



Consultation on the PPS Code for Prosecutors

The document can be downloaded from the consultation area of the PPS website at www.ppsni.gov.uk.

Comments are invited and should be emailed to the address below (or sent by post if you prefer), **by Friday 14 August 2015**.

By Email: info@ppsni.gsi.gov.uk

By Post:
Equality and Governance Officer
Central Management Unit
Public Prosecution Service
10th Floor
Linum Chambers
2 Bedford Square
Bedford Street
Belfast BT2 7ES

May 2015

Dear Consultee,

You are invited to take part in a consultation on the revised Code for Prosecutors (“the Code”) which has been released by the Public Prosecution Service for Northern Ireland (PPS).

The main changes from the previous edition of the Code, issued in 2008, are set out below.

Background

The Code for Prosecutors, which includes a Code of Ethics, is issued by the Director of Public Prosecutions for Northern Ireland under the statutory duty placed on him by section 37 of the Justice (Northern Ireland) Act 2002.

The purpose of the Code is to:

- (i) Give guidance on the general principles to be applied in deciding in any case:
 - whether criminal proceedings should be instituted or, where criminal proceedings have been instituted, whether they should be continued or discontinued; and
 - what charges should be selected.
- (ii) Provide general guidelines for the conduct of criminal prosecutions.
- (iii) Define the standards of conduct and practice that the PPS expects from prosecutors, whether they are Public Prosecutors or barristers to whom the Director assigns the conduct of criminal proceedings.

As well as providing guidance for prosecutors, the Code also serves to inform the public about the way in which prosecutors take decisions and the standards to which they are expected to adhere.

It should be noted that the Code is not intended to be a detailed manual of instructions for prosecutors, nor a comprehensive guide to the policies and procedures of the PPS. Furthermore, it does not lay down any rule of law. It outlines the approach to decision taking that the PPS has adopted; that every case must be considered individually having regard to its own facts and circumstances.

The guidelines and general principles detailed in the Code will apply from the date of its final publication, following this period of consultation.

Changes since 2008

The main changes from the previous edition of the Code are as follows.

- (i) The Introduction at Chapter 1 now sets out the duties of the prosecutor as well as the purpose of the Code itself and the standards and guidance, including that issued by the Attorney General under Section 8 of the Justice (Northern Ireland) Act 2004, that apply to prosecutors.
- (ii) Chapter 3 has been expanded to include the role of Forensic Science Northern Ireland and other expert witnesses.
- (iii) Chapter 4 gives more detail on how prosecutors should approach prosecution decisions. Paragraph 4.6 states there will be exceptional cases where it is clear that a prosecution will not be in the public interest prior to the completion of an investigation, and that in these cases the decision can be taken that the case should not proceed further.
- (iv) Paragraph 4.13 states that, when applying the Public Interest, the Prosecutor should take into account the views of and the impact on a victim, but that the decision on whether the prosecution is in the Public Interest is the prosecutor's alone. Paragraph 4.14 states that the cost of a prosecution is a relevant factor but can never, on its own, be a deciding factor.
- (v) Paragraph 4.25 states that when making decisions in respect of bail, where the defendant is a child, the prosecutor must be mindful of the statutory presumption in favour of bail and ensure that any terms sought are relevant and proportionate and have regard to the welfare of the child.
- (vi) Paragraph 4.29 states that where the evidential test is met in a case it may be in the public interest to consider an alternative to prosecution. This clarifies the approach in the 2008 edition of the Code.
- (vii) Paragraph 4.58 adds a section on cases where the mental health or fitness to plead of a defendant is an issue.
- (viii) Paragraphs 4.61 to 4.67 contain the new approach to reviews of prosecution decisions. This replaces the approach in the 2008 Code.
- (ix) Paragraph 4.68 sets out the new expanded regime of giving detailed reasons for decisions not to prosecute in certain cases and the offer of a meeting with a victim should they wish.
- (x) Paragraph 5.22 sets out the circumstances in which prosecutors should bring to the court's attention the appropriate sentencing range

in a case and where, in the context of an assessment of the dangerousness of a defendant, they should express the prosecution's view as to whether the defendant poses a significant risk to members of the public.

- (xi) Paragraph 5.25 updates the position in respect of Unduly Lenient Sentences.
- (xii) Chapter 6 sets out a number of developments in respect of victims and witnesses, including the Victim and Witness Care Unit, the use of Victim Personal Statements and the entitlements included in the Victim Charter.

These represent the main changes but are not meant to be an exhaustive list of all the changes since the earlier version.

Consultation Responses

The PPS would welcome comments from any interested individuals or groups regarding the scope and content of the Code, particularly in respect of those sections of the document where changes have been made since 2008.

The document can be downloaded from the consultation area of the PPS website at www.ppsni.gov.uk. It will also be made available in hard copy on request, using any of the contact methods below (see 'Further Information').

It should be noted that initial equality screening has been carried out and no differential impacts were identified. However comments will also be welcomed from any person or organisations representing Section 75 groups that can highlight any aspect of the Code which may result in an unintentional impact. The initial screening form is available via the Equality area of the PPS website.

Confidentiality

At the end of the consultation period, copies of responses received by the PPS may be made publicly available. The information will also be published in a summary of responses which will be released on the PPS website. If you do not want all or part of your response or name made public, please state this clearly in your response. Any confidentiality disclaimer that may be generated by you or your organisation's IT system will be taken to apply only to information in your response for which confidentiality has been specifically requested.

Any personal data which you provide will be handled in accordance with the Data Protection Act 1998. Respondents should also be aware that the PPS's

obligations under the Freedom of Information Act 2000 may require that responses not subject to specific exemptions in the Act may be communicated to third parties on request.

Further Information

If you need any further information regarding this consultation or wish to request an alternative format of the document (for example large print or Braille), please contact:

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