



Wednesday 31<sup>st</sup> October 2018

For immediate release

### **PPS confirms no prosecution over online posts on anniversary of Kingsmill**

The Public Prosecution Service (PPS) can confirm a decision has been taken not to prosecute a 52-year-old man in connection with a video reported to police after it was posted on social media on the anniversary of the Kingsmill murders.

A decision has also been taken not to prosecute a 58-year-old man who shared the video when it was published on Twitter on 5<sup>th</sup> January 2018.

**PPS Assistant Director Martin Hardy said: “We have given detailed consideration to the evidence provided by police in respect of the two men reported and have concluded that it is insufficient to provide a reasonable prospect of obtaining a conviction against either for any offence.**

**“The PPS acknowledges the content of the video posted on the anniversary of the Kingsmill murders caused a great deal of hurt to those directly affected by the atrocity and many others in the wider community.**

**“We have written to the next of kin of the Kingsmill victims, and the attack’s survivor, to explain in detail the rationale for the decision.**

**“Whilst we recognise the outcome is disappointing to those offended by the content and timing of the video, we can offer assurance that these decisions were reached only after the most careful examination of all evidence and information available.”**

### **FIRST PERSON REPORTED**

In respect of the 52-year-old man reported by police, the prosecution team considered a range of evidence including the video footage posted on Twitter, as well as CCTV from the retail premises where it was filmed.

A potential prosecution was considered under Section 127 (1) of the Communications Act 2003 and Article 9 (1) of the Public Order (Northern Ireland) Order 1987.

Having regard to all of the available evidence, it was concluded that the Test for Prosecution was not met in respect of this accused.

## **SECOND PERSON REPORTED**

In respect of the 58-year-old reported by police, a potential prosecution was considered under Section 127 (1) of the Communications Act and whether the sharing of the video met the offence of sending a grossly offensive message by means of an electronic communications network or any other offence.

Having regard to all of the available evidence, it was concluded that the Test for Prosecution was not met in respect of this accused.

ENDS

### **Notes for Guidance:**

1. The Test for Prosecution.  
In every case considered, the PPS takes a decision by applying what is known as the Test for Prosecution. The Test for Prosecution has two elements. It involves an assessment as to whether the available evidence provides a reasonable prospect of conviction and whether prosecution is in the public interest.
2. All PPS decision-making is done entirely in line with the organisation's Code for Prosecutors, a copy of which can be found [here](#).
3. On the facts under consideration in this case, to prove an offence under Section 127 (1) of the Communications Act 2003, evidence is required to establish that (i) a message sent by means of a public electronic communications network is grossly offensive and (ii) that the defendant intended his words / actions to be grossly offensive to those to whom they relate or aware that they may be taken as so.
4. To prove an offence of stirring up hatred under Article 9 (1) of the Public Order (Northern Ireland) Order 1987, evidence is firstly required to prove that the accused used threatening, abusive, or insulting words towards a group of persons defined by religious belief, disability, race sexual orientation, colour, nationality or ethnicity. It must then be proved that the words or behaviour were used with the intention of stirring up hatred or that hatred was likely to arise as a result.

***For further information, please call the PPS Communications Unit on 02890 897187 or the out of hours officer on 07990 031568. Email: [ppspressoffice@ppsni.gov.uk](mailto:ppspressoffice@ppsni.gov.uk)***