation perform different functions. The three roles *may* be performed by different people or by one person. Under normal circumstances, the three Service Police roles will be held by three different individuals. Only in exceptional circumstances, such as ISO Dets will the roles be shared although there is no legislative reason why all three roles cannot be fulfilled by the same person.

27. Where the three roles are undertaken by more than one person, close consultation between them will be essential to ensure compliance with the statutory duties imposed by the Act and the Code.

General duties of the Service Police

28. Under the CPIA Code, the Service Police have a duty to record and retain material obtained in a criminal investigation which might be relevant to the investigation. All members of the Service Police have a responsibility to record and retain relevant material obtained or generated by them during the course of the investigation. The material might be photographed, video recorded, captured digitally or otherwise retained in the form of a copy rather than the original, if the original is perishable, or the retention of a copy rather than the original is reasonable in all the circumstances. This recorded and retained material must then be made available for scrutiny by the appointed Disclosure Officer.

Disclosure Officer - Duties

29. **General.** The Code creates the roles of Disclosure Officer and Deputy Disclosure Officer, with specific responsibilities for examining material, revealing it to the Prosecutor, disclosing it to the accused where appropriate, and certifying to the prosecutor that action has been taken in accordance with the Code.

30. **Duty to draw up schedules.** The Disclosure Officer is required to create schedules of relevant unused material retained during an investigation and submit them to the prosecutor together with certain categories of material. Material which the Disclosure Officer does not believe is sensitive must be listed on a schedule of non-sensitive material. The schedule must include a statement that the Disclosure Officer does not believe the material is sensitive. Any material which is believed to be sensitive must be either listed on a schedule of sensitive material or, in exceptional circumstances, revealed to the prosecutor separately. If there is no sensitive material, the Disclosure Officer must record this fact on a schedule of sensitive material.

31. **Conflict of interests.** An individual must not be appointed as Disclosure Officer, or continue in that role, if that is likely to result in a conflict of interest, for instance, if he or she is the victim of the alleged crime which is the subject of investigation. In such cases the OIC must always be consulted and when reaching a decision about whether to retain or employ an individual in the post, the likelihood of adverse comment at Courts Martial should always be kept in mind.

32. **Training/experience.** Officers, WOs and SNCOs appointed as Disclosure Officers must have been formally trained and have the requisite experience, skills, competence and resources to undertake their vital role.

33. **Register of authorised Disclosure Officers.** OICs are to produce a register of those within their unit who are trained and capable of fulfilling the role of the Disclosure Officer. This register should be the subject of a three monthly review by the OIC and an annual check by the CO of the Service Police unit concerned.

34. **Statutory duties.** The Disclosure Officer and any Deputy Disclosure Officer have a statutory duty to discharge disclosure responsibilities throughout a service investigation, namely to:

- a. Examine, inspect, view or listen to all relevant material that has been retained by the Investigator and that does not form part of the prosecution case.

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- b. Create schedules that fully describe the material.
- c. Identify all material which satisfies the disclosure test using the Disclosure Officer's report.
- d. Submit the schedules and copies of disclosable material to the prosecutor and at the same time provide a copy of any material which falls into the following categories:

(1) Information provided by an accused person which indicates an explanation for the offence with which he has been charged.

(2) Any material casting doubt on the reliability of a confession/admission.

(3) Any material casting doubt on the reliability of a prosecution witness.

(4) Any other material which the investigator believes may fall within the test for prosecution disclosure in the order.

(5) Provide copies of all documents required to be routinely revealed and which have not previously been revealed to the prosecutor.

(6) Consult with and allow the prosecutor to inspect the retained material.

(7) Review the schedules and the retained material continually, particularly after the Defence Statement has been received, identify to the prosecutor material that satisfies the disclosure test using the Disclosure Officer's report and supply a copy of any such material not already provided.

(8) Schedule and reveal to the prosecutor any relevant additional unused material pursuant to the continuing duty of disclosure.

(9) Certify that all retained material has been revealed to the prosecutor in accordance with the Code.

(10) Where the Prosecutor requests the Disclosure Officer to disclose any material to the accused, give the accused a copy of the material or allow the accused to inspect it.

35. **Notifying the prosecutor.** Disclosure Officers must specifically draw material to the attention of the prosecutor for consideration if there are any doubts at all about whether it might reasonably be considered capable of undermining the prosecution case or of assisting the case for the accused.

36. If the prosecutor asks to inspect material which has not already been copied to him, the Disclosure Officer must allow him to inspect it. If the prosecutor asks for a copy of material which has not already been copied to him, the Disclosure Officer must give him a copy. However, this does not apply where the Disclosure Officer believes, having consulted the OIC that the material is too sensitive to be copied and can only be inspected.

37. Disclosure Officers must treat requests by the Prosecutor for further information on material which may lead to disclosure as urgent and give them the highest of priorities.

