



Prosecution System in Ireland

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1. Introduction

This document sets out the work currently undertaken by the different ‘prosecutors’ in the Irish prosecution system. Prosecutorial work carried out by An Garda Síochána is outlined in highlighted panels.

A detailed overview of the Prosecution System in Ireland, including the relevant legislative bases for same, is set out in Chapter 2 of the Guidelines for Prosecutors. A graphic representation of the Criminal Prosecution Process is set out in Appendix I of this document.

2. Overview of the Office of the Director of Public Prosecutions (ODPP)

The office of the Director of Public Prosecutions (DPP) was established by law under the Prosecution of Offences Act, 1974. The Director is independent in the performance of her functions which include:

- enforcing the criminal law in the courts on behalf of the People of Ireland;
- directing and supervising public prosecutions on indictment in the courts;
- giving general direction and advice to An Garda Síochána in relation to summary cases which are instituted and conducted in the name of the Director;
- giving specific direction to An Garda Síochána and other investigative agencies in cases where requested; *and*
- responsibility for election petitions and referendum petitions under the relevant Acts.

The majority of cases dealt with by the ODPP are received from An Garda Síochána. However, some cases are also referred to the Office by specialised investigative agencies including the Revenue Commissioners, Government departments, the Health and Safety Authority, the Competition and Consumer Protection Commission, the Office of the Director of Corporate Enforcement, An Garda Síochána Ombudsman Commission, the Environmental Protection Agency and local authorities.

The Structure of the Office of the DPP

The Office of the DPP consists of three legal divisions:

- i) Directing Division
- ii) Solicitors Division
- iii) Prosecution Support Services Division

References in this document to the functions carried out by the Directing Division and Solicitors Division also describe work that is carried out by the Sexual Offences Unit. This is a developing specialist unit — phase one of which was commenced in April 2021 — that carries out both Directing Division and Solicitors Division functions in respect of sexual offences.

There is also an Administration Division consisting of general Civil Service grades who provide the organisational, infrastructural, administrative and information services required by the Office. The Office employs approximately 220 staff, 60% of whom are legal and 40% administrative.

A complete organisation chart for the Office of the DPP can be found at www.dppireland.ie/about-us/organisation-chart/.

3. Overview of the Work of the Three Legal Divisions

Directing Division

The Directing Division consists of prosecutors who examine criminal investigation files and decide whether or not to take a prosecution, and whether a prosecution commenced by An Garda Síochána should be maintained. Prosecution decisions in sexual offence cases can also be taken by the Sexual Offences Unit. All cases that will ultimately proceed on indictment must be submitted. The Directing Division directs summary disposal in just under 30% of cases each year. Criminal Investigation files contain copies of all statements and other evidence in the file as well as a covering report from the investigating member and usually his/her Sergeant, Inspector and/or Superintendent, summarising the evidence and expressing a view on whether or not the case should be prosecuted. The covering report and content of an investigation file follows a format that has been agreed between AGS and ODPP.

The direction which issues indicates the charges, if any, to be brought before the courts. In some cases, further information and investigation may be required before a decision can be made. To prosecute there must be a *prima facie* case — evidence which could, though not necessarily would, lead a court or a jury to decide, beyond reasonable doubt, that the person is guilty of the offence. Cases are not prosecuted where there is no reasonable prospect of a conviction. In addition, there are a small number of cases every year where a decision is made not to prosecute for public interest reasons. The [Guidelines for Prosecutors](#) contain detailed information on how decisions are made.

The prosecutors in the Directing Division also make a range of other decisions as part of their oversight of prosecutions directed, including whether or not to accept pleas of guilty to lesser offences or bring appeals to higher courts.

Solicitors Division

The Solicitors Division, headed by the Chief Prosecution Solicitor, and the Sexual Offences Unit for some sexual offence cases, provide a solicitor service to the Director in the preparation and presentation of cases in the Dublin District and Circuit Criminal Courts, Central Criminal Court, Special Criminal Court, Court of Appeal, High Court and Supreme Court.

