

The decision to prosecute

Prosecutions



CPS

CROWN
PROSECUTION
SERVICE

This leaflet
explains how
prosecution
decisions are
reached

يتوفر هذا المنشور باللغة العربية

এই বইটি বাংলা ভাষাতেও পাওয়া যাবে।

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یہ اشاعت اردو میں دستیاب ہے۔

Mae'r cyhoeddiad hwn ar gael yn y
Gymraeg

This leaflet explains how prosecution decisions are reached

The Crown Prosecution Service (CPS) is the principal prosecuting authority in England and Wales. It is headed by the Director of Public Prosecutions (DPP) and consists of a national headquarters and 42 Areas, one for each local police force area. Every CPS Area is headed by a Chief Crown Prosecutor who is responsible for prosecutions within that Area.

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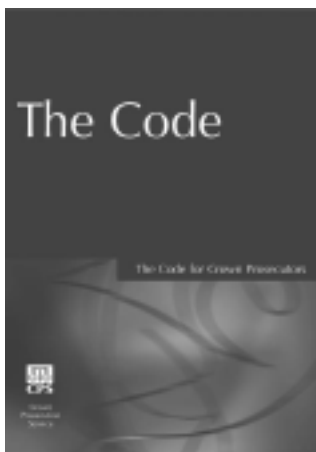
Background

Before the CPS was formed in 1986, it was the police who decided whether to take cases to court.

Today, the CPS decides whether or not to prosecute people in court. However, the police still investigate the alleged offence.

In most cases, Crown Prosecutors will decide whether to charge a person with a criminal offence, and will determine the appropriate charge or charges. In those cases where the police determine the charge, which are usually more minor and routine cases, they apply the same principles.

We will decide whether or not to prosecute by applying the *Code for Crown Prosecutors* to the facts of the particular case.



The Code for Crown Prosecutors

The *Code for Crown Prosecutors* (the Code) is a public document that sets out the basic principles Crown Prosecutors should follow when they make decisions on cases. You can get a copy from your local CPS office.

While each case is unique and must be considered on its own facts and merits, there are certain general principles that Crown Prosecutors must follow when they approach each case. They must be fair, independent and objective. They must not let any personal views about a suspect's, victim's or witness's ethnic or national origin, disability, religious beliefs, political views, sexual orientation or whether they are male or female influence their decisions.

It is their duty to make sure that the right person is prosecuted for the right offence. In doing so, Crown Prosecutors must always act in the interests of justice and not only for the purpose of obtaining a conviction.

Review

Each case the Crown Prosecution Service receives from the police is reviewed to make sure that it is right to proceed with a prosecution.

In most cases, Crown Prosecutors are actually responsible for deciding whether a person should be charged with a criminal offence, and if so, what that offence should be.

When deciding whether a case should be prosecuted in the courts, Crown Prosecutors consider the alternatives to prosecution in appropriate circumstances. This includes a simple caution for adults or, for youths, a reprimand or warning.

When we receive a file from the police, a Crown Prosecutor will read the papers and decide whether or not there is enough evidence against the defendant and if it is in the public interest to bring that person to court. Because circumstances can change, the Crown Prosecutor must keep the case under continual review. If the Crown Prosecutor is thinking of changing the charges or stopping the case, they will contact the police wherever possible. This gives the police the chance to provide more information that may affect the decision.

Although the police and the CPS work closely together, we are completely independent of each other and the final responsibility for the decision as to whether or not to proceed with an offence that has been charged rests with the CPS.

Crown Prosecutors have to ask themselves the following two questions when they are making their decisions

Is there enough evidence against the defendant?

There must be enough evidence to provide a 'realistic prospect of conviction' against the defendant. A realistic prospect of conviction is an objective test. It means that a jury or bench of magistrates, properly directed according to the law, is more likely than not to convict the defendant of the alleged charge. This is a separate test from the one that the criminal courts must apply. A jury or magistrates' court should only convict the defendant if they are sure that he or she is guilty.

When deciding whether there is enough evidence to prosecute, Crown Prosecutors must consider whether the evidence can be used in court and is reliable. This means that they must assess the quality of the evidence from all witnesses before reaching a decision. A decision to drop a case does not mean that the prosecutor has decided to believe one witness and not believe another.

If there is not a realistic prospect of conviction, the case must not go ahead, no matter how important or serious it may be.

If there is a realistic prospect of conviction, the Crown Prosecutor will ask the next question.

Is it in the public interest for the CPS to bring the case to court?

It has never been the rule in this country that every criminal offence must automatically be prosecuted. For this reason, in each case, the Crown Prosecutor must consider the public interest in going on with a prosecution and balance factors for and against prosecution carefully and fairly before coming to a decision.

A prosecution will usually take place unless the public interest factors against prosecution clearly outweigh those in favour of prosecution.

The public interest factors that can affect the decision to prosecute will vary from case to case. Broadly speaking, the more serious the alleged offence, the more likely it will be that a prosecution will be needed in the public interest. On the other hand a prosecution is less likely to be needed if, for example, a court would be likely to fix a minimal or token penalty or the loss or harm connected with the offence was minor and the result of a single incident.