38. **Extent of Disclosure Officer's examination.** Material held in the case file and not submitted with the prosecution papers must be examined in detail by the Disclosure Officer or the deputy, but exceptionally the extent and manner of inspecting, viewing or listening will depend on the nature of material and its form. For example, it might be reasonable to examine digital material by using software search tools, or to establish the contents of large volumes of material by dip sampling. If such material is not examined in detail, it must nonetheless be described on the

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disclosure schedules accurately and as clearly as possible. The extent and manner of its examination must also be described together with justification for such action.

39. **Distribution of schedules.** When the Service Police Case Referral (SPCR) and supporting evidence is distributed by the investigating unit, a copy of both schedules and the Disclosure Officer's report will have already been completed and retained on the file. Once the case is received by the SPA a letter will be received from them requesting revelation of the schedules and the Disclosure Officer's Report. The Disclosure Officer is then responsible for ensuring the test for relevancy and the disclosure test are again applied following receipt of the Defence Statement.

40. **Amending the schedules.** On occasions it may be necessary to amend the schedules. When the schedules are first submitted with a full file, the Disclosure Officer may not know exactly what material the prosecutor intends to use as part of the prosecution case. The prosecutor may create unused material by extracting statements or documents from the evidence, but should advise the Disclosure Officer accordingly. The Service Police should ensure that obviously non-evidential material is not included in the evidence. The prosecutor is required to advise the Disclosure Officer of items listed on Service Police Disclosure Form 6A (Non-Sensitive Used Material) that should properly be on Form 6C (Non-Sensitive Unused material); any apparent omissions or amendments required; where there are insufficient or unclear descriptions; or where there has been a failure to provide schedules at all. This applies equally to the Sensitive Schedules (Forms 6B and 6D). This will be advised to the Disclosure Officer in writing by the prosecutor and the Disclosure Officer must then take all necessary remedial action and provide properly completed schedules to the prosecutor. The Armed Forces Code of Practice for Disclosure places the responsibility for creating the schedules and keeping them accurate and up to date on the Disclosure Officer. Consequently, the prosecutor will not amend them. In these circumstances the prosecutor will inform the Disclosure Officer of the changes required and will return the schedules for amendment where appropriate. The Disclosure Officer should effect the amendments promptly and return the revised schedules to the prosecutor as soon as possible with a Service Police Disclosure Form 6E (Disclosure Officer's Report).

Investigator - Duties

41. The investigator has a number of general duties to discharge under the Code and the Act, but it is essential that they retain material that may be relevant to the investigation. If the Investigator has any doubts about the relevance of material, they should always err on the side of recording and retaining that material. It should always be remembered that if material with an evidential value is destroyed, there is a real danger that the case may be dismissed at Courts Martial for abuse of process.

42. **Drafting the schedules.** Whilst it is the statutory duty of the Disclosure Officer to draw up and sign the schedules of unused material, the Investigator is to assist the Disclosure Officer by drafting the schedules before submitting the completed file. In a complex enquiry they may be completed by the Disclosure Officer as the enquiry progresses.

43. The Investigator must notify the Disclosure Officer of the existence and whereabouts of material that has been retained. All Investigators have a personal responsibility to reveal all relevant misconduct relating to themselves to the Disclosure Officer. If there are doubts about whether to reveal detail about certain misconduct, then the Disclosure Officer or OIC must consult the SPA at the first opportunity.

44. **Reasonable lines of enquiry.** There is a duty under the Code for an Investigator to pursue all reasonable lines of enquiry, whether these point towards or away from a suspect. What is reasonable will depend upon the circumstances of a particular case.

45. **Oral material.** Material includes information given orally. Where relevant material is not recorded in any way, it will need to be reduced into a suitable form. Examples may include details

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of a telephone conversation or with experts or other investigators relevant to the case annotated in the case file diary.

46. **Relevance of material.** The issue of relevance is especially important where an Investigator is considering:

- a. Disposal of something.
- b. To return an item to the owner.
- c. Not to record information.
- d. Where not keeping material or recording information would result in the permanent loss or alteration of the material (as with reusable control room tapes, shop videos etc).

47. In all cases the Investigator must err to the side of caution and retain the material or at the very least discuss the matter with either the Disclosure Officer or the chain of command. Any decision to dispose of material, by whatever means, must be fully accounted for in the case file diary and the prosecutor subsequently notified.

48. **Negative information.** Negative information can sometimes be as significant to an investigation as positive information. It is impossible to define precisely when negative information may be significant, as every case is different. However, it will include the result of any enquiry that differs from what might have been expected, given the prevailing circumstances. Not only must material or information that points towards a fact or an individual be retained, but also that which casts doubt on the suspect's guilt, or implicates another person. Examples of negative information include:

- a. A CCTV camera that did not record the crime/location/suspect in a manner which is consistent with the prosecution case. The fact that a CCTV camera did not function or have videotape loaded will not usually be considered relevant negative information.
- b. Where a number of people present at a particular location at the particular time that an offence is alleged to have taken place state that they saw nothing unusual.
- c. Where a finger-mark from a crime scene cannot be identified as belonging to a known suspect.
- d. Any other failure to match a crime scene sample with one taken from the accused.

