

**Disclosure with Regards to the Communications Data Bill: -**

- 1)** Communications Data Bill is the Bill that provides an updated framework for ensuring the availability of communications data and its obtaining by public authorities.
- 2)** It contains standard provisions in respect of, amongst other things, orders and regulations, commencement, and extent.
- 3)** The new regime replaces Part 1 Chapter 2 of the Regulation of Investigatory Powers Act **2000** (“RIPA”) and Part 11 of the Anti-Terrorism Crime and Security Act **2001** (“ACTSA”) and sits alongside the Data Retention (EC Directive) Regulations **2009**.
- 4)** The Bill is in three Parts.
- 5)** Under the Data Protection Act **1988** the Met police are to also oblige to release to the any person information it holds about them or their address on any system including the CAD system and Therefore I request all information requested within this official document of complaint.

**For Criminal Cases to Request a Witness: -**

- 6)** (Criminal Procedure Rules, err. 28.3 and 28.4.
- 7)** This form is NOT for use where rule 28.5 (confidential information) applies.)

**For Civil Cases to Request a Witness: -**

- 8)** N20 Witness Summons (05.14)

**We Request Full Disclosure**

- a)** We Request Full Disclosure of The Contents Contained in MG6: Case File Evidence/Information.
- b)** We Request Full Disclosure of The Contents Contained in MG6B: Police Officer/Staff Misconduct Records
- c)** We Request Full Disclosure of The Contents Contained in MG6C: Disclosure Schedule – Non-Sensitive Unused Material.
- d)** We Request Full Disclosure of The Contents Contained in MG6D: Disclosure Schedule – Sensitive Unused Material.
- e)** We Request Full Disclosure of The Contents Contained in MG6E: Disclosure Officer’s Reports.
- f)** We Request Full Disclosure of All Cads and Any Missing Cads, In an Unedited Format: The Appellant Requests Copies from The Local Council Authority Environmental Teams Under the Environmental Act **1990** This Is to Disclose Any CD Relating to A Section 80 Abatement Notice of Noise Nuisance from Amplified Music, Sighted Within the Antisocial Behaviour Order (ASBO) Application in Pursuit of The Respondent.
- g)** In Regard to MG9: We Request the Following Witness to Attended Court

**The applicant Needs a Solicitor to help with:**

- a)** Help?

**In regard to MG10:**

- 9)** Witness non-availability the applicant requests full disclosure.
- 10)** We request full disclosure of the police PNB books to all officers sited in events contained in the incidents within the Antisocial Behaviour Order (ASBO) application

inclusive of all officers who attended Crown Road and other sited CFS location's addresses.

### **The Disclosure Process: -**

- 11)** For the purposes of disclosure, "Document" means anything on which offices record any description of information.
- 12)** This includes written material as well as photographs, plans, drawings, and video and sound recordings.
- 13)** Importantly, it also includes any electronic records such as e-mails.
- 14)** The disclosure process is a statutory duty under the Criminal Procedure and Investigations Act **1996** including Codes of Practice (CPIA).
- 15)** The general rule in English litigation is that the parties should have access to all relevant documents, including those of their adversary.
- 16)** This "cards on the table" approach the Government has enshrined in the Civil Procedure Rules that relate to disclosure.
  
- 17)** There is also a Common Law duty on the prosecutor to disclose material before the duty arises under the Act, where it is significant, e.g., a victim's previous convictions or information that might affect a bail decision.
- 18)** There is also a duty on the police to provide the CPS with information that may mitigate the seriousness of an offence.
- 19)** The investigator must inform the prosecutor as early as possible whether any material weakens the case against the accused.
- 20)** A party must disclose documents that are, or were in the past, in its control.
- 21)** This means that in addition to having to disclose any documents that are in the actual physical possession of a party, a party must also disclose documents that they have lost or have disposed of prior to litigation.
- 22)** Officials must describe any documents and provide an explanation giving the circumstances in which they lost or disposed of the document.
- 23)** In practical terms, a reasonable search will often involve the retrieval of any relevant files held in a central filing system, by individual staff or from archives or storage, the retrieval of any relevant electronic records and the retrieval of diaries if they are likely to be relevant to any of the issues.
- 24)** The extent of the search which officers must make will depend on the circumstances of the case and has to be proportionate to the value of the claim.

### **When Does the Duty to Disclosure Arise?**

- 25)** Each party is to share the relevant disclosure by preparing a list of the documents they are disclosing and serve it on the opposing party.
- 26)** The list of documents must be in a prescribed form and will include the disclosure statement (see below).

### **The List Is in Three Parts:**

- a)** "Documents presently in the disclosing party's control which that party does not object to being inspected."
- b)** "Documents presently in the disclosing party's control which that party objects to being inspected."
- c)** "Documents that have been in the disclosing party's control but are no longer the list will give each document a reference number, will specify its date and will give a concise description."

