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Victims of Crime: Requesting a Review of a Decision Not to Prosecute

May 2023

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INTRODUCTION

The Public Prosecution Service for Northern Ireland (PPS), which is headed by the Director of Public Prosecutions, is the principal prosecuting authority in Northern Ireland. In addition to taking decisions as to prosecution in cases investigated by the police, it also considers cases investigated by other statutory authorities, such as HM Revenue and Customs.

The public should be able to rely on decisions as to prosecution taken by the PPS. Generally, if the PPS tells a suspect that there will not be a prosecution, that is the end of the matter and the case will not start again.

However, if you are the victim of a crime, we understand the impact this can have on you, your family and your way of life. That's why you have a right to ask us to review a decision we have taken not to prosecute.

This guide sets out the steps you should take to make such a request.

More information about how we make decisions can be found in our Code for Prosecutors which is available on the PPS website at www.ppsni.gov.uk.

WHO CAN REQUEST A REVIEW?

Any victim of a crime reported to us by the police or other statutory authority can apply for a review of a decision by us not to prosecute.

A victim is defined as someone who has suffered harm, including physical, mental or emotional harm or economic loss directly caused by a criminal offence¹. This includes family members of a person whose death was directly caused by a criminal offence, and who have suffered harm as a result of that person's death.

¹ The statutory definition of a victim is taken from paragraphs 18 and 19 of the Victim Charter, as provided for by section 29 of the Justice Act (Northern Ireland) 2015.

Businesses, companies and other organisations which are victims of a crime are also included under this guidance.

Requests can also be made by a victim's nominated representative, for example a family member or a solicitor.

If the victim asking for a review is less than 18 years old, in most circumstances the application should be made by a parent or carer.

HOW DO I ASK FOR A REVIEW?

Requests for review should be submitted to the PPS in writing as follows:

By post

Head of Policy and Information
Public Prosecution Service
Belfast Chambers
93 Chichester Street
Belfast BT1 3JR

By email

Please send your request to: reviews@ppsni.gov.uk.

WHAT INFORMATION WILL I NEED TO PROVIDE?

We need sufficient details to allow the correct case to be identified for review. Therefore your request should include the following information:

- Your name, address and contact details. This may include details of any representative you would like to speak for you.
- The 7 digit PPS reference number, if you have it. This can be found on the decision notification letter which we sent to you.

- Anything you would like us to take into account when we are carrying out the review, for example any new information you have regarding the case.

It would also be helpful if a preferred means of contact was indicated.

In order to help you to provide all necessary information, a request for review form is available to download from the PPS website. The Policy and Information Unit will also forward a copy of the form by post or e-mail on request.

If you have any difficulty in completing the request form, help and advice is available from the Policy and Information Unit by calling on 02890 897100. For the deaf / hard of hearing, a SMS text service is also available on 07795 675528.

HOW LONG DO I HAVE TO ASK FOR A REVIEW?

Where a request for a review is made by or on behalf of a victim, the request will normally only be considered if it is made in writing within **one month** of the victim having been informed of the decision not to prosecute. Only in exceptional circumstances will the PPS undertake a review if the request is received outside this time limit.

For a limited range of ‘summary only’ offences (i.e. cases which can only be dealt with in the Magistrates’ Courts), it should be noted that a prosecution cannot be commenced more than 6 months after the original incident date.² Therefore in some circumstances there may be a more restricted period in which to submit a request for review. If you have any concerns regarding the timescales for review, please contact the Policy and Information Unit.

² *The time limits which apply to summary only offences are specified in the Magistrates’ Courts (Northern Ireland) Order 1981.*

HOW WILL THE REVIEW BE CONDUCTED?

Where a review is to be conducted, the approach will depend on whether or not new information has been made available in connection with the request to review the decision.

If no new evidence or information is provided, the case will be considered by a prosecutor other than the individual who took the original decision. Having considered the available evidence and information the reviewing prosecutor will apply the Test for Prosecution and take a new decision, the reasons for which must be recorded in writing. That decision may be to allow the original no prosecution decision to stand or to direct that a prosecution should now be taken. Alternatively the prosecutor may decide that the matter is to be dealt with by way of a diversionary disposal.³

Where new evidence or information is provided, the review will be carried out by the prosecutor who took the original decision. The prosecutor will consider all the evidence and information now available and will apply the Test for Prosecution and take a new decision. There are two possible outcomes of such a review:

- It is concluded that the Test for Prosecution is now met and criminal proceedings are commenced (or the matter is dealt with by way of a diversionary disposal); or
- It is concluded that the Test for Prosecution remains not met. In this situation the case will be referred to another prosecutor who will apply the Test for Prosecution and take a new decision.

When conducting any review it is open to the prosecutor to take additional steps to assist with the review such as requiring further enquiries to be made by the police, consulting with witnesses, or obtaining the advice of counsel.