49. **Communicating with experts.** OICs, Disclosure Officers and Investigators must be aware that those witnesses classed as expert, are required under regulations other than CPIA to disclose information to which they have had access and that might have assisted in drawing conclusions. The effect of this is that there could be occasions when the expert having been made aware of information, deliberately or otherwise, that the Disclosure Officer and the prosecutor consider sensitive is then obliged to disclose to the defence. Considerable care must therefore be taken with verbal and written briefs to experts.

Duties of the OIC

50. **General.** The OIC is to ensure that the duties under the Code are carried out by all those involved in the investigation, and that all reasonable lines of enquiry are pursued, irrespective of whether the resultant evidence is more likely to assist the prosecution or the accused.

51. **Examination of schedules.** Whilst it is the duty of the Disclosure Officer to compile and sign the disclosure schedules, in order to avoid unnecessary delay, the OIC is to ensure that all schedules are properly completed, and signed before dispatch to the prosecutor. It is of particular

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importance that entries on the Non-Sensitive Schedule are examined to ensure that they are of sufficient detail to allow the Prosecutor to make an informed decision about the material.

52. OIC duties during the investigation. The OIC is responsible for ensuring that an investigation is properly directed. They may be assisted in this duty by suitably trained and experienced personnel. The OIC has overall responsibility to:

- a. Account for any general policies followed in the investigation.
- b. Ensure that all reasonable steps are taken for the purposes of the investigation and, in particular, that all reasonable lines of enquiry are pursued.
- c. Ensure that proper procedures are in place for recording and retention of material obtained in the course of the investigation.
- d. Appoint the Disclosure Officer.
- e. Ensure that where there is more than one Disclosure Officer, that one is appointed as the lead Disclosure Officer who is the focus for enquiries and who is responsible for ensuring that the Investigators' disclosure obligations are complied with.
- f. Ensure that an individual is not appointed as Disclosure Officer, or allowed to continue in that role, if that is likely to result in a conflict of interest, for instance, if the Disclosure Officer is the victim of the alleged crime which is the subject of the investigation.
- g. Ensure that material which may be relevant to an investigation is retained and recorded in a durable and retrievable form.
- h. Ensure that all retained material is either made available to the Disclosure Officer, or in exceptional circumstances revealed directly to the prosecutor.
- i. Ensure that all practicable steps are taken to recover any material that was inspected and not retained, if as a result of developments in the case it later becomes relevant.

Material to be retained

53. The duty to retain material includes, in particular, the duty to retain material falling into the following categories, where it may be relevant to the investigation:

- a. Crime reporting records such as COPPERS entries, Daily Occurrence Books or Service Police Officer's notebooks.
- b. Arrest and custody records (including all written records produced by Service Police and other service personnel who are not Service Police in relation to custody).
- c. Final versions of witness statements (and draft versions where their content differs from the final version), including any exhibits mentioned (unless these have been returned to their owner on the understanding that they will be produced in court if required).
- d. Interview records (written records, or audio or video tapes, of interviews with actual or potential witnesses or suspects).
- e. Communications between the Service Police and experts, such as forensic scientists, reports of work carried out by experts and schedules of scientific material prepared by the expert for the Investigator, for the purposes of criminal or disciplinary proceedings.

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f. Records of the first description of a suspect by each potential witness who purports to identify or describe the suspect, whether or not the description differs from that of subsequent descriptions by that or other witnesses.

Material of particular importance

54. The duty to retain material which may be relevant to the investigation also includes in particular the duty to retain the following categories of material, which may satisfy the test for prosecution disclosure:

- a. Information provided by an accused person which indicates an explanation for the offence with which he has been charged.
- b. Any material casting doubt on the reliability of a confession.
- c. Any material casting doubt on the reliability of a witness.

Material not required to be retained

55. The duty to retain material falling into these categories does not extend to items which are purely ancillary to such material and possess no independent significance (for example, duplicate copies of records or reports such as those contained within the ECMR or entries on the PNLD). As a general rule, pure opinion or speculation, for example police officers' theories about who committed the crime is not unused material. However, if the opinion or speculation is based on some other information or fact, not otherwise notified or apparent to the prosecutor, that information or fact might well be relevant to the investigation and should be notified to the prosecutor in accordance with these instructions.

Retention times

56. All material which may be relevant to the service investigation must be retained in accordance with the policy governing the Management of Service Police Information⁴.

Completion and submission of CPIA disclosure forms

57. Disclosure in respect of investigations that commenced on or after 1 Apr 08, must be recorded on the Service Police Disclosure Forms⁵ below:

- a. Service Police Disclosure Form 6C - Schedule of Non-Sensitive Unused Material.
- b. Service Police Disclosure Form 6D - Schedule of Sensitive Unused Material.
- c. Service Police Disclosure Form 6E - Disclosure Officer's Report.

58. Wherever possible, all three forms should be completed electronically, printed off and signed by the Disclosure Officer and submitted to SPA when required.

59. The Disclosure Officer is to ensure that a copy of each of the forms sent to the prosecutor is retained in the case file and any forms signed by the Prosecutor are likewise retained.