- 27)** Every piece of information that the prosecuting team have they may not disclose to the defence, but the prosecuting team will always disclose all information to the CPS.
- 28)** A Prosecutor's duty is to disclose unused material to the defence and even if this might trigger:
- a)** A not guilty plea in the magistrates' court, or: -
- 29)** A committal, i.e., the service of evidence in an indictable only case sent to the Crown Court under section 51(1) Crime and Disorder Act **1998** or on transfer of a case for trial to the Crown Court.
- a)** A person making a false disclosure statement without an honest belief in its truth faces the prospect of contempt of court proceedings.
- a)** Therefore, it is important that all party's understand and comply with the duty of disclosure.
- b)** The duty of disclosure continues as long as proceedings remain, whether at first instance or on appeal.
- c)** All of the unused material that officers have they must reveal to the prosecutor by way of schedules on forms MG6B, C, D, and E.
- 30)** There is an agreement between the CPS and ACPO that their crime reports and incident log the CPS will always manage to reveal as a matter of routine.
- 31)** Officers must record information at the time they obtained or seize, as soon as it becomes possible for them to do so, and officers must record that, material in a durable or retrievable form.
- 32)** If it is not practicable to retain the original record, e.g., because it forms part of a larger record which Government officials are to destroy, they must transfer the information accurately to a durable and easily retrievable form. Photocopies are acceptable.
- 33)** Officers must record details of all the relevant phone calls concerning a case.

**Continuing Duty: -**

- 34)** The duty of disclosure continues for all parties involved until the Judge concluded the Court Proceedings.
- 35)** If after serving its list a party becomes aware of further documents that ever party should have disclosed, it must notify the opposing party by preparing and serving a supplemental list of those documents.

**Disclosure Forms: -**

- 36)** There are four distinct types of disclosure forms as follows: -

**MG6B –**

- 37)** This gives details of the discipline record and convictions (if any) of any police officer/member of police staff that participates in the case.
- 38)** It also includes Penalty Notices for disorder.
- 39)** If no officer/member of police staff has a disciplinary consideration (or conviction) there is no need to put the form on the file, an entry on the **MG6** to this effect will suffice.
- 40)** "This form can also be used to declare the convictions/disciplinary matters of employees of other investigative agencies on behalf of whom the CPS prosecutes e.g., UK Border Agency."

**MG6C –**

- 41)** The prosecution will disclose the schedule of relevant non-sensitive material to the defence and any material described in the schedule is the afterwards disclosed to the defence by the instruction from the CPS.

- 42)** Material that the prosecuting team must list on the schedule includes all relevant unused non-sensitive material recorded, retained, or generated during the course of an investigation.
- 43)** The exception to this is material seized during the course of a major investigation which officers have not examined due to its lack of immediate and apparent relevance to the investigation.
- 44)** This falls outside the CPIA and is not ‘unused material’ but the police or council must record its existence on the form **MG11** with the appropriate caption, i.e., ‘the following material has not been examined by the investigator or disclosure officer and is considered not to fall within the CPIA definition of prosecution material’.
- 45)** If an item of unused material contains both sensitive and non-sensitive material, the officer must list this information on the **MG6C** as being an ‘edited version’ or ‘edited’ e.g., a pocket notebook entry containing both the personal details of a witness and the circumstances of the arrest.
- 46)** Block out the sensitive part (witness details) on a copy of the original with a dark marker pen (never white correcting fluid).
- 47)** The police or council must never mark the original.
- 48)** Do not list the unedited version on the **MG6D**.

#### **MG6D –**

- 49)** The prosecution will not disclose the schedule of relevant sensitive material to the defence if it is not in the public interest to do so.
- 50)** Officers must state their reasons for an item they are not going to disclose to the defence.
- 51)** For example, officers’ details that identify an observation post they must not disclose to the defence.
- 52)** If there is no sensitive material in a case, endorse form **MG6D** to that effect and submit it with the **MG6C** and **MG6E**.
- 53)** Where you think you have material that is extremely sensitive, such as information from a covert human intelligence source (CHIS), contact the prosecutor who will refer you, as necessary, to the appropriate person for advice.

#### **MG6E –**

- 54)** Disclosure Officer’s Report.
- 55)** On the **MG6E** the police must bring the following information to the attention of the CPS: Material which contains a first description of an offender (Para 7.3 CPIA Code of Practice); or Material which might undermine the prosecution case or assist the defence.
- 56)** The disclosure officer must record on the form the following:
- 57)** Whether officers originally listed any undermining or descriptive information on the **MG6C** or **MG6D** on the original item number from the **MG6C** or **D**.
- 58)** Briefly, the officers must record this information on the **MG6E**, e.g.,
  - a)** ‘Contains first description of suspect,’ or
  - b)** ‘May cast doubt on reliability of witness.’
- 59)** The prosecutor must always inspect, view, or listen to any material that a person may consider as capable of undermining the prosecution case against the accused or that may assist in the case for the accused.
- 60)** The Disclosure officer may need to consult with and allow the prosecutor to inspect the retained material.

