



Public Prosecution Service for Northern Ireland

Policy for Prosecuting Cases of Rape

Independent, Fair and Effective



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1. Introduction

- 1.1 Rape is one of the most serious criminal offences that can be perpetrated.
- 1.2 The Public Prosecution Service (PPS) is committed to dealing with such offences in a fair and effective manner.
- 1.3 This Policy Document provides guidance about how decisions as to prosecution in relation to rape are taken and the assistance which will be given to victims and witnesses.
- 1.4 The Policy is also intended to raise awareness of the relevant issues among prosecutors (which include both public prosecutors and Barristers in independent practice who may be instructed by the Director) and to provide guidance to assist them in taking prosecutorial decisions in cases of this nature and when conducting prosecutions in court.
- 1.5 The Policy applies to all types of rape, including marital and relationship rape, acquaintance and stranger rape, both against male and female victims.
- 1.6 Although this Policy applies specifically to rape, the PPS will apply the practices and procedures set out in this document to all other types of sexual offences.
- 1.7 The PPS recognises that victims of rape have difficult decisions to make that will affect their lives and the lives of those close to them. Barriers exist which mean that some people are less likely to report offences. For example, victims who are or have been in a relationship with their attacker may blame themselves or feel that others will blame them. Victims may also face additional difficulties such as disruption to the lives of their children and extended families. Also people from Black and Minority Ethnic communities and members of the Travelling Community may have experienced racism or prejudice and may fear that they will not be believed or that they will not be treated properly. As a result they may be reluctant to report offences or support a prosecution. Cultural and religious beliefs may also prevent some people from reporting offences or supporting a prosecution. In cases involving rape within same sex relationships, victims may fear homophobic reactions from the criminal justice system, as well as

being “outed” by the process. Disabled people may fear reporting rape if the offender is a carer. In addition some may fear the loss of residential care. Communication issues may also be a barrier to disabled people reporting rape. Elderly people, in particular, may be deterred from reporting rape by feelings of shame or embarrassment. People with learning difficulties or mental health problems may feel that they will not be believed if they report being raped.

- 1.8 The PPS recognises the particular issues relating to rape and works with a number of statutory and voluntary agencies to improve the way cases involving rape are dealt with by the criminal justice system. The PPS is also a member of the Regional Strategy Group on Tackling Sexual Violence and Abuse and the related Protection and Justice Sub Group, the aim of which is to build confidence in the criminal justice system through an appropriate, professional and sensitive approach to reported crime.

The Role of the Public Prosecution Service

- 1.9 The PPS is headed by the Director of Public Prosecutions for Northern Ireland.
- 1.10 The aim of the PPS is to provide the people of Northern Ireland with an independent fair and effective prosecution service.
- 1.11 The PPS is wholly independent from both police and government. Its decisions are based on an impartial and professional assessment of the available evidence and the public interest.
- 1.12 All actions will be undertaken with complete impartiality and to the highest ethical and professional standards. All persons, including those accused of offences, will be treated fairly. All victims and witnesses will be treated with respect and sensitivity.
- 1.13 All prosecution decisions will be taken and every prosecution conducted in an effective and efficient manner. The PPS will provide value for money, while delivering a timely and quality service.
- 1.14 In addition to the Director and the Deputy Director, the PPS is comprised of public prosecutors and administrative staff.
- 1.15 Public prosecutors are individual members of staff of the PPS who have been designated by the Director to act on his behalf in the conduct of criminal proceedings including exercising the right of audience to prosecute in court.

1. Introduction

- 1.16 Public prosecutors are either members of the Bar of Northern Ireland, or Solicitors of the Court of Judicature.
- 1.17 The PPS is a regionally based organisation. There are four regions each coterminous with one or more court divisions. Each of the four regions is headed by a Regional Prosecutor who is accountable to the Director.
- 1.18 Each Regional Prosecutor has overall responsibility for decisions as to prosecution and for the conduct of all prosecutions in the region with the exception of those files which are considered by prosecutors in Headquarters (for example, files requiring specialist prosecutors such as complex fraud cases).
- 1.18 The police are responsible for investigating allegations of rape and for gathering the evidence and reporting the matter to the PPS. The PPS decide whether a prosecution should be initiated by applying the Test for Prosecution. This is explained in section 3.
- 1.20 Decisions in respect of prosecutions in rape cases are taken by public prosecutors who are qualified lawyers of appropriate seniority and experience. A number of public prosecutors have been designated as specialists in this area. This will ensure that the right decisions are made and that prosecutions are conducted in a fair and effective manner.
- 1.21 Barristers in independent practice may be instructed to prosecute cases at court on behalf of the PPS. The PPS will ensure that any barrister instructed in a case involving rape is experienced and skilled in the conduct of rape cases and efforts will be made, wherever possible, for the same barrister to deal with the case at all stages.
- 1.22 A map depicting the locations of the PPS regional offices and contact details for the regional offices is provided in Annex 1.

2. What is the Definition of Rape?

- 2.1 The definition of rape has changed in recent years. Each definition is relevant depending on when the offence is alleged to have occurred.

Offences committed on or after 2 February 2009

- 2.2 The offence of rape is now defined by Article 5 of the Sexual Offences (Northern Ireland) Order 2008.
- 2.3 A person commits the offence of rape where he intentionally penetrates the vagina, anus or mouth of another person with his penis, and that person does not consent to the penetration, and the defendant does not reasonably believe that that person consents. It carries a maximum sentence of life imprisonment.
- 2.4 The Sexual Offences (Northern Ireland) Order 2008 also changed the law relating to consent and belief in consent.
- 2.5 The meaning of consent was not defined in previous legislation.
- 2.6 The word “consent” in the context of the offence of rape is now defined in the Sexual Offences (Northern Ireland) Order 2008. A person consents if he or she agrees by choice, and has the freedom and capacity to make that choice. The essence of this definition is the agreement by choice. The law does not require the victim to have resisted physically. Ultimately the question of whether the victim consented is a matter for the jury to decide. However the prosecutor will take into account evidence of all the circumstances surrounding the offence in deciding whether the Test for Prosecution is met (see section 3).
- 2.7 The meaning of consent can be of particular relevance in a rape case where there has been, or is, a pre-existing relationship between the defendant and the victim, or where domestic violence has existed prior to the rape. The definition of consent contained in the 2008 Order will help juries in deciding whether the victim was able to, and did in fact, give his or her consent at the time.

2. What is the Definition of Rape?

2.8 The defendant must now show that his belief in consent was reasonable. In deciding whether the belief of the defendant was reasonable, a jury must have regard to all the circumstances, including any steps he has taken to ascertain whether the victim consented. In certain circumstances, it is presumed that the victim did not consent to sexual activity and the defendant did not reasonably believe that the victim consented, unless he can show otherwise. Examples of circumstances where the presumption applies are where the victim was unconscious, drugged, abducted or subject to threats or fear of serious harm.

2.9 Offences committed on or after 2nd February 2009 are prosecuted under the Sexual Offences (Northern Ireland) Order 2008.

Offences committed on or after 28 July 2003 but before 2 February 2009

2.10 Where rape is committed prior to 2 February 2009 it is an offence under Common Law. The punishment is set out in the Offences Against the Person Act 1861, the maximum sentence being life imprisonment. Under Common Law, the offence of rape can only be committed against a woman and relates only to vaginal intercourse. However Article 18 of the Criminal Justice (Northern Ireland) Order 2003 (which came into effect on 28 July 2003) redefined rape as any act of non-consensual intercourse by a man with a person. The victim can be either male or female. Intercourse can be vaginal or anal. The definition does not include non-consensual oral sex.

2.11 Offences committed on or after 28 July 2003 but before 2 February 2009 will be prosecuted under Common Law using the definition contained in the Criminal Justice (Northern Ireland) Order 2003.

Offences committed prior to 28 July 2003

2.12 Where rape is committed prior to 28 July 2003 it is an offence under Common Law. The punishment is set out in the Offences Against the Person Act 1861, the maximum sentence being life imprisonment. Under Common Law, the offence of rape can only be committed against a woman and relates only to vaginal intercourse. It does not include non-consensual anal or oral sex.