60. Submission of Forms 6C – 6E to SPA will generate a written request for the unused material. Independently, at the time of distribution of the SPCR, all unused material must have been recorded on a List of Unused Material - Non Sensitive and that forwarded together with a copy of all the material to SPCB for recording purposes.

⁴ Pt 3 Ch 1 Sect 10 to AP 1722 & Ch 26 RMP Provost Manual refer.

⁵ Available via the RAF Police website

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61. **Defence access to Form 6C.** In all cases being heard at Courts Martial, the Schedule of Non-Sensitive Unused Material will be disclosed to the defence as completed by the Service Police; the prosecutor will not alter or amend it in any way. It must therefore be completed with considerable care and diligence. Material that must be listed on the schedule covers almost all material recorded, retained or generated during the course of an investigation; any of that material which passes the disclosure test might also be disclosed to the defence.

62. **Description of material.** It is crucial that descriptions by Disclosure Officers in non-sensitive schedules are detailed, clear and accurate. The descriptions may require a summary of the contents of the retained material to assist the prosecutor to make an informed decision on disclosure. For example, it is not sufficient merely to refer to a document by way of a form number or function which may be meaningless outside the Service Police. In the description column of every schedule, each item should be individually described and consecutively numbered. Where continuation sheets are used or additional schedules sent in later submissions, item numbering must be consecutive to all items on earlier schedules.

63. **Material falling outside of CPIA requirements.** It should be noted that material seized during the course of a major investigation, which has not been examined due to its lack of immediate and apparent relevance to the investigation falls outside the CPIA. It is not 'unused material' but its existence must be recorded and brought to the attention of the prosecutor.

64. **Inspection of unseen material.** If the prosecutor asks to inspect material which has not already been copied to him, the Disclosure Officer must allow him to inspect it.

Sensitive schedules

65. If suitable to be recorded, the Disclosure Officer must list on a Schedule of Sensitive Unused Material any material; the disclosure of which he believes would give rise to a real risk of serious prejudice to an important public interest, and the reason for that belief. The schedule must include a statement that the Disclosure Officer believes the material is sensitive. Examples of such material may include:

- a. Material relating to national security.
- b. Material received from the intelligence and security agencies.
- c. Material relating to intelligence from foreign sources which reveals sensitive intelligence gathering methods.
- d. Material given in confidence.
- e. Material relating to the identity or activities of Covert Human Intelligence Sources (CHIS), or undercover service police officers, or other persons supplying information to the service police who may be in danger if their identities are revealed.
- f. Material revealing the location of any premises or other place used for police surveillance, or the identity of any person allowing a policeman to use them for surveillance.
- g. Material revealing, either directly or indirectly, techniques and methods relied upon by a member of the police in the course of an investigation, for example covert surveillance techniques, or other methods of detecting offences.
- h. Material, the disclosure of which might facilitate the commission of other offences or hinder the prevention and detection of offences.
- i. Material upon the strength of which search warrants were obtained.

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- j. Material containing details of persons taking part in identification parades.
 - k. Material supplied to an Investigator during an investigation which has been generated by an official of a body concerned with the regulation or supervision of bodies corporate or of persons engaged in financial activities, or which has been generated by a person retained by such a body.
 - l. Material supplied to an Investigator during an investigation which relates to a child or young person and which has been generated by a local authority social services department, an Area Child Protection Committee or other party contacted by an Investigator during the investigation.
 - m. Material relating to the private life of a witness.
66. The Disclosure Officer must discuss with the OIC or SIO if appropriate, the requirement to enter details of material on the Schedule of Sensitive Unused Material before the decision is taken to enter information.
67. Sensitive schedules must contain sufficient information to enable the prosecutor to make an informed decision as to whether or not the material itself should be viewed, without compromising the confidentiality of the information. Simply stating that a document, like an Intelligence Report, exists is not sufficient.
68. In exceptional circumstances, where an Investigator considers that material is so sensitive that its revelation to the Prosecutor by means of an entry on the sensitive schedule is inappropriate, the existence of the material must be revealed to the prosecutor separately. This will apply only where compromising the material would be likely to lead directly to the loss of life, or directly threaten national security.
69. Where there is material that is very sensitive, such as information from a Covert Human Intelligence Source (CHIS), the Disclosure Officer must inform the SPA at the earliest opportunity.
70. The Schedule of Sensitive Unused Material will not be disclosed to the Defence because it is not in the public interest to do so. You must state the reason why the item should not be disclosed to the defence. For example, details that identify an observation post must not be disclosed to the defence.
71. If there is no sensitive material in a case, the Schedule of Sensitive Unused Material is to be endorsed to that effect and submitted with the Schedule of Non-Sensitive Unused Material and the Disclosure Officer's report. In all cases all 3 forms should be submitted.
72. If a Judge Advocate concludes that an item of sensitive material satisfies the prosecution disclosure test and that the interests of the defence outweigh the public interest in withholding disclosure, it will be necessary to disclose the material if the case is to proceed. This does not mean that sensitive documents must always be disclosed in their original form, but it might be possible to edit the material thereby protecting the sensitive information whilst meeting the direction of the Judge Advocate.
73. **Editing sensitive material.** If an item of unused material contains both sensitive and non-sensitive material, it must be listed on the Schedule of Non-Sensitive Unused Material as being an 'edited version' or 'edited', for example a notebook entry containing both the personal details of a witness and the circumstances of the arrest. The sensitive material (witness details) is to be redacted on a copy of the original with a dark marker pen (never white correcting fluid). The original must never be marked. The unedited version is not to be listed on the Schedule of Sensitive Unused Material.

