



Public
Prosecution
Service

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

FOI 1643/20-21

3 February 2021

I refer to your email dated 4 January 2021 (and your subsequent contact on 6 January 2021 to provide clarification) in which you asked for information regarding Institutional abuse. Your request has been dealt with under the terms of the Freedom of Information Act 2000.

Freedom of Information Act 2000

The Freedom of Information Act creates rights of access for any person making a request for information to a public authority. The rights of access are twofold. First, to be informed by the public authority if it holds information of the description specified in the request, and if that is the case, secondly, to be provided with that information. These rights are subject to important limitations, which are designed to achieve a proper balance between the right to know and considerations of law and policy in the broader public interest.

You had asked for the following:

- 1. How many times have the PPS prosecuted a person or organisation with institutional abuse in the last 5 years?*
- 2. How many times have the PPS charged a person or organisation with ill treatment of patients in a nursing home under article 121 of the Mental Health NI Order (1986)?*
- 3. How many single agency or joint protocol adult safeguarding investigation cases have you been sent by the PSNI in the last three years?*
 - i) How many of these cases looked at an allegation of institutional abuse?*
 - ii) How many cases resulted in no charges?*
 - iii) How many cases resulted in charges being brought?*
- 4. Can your office make a decision on prosecution in cases when the PSNI / joint protocol adult safeguarding investigation is still open?*

Independent, fair and effective

i) Are there circumstances when the PPS code of conduct for prosecutors (4.4) does not apply to an adult safeguarding investigation?

5. What legislation does your office use when considering prosecution for completed investigations by the PSNI in relation to abuse of vulnerable adults in care settings?

In response I can advise the following;

1. How many times have the PPS prosecuted a person or organisation with institutional abuse in the last 5 years?

'Institutional abuse' is not a specific criminal offence but rather it is a description of a type of offending and therefore can encompass a wide range of criminal offences. Information held by the PPS which would cover such cases is not held in a form which can be readily extracted from the PPS Case Management System. It is likely that such information may be contained within individual case files. To answer your request accurately would require an extensive manual search of all cases. This would easily exceed the cost limit as defined in Section 12 of the Act which makes provision for public authorities to refuse requests for information where the cost of dealing with them would exceed the appropriate limit.

2. How many times have the PPS charged a person or organisation with ill treatment of patients in a nursing home under article 121 of the Mental Health NI Order (1986)?

In response please see tables below detailing files received (Table 1) and decisions issued (Table 2) in cases involving a complaint under Article 121 of the 1986 Order, relating to incident(s) identified as having occurred within a nursing/care home setting between 1/1/15 and 31/12/20. Table 3 indicates prosecution decisions issued for other offences. Tables 4 and 5 provide outcomes data in respect of defendants dealt with in the Crown and Magistrates' Courts during the same period.

Offences included in the analysis are listed at Table 6. The tables should be read in conjunction with the accompanying notes.

Please note that that these cases were identified by way of a manual review of all files received in the period with a complaint under Article 121 of the 1986 Order. The definition of 'nursing home' has incorporated nursing and care homes, mental health units and residential care and supported living units.

3. How many single agency or joint protocol adult safeguarding investigation cases have you been sent by the PSNI in the last three years?

i) How many of these cases looked at an allegation of institutional abuse?

ii) How many cases resulted in no charges?

iii) How many cases resulted in charges being brought?

In response to question 3, I can advise that in accordance with section 1(1)a of the Freedom of Information Act the information requested is not held. You may wish to direct your enquiries to the PSNI who may be in a position to assist

4. Can your office make a decision on prosecution in cases when the PSNI / joint protocol adult safeguarding investigation is still open?

Within the context of a multi-agency response to Adult Safeguarding, many statutory bodies have a role. Police are however the lead agency for all criminal investigation elements within an adult at risk of harm or adult in need of protection abuse enquiry. This will include all aspects of gathering evidence for criminal proceedings such as obtaining forensic evidence, medical evidence, photographs, statements and interviews with victims and witnesses.

PPS receive files submitted by police. As an independent prosecution service, the PPS have no control over the information that PSNI will record in files. Police should alert prosecutors to ongoing multi-agency investigations. PSNI are also required to alert prosecutors to any outstanding evidence.

Prosecutors will have regard to paragraph 4.4 of the Code for Prosecutors when making decisions in cases where police have alerted prosecutors to outstanding evidence.

i) Are there circumstances when the PPS code of conduct for prosecutors (4.4) does not apply to an adult safeguarding investigation?