2.13 Offences committed prior to 28 July 2003 will be prosecuted under Common Law.

3. Prosecution Decisions

- 3.1 It is the responsibility of the police to investigate alleged offences and to gather evidence about what has occurred. When the police have obtained evidence that an identifiable individual may have committed an offence, they send a file to the PPS to decide whether or not to prosecute and for what offences. These are often difficult decisions for which the PPS is responsible.
- 3.2 It is important to remember that the PPS is not the legal advisor of the victim nor does it act as their legal advisor. It is an independent prosecuting authority which is required to have regard to the overall public interest and not only the particular interests or concerns of any one individual. However the particular views of and impact on the victim are an important consideration when making prosecution decisions.
- 3.3 Prosecutors are aware that there may be myths and stereotypes surrounding the offence of rape. Examples of such myths include:
- rape occurs between strangers in dark alleys;
 - victims provoke rape by the way they dress or act;
 - victims who drink alcohol or use drugs are asking to be raped;
 - rape is a crime of passion;
 - if they did not scream, fight or get injured, it was not rape;
 - you can tell if someone 'really' has been raped by how they act;
 - victims cry rape when they regret having sex or want revenge;
 - only gay men get raped/only gay men rape men;
 - prostitutes cannot be raped;
 - a woman cannot be raped by her husband/partner;
 - victims who have remained in an abusive relationship are responsible for any rape that follows.

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3.4 The PPS does not allow these myths and stereotypes to influence decisions.

The Test for Prosecution

3.5 The Code for Prosecutors provides guidance on how the PPS makes decisions about whether or not to prosecute. It is a public document and is available upon request or can be found on the PPS website at www.ppsni.gov.uk.

3.6 Prosecutions are initiated or continued by the PPS only where it is satisfied that the Test for Prosecution is met. This is a two stage test as follows;

- i The Evidential Test; the evidence which can be adduced in court is sufficient to provide a reasonable prospect of conviction; and
- ii The Public Interest Test; prosecution is required in the public interest.

3.7 The public prosecutor must analyse and evaluate all of the material submitted in a thorough and critical manner. The Evidential Test must be passed before the Public Interest Test can be considered. Each of these Tests must be separately considered and passed before a decision to prosecute can be taken.

The Evidential Test

3.8 Public prosecutors determine whether there is sufficient evidence to provide a reasonable prospect of conviction against each defendant on each charge.

3.9 A reasonable prospect of conviction exists if, in relation to an identifiable individual, there is credible evidence which can be adduced before a court upon which evidence an impartial jury or judge properly directed in accordance with the law, may reasonably be expected to find proved beyond reasonable doubt the commission of a criminal offence by the person who is prosecuted. It is necessary that each element of this definition is fully examined when considering the Evidential Test for each particular case. Further details in respect of the terms used in this paragraph are included at Annex 2.

3.10 Police will gather all available evidence and report the case to the PPS. The public prosecutor will consider the evidence carefully and make a decision as quickly as possible. If necessary the public prosecutor may have to seek

further information from police to enable a decision to be made. The PPS will also try to ensure that cases progress through the court without unnecessary delay.

- 3.11 In many instances rape takes place in circumstances where the victim is the only person who can provide direct evidence of what took place. Unless the defendant pleads guilty the victim will usually have to give evidence in court. Where there is conflicting evidence the prosecutor has a duty to assess the credibility and reliability of all the available evidence including that of the victim. This assessment may require the prosecutor to consult with the victim. If this is required this will always be done in a careful and sensitive way.
- 3.12 A case may not proceed, not because the prosecution does not believe the victim, but because an assessment of the strength of all the available evidence leads to the conclusion that there is not a reasonable prospect of conviction and therefore the Test for Prosecution is not met.
- 3.13 There are rules about disclosing to the defence relevant material obtained during the investigation, which is not being used as part of the prosecution case. The rules are complex, but broadly speaking, there is a duty to disclose to the defence any such material that might undermine the prosecution case or assist the defence case.
- 3.14 Particular difficulties may arise in circumstances where a substantial period of time has elapsed between the date of the alleged rape and the date of first complaint. This can often arise in historic cases of child abuse where it is not until many years have elapsed that the victim has the necessary confidence to report the abuse. In many cases evidence which had been available to corroborate a victims evidence may no longer be available.
- 3.15 In certain cases the prosecutor must also have regard to a potential submission made on behalf of the defence that the passage of time has resulted in the defendant being denied the opportunity of a fair trial. Where it is likely that such a submission will be made the prosecutor must decide whether this submission can be successfully met by the prosecution.
- 3.16 During their investigation police will always look for corroboration or supporting evidence, particularly any medical or scientific evidence. Although it is not essential and a prosecution can still go ahead without it the prosecution must always prove the defendant's guilt. A conviction may not be obtained in circumstances where the jury cannot decide between

3. Prosecution Decisions

what the victim says and what the defendant says. This is why it is essential to obtain all possible forensic and scientific evidence as soon as possible. The earlier a rape is reported, the greater the opportunity of this evidence being obtained and the greater the prospect that the Test for Prosecution can be met.

- 3.17 The PPS recognises that some victims will find it very difficult to give evidence and may need practical and emotional support. The prosecutor will also be aware that some complaints of rape are not made immediately and that any delay could be attributed to a fear of reprisals, intimidation or a number of other factors.
- 3.18 Specialist agencies can provide support and advice. Contact details for some support agencies are given at Annex 3.

The Public Interest Test

- 3.19 If a case passes the Evidential Test, the public prosecutor must decide if a prosecution is required in the public interest.
- 3.20 Broadly, the presumption is that the public interest requires prosecution where there has been a contravention of the criminal law. This presumption provides the starting point for consideration in each individual case. A prosecution will usually take place unless there are public interest factors tending against prosecution which clearly outweigh those tending in favour.
- 3.21 When considering the Public Interest Test, an important factor that public prosecutors should always take into account is the consequences for the victim of the decision whether or not to prosecute and any views expressed by the victim.
- 3.22 If the Evidential Test is passed, whilst each case must be considered on its own merits and particular circumstances, rape is considered so serious that it is likely that prosecution is required in the public interest.

4. The Views and Interests of the Victim

- 4.1 The PPS is committed to ensuring that the interests of victims are considered at every stage of the criminal process. This commitment is set out in detail in the PPS public document 'Victims and Witnesses Policy' which can be found on the PPS website www.ppsni.gov.uk. A copy may also be provided upon request.
- 4.2 The PPS prosecute cases on behalf of the public at large and not just in the interests of any particular individual. However, the public prosecutor will always give careful consideration to the interests of the victim when deciding where the public interest lies.
- 4.3 The views and interests of the victim are very important but they cannot be determinative in respect of a decision as to prosecution and must be considered along with the interests of wider society including the risks to other individuals.

What happens if the victim withdraws support for the prosecution?

- 4.4 Sometimes a victim will ask the police not to proceed any further with the case or will ask to withdraw the complaint or, where he/she has made a statement, indicate that they no longer wish to give evidence. This does not necessarily mean that the case will be stopped.
- 4.5 As a general rule the PPS will prosecute all cases where there is sufficient evidence and prosecution is required in the public interest.
- 4.6 If the victim has decided to withdraw support the public prosecutor will seek to find out why before a decision can be taken about what action to take. This may involve delaying a court hearing to investigate the facts and decide the best course of action.
- 4.7 The PPS will take the following steps:
- the public prosecutor will ask the police to take a written statement from the victim explaining the reasons for withdrawing support, stating whether the original complaint was true and whether the victim has been put under pressure to withdraw support and providing any other relevant information;
 - the public prosecutor will ask the police for their views about the case and, in particular, to carry out a full assessment of the risks to the victim and any other person's safety and wellbeing if the case were to continue and to include details of what support is available to the victim;

4. The Views and Interests of the Victim

- the public prosecutor will also ask the police how they think the victim might react to being required to attend court to give evidence.

4.8 If the public prosecutor suspects that the victim has been pressured or frightened into withdrawing the complaint, he/she will ask the police to investigate this. If necessary the PPS will ask the court to delay any hearing so that a thorough investigation can take place before a decision is taken about the future conduct of the case.

4.9 If the victim confirms that the complaint is true but still wants to withdraw the complaint, the public prosecutor will consider, first whether it is possible to continue with the prosecution without the victim's evidence. The public prosecutor will again apply the Test for Prosecution and will consider what other evidence is available which may be adduced at court and whether that evidence is sufficient to afford a reasonable prospect of a conviction. If this Evidential Test is still passed the public prosecutor will again consider whether the public interest requires prosecution taking into account the victim's withdrawal of support for the prosecution.