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74. Whilst the responsibility to edit rests with the Service Police, the prosecutor is to be consulted where editing or separating is other than straightforward. Sensitive material should never be copied and therefore will always require inspection.

Disclosure Officer's report

75. The Disclosure Officer must certify to the prosecutor that, to the best of his knowledge and belief, all material which has been retained and made available to him has been revealed to the Prosecutor in accordance with this code. He must sign and date the certificate. Certification is necessary when:

- a. The Schedule and accompanying material is submitted to the prosecutor.
- b. When material which has been retained is reconsidered after the accused has given a Defence statement.
- c. Whenever a schedule is otherwise given.
- d. Whenever material is otherwise revealed to the prosecutor.

76. It is a requirement for the Disclosure Officer to reveal to the prosecutor information which might undermine the prosecution case or assist the case for the defence, including:

- a. Information provided by an accused person which indicates an explanation for the offence with which he has been charged.
- b. Any material casting doubt on the reliability of a confession.
- c. Any material casting doubt on the reliability of a prosecution witness.
- d. Any other material which the Investigator believes may fall within the test for prosecution disclosure in the Order.
- e. Material which contains a first description of an offender. Briefly, the reason for the information being recorded on the Disclosure Officer's report, for example, '*Contains ambiguities regarding first description of suspect*', or '*May cast doubt on reliability of witness*'.

Disclosing material to the accused

77. If material has not already been copied to the prosecutor, and he requests its disclosure to the accused on the ground that it falls within the test for prosecution disclosure, or a Judge Advocate has ordered its disclosure after considering an application from the accused, the Disclosure Officer must cause it to be disclosed to the accused.

78. If material has been copied to the prosecutor and it is to be disclosed, whether it is disclosed by the prosecutor or the Disclosure Officer is a matter of agreement between the two of them although it is envisaged that in most cases disclosure will be completed by the SPA.

79. The Disclosure Officer must disclose material to the accused either by giving him a copy or by allowing him to inspect it. If the accused person asks for a copy of any material which he has been allowed to inspect, the Disclosure Officer must give it to him, unless in the opinion of the Disclosure Officer that is either not practicable (for example because the material consists of an object which cannot be copied, or because the volume of material is so great), or not desirable (for example because the material is a statement by a child witness in relation to a sexual offence).

80. If material which the accused has been allowed to inspect consists of information which is recorded other than in writing, whether it should be given to the accused in its original form or in

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the form of a transcript is a matter for the discretion of the Disclosure Officer. If the material is transcribed, the Disclosure Officer must ensure that the transcript is certified to the accused as a true record of the material.

Antecedents

81. **Suspects.** There is an established requirement to notify the prosecutor of any previous convictions in relation to the suspect. This will be included as part of the case papers and as such is not unused material.

82. **Service Police.** Under CPIA any Service Police witness in a case is required to notify the prosecution of any criminal or discipline related matters in relation to themselves and this will via self-certification using Service Police Disclosure Form 6H - Service Police Officer's Disciplinary Record. In most cases the Service Police officer will hand the completed Form 6H to the Disclosure Officer whose responsibility it is to ensure that the completed forms are received by the SPA. Negative returns are not required by the SPA. In the event however that the Service Police officer does not wish to reveal the contents of the Form 6H to the Disclosure Officer he may complete the form and forward it direct to the Prosecutor. In such cases the Disclosure Officer must be aware of the occurrence and ensure the prosecutor has received the document. The Service Police witness is to notify of any:

- a. Criminal convictions.
- b. Criminal cautions.
- c. Fixed Penalty Notices.
- d. Disciplinary findings of guilt/failure to meet the appropriate standard of conduct.
- e. Any current discipline or administrative cases still under investigation.
- f. Any case where an adverse judicial comment was made against them.

83. **Witnesses.** All prosecution witnesses will have full antecedence checks completed on them by the Service Police. This will involve the Service Police Investigator concerned doing the initial check on REDCAP themselves. All the witnesses will then be listed on a Service Police Disclosure Form 6G - (Non Service Police) Witnesses Antecedents, which will be faxed on a one request per case basis to SPCB. They will then return the results of the PNC and JPA check to the originating unit together with the annotated (Non Service Police) Witnesses Antecedents. This information will then be transferred onto the appropriate Schedule of Unused Material and, if significant, the Disclosure Officer will include it in his report and ensure that the SPA receive copies of the PNC and JPA print outs.