Victims of crime

The CPS prosecutes cases on behalf of the public at large and not just in the interests of any particular individual. For this reason, although the interests of the victim are important, they cannot be the final consideration when deciding whether or not to prosecute.

However, when considering the public interest, Crown Prosecutors should always take into account the consequences for the victim of the decision whether or not to prosecute and any views expressed by the victim or the victim's family.

The Threshold Test

There are some cases in which it would not be appropriate to release a person on bail after charge, but the evidence to establish there is a 'realistic prospect of conviction' is not yet available. For example, medical or other expert evidence may not have been obtained in the limited time available before charge. There must, however, be sufficient evidence for there to be at least a reasonable suspicion that the person has committed an offence and it must be in the public interest to charge. This is known as the Threshold Test, and is applied in the early stages of these cases for a limited period. The Full Code Test will then be applied as soon as possible after that.

Selection of charges

When they are reviewing a case, Crown Prosecutors must always consider whether the charges against the defendant are correct. They have to make sure that the charges reflect the seriousness of the offending and give the court sufficient sentencing powers. It is just as important that the choice and number of charges allow the case to be explained to the court in a clear and simple way.

This means that from time to time a Crown Prosecutor may alter the charge against the defendant if there is one that fits the circumstances of the offence better.

Accepting guilty pleas

Sometimes a defendant may want to plead guilty to some but not all of the charges or to a different, possibly less serious, offence. Crown Prosecutors should only agree to this if they think the court is able to pass a sentence that matches the seriousness of the offending.

What Crown Prosecutors cannot do is ask the judge or the magistrates to pass a particular type of sentence.

Victim Supportline

If you need more help or support you can telephone the Victim Supportline on —

0845 30 30 900

This is run by Victim Support, an independent charity whose trained staff and volunteers provide emotional support, information and practical help for people affected by crime.

The Victim Supportline is a local number, and an essential point of contact for anyone who has suffered the effects of crime, regardless of whether a crime has been reported.

Staff can explain the free and confidential services available through Victim Support and put you in touch with their local Victim Support Scheme or Witness Service or other organisation if necessary.

Complaints

We aim to deal with complaints sensitively, fairly and in confidence. If your complaint is justified we will apologise, try to put the matter right and take steps to make sure that it does not happen again.

We will try to reply to your complaint within three working days of receiving your letter. If we cannot send you a full reply within that time, we will let you know we have received your letter and aim to send a full reply within 10 working days.

- 1 If you want to complain about the way a case was handled, you should write to the CPS office that originally dealt with it.

Include as much information as possible, such as:

- the name of the defendant;
 - the name of the prosecutor in charge of the case;
 - which court dealt with the case;
 - the date of the hearing; and
 - any reference numbers you may have.
- 2 If you are not satisfied with the reply you receive from the local office, you should contact the Chief Crown Prosecutor for the Area. He or she will take up your complaint and write back to you.
 - 3 If you are still not satisfied you should contact the CPS Customer Service Unit through the Public Enquiry Point. You can find contact details on the back of this leaflet.
 - 4 Complaints which cannot be resolved at a local level are referred, through the Customer Service Unit, to the Director of Public Prosecutions or the CPS Chief Executive who will personally consider how to deal with your complaint, and will reply to you or arrange for a reply to be sent.

Your local Citizen's Advice Bureau may have more advice about other ways of making a complaint, or you could write to your local MP.

The Criminal Justice System is made up of a number of agencies. They include the following, listed with contact details which may be useful if you are seeking any further information.

The Home Office:

Public Enquiry Service, Tel: 020 7273 2251
Web site: <http://www.homeoffice.gov.uk>

Department for Constitutional Affairs:

Tel: 020 7210 8500
Web site: <http://www.dca.gov.uk/>

Court Service:

Tel: 020 7210 2269
Web site: <http://www.courtservice.gov.uk>

Criminal Justice Service website:

<http://www.cjs.gov.uk>

The Association of Chief Police Officers (ACPO):

Tel: 020 7227 3434
e-mail: info@acpo.police.uk

National Office of Victim Support:

Tel: 020 7735 9166

National Association for the Care and Resettlement of Offenders:

Tel: 020 7582 6500

Youth Justice Website:

<http://www.youth-justice-board.gov.uk>

The CPS Public Enquiry Point can provide general information on the CPS and advice on who to contact. The unit cannot give legal advice, but may be able to offer you practical information.

CPS Public Enquiry Point

Tel: 020 7796 8500

We may record phone calls

E-mail address for enquiries and comments:

enquiries@cps.gsi.gov.uk

Complaints can be sent to:

complaints@cps.gsi.gov.uk

Our Communications Branch has a range of free publications about the CPS. Please contact your local CPS Area Office or contact:

CPS Communications Branch

50 Ludgate Hill, London, EC4M 7EX

Tel: 020 7796 8442

E-mail: publicity.branch@cps.gsi.gov.uk

Website: <http://www.cps.gov.uk>

You can get this leaflet in Braille, in other languages, or on audiotape. Contact your local CPS office for details.



Department for
Constitutional Affairs