



Duty to Reveal Policy

Executive Summary

The purpose of this policy is to set out the West Midlands Police (WMP) arrangements and procedures for the revelation of criminal and misconduct outcomes when police officers, police staff, police community support officers and special constables are required to give evidence in judicial proceedings including coroners court and civil matters. In the case of criminal matters failure to comply with this procedure is likely to result in unfairness to the accused and convictions that are vulnerable to appeal. In other judicial processes it could undermine the outcome of the process.

The Criminal Procedures Investigation Act 1996 (CPIA) and chapter 18 of the Crown Prosecution Service (CPS) disclosure manual provides a statutory framework for the disclosure of criminal and misconduct proceedings against police witnesses and places a duty for such matters to be disclosed to the crown prosecution service. Some findings by their nature will be incapable of having an impact on the investigation in a future case. However, where a misconduct finding relates to honesty and integrity this should always be revealed as it is capable of affecting credibility. It should be noted that revelation to the CPS does not mean automatic disclosure to the defence. Disclosure will take place if the prosecutor considers that any such material might undermine or assist the defence case.

It is the responsibility of the member of staff in question to ensure that disclosure is made to the CPS in criminal cases or legal services in civil or coronial matters. Any failure to disclose may be a breach of the standards of professional behaviour.

AIMS

- To ensure police officers, police staff, police community support officers and special constables understand their obligations under the duty to reveal policy.
- To ensure that there is not unfairness to the accused and convictions that are vulnerable to appeal in judicial proceedings if this policy is not adhered with.
- To comply with chapter 18 of the CPS disclosure manual and the CPIA.

Authorised Professional Practice (APP):

- This policy has been checked against APP and there is none in relation to the subject matter of this policy.

Policy Statements:

VETTING AND DUTY TO REVEAL

- Duty to reveal information can be identified prior to employment and during force vetting checks when applicants seek employment with West Midlands Police.
- Where a new applicant seeks employment with West Midlands Police and discloses information which must be revealed the vetting decision manager must be notified. In addition, if duty to reveal information

is discovered whilst processing the application the vetting decision manager must decide on the suitability to continue with progression of the application.

- If an applicant is accepted with duty to reveal information to the CPS, the Professional Standards Department will notify them in writing of their duty to reveal on a MG6B when required to provide evidence in criminal proceedings.
- This obligation will remain throughout their employment with West Midlands Police. A copy of this document will be placed on the member of staff's centurion record.

RELEVANT INFORMATION FOR DISCLOSURE

- Police witnesses have a duty to disclose relevant information on a form MG6B if the following applies:
 - Criminal convictions and criminal cautions
 - Criminal proceedings that have not been completed
 - Misconduct matters which have not been completed
 - Misconduct Findings and Outcomes
 - Adverse Judicial Findings
 - Credible Allegations

CRIMINAL CONVICTIONS AND CRIMINAL CAUTIONS

- [Chapter 18 of the CPS Disclosure Manual](#) explicitly requires police officers and police staff duty to reveal any criminal convictions or cautions that they may have to the CPS by completing an MG6B.
- Criminal convictions for recordable offences, whether spent or otherwise
- Criminal cautions for recordable offences
- Penalty notices for disorder for recordable offences
- A criminal conviction or criminal caution will have its literal meaning and will not include minor traffic convictions (non-recordable) or traffic fixed penalty notices.

CRIMINAL PROCEEDINGS THAT HAVE NOT BEEN COMPLETED

- Police officers and police staff making statements should inform the CPS of all recordable criminal offences with which they have been charged or reported for summons but in which proceedings have not been completed by completing an MG6B.

MISCONDUCT MATTERS WHICH HAVE NOT BEEN COMPLETED

- When police officers or police staff have been notified of misconduct investigations via service of notices they may be required to reveal details of the allegations to the CPS.
- The head of Professional Standards will delegate this decision to the relevant appropriate authority.

- On a case by case basis the Professional Standards appropriate authority will assess whether there is a requirement to reveal.
- If there is a requirement to reveal the Professional Standards Department (PSD) will notify the police officer or police staff of their obligation in writing.
- The relevant allegation notices will be used by the member of staff to complete their MG6B. This will be an ongoing obligation until the misconduct proceedings are finalised.
- The CPS should not disclose to the defence details of pending misconduct matters or matters such as information short of a misconduct finding without consultation with a Professional Standard's appropriate authority.

MISCONDUCT FINDINGS AND OUTCOMES

- On the completion of police officer or police staff misconduct processes, PSD will notify them of their obligation to reveal information to any judicial proceedings on a MG6B where:
 - the case has resulted with an outcome of written warning or final written warning
 - the case has resulted with an outcome of reduction in the rank
- They will also inform the member of staff the date when the duty to reveal is concluded.
- Honesty and Integrity misconduct findings for a police officer or police staff will always have a duty to reveal for the entirety of employment by West Midlands Police and this may alter the posting for the individual concerned.
- At the conclusion of proceedings members of staff who have an ongoing duty to reveal information will be reviewed by a Professional Standards appropriate authority.
- If the duty to reveal is to continue, for example in cases of honesty and integrity findings the member of staff will be notified in writing by the Professional Standards Department. They will be required to notify CPS by completion and submission of an MG6B.