³ *Diversionary disposals include restorative cautions, informed warnings and youth conferences. For further information, please refer to the PPS Code for Prosecutors.*

Further evidence or information obtained as a result of such steps will not result in the case reverting to the prosecutor who took the original decision. It is only when new evidence or information is provided in connection with the initial request for review that the matter is considered by the original prosecutor.

Where a review of the decision not to prosecute has already been carried out by a prosecutor other than the prosecutor who took the original decision, then normally no further review will be undertaken. If further information is provided, or further representations are made, after the review is completed, these will be considered by the prosecutor who conducted the review in order to determine whether they provide a proper basis to further review the decision. Any further review at that stage should be undertaken by that same prosecutor.

HOW LONG WILL THE REVIEW TAKE?

We will aim to tell you about the outcome within 8 weeks of your application for a review.

However some cases are very complex and a review may take longer than 8 weeks. In these cases, we will write to you within the 8 week period advising you of how long the review will take and when a decision is likely to be available.

WHAT HAPPENS WHEN THE REVIEW HAS BEEN COMPLETED?

Once the review has been completed, the reviewing prosecutor will write to you to set out their decision and the reasons for that decision. You will be given as much detail as it is possible for us to give you.

If the prosecutor decides that the decision not to prosecute was inappropriate, you will be advised whether the case will now be prosecuted or a diversionary

decision issued. If a prosecution is still an option, we will start court proceedings as soon as possible.

There may be some instances where we will ask to meet with you to discuss the options before a final decision is taken or to discuss the outcome of a review.

In some cases, a prosecution may no longer be possible. This may be for legal reasons, such as where time limits set down in law apply to a case (see page 4), or where, due to the passage of time, we consider that the Test for Prosecution is not met.

GIVING OF REASONS

Following a decision not to prosecute, a victim is entitled to be notified in writing of the reasons why this decision was taken, how further information about the decision can be accessed and how a review of the decision can be requested if the victim remains dissatisfied.

The PPS gives reasons in all cases where a decision not to prosecute is taken. A two tier approach applies. In a wide range of cases which might be classed as more serious due to the nature of the offence or where the victim may be regarded as vulnerable, detailed written reasons will automatically be given for the decision not to prosecute and a meeting offered.⁴ Where detailed reasons are given the PPS will consider what information about the decision may be provided, balancing the interests of all parties together with any other considerations relevant to the case.

⁴ The following case types are included:

- Cases involving death or serious injury (e.g. murder, manslaughter, grievous bodily harm with intent, grievous bodily harm, wounding with intent, wounding).
- Driving-related offences involving a death or serious injury (e.g. causing death by dangerous driving, causing grievous bodily injury by dangerous driving).
- Sexual offences – any offence under the Sexual Offences (Northern Ireland) Order 2008 (e.g. rape, sexual assault, gross indecency, child sexual offences, incest), as well as any equivalent offence under previous legislation or common law; and
- Domestic burglary offences.

In all other cases general reasons are given. For example, where the available evidence does not allow the Prosecution to establish an essential element of the offence, the PPS will indicate that there was insufficient evidence to afford a reasonable prospect of a conviction. Another example would be a case in which the evidence was sufficient but the decision was taken not to prosecute given particular medical circumstances of the prospective defendant. Here the reason given would be that it was not in the public interest to prosecute.

All victims are entitled to receive more detailed reasons for the decision taken. All victims will also be informed of their right to seek a review when notified of the decision not to prosecute whether they receive detailed or general reasons. It may be that the provision of detailed reasons will assist a victim to decide whether they wish to pursue a review. Requests for detailed reasons should be made to the Victim and Witness Care Unit (contact details below).

Where detailed reasons are given, the requirement to seek a review within one month will only run from the date of receipt of the detailed reasons letter.

DOES THE REVIEW PROCESS APPLY TO DECISIONS TO PROSECUTE?

It should be noted that this review process **does not** apply to decisions to prosecute.

A defendant who is being prosecuted can ask that the PPS give consideration to stopping a case or dealing with the offence by way of a diversionary disposal. However, any such request will be considered as part of the duty of the PPS to keep all decisions to prosecute under continuing review. If no new or additional information is provided then there will normally be no basis upon which to reconsider the original decision to prosecute. If new or additional information is provided, this will be considered by the prosecutor who took the original decision. If that prosecutor concludes that the decision to prosecute should stand, then that will be the end of the matter.

