



NEWS RELEASE

Date Issued Tuesday 9 June 2015

PUBLICATION OF ATTORNEY GENERAL'S REVIEW

The Public Prosecution Service has today (Tuesday 9th June) published a review of its processes in relation to the decision not to prosecute Gerry Adams TD for an alleged offence of withholding information.

The Review, carried out by the Attorney General for Northern Ireland, John Larkin QC, sets out a chronology of events and examines the prosecutorial issues in relation to cases involving familial sexual abuse.

The review makes the following key conclusions in relation to the decision-making process in this case:

- That the PPS had concluded on both evidential and public interest grounds that the Test for Prosecution of Gerry Adams for an offence of withholding information was not met.
- Prosecutors had correctly applied, in the first instance, the evidential test for prosecution to the available evidence.
- The decision that the evidential test had not been met was 'perhaps premature' in circumstances where the evidence on the file was unclear as to the extent of Gerry Adams' knowledge of the nature of the sexual abuse. Any doubt as to whether the evidential test was or was not met could have been resolved by inviting clarification from the principal witness.
- To then consider the public interest test in circumstances where the clarification, referred to above, had not been obtained was not in accordance with the Code for Prosecutors which states that the public interest test should only be applied when the evidential test is met.
- The review recommends that it should be open to the PPS to make a public interest decision without first having to take all the steps necessary to ascertain whether or not the evidential test is met.
- The review invites the PPS to consider amending its Code for Prosecutors to enable a public interest decision to be taken, in exceptional cases such as those involving familial sexual abuse where the evidential test may or may not be met but further investigation is necessary before that can be determined.

Importantly, the review recognises that prosecutors can face difficult decisions in cases involving sexual abuse within a family where there is some degree of knowledge among family members and that it is unlikely to be in the public interest to prosecute them, particularly where they may be able to give evidence in support of the victim of abuse.

The Attorney General states: **"It should be open to the PPS to make a public interest decision that such persons should be treated as witnesses and not treated as suspects by the PSNI or prosecuted without first having to take all those steps necessary in order to ascertain whether the evidential test is or is not satisfied."**

He further adds: **"Consideration should be given to whether or not the Code for Prosecutors could be amended to allow the PPS to take such decisions where it is clear from the outset that the public interest in treating an individual as a witness would greatly outweigh the public interest in prosecuting that individual for withholding information."**

Thanking the Attorney General for his review, the Deputy Director of Public Prosecutions Pamela Atchison, said: "This review, in considering the decision-making process in the case, provides a careful and thorough analysis of the law and outlines possible actions that the PPS may utilise to address this complex area.

"We welcome the careful consideration given to the public interest issues where information may be held by a family member or family members who may also be potential prosecution witness and the expression of understanding of the PPS' conclusions in this regard.

"We accept the Attorney's suggestion that in exceptional circumstances, such as this case of familial sexual abuse, it is right that our Code for Prosecutors should allow us to consider the public interest test prior to our having reached a conclusion in relation to the evidential test.

"Accordingly, we have launched a consultation process on a new amended Code which includes this proposed amendment, along with a number of other updates. We have considered these matters with care, because, as the Attorney General rightly says, we would not wish to dilute the Test for Prosecution in any way. We believe that we have the appropriate safeguards in place to limit the situations where the public interest test may be applied in advance of the evidential test.

"As the Attorney General sets out in his review, in cases where information is confided to family members, it is in the public interest that those who hold such information can be deployed as witnesses for the prosecution as they can provide important supporting evidence. This is of importance in any case and particularly so in cases which are historic in nature. We welcome the Attorney's suggestions which will assist us to make the best use of any such evidence.

The Deputy Director added: “This review does not consider whether or not Gerry Adams should have been prosecuted for the offence of withholding information, but I can confirm that the PPS has completed its own review of that decision. This has included meeting with the principal witness Mrs Dahlstrom who has authorised the PPS to confirm that she has nothing further to add to her statements and that she does not wish to see this matter pursued any further.

“Accordingly, we have concluded that there is insufficient evidence to meet the Test for Prosecution in this case.”

Note to Editors

- In October 2013 the Director of Public Prosecutions Barra McGrory QC asked the Attorney General for Northern Ireland John Larkin QC to review the decision-making process that culminated in a decision by the PPS not to prosecute Gerry Adams TD under section 5 of the Criminal Law Act (Northern Ireland) 1967.
- That decision in October 2011 was made prior to Barra McGrory’s appointment as Director of Public Prosecutions.
- The Attorney General’s report was completed in December 2013 but could not be published until the conclusion of Liam Adams’ two trials and subsequent appeal, which concluded in May 2015.
- In his review, the Attorney General looked at whether or not the PPS followed its own procedures, and whether its handling of the existing or potentially available evidence was satisfactory. It was not the function of the review to consider whether Gerry Adams TD should be prosecuted for the offence of withholding information.
- Since 1 April 2010, the PPS has prosecuted 19 people for withholding information. Of these 19 cases, none related to a sex case
- The PPS Code for Prosecutors states that prosecutions are initiated only when it is satisfied that the Test for Prosecution is met. The Test is met only if there is firstly sufficient admissible evidence to provide a reasonable prospect of conviction (the Evidential Test) and then if it is considered in the public interest to pursue a prosecution (the Public Interest test).
Under the current Code for Prosecutors, the Evidential test must be passed before the Public Interest test is considered.
- A new Code for Prosecutors will allow prosecutors in some exceptional cases to consider whether the Public Interest Test will require a prosecution before the investigation of an offence is complete and in advance of considering the Evidential test. This could result in a decision that the Test for Prosecution is not met and the case will not proceed further. This reflects the approach suggested by the Attorney

General, and is similar to how the Crown Prosecution Service's Code for Prosecutors in England and Wales deals with the issue.

- The public consultation on the new Code For Prosecutors can be found under the 'Public Consultations' section of the PPS website www.ppsni.gov.uk
- Comments are invited and should be emailed to info@ppsni.gsi.gov.uk by Friday 14 August 2015 For further information please call PPS Communications on **02890897187** or out of hours officer on **07790 031568**. Email: ppspressoffice@ppsni.gov.uk