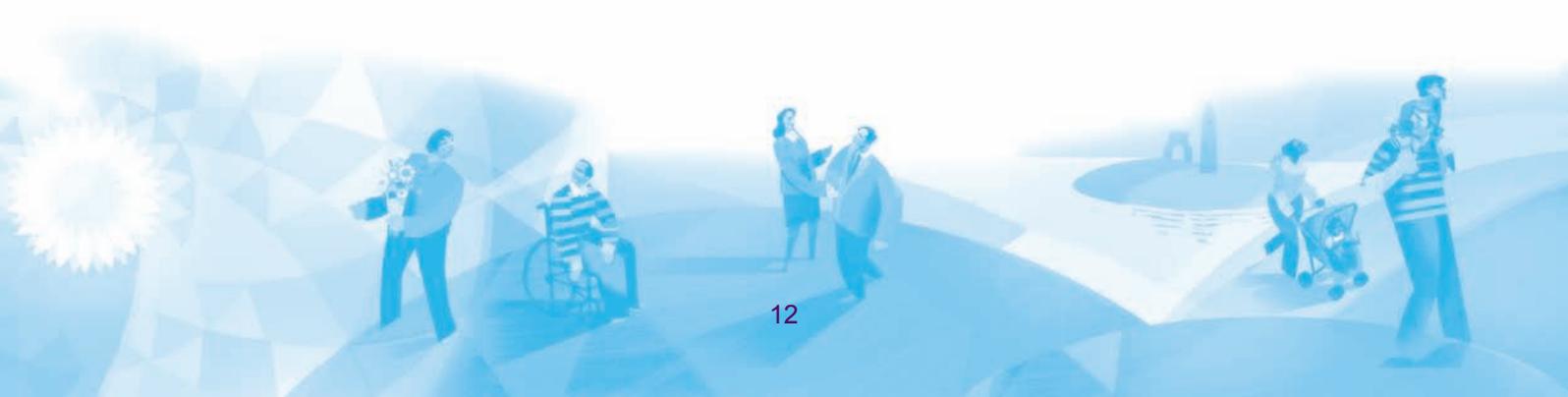
4.10 The public prosecutor will explore all of these options fully before deciding whether or not to proceed with a prosecution. The safety and wellbeing of the victim will be a prime consideration in reaching a decision.

What happens when a decision is taken to continue with a prosecution against a victim's wishes?

4.11 There may be circumstances where the public interest in pursuing a prosecution will outweigh the victim's wishes.

4.12 Where it is concluded that a case should continue and that the victim's evidence is necessary to prove the case, the PPS have to decide:

- whether the victim should be required to give evidence in person in court; or
- whether an application by the PPS to use the victim's statement as evidence without the victim having to give evidence in court is likely to succeed.



- 4.13 The law allows the victim's statement to be used as evidence without calling the victim to court, but only in very limited circumstances. The court ultimately makes the decision whether to allow such a statement to be used in this manner and only so if it is convinced that it is in the interests of justice to do so.
- 4.14 If the victim is the only witness to the offence it may be very difficult to satisfy the court that justice is being served when the defence cannot cross-examine the only witness against the defendant.
- 4.15 Under present legislation, the PPS can require a husband or wife to give evidence about an offence by their partner. The PPS can also compel unmarried partners of family members to give evidence.
- 4.16 In cases where it is necessary to call a victim against his or her wishes the decision will only be taken by an experienced prosecutor after consultation with the police and with the safety and wellbeing of the victim as a prime consideration.



5. Consultation

- 5.1 In many cases involving rape the public prosecutor will consult with the victim prior to taking a decision as to prosecution. In some cases a barrister who has been instructed by the PPS may also be present.
- 5.2 Consultations will be properly organised and conducted in a professional manner with sensitivity, courtesy and understanding.
- 5.3 The first face-to-face point of contact between the PPS and a victim or witness is often at a consultation. The victim or witness will not be left to find their own way to the consultation room. The PPS will arrange with the investigating police officer to bring the witness to the consultation room having collected them from home or a police station or other location acceptable to the witness. If two or more witnesses travel to the consultation together the police officer will be asked by the PPS to remind the witnesses not to discuss details of the case, so as to avoid any allegation of conferring.
- 5.4 The consultation will be held, where possible, in a properly equipped consultation room. It will be held at a time and venue taking into account the comfort and convenience of the victim or witness.
- 5.5 At the beginning of the consultation the public prosecutor will explain to the victim or witness the identity and role of all persons present and the purpose of the consultation. Where it is a consultation which is held before the decision as to prosecution has been taken, it is essential that the victim be told that no decision has yet been made regarding whether or not a prosecution will be brought.
- 5.6 The consultation will be conducted in a manner appropriate to the case and where necessary the manner of questioning employed and the purpose of the questions asked must be explained to the witness.
- 5.7 All victims and witnesses will be treated with respect, sensitivity, courtesy and understanding at all times, particularly as it may be necessary to ask uncomfortable or probing questions.

- 5.8 A police officer will remain present throughout the consultation. In some cases, for example in the case of a female victim where the consultation requires discussing matters of a personal nature, the public prosecutor will consider whether it is appropriate to have another female present, if the victim would otherwise be the only female present. In such cases, it may be appropriate to ask a female police officer to attend also.
- 5.9 The public prosecutor will also consider whether or not it is appropriate for a parent to accompany a child witness. This will depend on the circumstances of the case, including an assessment of whether the child is likely to feel supported or inhibited in the presence of a parent.
- 5.10 A victim or witness may wish to have a relative or friend present. Whether or not this is appropriate will depend on all the circumstances but, provided the relative or friend is present only to give support to the witness, their presence may be allowed.
- 5.11 A victim or witness is entitled upon request to arrange to have a solicitor present during the consultation to advise.
- 5.12 Legal or evidential difficulties will be explained to the victim or witness and the public prosecutor will advise them that they will be informed by letter as to whether a prosecution will be brought and an indication given as to when this is likely to be done.
- 5.13 Where a barrister has been instructed by the PPS they will conduct the consultation. However the public prosecutor responsible for the case will introduce the consultation and make it clear that the role of the barrister is to advise.
- 5.14 If a prosecution is brought and the accused pleads not guilty the prosecutor will normally speak with the victim before the trial. Depending on the nature of the evidence to be given this may be on the day of the trial or on an earlier date.

6. Request for Reasons

- 6.1 A victim may ask why a decision not to prosecute was made. The giving of reasons for not prosecuting is a complex issue and a balance must be struck between the proper interests of the victim and other concerns, such as damage to the reputation or other injustice to an individual, the danger of infringing upon the presumption of innocence or other human rights including the risk of jeopardising the safety of individuals.
- 6.2 The policy of the PPS is to give reasons for decisions in all cases in general terms. For example, in a case in which there is a technical defect, such as the unavailability of evidence to prove an essential aspect of the case the PPS would normally indicate that it has concluded that there was insufficient evidence to afford a reasonable prospect of a conviction. In a case in which the evidence was sufficient but the decision was taken not to prosecute, for example, given the age and infirmity of the prospective defendant, the reason given would be that it was not in the public interest to prosecute.
- 6.3 The propriety of applying this general policy is examined and reviewed in every case where a request for the provision of detailed reasons is made.
- 6.4 However in cases involving rape or other serious sexual offences, where a decision has been taken not to prosecute, the reason(s) for the decision will be provided to the victim without a request for detailed reasons being made. The PPS will also consider carefully a request to meet with the victim to explain the reason(s) for a decision. Such meeting will usually take place unless there is a justifiable reason for not doing so.

7. Review of Decisions

- 7.1 A victim may request a review of a decision not to prosecute. The approach taken is as follows.
- 7.2 If no additional evidence is provided connected to the request for a review, the case will be considered by a prosecutor other than the prosecutor who initially took the decision now under review. The prosecutor conducting the review will consider the evidence and information reported in the police investigation file. There are two potential outcomes of such a review:
- i If the prosecutor concludes that the decision was within the range of decisions that a reasonable prosecutor could take in the circumstances, then the initial decision will stand and the review dealt with on that basis.
 - ii Alternatively, if the prosecutor concludes that the original decision was not within the range of decisions that could reasonably be taken in the circumstances, then that prosecutor will apply the test for prosecution and reach a fresh decision in the case.
- 7.3 If additional evidence is provided in connection with the request for a review of the decision not to prosecute, the case will be reconsidered by the prosecutor who initially took the decision in the case with a view to deciding whether or not the evidence now available provides a proper basis on which to change the original decision. There are two potential outcomes of such a review:
- i If the prosecutor concludes that there is sufficient basis for changing the original decision, that prosecutor will apply the test for prosecution and reach a fresh decision in the case.
 - ii Alternatively, if the prosecutor concludes that there is no sufficient basis for changing the original decision then the case will be referred to a different prosecutor who will conduct a review of the decision.
- 7.4 The Code for Prosecutors sets out the PPS policy in relation to the review of decisions in greater detail.

