



CPIA DISCLOSURE

The Next Level

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R v Brown (Winston)

Court of Appeal in June 1994



▶ Lord Justice Steyn

▶ “THE RIGHT OF EVERY ACCUSED TO A FAIR TRIAL IS A BASIC OR FUNDAMENTAL RIGHT AND HIS **RIGHT TO FAIR DISCLOSURE** IS AN INSEPARABLE PART OF HIS RIGHT TO A FAIR TRIAL”

Show of Hands



- ▶ **Who has been the OIC in an investigation**
- ▶ **Who is a manager and been the OIC of someone else's investigation such as a member of staff**
- ▶ **Who has been the OIC in a joint investigation**
- ▶ **Who has been the Disclosure Officer in a joint investigation**
- ▶ **Who has been involved in a joint investigation where surveillance has been carried out**
- ▶ **Who knows how to compile and carry out a PII application**
- ▶ **Who has read Attorney Generals Guidelines on Disclosure**
- ▶ **Who is confident enough have the requisite knowledge to do all of the above**

Evidence?



- ▶ Information
- ▶ Intelligence
- ▶ Evidence
- ▶ There is a difference for CPIA

Consequences of Non or Poorly Managed Disclosure



- ▶ **The accused may raise a successful abuse of process argument at the trial**
- ▶ **The accused may be released from the duty to make defence disclosure**
- ▶ **Costs may be awarded against the prosecution for any time wasted**
- ▶ **Court may decide to exclude evidence**
- ▶ **Accused may be acquitted**
- ▶ **On appeal a conviction might be found to be unsafe**

Vance Miller Case, Oldham Council



- ▶ **Case collapsed through CPIA**
- ▶ **The Judge concluded that the proceedings should not continue as a result of his following decision:**

Vance Miller Case



- ▶ **“The investigation was flawed from the start by the Head of Trading Standards unsubstantiated belief that complaints were increasing and Vance Miller’s businesses should be closed down.**
- ▶ **That belief continued throughout the investigation and compromised his objectivity.**
- ▶ **The raid was oppressive.**

Vance Miller Case Cont..



- ▶ **Oldham Trading Standards failed to analyse the material available to them.**
- ▶ **Disclosure of unused material was late and incomplete compromising the integrity of the case and depriving the defence the opportunity to consider the overall complexion of the evidence against them.**
- ▶ **The whole process was unfair to Vance Miller, his business and the Co Defendants.**
- ▶ **On the balance of probabilities the defence have established that they cannot receive a fair trial and that it would be unfair to try them further”.**



Vance Miller Case cont..

- ▶ **Officer suspended**
- ▶ **Vance Miller Inquiry To Cost £50,000**
- ▶ **Councilor states £50,000 is the cost of keeping a branch library open for 12 months**

CPIA Case Study



- ▶ **Member of staff in your Council reports someone they know in their street committing Benefit Fraud against the Council and DWP. Staff Member provides a full description etc. and car details. She knows because a neighbour told her yesterday that the man is working. She can see the persons house and car from her upstairs window.**
- ▶ **Does not want her details leaked. (reporting issues)**

CPIA Case Study cont..



- ▶ **Check with Council and DWP show suspect is claiming benefit**
- ▶ **Joint investigation set up with DWP**
- ▶ **CPIA requirements**
- ▶ **One week later joint surveillance undertaken, photos obtained by LA staff**

Case Study cont..



- ▶ **Two weeks into the investigation the staff member comes to you with further information about the fact that the suspect has been away on holiday to Cyprus with girlfriend. Went with Thomas Cook, rented a luxury villa. The holiday cost £1800 which suspect paid and they had a lovely time. CPIA issues, RIPA**
- ▶ **At some stage prior to the disclosure it is identified that the RIPA form done by DWP shows the surveillance was authorised generally but not your staff . They have taken evidential photos. CPIA issues and RIPA**

Joint Investigation



- ▶ **Do you know what the responsibilities are under CPIA**
- ▶ **How should you approach it**
- ▶ **How do you record events**
- ▶ **Who is responsible for what and when**
- ▶ **What happens about covert methods and joint investigation and the CPIA issues, reporting errors.**

Joint Investigation



- ▶ **Do you have a SLA, who will do what and when**
- ▶ **Each responsible for their part of the investigation**
- ▶ **Each party has a duty to pursue all reasonable lines of enquiry within their organisation**
- ▶ **Separate form to set this up is available**



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