Furtherance of Enquiry

84. A Furtherance of Enquiry are commonplace within a Service Police investigation. In all cases the receiving unit will list all items of original material generated by them on a Service Police Disclosure Form 6F - Furtherance of Enquiry - Index of Material. The index together with all generated material will be submitted to the sending unit's Disclosure Officer for them to apply the relevancy and disclosure tests. A copy of the material will be kept on file by the receiving unit and where appropriate a digital image retained where there is no other ability to copy the material. For example, where a car or weapon is recovered.

Transfer of investigation

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85. When an investigation case file is transferred from one unit to another, responsibility for the lead Disclosure Officer is also transferred. In these circumstances, the initiating unit's Disclosure Officer will take on the role of Deputy Disclosure Officer and submit the signed schedules to the receiving unit's Disclosure Officer who will in turn pass all the schedules to the Prosecutor. It is incumbent on the receiving unit's Disclosure Officer to ensure that he is fully conversant with the details of the case and associated revelation/disclosure issues.

Specialist unit disclosure procedures

86. Specialist units which include the forensic flights within Specialist Capabilities Sqn, fraud investigation and child protection units are to appoint a Deputy Disclosure Officer upon receipt of the case for action. The appointed Deputy Disclosure Officer will then produce the relevant schedules and Disclosure Officer's report which will be forwarded to the case Disclosure Officer upon completion of the specialist team action. Liaison should be maintained between the Disclosure Officer for the case and the appointed Deputy Disclosure Officer to ensure both are aware of all issues relevant to their task and responsibility.

87. The Covert Operations Team (COT) and Dedicated Source Unit (DSU) are to return all non-sensitive unused material to the Disclosure Officer on the List of Unused Material - Non Sensitive in order for the case Disclosure Officer to apply the 'Disclosure Test'. These departments will however produce their own schedules of sensitive material, the content of which will be discussed with the case Disclosure Officer, OIC or prosecutor as appropriate to the sensitivity of the material involved.

Third party disclosure

88. This Code of Practice applies in respect of Service investigations conducted by members of the Service Police, which began on or after 1 Apr 08. The Code essentially creates two groups of persons, the investigators and the prosecutors. Those not within either of these groups constitutes third parties. Third parties frequently encountered will include:

- a. Owners of CCTV material.
- b. Social services departments.
- c. Forensic experts.
- d. Police surgeons.
- e. GPs and hospital authorities.

89. If the investigator believes that third parties may be in possession of material which has not been obtained as part of the enquiry, he should ask the Disclosure Officer to inform them of the existence of the investigation and to invite them to retain the material in case they receive a request for its disclosure. The Disclosure Officer should inform the prosecutor that they may have such material. However, the OIC of an investigation is not required to make speculative enquiries of other persons; there must be some reason to believe that they may have relevant material. That reason may come from information provided to the police by the accused or from other inquiries made or from some other source. A third party has no obligation under the Act to reveal material to the Investigator or to the prosecutor, nor is there any duty on the third party to retain material which may be relevant to the investigation. In some circumstances, the third party may not be aware of the investigation or prosecution.

Joint enquiries

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90. Where the Service Police and another investigating agency, such as the HDPF or the Immigration Service undertake a joint investigation, material obtained within the remit of that joint investigation should be treated as prosecution material and dealt with in accordance the code.

Summary hearings

91. Summary Hearings are not subject to the code or to CPIA and, therefore, the accused is entitled to access to all unused non-sensitive material. When preparing a case for Summary Hearing, the Disclosure Officer is to:

- a. Provide copies of the all written unused non-sensitive material to the CO.
- b. Provide as an annex to the Service Police Charge Referral (SPCR) a list of (non-written) non-sensitive material indicating where it can be inspected.
- c. Indicate within the SPCR that unused sensitive material exists but before a list of the material can be released; the CO must seek advice from the legal branch.

This guidance only pertains to cases heard at summary hearing.

92. **Summary hearings and sensitive material.** Under no circumstances should any sensitive material that is generated during the course of an enquiry, that is eventually dealt with summarily, be disclosed to the CO or the legal advisory branch. The Service Police Disclosure Form 6B - List of Unused Material - Sensitive should be completed and retained on the file having notified the Officer in Charge of its existence. In the event the case is later referred for trial by Courts Martial, CPIA will apply and the Schedule of Sensitive Unused Material completed and revealed to the prosecutor in the normal manner.

Investigations by the CO

93. CPIA rules will apply to investigations by the CO if they are ultimately referred to the SPA or the accused elects for trial by Courts Martial. In such instances the SPA will be responsible for disclosure of all material as there has been no Service Investigation or Service Police involvement.

94. **Service Police investigation following a CO's investigation.** The Service Police have no duty under the codes to act as a Disclosure Officer where there has been an investigation by the CO. If following a referral of an investigation by the CO to the SPA, the SPA require a Service Police investigation, they will submit a request in writing to the relevant Service Provost Marshal. When directed to re-investigate such cases; the case will become a Service investigation and full provisions of CPIA will be applied by the Service Police.