ADVERSE JUDICIAL FINDINGS

- There is a duty to reveal and disclose adverse judicial findings.
- An adverse judicial finding is a finding by a court expressly or by inevitable inference that a police witness has knowingly whether or oath or otherwise misled the court. This includes, in civil cases answers from a civil jury.
- A validated adverse judicial finding is a serious judgement on the integrity of an officer with consequences for the officer's future deployment and career.
- If there is any doubt in the meaning of the comments from a court then it is unlikely that the comments would amount to an adverse judicial finding although all decisions need to be considered in light of the disclosure test.

- The decision to confirm whether the Judge's comments amount to an adverse judicial finding is for the CPS.
- They must inform Professional Standards in writing and a subsequent appropriate authority conduct assessment must be undertaken.
- The CPS may consider any representations made by the professional standards department and the officer.
- Following this a final CPS decision regarding the matter must also be confirmed in writing.
- When Professional Standards are in receipt of the written decision from the CPS that the police officer or police staff is currently subject of a validated adverse judicial finding they will inform the member of staff and the relevant standards manager.
- The police officer or police staff will then be required to reveal the adverse judicial finding to the CPS by an MG6B.
- There is no mechanism for rescinding an adverse judicial finding but if subsequent enquiries reveal information that exonerates the officer or casts doubt on the finding PSD will consult with the CPS to see if it is still necessary for the officer to reveal the adverse judicial finding.

CREDIBLE ALLEGATIONS

- There may be circumstances where reliable adverse information relating to a police officer or police staff becomes apparent.
- In such cases the PSD should reveal details to the CPS as soon as available information indicates that the adverse information is so credible it should be revealed.
- An example may be where an individual's honesty and integrity has been called into question and whilst there is no finding of guilt, there is credible intelligence or evidence to support the allegation and the information could affect the individual's credibility as a witness.
- The officer should be notified of the information unless providing reasons may, in itself compromise the source of the information and in such cases no disclosure or reasoning will be provided.

CHANGE OF CIRCUMSTANCES AND DUTY TO REVEAL

- Police officers and police staff must inform the CPS of any changes of circumstances regarding their discipline or criminal records.
- For example, if during the course of a criminal case, an individual who has previously submitted a statement is then subject to any of the above the duty to reveal must take place via the MG6B.
- In the case of misconduct processes if there is a requirement to reveal to PSD, they will notify the officer of their obligation in writing.

- The relevant allegation notices will be used by the member of staff to complete their MG6B. This will be an ongoing obligation until the misconduct proceedings are finalised.
- This process should also be followed if the police officer or police staff is required to give evidence in any appeal cases and there has been a change of circumstance.

SUSPENDED POLICE OFFICERS AND STAFF

- Duty to reveal information regarding officers who are subject of suspension but who have not been charged with a criminal offence or had the matter referred to misconduct proceedings, will be revealed to the CPS by the PSD for the duration of the suspension period.
- The conditions outlined above will remain relevant to suspended officers.

NO REQUIREMENTS TO REVEAL

- Complaints that have resulted in reflective practice or have been resolved outside of misconduct processes.
- Internal misconduct resulting in reflective practice
- Complaints or misconduct that are deemed unsubstantiated.

APPEALS PROCESSES

- Any appeals will be dealt with by the head of Professional Standards. An appeal can only be based on the following.
- Further information is available that was not considered by the original decision maker.
- The decision was perverse or unreasonable.
- No explanation has been given for the decision to reveal.
- The appeal will be reviewed within 28 working days and a decision returned to the appellant in writing. The outcome of the appeal is either continuation of the duty to reveal or the duty to reveal is no longer necessary.
- All police officers and police staff can seek guidance from Professional Standards Department if required regarding this policy.

Definitions/Acronyms:

PSD – Professional Standards Department

WMP – West Midlands Police

CPS – Crown Prosecution Service

CPIA -Criminal Procedures Investigation Act 1996

Procedural Guidance Documents List:

CPS Disclosure Manual – Chapter 18 (Amended Dec 2018)

https://www.cps.gov.uk/sites/default/files/documents/legal_guidance/Disclosure-Manual-12-2018-21.pdf

CPIA 1996

[Criminal Procedure and Investigations Act 1996 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1996/34)

MG6B

[MG - Pretrial documentation \(wmpad.local\)](#)

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*(*delete as appropriate)*

- Suitable for publication to public

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Any enquiries in relation to this policy should be made directly with the policy author shown above.

Force Executive Approval:



CHIEF CONSTABLE



Monitoring and Review

| Version | Date Reviewed | No change / Minor Changes / Major Changes (<i>detail</i>) | Amended / Agreed by |
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