8. Keeping the Victim Informed

- 8.1 The PPS has established dedicated Community Liaison Teams to provide pro-active information and support services to victims and witnesses. These Community Liaison Teams are located in each PPS region and provide an information line to assist with any queries a victim or witness may have.
- 8.2 The PPS is committed to ensuring that victims are kept informed of the progress of the cases in which they are involved. Victims are notified in all cases when a decision has been made as to prosecution or no prosecution and are informed of the progress of the case at key milestones in the prosecution process. The PPS is reviewing its Victim and Witnesses Policy which will include reviewing its communication with victims.
- 8.3 The PPS will have regard to the convenience of victims and witnesses when the court fixes a date for trial. Victims and witnesses will be contacted and consulted about what dates they are available to attend court.
- 8.4 A requirement to attend court will be sent by the PPS to the victim and witnesses advising them of the date(s) that they are required to attend court to give evidence.
- 8.5 Every attempt will be made to arrange a date that is convenient to victims and witnesses and they will be given as much notice as possible when a date has been fixed.
- 8.6 If the prosecutor concludes that a charge of rape should be withdrawn or substantially reduced to a lesser offence every effort will be made to explain to the victim and provide a full explanation in advance why this is happening. In cases involving allegations of rape the PPS will also offer a meeting to provide a full explanation.
- 8.7 Victims will be notified in writing by the PPS of the outcome of the prosecution.
- 8.8 Should the defendant appeal against conviction and/or sentence, the PPS will contact the investigating police officer in order that they can inform the victim that an appeal has been lodged. Victims will be informed of any such hearing.
- 8.9 The PPS also offers referrals to specialist organisations where the victim or witness consents. Referral can be made to Victim Support NI (VSNI) or the National Society for the Prevention of Cruelty to Children (NSPCC) as appropriate. These organisations can provide emotional and practical support and information. They also provide Witnesses Services which are explained in section 12.

9. Avoiding Unnecessary Delay

- 9.1 The PPS works with its criminal justice partners to improve the progress of cases through the criminal justice system.
- 9.2 Where possible, the PPS will make sure that cases of rape are not delayed without good reason and will do its best to ensure that the victim is kept informed of the reason for any significant delay in the proceedings.
- 9.3 In Magistrates' Court cases the PPS Community Liaison Teams are responsible for ascertaining the availability of victims and witnesses to attend court prior to the cases being fixed for trial. Rape trials will be heard in the Crown Court. In Crown Court cases the investigating police officer will ascertain victims and witnesses availability. This is checked in advance of the case being listed for trial. As a result, trials are more likely to proceed on the date fixed.
- 9.4 Adjournments may also be sought by the defence for a variety of reasons including the availability of their witnesses and seeking time to prepare their case. The decision in respect of any adjournment sought is ultimately a matter for the District Judge (Magistrates' Courts) or Judge (Crown Court).
- 9.5 Often, decisions about the progress of a case may be taken at court. Victims will be informed about those decisions when they are at court by the prosecutor. If they are not at court they will be informed as soon as possible afterwards either by the PPS or by the police.
- 9.6 The PPS works with other Criminal Justice Agencies and the Criminal Justice Board to identify areas of delay in the criminal justice system and to take action to address them.

10. Bail Issues

- 10.1 If a suspect has been charged by police with rape the police will take the decision as to whether it is appropriate to release the suspect on police bail to attend a court hearing within a short period of time. However police may decide to keep the defendant in custody so that he may appear at the next available Magistrates' Court, usually the next day, for a remand hearing. At the hearing the defendant is entitled to make an application to be released from custody on bail.
- 10.2 The District Judge (Magistrates' Courts) will decide whether bail is appropriate after he/she has heard representations from both the prosecution and the defence. In order to enable the prosecutor to make representations to the court police will have provided relevant evidence and information to the prosecutor.
- 10.3 There is a presumption in favour of granting bail. The court can only refuse bail if it is satisfied that the defendant would fail to surrender to custody, commit an offence while on bail, or would interfere with witnesses or otherwise obstruct the course of justice. Bail can also be refused if the offence was committed while the defendant was already on bail for another serious offence, or for the defendant's own protection.
- 10.4 If bail is granted the prosecutor may ask the court to impose conditions on the defendants bail. Conditions that the court can impose include requirements not to make contact with any named person or to keep away from certain areas. In deciding what submissions to make to the court regarding bail the prosecutor will take into account information provided by the police about the fears a victim or witness may have. Some examples of common bail conditions and what happens if bail conditions are breached are set out in Annex 4.

- 10.5 The District Judge (Magistrates' Courts) is required to give reasons in open court if he/she grants bail to a defendant. If he/she does not give reasons, the prosecutor will ask him/her to state the reasons.
- 10.6 If the prosecutor opposes bail, but the District Judge (Magistrates' Courts) grants bail, the prosecutor will make a decision about whether or not to appeal that decision. If an appeal is made, the defendant will be kept in custody until a judge at the High Court hears the appeal.
- 10.7 If the District Judge (Magistrates' Courts) refuses bail, the defendant can appeal against this decision in the High Court.
- 10.8 If the defendant makes an application to the court to vary any bail conditions the PPS will, where appropriate, ascertain from police the views of the victim about any proposed change.



11. Dealing with the Case at Court

- 11.1 The PPS is committed to ensuring prosecutors have the right skills to prosecute rape cases effectively, including the ability to deal sensitively with victims and witnesses.
- 11.2 The prosecutor will make every effort to speak to victims and witnesses before they give evidence and try to put witnesses who may be nervous at ease.
- 11.3 In most trials for rape where the defendant pleads not guilty, the defendant's legal representatives will challenge the victim's account of the allegations. This is normal and permissible. The defence have a duty to challenge the victim about his or her account.
- 11.4 However, there are rules about inappropriate cross-examination and particularly the questioning of a victim about his or her previous sexual behaviour. This type of questioning can only take place with the permission of the judge. The PPS will ensure that the prosecutor is proactive in objecting to such questioning where it is considered inappropriate.
- 11.5 If the defence seek to introduce such evidence or questioning and the judge considers that it is not relevant, then it should not be allowed. The PPS will instruct the prosecutor to challenge defence applications in every appropriate case.
- 11.6 The prosecutor will also object to any other allegations about the character or demeanour of the victim which are irrelevant to the issues in the case.
- 11.7 Prosecutors are aware that there may be myths and stereotypes surrounding the offence of rape. Examples of such myths include:
- rape occurs between strangers in dark alleys;
 - victims provoke rape by the way they dress or act;
 - victims who drink alcohol or use drugs are asking to be raped;
 - rape is a crime of passion;

- if they did not scream, fight or get injured, it was not rape;
- you can tell if someone 'really' has been raped by how they act;
- victims cry rape when they regret having sex or want revenge;
- only gay men get raped/only gay men rape men;
- prostitutes cannot be raped;
- a woman cannot be raped by her husband/partner;
- victims who have remained in an abusive relationship are responsible for any rape that follows.

11.8 The PPS does not allow these myths and stereotypes to influence decisions and will robustly challenge such attitudes in the courtroom and in any other place.

11.9 The PPS recognise that there is considerable public misunderstanding with regard to the circumstances in which the prosecution consider an offer by the defence to plead guilty to a different or lesser offence. In this context it should be understood that “plea bargaining” has no place in the practices or procedures of the PPS. The term is frequently, and indeed generally, liable to be understood as implying the seeking of some improper or at least questionable arrangements between the prosecution and the defence. Both the term and what it implies are therefore objectionable. There must be no such improper or questionable arrangement and no practice is permissible which reasonably suggests that there may be.

11.10 However, the adversarial nature of the criminal justice system, whether in this jurisdiction or elsewhere, means that the defence may on occasion approach the prosecution with an offer to plead guilty to only some of the charges that they are facing or to a lesser charge. The prosecution is under a duty to consider any such formal offer from the defence.

11.11 The general principal is that the decision to prosecute, and the offences to be prosecuted, should not be altered unless there is proper reason to do so. However, circumstances can arise between the time when the charges were originally directed and the time of trial which may make it appropriate for the prosecution to accept a guilty plea from the defendant to a different or lesser charge. This might arise, for example, if a defendant pleads guilty to some but not all of the charges or because the victim may not wish to proceed or because new evidence comes to light.

11. Dealing with the Case at Court

- 11.12 The acceptance by the prosecutor of such an offer from the defence must be consistent with the evidence and the information available at the time to meet the requirements of justice.
- 11.13 When considering whether to accept a plea of guilty to a different, and possibly less serious charge, the PPS will make every effort to make enquiries of victims so that the position can be explained and their views and interests taken into account.

The burden and standard of proof

- 11.14 If a case passes the Evidential and Public Interest Tests and proceeds to trial, it is for the prosecution to prove the case so that the jury is sure that the defendant is guilty.
- 11.15 For there to be a conviction in the criminal court, the prosecution has to prove the defendant's guilt beyond a reasonable doubt.
- 11.16 This is a very high standard of proof and there are many reasons why a defendant may not be convicted. Victims should not assume that a defendant has been acquitted because their evidence has not been believed.



