

## Appendix 1

### Comments upon the PCA guidance on disclosure to families following deaths in custody or other fatal incidents

Paragraph 1.5 The PCA appear determined to encourage openness without regard to the need for confidentiality, e.g. members of the public who co-operate with an investigation have a reasonable expectation that their statements will not be disclosed. Disclosure, or the possibility of disclosure, may lead to a greater unwillingness to co-operate.

Disclosure, if it is to take place, should not occur until after a decision is made as to prosecution. The decision to disclose will, in all cases, remain with the police service not the PCA since there are some occasions, e.g. a statement taken under caution, when there is a legal requirement for the statement to remain confidential.

Paragraph 1.6 The proposed draft confidentiality agreement is not enforceable (see above).

Paragraph 1.7 Although there has been an increase in disclosure to families and communities, this has not extended to the disclosure of documents. Disclosure has involved a discussion with interested parties about the case, with an opportunity to ask questions and seek clarification.

Paragraph 1.8 One of the advantages of the formation of the new Directorate of Professional Standards is to ensure consistency in the approach of investigating officers.

Paragraph 2 The provision of illustrative scenarios imply a way of dealing with situations that, by their very nature, should be assessed on their own merits and circumstances.

Paragraph 3 This section suggests that increased disclosure will lead to increased trust and reassurance for families and community representatives. No examples are offered as to how this has been evidenced.

Paragraph 4.2 This implies the PCA have some shared ownership of documents. This rests wholly with the relevant police service.

Paragraph 4.4 In the section headed 'statutory restrictions on PCA disclosure' it is suggested the disclosure of documents falls within the functions of the PCA. This appears unlikely given the confidentiality issues.

Paragraph 4.5 There are a number of issues within this paragraph that have been referred to previously, e.g. disclosure of documents. Insofar as the informality of meetings is concerned, it would make sense to keep a note of the information given and the reasons for it being given.

Paragraph 4.7 This appears to give PCA members the option of seeking to ignore the published guidelines.