The Solicitors Division incorporates the following sections:

- | | |
|------------------------------|-----------------------------|
| i) District Court Section | iv) Special Financial Unit |
| ii) Circuit Court Section | v) Appeals Section |
| iii) Superior Courts Section | vi) Judicial Review Section |

Prosecution Support Services Division

The Prosecution Support Services Division incorporates the following three units:

- i) **Victims Liaison Unit** which is responsible for ensuring that the Office meets its obligations to provide information to victims of crime and to review decisions not to prosecute as set out under the [Criminal Justice \(Victims of Crime\) Act 2017](#);
- ii) **International Unit** which deals with areas of international criminal law, including extradition, European Arrest Warrants, requests for mutual legal assistance and policy issues on police and judicial co-operation generally; *and*
- iii) **Prosecution Policy and Research Unit** which provides legal and policy research, develops prosecution policies advises on legal policy documents referred to the Office and co-ordinates legal knowledge

management for the Office — this includes the Library Unit which provides information and know-how services for both legal and administration staff.

A more detailed description of the work of each of the legal divisions and sections of the Office is available on our website, www.dppireland.ie/about-us/our-organisation.

Detailed statistics relating to files dealt with by the various sections of the Office can be found in our [Annual Reports](#).

4. Prosecution Counsel Panel

The conduct of trials on indictment is handled by independent counsel practising at the Bar who are engaged to represent the Director of Public Prosecutions on a case by case basis. Counsel prosecute in accordance with the Director's instructions and in compliance with the Guidelines for Prosecutors. Retention on any panel is at the discretion of the Director, and is subject to satisfactory performance of work on the Director's behalf, as will be determined by the Director. Barristers are ordinarily expected to have a minimum of four years at the Irish Bar or relevant equivalent experience in order to be considered for work in all of these areas, except for High Court Bails (three years). At present the Director maintains panels of barristers in respect of the following work:

- Prosecutions on indictment in Dublin
- Prosecutions on indictment outside Dublin (Circuit Court) — County Prosecutors
- Judicial Review
- Habeas Corpus
- High Court Bail
- Confiscation of Assets
- Prosecutions under the Health and Safety at Work Legislation
- Sea Fisheries Prosecutions

5. Provision of Service Outside Dublin

The State Solicitor service is made up of 32 solicitors in private practice who are employed by the DPP on a contract basis, awarded for a term of ten years following open competition. There is generally one State Solicitor per county but in certain counties, State Solicitor areas have been split to take account of factors such as population. For example, County Cork is divided into four areas: Cork City, Cork North East, Cork South East and Cork West.

Pursuant to [section 4A of the 1974 Act](#) the DPP is empowered to direct local State Solicitors to perform, on her behalf and in accordance with her instructions, any function in relation to particular cases.

Role of State Solicitors

State Solicitors are appointed to act on behalf of the Director in the carriage of all legal business referred to him or her arising from his or her area in the Circuit Court and to appear in the District Court when requested by the Director. The Circuit Court work involves the management of Circuit Court indictable trials and the prosecution of District Court Appeals before the Circuit Court.

In practice, the State Solicitors receive investigation files from An Garda Síochána, provide an opinion to the DPP on whether they believe a prosecution should be initiated and if so, the relevant charges and venue of trial. The prosecution decision is then made by the DPP. The State Solicitor, upon receipt of that decision,

communicates with the Gardaí and manages any indictable prosecution directed, including the briefing of prosecution counsel assigned to prosecute the case.

Terms of Appointment

State Solicitors are appointed by competitive process. The contract for service is for a 10-year term with longer periods for those appointed prior to 2001.

6. Prosecutorial Decision-Making

Outline of Who Makes Prosecution Decisions

Pursuant to [section 4 of the 1974 Act](#) the DPP is empowered to direct legal staff to perform, on her behalf and in accordance with her instructions, any function in relation to particular cases. All legal staff are appointed by the DPP following open competition.