12. Helping Victims and Witnesses to give Evidence

Special measures

- 12.1 Giving evidence can be a particularly traumatic experience for victims of rape. If a victim or witness is 'vulnerable; or 'intimidated', legislative provisions exist to provide 'special measures' to assist them to give their best evidence. Examples of special measures include:
- playing to the court the victim's or witness's video recorded interview (previously taken by the police during the course of the investigation). This means that the victim or witness will not have to give 'live' evidence about what happened to them, but they will still have to answer questions put to them by the defendant's lawyer in cross examination;
 - giving evidence from behind a screen in a courtroom to prevent the victim (or other witness) and the defendant seeing each other; and
 - giving evidence away from the courtroom through a live television link to prevent the victim or witness having to go into court. The witness will not see the defendant over the TV link but the defendant will usually still see the witness on a TV screen.
- 12.2 Evidence can also be given in private by the judge clearing the public gallery and there is also provision for lawyers and the judiciary to remove their wigs and gowns.
- 12.3 Public prosecutors are trained in these special measures so that applications are made in all appropriate cases.
- 12.4 A victim of rape is automatically presumed to be eligible to apply for the assistance of special measures unless the court is informed that he or she does not require this. The judge makes the decision about whether special measures will be allowed. The court will only allow a special measure where it considers that the measure would be likely to improve the quality of evidence given by the victim/witness and therefore be likely to maximise, so far as practicable, the quality of evidence given by the witness.

12. Helping Victims and Witnesses to give Evidence

12.5 The PPS will discuss with police what special measures might assist the victim or witness to give evidence in court, and then, if appropriate, make an application to the court to grant these. The views of the victim or witness are taken into account. Ideally, early decisions should be taken about special measures to assist victims and witnesses. However, circumstances might change and it is always possible to apply at any stage of the proceedings. If necessary a meeting can be arranged with the victim or witnesses to discuss what special measures would be appropriate. If the victim or witness is a child, their evidence is video recorded and played in court unless the court considers that it is not in the interests of justice for this to be done.

12.6 The PPS will ensure that victims and witnesses are made aware that they can change their minds about special measures. In some cases victims or witnesses initially state that they do not require special measures and may subsequently realise that they do but are afraid to say so.

Protection from cross-examination by the accused in person

12.7 The law provides that a defendant may not cross examine, in person, a victim of a sexual offence.

12.8 In appropriate cases the prosecution may also make an application to the court requesting that the court give a direction prohibiting the defendant from cross-examining a witness other than the victim in person.

Anonymity and Reporting Restrictions

12.9 Many victims and witnesses are concerned about their safety and fear that personal details or information about them might become public knowledge and place them at risk of further attack or harassment. The PPS is aware that the issue of anonymity may be of particular concern to victims of sexual offences.

12.10 Generally, it is a fundamental principle of our criminal justice system that those accused of crimes are entitled to know the name of their accuser. Most criminal proceedings are held in public, and information about the identity of the witness will become a matter of public record.

12.11 Provision is made by the Coroners and Justice Act 2009 for a witness to give evidence anonymously where the court is satisfied: that this is necessary to protect the safety of the witness; that it is consistent with the fair trial of the defendant and that it is in the interests of justice for the witness to give evidence. Prosecutors will apply for a witness to be permitted to give evidence anonymously only when these conditions are met.

- 12.12 However, victims of rape and serious sexual offences are entitled as a matter of law to anonymity in the media, even if their name has been given in court.
- 12.13 Furthermore, addresses of witnesses are not disclosed to the defendant and, unless already known (for example, where an offence is committed by a neighbour) or if required for evidential purposes, will not be mentioned in the court proceedings.

Interpreter provision

- 12.14 In the case of victims and witnesses for whom English is not their first language, the PPS will seek advice from police as to their capability to give and understand oral evidence in English or whether the witness requires the use of an interpreter. The PPS will attempt to ensure that the interpreter engaged is familiar with the particular dialect or regional variation of the foreign language which the witness uses.
- 12.15 The PPS is working with police and the Northern Ireland Court and Tribunals Service (NICTS) to improve the provision of interpreters at court. At the investigation stage, the police will make arrangements for interpreter services; when the case goes to court, the PPS will work with NICTS to ensure an interpreter is available for the court appearances.
- 12.16 Interpreters must be independent of the witness's family and of the investigation.
- 12.17 In addition to the above situations, interpreters or translators may be required for:
- Translation of correspondence when required.
 - Meetings with victims when no prosecution is directed.
- 12.18 The PPS will make arrangements for the provision of sign-language interpreters for witnesses who are deaf or hard of hearing.

Witness Service and Young Witness Service

- 12.19 There are two witness support schemes available in courthouses in Northern Ireland: one for adult witnesses (the Witness Service) provided by Victim Support NI; and one for younger witnesses under the age of 18 (the Young Witness Service), provided by NSPCC. VSNI and the NSPCC aim to support victims and prosecution witnesses before, during and after the experience of attending court to give evidence.

12. Helping Victims and Witnesses to give Evidence

12.20 Referrals to the Witness Service are made with the consent of the victim or witness. As it is important that the referral to the Witness Service is made as far in advance as possible, in order that pre-trial support can be offered and delivered in an effective manner, the PPS will take steps to make the referrals as soon as possible. This is done by informing the victim or witness of the service in the same correspondence which encloses the "Requirement to Attend Court" and offering an opt-out to the victim or witness if they do not want their details to be passed to the Witness Service. Where the victim's or witnesses details are passed to the Witness Service, their specially trained staff endeavour to make contact in advance of the court date to offer their assistance.

12.21 The aim of the Witness Service is to support victims and prosecution witnesses together with their families and friends, to deal with attending court and giving evidence. The Witness Service normally contact the victim or witness before the court hearing to offer its services. Trained volunteers offer confidential services free of charge, including:

Pre-trial support and preparation:

- the opportunity to talk to someone;
- help to apply for Criminal Injuries Compensation, if appropriate;
- a pre-trial familiarisation and informative visit to court; and
- information on court layout.

Support during the trial:

- a quiet place to wait during their time in the court building;
- accompanying the victim or witness into the courtroom if appropriate;
- preparation for a possible verdict and other potential outcomes;
- practical help, for example, assistance with expenses forms;
- support and practical help for any persons accompanying witnesses; and
- access to those in a position to answer specific questions about their case.



Support following the trial:

- an opportunity to talk about the experience of giving evidence following the case; and
- referral onwards for further help if appropriate.

The Witness Service does not:

- discuss the details of the case with witnesses; nor
- provide transport to and from court for witnesses.

The Young Witness Service

12.22 The NSPCC Young Witness Service (YWS) is a free, independent and confidential service, provided by a team of social work staff and trained volunteers. The service offers support to young witnesses and their parents/carers before, during and after any trial. It is available in all Crown Courts in Northern Ireland.

12.23 The PPS makes referrals to the YWS where consent is given to do so. Again the PPS advises the victim or witness of the availability of this service in its correspondence enclosing the “Requirement to Attend Court” documentation. The parent or guardian, or person with parental responsibility for the child or young person has the opportunity to opt out of having their details passed to the Young Witness Service. Where the details are passed to the YWS, their specially trained staff make contact and explain the services they offer.

12.24 The service YWS offers include:

- explaining the court layout and what happens at court;
- a visit to see the court before trial;
- trying to help with any worries about going to court;
- showing young witnesses ways to stay calm;
- providing support at court for families and supporting the young witness in the TV/video link room or the courtroom;
- a quiet and safe place to wait during their time in the court building;



12. Helping Victims and Witnesses to give Evidence

- preparation for possible verdict and other potential outcomes;
- support at sentencing;
- making sure the police, the prosecution, the court and lawyers are aware of the needs and wishes of the young witness;
- advice to parents and carers on how best to support their child;
- an opportunity to talk about the experience of giving evidence following the case;
- onward referral to help from other agencies.

12.25 YWS is independent and does not talk to young witnesses and their parents or carers about evidence in the case.

12.26 If there are local groups providing specialist support to victims of rape, the PPS will work with them to develop good practice guidelines.

12.27 Further information about meetings with vulnerable or intimidated witnesses and services provided to victims and witnesses at court is contained in The PPS Victims and Witness Policy (available online at www.ppsni.gov.uk).

Assistance for Victims or Witnesses with a Disability

12.28 The definition of disability covers a wide range of physical conditions, mental health conditions, sensory, hidden, learning and acquired disabilities.

12.29 The police will identify to the PPS victims or witnesses with disabilities to enable an assessment to be made about any applicable measures that may be needed to assist with matters such as physical access to buildings, assistance with giving evidence by special measures or the need for another person to aid communication, for example a sign language interpreter.