Prosecutors must adhere to paragraph 4.4 of the Code for Prosecutors in all decisions as to prosecution.

Prosecutors will take decisions as to prosecution in accordance with the PPS Code for Prosecutors. These decisions will be made when PSNI have submitted their file and indicated that there is no outstanding evidence or witnesses to be spoken to. PPS will have regard to the views of the victim and police recommendations. Police recommendations could include recommendations from the multi-agency groups involved in the investigative process.

5. What legislation does your office use when considering prosecution for completed investigations by the PSNI in relation to abuse of vulnerable adults in care settings?

There is no prescriptive list and the legislation used will depend on the particular facts of each case and the type of offending involved.

If you are dissatisfied in any way with the handling of your request, you have the right to request a review in accordance with our review procedure. You should do this as soon as possible or in any case within two months of the date of this response and you can do so by writing to the Head of Policy and Information, Public Prosecution Service, Belfast Chambers, 93 Chichester Street, BELFAST, BT1 3JR or alternatively by sending an e-mail to info@ppsni.gov.uk. You should state clearly the grounds on which you are requesting the review.

Alternatively, you may wish to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Information Management Team
Public Prosecution Service

Table 1:
Files Received between 11/15 and 31/12/20 with a complaint under Article 121 of the Mental Health NI Order (1986)

Based on First Papers Received Date

Calendar Year - File Received	Number of Cases	Number of Suspects
2015	17	22
2016	12	15
2017	14	26
2018	26	29
2019	24	46
2020	22	41
Total	115	179

Note: Of these, decisions have been issued in relation to 152 suspects at present.

Table 2:
Decisions Issued in respect of suspects for an offence under Article 121 of the Mental Health NI Order (1986)

Based on Most Serious Decision

Calendar Year - File Received	Indictable Prosecution	Summary Prosecution	Diversion	No prosecution
2015	-	-	*	18
2016	0	-	*	11
2017	-	3	*	21
2018	0	5	*	20
2019	0	-	*	45
2020	0	-	*	14
Total	#	15	*	129

"-" represents a figure of less than 3

"#" represents a figure greater than or equal to 3 that has been suppressed in order to prevent the disclosure of smaller figures elsewhere

"" represents a category for which a breakdown cannot be provided due to the small numbers involved.*

Table 3:
Prosecution decisions issued for other offences in respect of suspects on files received with a complaint under Article 121 of the Mental Health NI Order (1986)

Calendar Year - File Received	Summary Prosecution	Diversion
2015-2020	-	-

"-" represents a figure of less than 3

Table 4:
Crown Court outcomes in respect of suspects dealt with by way of an indictable prosecution for an offence under Article 121 of the Mental Health NI Order (1986)

Calendar Year - File Received	PLEA OF NOT GUILTY ON AT LEAST ONE CHARGE - FOUND GUILTY ON AT LEAST ONE CHARGE	PLEA NOT GUILTY - ACQUITTED ON ALL CHARGES
2015-2020	-	-

"-" represents a figure of less than 3

Table 5:
Magistrates' Court outcomes in respect of suspects dealt with by way of a summary prosecution for an offence under Article 121 of the Mental Health NI Order (1986).

Calendar Year - File Received	PLEA OF GUILTY ON ALL CHARGES	PLEA OF NOT GUILTY ON AT LEAST ONE CHARGE - FOUND GUILTY ON AT LEAST ONE CHARGE	PLEA NOT GUILTY - ACQUITTED ON ALL CHARGES	SUMMARY OUTCOME PENDING	Total
2015-2020	1	8	3	3	15

Please note that a yearly breakdown cannot be provided for outcomes due to small numbers involved.

Table 6:
Offences considered – Article 121 of the 1986 Order

Complaint Offence Description	Complaint Offence Legislation
ILL TREATING OR NEGLECTING A PATIENT	Article 121(2) of The Mental Health (Northern Ireland) Order 1986
HOSPITAL STAFF ILL-TREATING MENTAL PATIENT	Article 121(1) of the Mental Health (Northern Ireland) Order 1986.
HOSPITAL STAFF WILFULLY NEGLECTING MENTAL PATIENT	Article 121(1) of the Mental Health (Northern Ireland) Order 1986.
GUARDIAN ILL-TREATING MENTAL PATIENT	Article 121(2) of The Mental Health (Northern Ireland) Order 1986
GUARDIAN WILFULLY NEGLECTING MENTAL PATIENT	Article 121(2) of The Mental Health (Northern Ireland) Order 1986