Provision of case documentation to SPCB

95. There is a requirement for a copy of all case related material, both the evidence and unused material to SPCB for microfiche storage as per the requirement prior to CPIA implementation. This information MUST be provided at the time of distribution of the SPCR and not delayed until referral for trial; be it summarily or by Courts Martial. The material is to be listed on the relevant List of Unused Material (be that sensitive or non-sensitive).

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Section 26: Release and sharing of RAFP information

(Sponsor: SO2 Policing Policy. Review date – May 18. Last amendment 11 May 16)

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Introduction

1. The principles of Management of Police Information provide a way of balancing proportionality and necessity that are at the heart of effective police information management. They also highlight the issues that need to be considered in order to comply with the law and manage risk associated with police information.
2. This section is concerned only with the policy surrounding the release and sharing of RAF Police Data. Storage, retention and disposal have been devolved to the Service Police Crime Bureau (SPCB) by means of a Service Level Agreement (SLA). The collection and recording of information is covered iaw established protocols contained in other sections of the AP 1722.
3. It is incumbent on every RAFP Officer, NCO and civilian staff to ensure that they comply with the Data Protection Act 1988 (DPA) and the MOD provides mandatory courses which are to be undertaken to support their knowledge base⁶.
4. Information requests can be received for a variety of reasons including information sought by different police agencies (both Civ and Mil) as well as from members of the public requesting data under the legal rights instilled in the DPA and the Freedom of Information Act 2000 (FOIA). The RAF Police also have statutory obligations to disclose information. Examples of those include sharing information with the Disclosure and Barring Service, instructions from a Court Order and the Child Support Agency (CSA).
5. PM(RAF) has overall responsibility for the Force's compliance and delegates responsibility for information release to DPM(RAF).
6. Any request requiring the release of RAFP information that has been gathered for a policing purpose⁷ should initially be forwarded to SPCB as per the instructions contained within JSP 441 Part 2 - Info Guide Note 27 using the forms provided at Annex A – C of the guide as detailed below:

⁶ Defence Information Management Passport.

⁷ Defined at para 4 to Info Guide Note 27 to JSP 441.

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- a. Annex A for requests from other Service Police agencies.
- b. Annex B for requests from External Law Enforcement Agencies.
- c. Annex C for all other requests for information.

7. Any FOIA requests with regards to the FP Force (either RAFF or RAF Regt) are to be forwarded to SO2 FP Force Co-Ordinator (e-mail: [REDACTED]) who will act as the SPOC for all such requests.

Information sharing

8. Considerations when sharing information:

- a. It should be done only where it is lawful to do so and should not be carried out purely as a matter of routine – each case should be viewed individually.
- b. It may be carried out when required by or under statute.
- c. It must be accurate, judged on its own merits and its relevance should be explained.
- d. It should take into account proportionality, the DPA, and the common law duty for confidentiality when the information is personal⁸.
- e. It should have an Information Sharing Agreement (ISA) established.
- f. Careful judgement is required on data protection and human rights issues prior to sharing. Non-personal data is not subject to the same tests or considerations. A privacy impact assessment may be appropriate.

Human Rights Act 1998 (HRA)

9. The HRA incorporated most of the European Convention of Human Rights (ECHR) into UK law. The ECHR contains fundamental rights which have a bearing on the management of police information. For example, Article 2 provides for a right to life and Article 3 provides for the right not to be subjected to torture, inhuman or degrading treatment. Article 8 of the ECHR protects an individual's right to respect for privacy and family life which cannot be interfered with except 'in accordance with the law, in pursuit of a legitimate claim⁹; and where it is necessary in a democratic society'. This places a responsibility on police forces to establish a policing purpose for collecting, recording, and retaining personal information.

Data Protection Act 1998

10. The DPA provides that personal data must be processed iaw 8 data protection principles, namely that information is:

⁸ Personal data is defined at Para 5 to Info Guide Note 27 to JSP 441.

⁹ 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.

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- a. Fairly and lawfully processed, meeting a condition of Schedule 2 of the DPA with regard to Personal Data and, additionally, also meeting a condition of Schedule 3 of the DPA with regard to sensitive personal data;
 - b. Processed for specified and lawful purposes and not in any manner incompatible with those purposes;
 - c. Adequate, relevant and not excessive;
 - d. Accurate and, where necessary, up to date;
 - e. Not kept for longer than is necessary;
 - f. Being processed in accordance with the individual's rights;
 - g. Secure;
 - h. Not transferred to countries outside of the EU (or European Economic Area countries that have a bilateral agreement with the UK) without adequate protection.
11. S7 DPA provides a legal right for persons to obtain their personal and/or sensitive personal data (both of which are defined under the act) by means of submitting a Subject Access Request (SAR).
12. Certain exemptions apply to the data protection principles and the one most relied upon by the RAFF tends to be S29 DPA which, in certain circumstances, provides an exemption from the first data protection principle and S7 DPA where the data is processed or shared for:
- a. Prevention or detection of crime;
 - b. Apprehension or prosecution of offenders;
 - c. Assessment or collection of any tax or duty.
13. SPCB is the focal point for all SARs relating to policing information. Any SAR requesting such is to be passed to them on the relevant JSP 441 Info Guide Note 27 form in order that consistent application of the rules may take place.