- 12.30 In addition to these measures that can be made available in appropriate cases, PPS staff treat every person they come into contact with as an individual and are sensitive to their needs. The PPS is committed to training its staff in this regard and will engage with specialist agencies for this purpose as appropriate.
- 12.31 In terms of physical access, the PPS offices are designed and constructed to facilitate access for people with mobility needs. The PPS will make appropriate arrangements to facilitate a person's access to the PPS offices for the purposes of attending a consultation. Consultation presents an opportunity for the victim or witness to meet the prosecutor and discuss any concerns a person with a disability may have about the court process.
- 12.32 In addition the PPS, depending on the nature of the disability and the views of the person concerned, will consider making application for appropriate special measures to maximise the quality of the evidence which can be given in court.
- 12.33 When a case goes to court, the PPS will work in conjunction with Northern Ireland Court and Tribunals Service to make the necessary arrangements to ensure ease of access for wheelchair users, or persons with other disabilities who need assistance in accessing the court to give evidence.

13. Sentencing

- 13.1 If the defendant is convicted of rape or pleads guilty, the judge determines the sentence which he/she considers appropriate.
- 13.2 The PPS will make sure that the judge has all the information he/she needs to determine the appropriate sentence. This may include any relevant information contained in a Victim Impact Statement or Report which may have been requested by the court.
- 13.3 The prosecution assists the judge with the law and guidance on sentencing including any ancillary orders that may be available to the court.
- 13.4 Case law in relation to sentencing states that relationship and acquaintance rapes should be treated by the courts as equally serious as stranger rape. Male rapes are as serious as those between a man and a woman and all types of rape are equally serious.
- 13.5 If the defendant pleads guilty to an offence but takes issue with the prosecution version of events, the court has to decide the basis upon which to sentence. In order to do this, the court may hold a 'Newton hearing'. The court will only hold such a hearing if it feels that there would be a substantial difference in sentence if the defendant were to be sentenced on the prosecution's version of events. If the court considers that there would be no substantial difference to sentence, the defendant is sentenced on his version of events.
- 13.6 If, however, the court considers that it would make a substantial difference to sentence, the court can hear evidence from both parties and can make a decision based on representations from both the defence and the prosecution. At the end of the hearing, the judge must announce whether the prosecution has proved its version of events beyond reasonable doubt.
- 13.7 The defendant is entitled to enter a plea in mitigation of sentence. This may include information in respect of previous good character or other factors the defendant wishes to be considered prior to a sentence being imposed. Ultimately these issues are a matter for the judge to consider as part of his/her decision in respect of sentencing. The prosecutor will challenge any assertion made by the defence in mitigation that is inaccurate, misleading or derogatory.

Unduly Lenient Sentences

- 13.8 Parliament has provided that for certain offences the Director of Public Prosecutions has the power to ask the Court of Appeal to review a sentence which has been imposed by the Crown Court if he considers it to be unduly lenient. The power exists in relation to a range of serious cases including rape. An application to review a sentence must be made within 28 days from the day when the sentence was imposed.
- 13.9 An unduly lenient sentence is one which falls outside the range of sentences that a judge, taking into account all relevant facts, and having regard to sentencing guidance, could reasonably consider to be appropriate. In other words the sentence must not just be lenient, but must be unduly lenient. Sentencing is not a straightforward matter. Every case is different and the sentence appropriate to any case must depend on the particular circumstances of that case. A judge, in sentencing a defendant, takes into account any guidance given by the Court of Appeal, identifies any features that aggravate the offence and any features that mitigate the offence. The judge then decides on a sentence that reflects the need to punish, to deter others, to protect the public and to rehabilitate the defendant.
- 13.10 The Court of Appeal decides whether or not the sentence is unduly lenient and, if it is, whether to increase the sentence.
- 13.11 If a victim is concerned about a sentence that has been imposed they can contact the PPS directly or through a public or legal representative and request that the Director considers the sentence. The request should be made to the Director of Public Prosecutions at PPS Headquarters. The full address is set out in Annex 1.
- 13.12 The PPS will, through the police, keep victims informed of any appeals by the defence against conviction and sentence.

Services available after Sentencing

- 13.13 The PPS is not usually directly involved after the sentencing stage. However services are available from other agencies to assist.
- 13.14 Victim Support NI offer advice and assistance before, during and after the court hearing and NSPCC is available for young witnesses.

13. Sentencing

13.15 In addition three separate victim information schemes have been implemented and are managed by Probation Board Northern Ireland (PBNI), Northern Ireland Prison Service (NIPS) and the Department of Justice respectively. These operate at the post sentencing stage as follows:

i) Probation Board for Northern Ireland – Victim Information Scheme

- PBNI Victim Information Scheme (VIS) became operational on 25 October 2005. It is a statutory scheme provided for by the Criminal Justice (NI) Order 2005.
- Its objective is to ensure that victims receive information, on request, about what it means when someone is sentenced to an Order which requires supervision by PBNI.
- The Scheme is available to any person (or agreed representative) who has been the direct victim of a criminal offence for which the offender received a Probation Supervised Sentence.
- A Protocol has been established to ensure the effective operation of the Scheme. The parties to the Protocol are PBNI, NIPS, PPS and the Police Service of Northern Ireland (PSNI).
- The PPS co-operates by providing to PBNI the information required to assist them in operating the Scheme.
- If following conviction the perpetrator of the offence receives a Probation Supervised Sentence, the victim of the offence will be advised about the Scheme.
- The VIS operates as follows:
 - general information can be provided about PBNI's supervision of offenders on Probation, Community Service, Combination Orders, Supervised Sex Offender Licence, Custody Probation Orders or Juvenile Justice Centre Orders;
 - information can be provided in writing, by phone, or face to face with a PBNI Victim Liaison Officer;
 - information can be provided, if appropriate, about any organisation which may be able to offer specific support.
- For reasons of confidentiality the Scheme cannot provide any personal information about the offender.

ii) Northern Ireland Prison Service – Victim Information Scheme

- The NIPS has introduced a Victim Information Scheme which enables a victim to find out when the offender in the case they were involved in is due to be released from prison at the end of their sentence or on temporary release.
- A victim may make representations to the prison authorities about an offender who is eligible for temporary release.
- Participation in the Scheme is entirely voluntary. A victim does not have to receive this information and they can opt out of the Scheme at any stage if they change their mind. If a victim wishes to receive information about a prisoner's release date or to contribute to the temporary release process they should contact the NIPS Victim Information Scheme directly. The contact details are at Annex 3 of this document.

iii) Mentally Disordered Offenders – Victim Information Scheme

- The Department of Justice administers a Scheme to provide victims of offences committed by mentally disordered offenders with information. The Scheme operates where the court has made a defendant the subject of a Hospital Order with a Restriction Order, or where a defendant is given a transfer direction and a restriction direction while he/she is serving a sentence of imprisonment. The Scheme applies only to mentally disordered offenders sentenced in Northern Ireland.
- Under this Scheme, victims of mentally disordered offenders, who wish to, will receive information about:
 - the granting of leave of absence to the offender;
 - the discharge, conditional or absolute of the offender; and
 - any relevant conditions which the offender is subject to.
- Participation in the Mentally Disordered Offenders – Victim Information Scheme is entirely voluntary. It is for the victim to choose if they wish to obtain this information or contribute to the process of granting leave of absence or discharge. The contact number for the Scheme is provided at Annex 3 of this document.

14. Training and Quality Assurance

Training

- 14.1 All PPS staff are trained to professional standards and the PPS invests heavily in ongoing training.
- 14.2 The Policy will be promoted within the PPS to ensure that it is implemented in an effective manner and training will be provided to all relevant staff.
- 14.3 Public prosecutors are also trained in the application of special measures and the other matters outlined in this policy.
- 14.4 Barristers instructed to prosecute on behalf of the PPS are subject to the PPS standards as to level of service. They must have a clear understanding of the Policy and are required to have regard to and act in accordance with the Policy.

Quality Assurance

- 14.5 There will be periodical quality assurance evaluations of the implementation and operation of the Policy to ensure that it is being properly applied. Should any issues be identified these will be addressed appropriately.



15. Conclusion

- 15.1 Rape is one of the most serious crimes that can be committed. It can have a devastating impact on victims and their families.
- 15.2 The PPS is committed to playing its part in improving the way that rape cases are dealt with in the criminal justice system. This will enable victims and witnesses to have confidence in the way in which it takes decisions and progresses cases.
- 15.3 The PPS will continue to work in effective partnership with other criminal justice agencies to improve the services provided to victims and witnesses.
- 15.4 The PPS recognises and welcomes the valuable advice, emotional support and practical help and information that may be offered to victims and witnesses by support agencies. PPS will continue to work with the voluntary and community sector to help develop best practice.
- 15.5 The PPS publishes this document to help victims of rape and their families to understand the work of the PPS, how decisions are made, the different stages of the prosecution process and the services provided by the PPS.
- 15.6 The PPS will review this policy regularly so that it reflects current law and good practice and welcomes any comments and feedback that will help in doing so.

Annex 1: PPS Regional Offices and Contact Details

Regional Offices

The locations of the PPS regional offices (see map below) were selected after consideration of a range of factors including workload, court locations, targeting social need and accessibility.