OTHER SOURCES OF INFORMATION AND SUPPORT

Victim and Witness Care Unit (VWCU)

The VWCU (operated jointly by the Public Prosecution Service and the police) provides a single point of contact within the criminal justice system. Its primary role is to keep victims and witnesses fully informed of the progress of their case throughout the criminal justice process. The VWCU can also make referrals to other service providers if additional support is required. Contact details are as follows:

Victim and Witness Care Unit (Belfast Office)

Belfast Chambers

93 Chichester Street

Belfast BT1 3JR

Phone: 028 9054 4797

Email: vwcubelfast@ppsni.gov.uk

Victim and Witness Care Unit (Foyle Office)

Foyle Chambers

35 Limavady Road

Londonderry BT47 6LP

Phone: 028 7134 0632

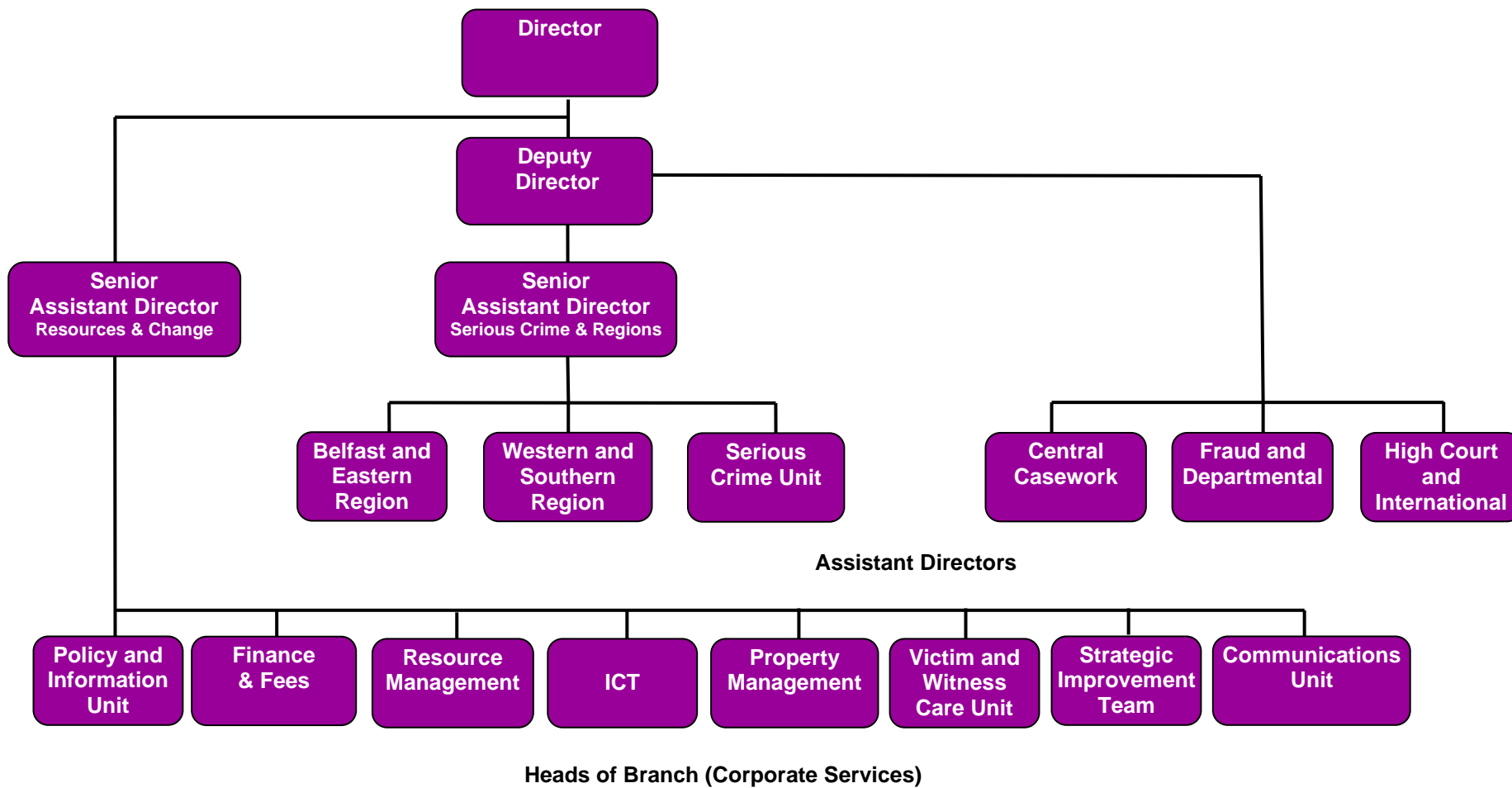
Email: vwcufoyle@ppsni.gov.uk

Victim Charter

As a victim you will receive services under the Victim Charter. These are described as entitlements, which apply to a range of service providers. Full details of the entitlements, how they will work and the conditions for these are set out in the body of the Charter.

The Charter is available via the PPS website at www.ppsni.gov.uk.

Annex A: PPS Organisation Chart



PPS Regional Office Locations





Contact Us

If you require any further information about the PPS, or a copy of this document in an alternative format, please contact:

**Policy and Information Unit
Public Prosecution Service
Belfast Chambers
93 Chichester Street
Belfast BT1 3JR**

Tel: (028) 90 897100

Deaf/Hard of hearing (SMS): 07795 675528

Fax: (028) 90 897030

Email: info@ppsni.gov.uk

Website: www.ppsni.gov.uk

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