#### **Failure to Disclose: -**

- 61)** The Government regulate all party's disclosure obligations under the Civil Procedure Rules require it to disclose documents which could be very detrimental to its chances of success, but which the opponent may not know exists until disclosure.
- 62)** This is an onerous obligation, much stricter than that in other jurisdictions and the extent of these obligations often takes litigants by surprise.
- 63)** In order to ensure that parties comply fully and honestly with their disclosure obligations, the rules provide for profoundly profound consequences where a party fails to comply with those obligations.
- 64)** Firstly, making a false disclosure statement can potentially put the person making the statement in contempt of court.
- 65)** Secondly, a party's credibility becomes seriously weakened if it transpires that it has destroyed or failed to disclose a relevant document, whether or not this omission was deliberate.
- 66)** Thirdly, where a party fails to disclose a document which is damaging to its case and a fair trial is no longer possible, the Judge is to strike the case out altogether.
- 67)** Fourthly, deliberate destruction of relevant documents is likely to be a contempt of court and may constitute the offence of attempting to pervert the course of justice.
- 68)** "Documents damaging a party's case are to be released and not withheld or destroyed under any circumstances."
- 69)** Finally, where officers never disclosed a document, it cannot later be relied on in court except with the court's permission.
- 70)** The Now Claimants mother and he have both proved proof that Steven Elsmore has deleted emails that he sent to Val Tanner, asking for information and the judge heard him admit this in the lower court at trial.
- 71)** The applicant knows that police and council are holding back discloser and that disclosure would give credibility to the Appellant innocent.

#### **Preservation of Documents: -**

- 72)** Because of the potential sanctions outlined above, it is important for officers to preserve intact all relevant documents from the time they contemplate litigation.
- 73)** If a party has a routine procedure for destruction of documents, such as the deletion of computer backup files or e-mail, they must stop this from happening until the lawyers have examined the documents and they confirmed the documents are not potentially relevant as disclosable data.
- 74)** Officers are not to destroy Documents relevant to case pending action.
- 75)** All persons within an organisation who has the responsibility for managing official documents must be aware of these obligations.

#### **Fraud Act 2006: -**

- 76)** Fraud by failing to disclose information a person is in breach of this section if he: -
- a)** Dishonestly fails to disclose to another person the information which he is under a legal duty to disclose, and: -
  - b)** Intends, by failing to disclose the information: -
  - c)** To make a gain for himself or another, or: -
  - d)** To cause loss to another or to expose another to a risk of loss.

#### **The right to Fair Trial: -**

- 77)** Appellant is asking for a Former Judge to examine the role of police officers, who present the applicant cases of an Antisocial Behaviour Order (ASBO) against himself.

- 78)** The Appellant is asking for the response to terminate the Asbo Case or dismiss it under the grounds of Article 6 of the European Convention of Human Rights, with regards to the Right to a Fair Trial Act 1998.
- 79)** Which in legal terms, should be the best means of separating the guilty from the innocent and protecting against injustice.
- 80)** Without this right, the rule of law and public faith in the justice system collapse.
- 81)** The Right to a Fair Trial is one of the cornerstones of a just society.

**Article 6 the Right to a Speedy and Fair Hearing: -**

- 82)** The applicant declares the right to a speedy a fair trial what is fundamental to the rule of law and to democracy itself.
- 83)** The right applies to both criminal and civil cases, although certain specific minimum rights that are set out in Article 6 applies only in criminal cases.
- 84)** The right to a fair trial is an absolute Legal Right for all and with no limit.
- 85)** It requires a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
- 86)** The procedural requirements of a fair hearing might differ according to the circumstances of the accused.
- 87)** The right to a fair hearing, which applies to any criminal charge as well as to the determination of civil rights and obligations, contains numbers of requirements and I believe the causes below full within them requirements.
- 88)** The concept of a fair trial involves fairness to the prosecution and to the public as well as to the defendant: DPP v Makin [2006] EWHC 1067.

**Data protection Act 1998: -**

- ✓ <http://www.legislation.gov.uk/ukpga/1998/29/data.pdf>
- 89)** The Information contained and held on the police Nation computers is not accurate to its information.
- 90)** Officers Statements in the Antisocial Behaviour Order (ASBO) have incorrect information copied inside of them from the police systems.