**Public Prosecution Service
(Headquarters)**

Belfast Chambers
93 Chichester Street
BELFAST
BT1 3JR
Tel: 028 90 897100
Fax: 028 90 897030
Email: info@ppsni.gsi.gov.uk
Text phone: (028) 90 897145
www.ppsni.gov.uk

PPS Regional Offices:

**Community Liaison Branch
Belfast Region**

Belfast Chambers
93 Chichester Street
BELFAST
BT1 3JR
Tel: (028) 90 897070/1
Email: info@ppsni.gsi.gov.uk
Text phone: (028) 90 897145

**Community Liaison Branch
Eastern Region**

Lisburn Chambers
Linen Hill House
23 Linenhall Street
LISBURN
BT28 1FJ
Tel: (028) 92 625509
Email: info@ppsni.gsi.gov.uk
Text phone: (028) 92 625441

**Community Liaison Branch
Northern Region**

Ballymena Chambers
4 Parkway
BALLYMENA
BT43 5ET
Tel: (028) 25 666563
Email: info@ppsni.gsi.gov.uk
Text phone: (028) 25 666623

Foyle Chambers
35 Limavady Road
LONDONDERRY
BT47 6LP
Tel: (028) 71 340600
Email: info@ppsni.gsi.gov.uk
Text phone: (028) 71 340676

**Community Liaison Branch
Western Region**

Omagh Chambers
2 Townhall Square
OMAGH
BT78 1BL
Tel: (028) 82 248736
Email: info@ppsni.gsi.gov.uk
Text phone: (028) 82 248761

**Community Liaison Branch
Southern Region**

Newry Chambers
1 Downshire Close
NEWRY
BT34 1FD
Tel: (028) 30 832568
Email: info@ppsni.gsi.gov.uk
Text phone: (028) 92 625441

Annex 2: Explanation of terms used in section 3 in respect of the Evidential Test

Description

identifiable individual

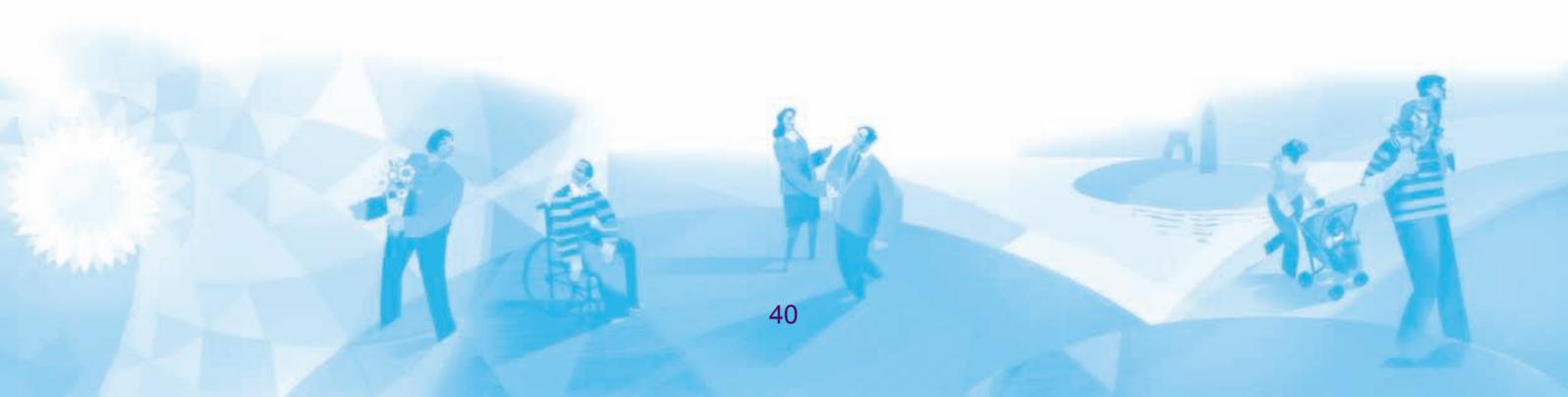
There will often be cases where it is clear that an offence has been committed but there is difficulty identifying who has committed it. Prosecution can only take place where the evidence sufficiently identifies a particular person responsible. Where no such person can be identified, there can be no prosecution.

credible evidence

This means evidence which is capable of belief. It may be necessary to consult with a witness before coming to a decision as to whether the evidence of that witness is credible. It may be that a witness is likely to be so discredited that no court could safely act on his/her evidence. In such a case it may be concluded that there is no reasonable prospect of obtaining a conviction. If, however, it is judged that a court in all the circumstances of the case could reasonably act on the evidence of a witness, notwithstanding any particular difficulties, then such evidence is credible and must be taken into account.

Public prosecutors must therefore make an assessment of the quality of the evidence. Where there are substantial concerns as to the credibility of essential evidence, criminal proceedings may not be proper as the evidential test may not be capable of being met. There will be many cases in which the evidence does not give any cause for concern. But there will also be cases in which the evidence may not be as cogent as it first appears.

Prosecutors should not ignore evidence because they are not sure that it can be used or is reliable. But they must look closely at it when deciding if there is a reasonable prospect of conviction.



evidence which the prosecution can adduce

Only evidence which is available and legally admissible prosecution can adduce can be taken into account in reaching a prosecution decision.

There are technical legal rules concerning whether or not particular types and pieces of evidence are admissible in court. For example, a court may refuse to admit evidence that has been obtained improperly, irregularly or unlawfully. If evidence is inadmissible then that evidence cannot be weighed in determining whether there is a reasonable prospect of a conviction.

Public prosecutors must therefore seek to anticipate whether it likely that evidence will be admitted or excluded by the court. For example, is it likely that the evidence will be excluded because of the way in which it was gathered? If so, public prosecutors must consider whether there is sufficient other evidence for a reasonable prospect of conviction.

an impartial jury (or other tribunal)

The test is not whether a particular jury or a particular judge or magistrate will convict. If such a test was adopted then prosecution might depend upon an assessment of how different juries in different parts of the country reacted or different judges reacted. This would be wrong. The test must be how an impartial jury or judge is likely to conclude.

may reasonably expected to find

It is impossible to know with absolute certainty whether or not a conviction will be obtained in a particular case. What is required by the evidential test is that there is a reasonable prospect of a conviction on the evidence. The weighing of evidence is not a mathematical science but rather a matter of judgment for the prosecutor.

beyond reasonable doubt

The evidence available to the prosecutor must be sufficient to reach the high standard required by the criminal courts. It is necessary for the prosecution to establish its case beyond reasonable doubt.

commission of a criminal offence

This requires that regard is had to the law in order to identify what offence or offences may have been committed and to consider the evidence against each of the ingredients which establish the particular offence.

Annex 3: Contact details of some Northern Ireland support organisations

Lifeline (delivered by Contact Youth)

Tel: 0808 8088000

Free confidential 24 hour counselling helpline available to people of all ages across Northern Ireland. Deals with a range of issues including suicide, abuse, self harm, trauma, depression and anxiety.

NEXUS Institute

Tel: 02890 326803 (Belfast)

Tel: 02871 260566 (Londonderry)

Tel: 02838 350588 (Portadown)

Tel: 02866 320046 (Enniskillen)

Email: info@nexusinstitute.org

Web: www.nexusinstitute.org

Counselling and support for adult survivors of sexual abuse

Rape Crisis and Sexual Abuse Centre

Tel: 02890 329002 (10am-6pm Mon to Fri)

Web: www.rapecrisisni.com

Counselling and support for male and female survivors of sexual violence

NI Women's Aid Federation NI

Tel: 0800 917 1414 (24 hour Domestic Violence Helpline)

Web: www.niwaf.org

Support and information for anyone affected by domestic violence

Men To Men

Tel: 02890 237779 (24 hours)

Tel: 02890 247027

Web: www.mentomen.org

Counselling services and 24 hour helpline

Men's Advisory Project

Tel: 028 90241929

Web: www.mapni.co.uk

Samaritans

Tel: 02890 664422 or

Tel: 08457 909090 (national helpline)

Emotional support to people who are distressed or in despair (24 hour helpline)

Victim Support NI

Tel: 02890 244039 (9am-5pm Mon to Fri)

Tel: 0845 3030900 (National Support Line 9am-9pm Mon to Fri)

Support for individuals affected by crime. Criminal Injuries Compensation service and witness support at court.

The Rainbow Project

Tel: 02890 319030 (9am-5pm Mon to Fri)

Web: www.rainbow-project.org

Support for gay and bi-sexual men

CHILDREN, YOUNG PEOPLE AND FAMILIES

Childline

Tel: 0800 1111 (24 hours)

Telephone counselling and advice service for children and young people in trouble or danger.

