

Contents

Table of Statutes

Table of Secondary Legislation

Table of Cases

Chapter 1: The Law Relating to Disclosure and Codes of Practice

- 1.1 Introduction
- 1.2 The common law duty of disclosure
- 1.3 The Criminal Procedure and Investigations Act 1996
 - 1.3.1 The Criminal Procedure and Investigations Act 1996 Code of Practice
 - 1.3.2 The Attorney-General's Guidelines on Disclosure
 - 1.3.3 The prosecution's statutory disclosure obligations
- 1.4 Changes with the Criminal Justice Act 2003
- 1.5 The Code of Practice
 - 1.5.1 An investigation
 - 1.5.2 Chief officer of police
 - 1.5.3 The investigator
 - 1.5.4 The officer in charge (OC)
 - 1.5.5 The disclosure officer (DO)
 - 1.5.6 The prosecutor and the Crown Prosecution Service (CPS)
 - 1.5.7 Material
 - 1.5.7.1 Defining relevant material
 - 1.5.8 Recording, retention and storing of material
 - 1.5.8.1 What must be recorded?
 - 1.5.8.2 Retention and storing of material
 - 1.5.8.3 Unfit to plead/insanity and retention of material
- 1.6 Attorney-General's Guidelines on Disclosure
- 1.7 The Criminal Procedure Rules 2011
- 1.8 The CPS Disclosure Manual
- 1.9 The Disclosure Protocol
- 1.10 Prosecutions and the streamlined process
 - 1.10.1 Witness statements
- 1.11 Private prosecutions
- 1.12 Summary

Chapter 2: Disclosure by the Prosecution

- 2.1 Introduction
- 2.2 Types of offence
- 2.3 Disclosure by the prosecution
 - 2.3.1 Pre-interview disclosure
- 2.4 Post charge pre-trial disclosure by the prosecution – an introduction
 - 2.4.1 Advance information
 - 2.4.2 Advance information in indictable-only cases
 - 2.4.3 Initial disclosure
 - 2.4.4 Continuing disclosure
- 2.5 What are the responsibilities of the disclosure officer?
- 2.6 Third party disclosure
- 2.7 Summary

Chapter 3: The Disclosure Schedule

- 3.1 Introduction
- 3.2 The disclosure schedule
 - 3.2.1 Timing of the schedule
 - 3.2.2 Drawing up the disclosure schedule
 - 3.2.2.1 The non-sensitive material schedule
 - 3.2.2.2 The sensitive material schedule
- 3.3 The disclosure record sheet
- 3.4 Sensitive material
- 3.5 Consequences of non-disclosure
- 3.6 Summary

Chapter 4: Disclosure and Review of Unused Material

- 4.1 Introduction
- 4.2 What constitutes unused material?
- 4.3 Financial investigations
- 4.4 Problems with unused material
 - 4.4.1 Multi-agency investigations
- 4.5 Post-conviction disclosure
- 4.6 Summary

Chapter 5: Sensitive and Non-sensitive Material

- 5.1 Introduction
- 5.2 Claiming public interest immunity
- 5.3 Making a public interest immunity application
- 5.4 Consideration of the PII application
- 5.5 PII and special advocates
- 5.6 Review of a public interest ruling
- 5.7 How to store sensitive and highly sensitive material
- 5.8 Summary

Chapter 6: Disclosure by the Defence

- 6.1 Introduction
- 6.2 Disclosure by the defendant
- 6.3 The defence statement
- 6.4 Time limits
- 6.5 Response to the defence statement
- 6.6 Statutory requirement to notify the prosecution of intended witnesses
- 6.7 Defence disclosure provisions not yet in force
- 6.8 s8 application by the defence for specific disclosure
- 6.9 Unauthorised use of disclosed material
- 6.10 Summary

Chapter 7: Hearsay and Bad Character Evidence

- 7.1 Introduction
- 7.2 The rules of evidence
- 7.3 Hearsay
 - 7.3.1 Admissibility of hearsay evidence
 - 7.3.1.1 s114(1)(a)
 - 7.3.1.2 Hearsay admitted under common law exceptions s114(1)(b)

- 7.3.1.3 Admitting hearsay evidence in the interests of justice (s114(1)(d))
- 7.3.1.4 Is anonymous hearsay admissible?
- 7.3.1.5 Art 6 and hearsay
- 7.4 Bad character
 - 7.4.1 Statutory definition of bad character
 - 7.4.2 In what circumstances may a defendant's bad character be admitted?
 - 7.4.3 Gateway 101(1)(d)
 - 7.4.4 Gateway 101(1)(g)
 - 7.4.5 Bad character evidence of witnesses
 - 7.5 Summary

Appendix

Index

© 2011 Copyright ILEX Tutorial College Limited

All materials included in this ITC publication are copyright protected.

All rights reserved.

Any unauthorised reproduction or transmission of any part of this publication, whether electronically or otherwise, will constitute an infringement of copyright. No part of this publication may be lent, resold or hired out for any purpose without the prior written permission of ILEX Tutorial College Ltd.

WARNING: Any person carrying out an unauthorised act in relation to this copyright work may be liable to both criminal prosecution and a civil claim for damages.

This publication is intended only for the purpose of private study. Its contents were believed to be correct at the time of publication or any date stated in any preface, whichever is the earlier.

This publication does not constitute any form of legal advice to any person or organisation.

ILEX Tutorial College Ltd will not be liable for any loss or damage of any description caused by the reliance of any person on any part of the contents of this publication.

Published in 2011 by:
ILEX Tutorial College Ltd
College House
Manor Drive
Kempston
Bedford
United Kingdom
MK42 7AB

British Library Cataloguing in Publication Data

A catalogue record for this manual is available from the British Library.
ISBN 978-1-84256-590-2