Freedom of Information Act 2000

14. The FOIA provides any person, anywhere in the world, the right to access information held by public authorities (subject to a number of exemptions). All personnel are to be aware that an FOI request does not have to be written on a special form (although it must be in writing) and it does not even have to mention FOIA. Personnel are to be mindful that any request made to the MOD, a public authority as defined by the FOIA, confers upon the department 2 obligations:
- a. The duty to confirm or deny whether the information requested is held.
 - b. The duty to communicate the information.
15. There are 2 main ways of releasing information:
- a. Creating and maintaining a publication scheme.

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- b. Disclosing information in response to a valid request subject to exemptions where applicable.

16. There are several exemptions that may apply to an FOI request but the one most relied upon by the RAFF tends to be S30 FOIA (Investigations and proceedings conducted by public authorities) and S31 (Law enforcement).

17. DPM(RAF) is the designated FOI Officer for the RAFF. However, as stated at Para 7, all FOIA requests are to be directed to SO2 FP Force Co-Ordinator.

Information Sharing Agreements (ISAs)

18. ISAs are formal agreements between organisations that wish to share personal data held and managed within the RAFF. Establishing an ISA has distinct advantages as they:

- a. Ensure consistency in the way information is shared.
- b. Allow written conditions to be placed on the way information is handled by the partner agency and vice versa.
- c. Ensure that the information is being shared lawfully.
- d. Provide an audit for the manner in which information is being shared.
- e. Help build confidence in the role the RAFF play in protecting the Service community.

19. The following points are to be considered and included in an ISA:

- a. Whether there is a statutory duty or power to disclose the information or whether the sharing of the information meets a policing purpose.
- b. Identify the organisation or agency with whom the information will be shared.
- c. Identify the process for sharing the information including:
 - (1) Access and usage.
 - (2) Accuracy.
 - (3) Necessity.
 - (4) Recording.
 - (5) Security.
 - (6) Accountability.
 - (7) Authorisation.
 - (8) Approval.
- d. Setting a review date for the ISA.

- e. Undertake a risk assessment for the sharing of information.

20. Units are empowered to enter into an ISA should the need arise. Where a unit enters into an ISA with an organisation, it is to be retained at unit level and copied to the relevant Sqn HQ.

21. Further information regarding ISAs can be found at the College of Policing website.

Dealing with insurance companies

22. On occasion, particularly when dealing with traffic collisions or offences relating to personal injuries, insurance companies may contact units directly requesting the release of RAFP reports and associated statements.

23. The company or individual requesting the information is to be directed to SPCB and asked to complete Annex C to Info Guide Note 27, Part 2 Guidance, JSP 441.

Use of RAFP information for administrative purposes

24. On submission of a RAFP report, there are occasions when there is a strong appetite for the unit to pursue administrative action against the subject. The principles governing this process are articulated in Lft 127 to AP 3392 Vol 5 and reflect that administrative action should not be used to avoid taking disciplinary action and that administrative action may be taken against a subject, even post conviction, to address the wider implications of an individual's actions in terms of their employment. Whilst this is a matter for unit HR and the unit CO, occasionally information contained within a RAFP report is requested to support the administrative action.

25. In addition to the DPA requirements, a duty for confidentiality exists under Common Law where information of a personal or sensitive nature is collected and recorded. A breach of confidentiality applies where the information collected and recorded is used in an unlawful manner. There are, however, a number of exceptions to the duty where:

- a. There is a legal requirement to disclose the information.
- b. There is an overriding duty to the public (eg where the information concerns a criminal offence or relates to life threatening circumstances).
- c. The individual to whom the information relates has consented to the sharing.

26. Information (particularly statements) gathered by the RAFP during the course of an investigation is done so in the expectation that it would be used for disciplinary action. Whilst a witness may consent to their information being used for administrative purposes, there is no such opportunity afforded to the suspect in a case.

27. On occasions, where no such consent exists, consideration is to be given to obtaining the consent before release. Otherwise, the relevant information must be redacted and withheld. This includes any ancillary information that may identify the subject by other means.

28. College of Policing MoPI guidance reflects that information may be shared if it meets a policing purpose and, in the case of sanctioning a member of HM Forces by way of taking Administrative Action, preserving order is deemed to be such a purpose. Where the individual to whom the information relates has consented to the sharing, the information contained within a RAFP report may be so shared (or redacted as necessary).

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29. Cases involving disclosure of RAFP information may become complicated and all instances are to be referred to Office of the Provost Marshal Policing Policy Office in order that DPM(RAF) may ensure that consistency is applied to decisions made. Personnel involved in such disclosure issues are to be mindful that the subject of the administrative action has the right to see any material that is used in pursuance of that action. This must be factored in when making a decision to release the information.
30. All actions are to be recorded on the Case File diary.