Children's Law Centre

Tel: 02890 245704

Advice about law and policy affecting children and young people in NI

Kidscape

Tel: 02077 303300 (10am-4pm)

Tel: 08451 205204 (helpline for parents)

Web: www.kidscape.org.uk

Free child protection leaflets (with a SAE) and a telephone helpline for parents of bullied children

NSPCC National Child Protection Helpline

Tel: 0808 800 5000 (Freephone 24 hours)

Child protection and welfare of children

Parents Advice Centre

Tel: 02890 238800

Email: Belfast@pachelp.org

Web: www.pachelp.org

Support, guidance and counselling to parents and young people with family difficulties

Young Witness Support Scheme (NSPCC(NI))

Tel: 02894 487533 (Antrim Courthouse)

Tel: 02890 240847 (Belfast)

Tel: 02871 266789 (Foyle)

Information and support for young people and children who may have to give evidence in criminal courts

HEALTH AND SOCIAL CARE

Health and Social Care Board

Tel: 02890 321313 (Belfast)

Web: www.hscboard.hscni.net

Public Health Agency

Tel: 02890 523737 (Belfast)

Web: www.publichealth.hscni.net



Belfast Health and Social Care Trust

Tel: 02890 960000

Web: www.belfasttrust.hscni.net

South Eastern Health and Social Care Trust

Tel: 02890 553100

Web: www.setrust.hscni.net

Northern Health and Social Care Trust

Tel: 0845 6012333

Web: www.northerntrust.hscni.net

Western Health and Social Care Trust

Tel: 02871 345171

Web: www.westerntrust.hscni.net

Southern Health and Social Care Trust

Tel: 02838 613950

Web: www.southerntrust.hscni.net

Victim Information Schemes

Northern Ireland Prison Service Victim Information Scheme

Tel: 0845 2470002

Web: www.niprvis.gov.uk

Mentally Disordered Offenders Victim Information Scheme

Tel: 0845 6025488

Web: www.nio.gov.uk

Probation Victim Information Scheme

Tel: 028 90 321972

Fax: 028 90 321973

Email: victimsunit@pbni.org.uk

Web: www.pbni.org.uk/victims



Annex 4: Bail

A court can remand a defendant in custody or grant bail, with or without conditions attached. Before the first court hearing, the police can also retain a defendant in custody or grant bail.

Examples of Bail Conditions Imposed by Courts

A court can impose any condition that seems appropriate in the circumstances of the particular case. Here are some examples of typical bail conditions imposed by courts:

The defendant must not contact, either directly or indirectly, a named person or persons, for example the victim

This means no contact whatsoever, including by telephone, fax or letter or through another person, e.g. the defendant cannot get a relative to make contact on his/her behalf.

The defendant must not go to a named place, for example the victim's place of work, shopping area or children's school

This is usually a specific address, but may also be a street, a town, or an area. Sometimes the court will say that the defendant must not go within a specified distance of a place, e.g. within half a mile of Victoria Road.

The defendant must reside at a named address

This means live and sleep each night there.

The defendant must report to a named police station on a given day or days at a given time

For example, every weekday morning at 10.00 am

The defendant must provide a security to the court

If it is thought that the defendant might not attend the next court hearing, the court can order that a set sum of money be paid into the court. If the defendant does fail to attend the next hearing then the money can be forfeited.

The defendant must provide a surety

A friend or relative must agree to ensure that the defendant attends court, or the friend or relative could lose a specified sum of money.

The defendant must abide by a curfew between certain specified hours. This means remain indoors, for example, from 9pm until 8am.

Electronic Monitoring

A person under curfew must stay at a specified address for between 2 and 12 hours a day. The hours of the curfew will vary depending on the individual's circumstances but most curfews are at night. Electronic Monitoring (EM), often known as "tagging", uses an electronic tag and a monitoring unit to monitor a person's compliance with their curfew.

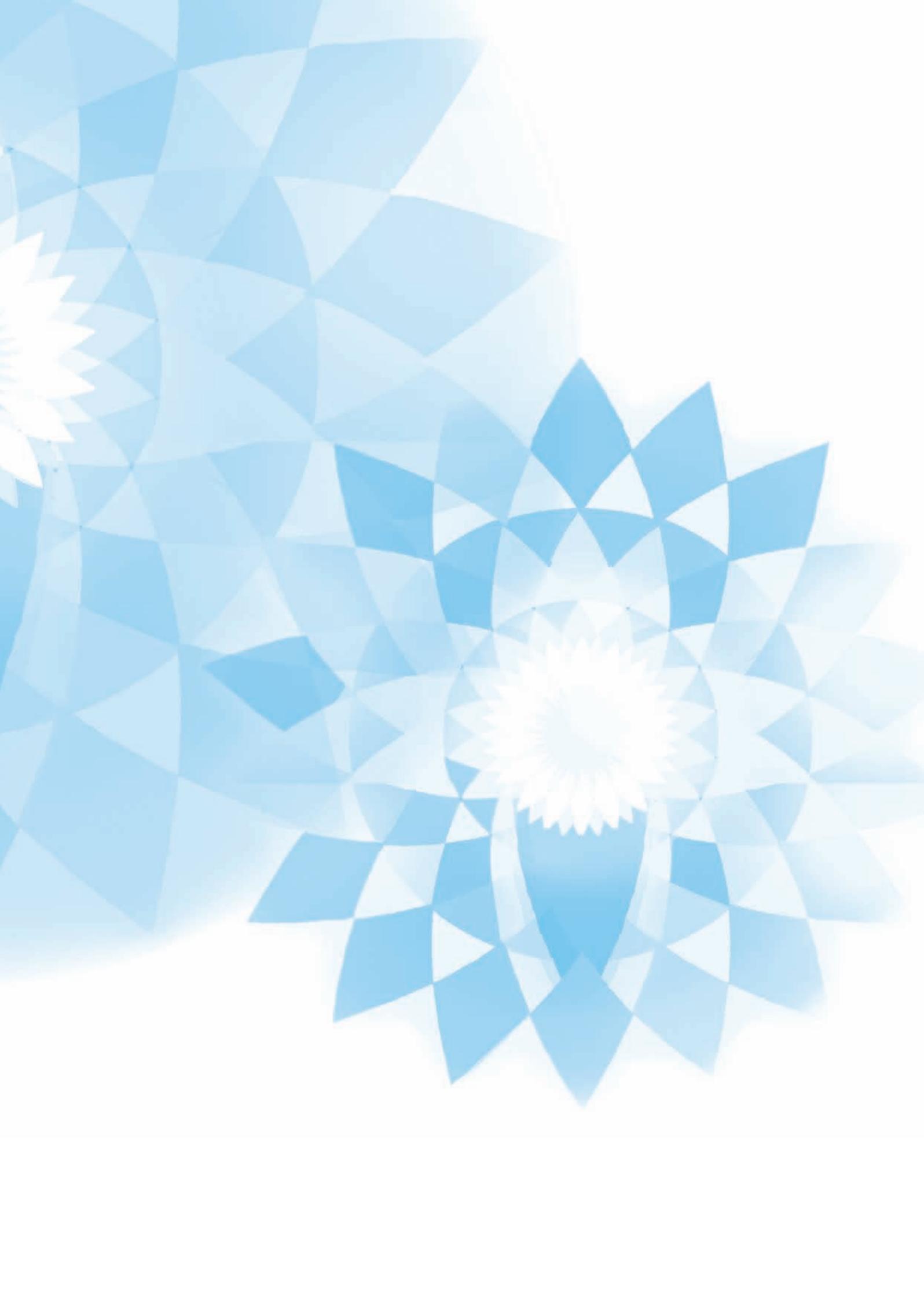
Exceptions

Sometimes, for practical reasons, there are exceptions attached to the bail conditions. For example: the defendant must not go to a named place except:

- to attend court;
- to see their solicitor by prior appointment;
- to collect their belongings once at an appointed time and accompanied by a police officer;
- or other specified person;
- to see the children at a specified time.

Breaching bail conditions

If the defendant breaches bail conditions, the police can arrest the defendant and the court will re-consider the issue of bail and bail conditions. Sometimes, despite bail conditions that say, for example, a defendant cannot contact the victim or return home, the victim contacts the defendant or invites or allows the defendant to return home. There are all kinds of reasons why victims sometimes do this, but if the defendant responds in such a way as to continue the contact, then the defendant is breaching bail conditions because the police or the court have not released the defendant from the conditions of bail they imposed. It does not matter that the victim has agreed to the contact; the victim is not subject to the bail conditions, the defendant is. The defendant is responsible for complying with any conditions imposed by the police or the court until released from those conditions by the police or court. The defendant may apply to the court to vary the bail conditions.





For further information about the PPS,
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The PPS website provides more detailed information about the Service and various published reports and policy documents are available to download as PDF files. It also contains links to other criminal justice agency websites.

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