Directing Division, Office of the DPP

Delegations to carry out the functions of the preferring, continuation or withdrawal of charges and all functions connected with prosecuting criminal cases at trial have been made to the appropriate legal staff in the Directing Division and Sexual Offences Unit, who make these decisions in relation to files submitted to the DPP from the entire country.

Solicitors Division and Prosecution Support Services Division, Office of the DPP

The Director has also delegated some decision-making to senior legal staff outside the Directing Division.

An Garda Síochána

Pursuant to [section 8 of the Garda Síochána Act 2005](#) a member must institute and conduct prosecutions in a court of summary jurisdiction under the name of the DPP.

Under section 8(4) of the 2005 Act the DPP can issue general directions on the institution and conduct of prosecutions by Gardaí. General Directions (available on www.dppireland.ie) outline the categories of cases in which the decision to institute or continue a prosecution lies solely with the Director, and those cases where An Garda Síochána have been delegated the authority to institute criminal proceedings without reference to the Office of the DPP (see [chapter 7 Guidelines for Prosecutors](#) for more detail). This relates to cases from the entire country.

In practice the decision-making in relation to a great majority of criminal prosecutions is made by An Garda Síochána without reference to the ODPP.

7. Decisions Not to Prosecute — Requests for Reasons and Reviews

Who Deals with Requests for Reasons and Reviews?

Victims Liaison Unit, Office of the DPP

Following a request from the victim, the Victims Liaison Unit provides a summary of reasons for a decision not to prosecute and will review the decision not to prosecute.

An Garda Síochána

In relation to decisions not to prosecute taken by An Garda Síochána under [section 8 of the Garda Síochána Act 2005](#), reasons are given and reviews are carried out by the relevant Garda Superintendent.

8. Summary Prosecutions (including District Court Appeals) — Dublin

Who Conducts the Proceedings?

District Court Section, Office of the DPP

The District Court Section in ODPP deals with District Court matters in the Dublin Metropolitan Area, as well as Dublin District Court appeals to the Circuit Court. This work involves:

- Preparation and service of Books of Evidence and applications for return for trial; *and*
- Providing an advocacy service in the Dublin District Court in respect of more complex matters for summary disposal. These include files where the prosecution decision has been taken by An Garda Síochána and the file has been submitted for representation in the Dublin District Court.

Typical matters where representation in the District Court is provided include:

- Cases involving children;
- Cases involving vulnerable victims or accused persons – these often include fitness to be tried matters and prosecutions for sexual assault, domestic violence, harassment, assault causing harm, threats to kill;
- Evidentially complex cases
- Legally complex or technical cases – i.e. fraud and all drink/drug driving prosecutions; *and*
- High profile cases.

Matters where representation is not provided except in unusual circumstances include:

- First appearance before the court to give evidence of arrest, charge and caution;
- Mention dates, adjournments and remands;
- Bail applications; *and*
- Entry of guilty pleas and sentence hearings.

An Garda Síochána

All matters where a DPP Solicitor is not providing representation are presented by a Garda Court Presenter or by the investigating member. An Garda Síochána prosecute the vast majority of summary prosecutions.

9. Summary Prosecutions (including District Court Appeals) — Outside Dublin

Who Conducts the Proceedings?

State Solicitors

The State Solicitor may at the request of the DPP be asked to provide representation at District Court. It is not a core part of their role. State Solicitors are asked to provide representation on behalf of the Director in the District Court for some of the following applications or prosecutions:

- prosecutions against a serving member of An Garda Síochána
- prosecutions arising from investigations by the Health and Safety Authority
- prosecutions arising from investigations by the Revenue Commissioners
- prosecutions arising from investigations by the Sea Fisheries Protection Authority

- prosecutions of a complex nature where legal assistance is required, e.g. applications for fitness to be tried, legal point in issue

The State Solicitors also deal with all District Court Appeals to the Circuit Court in their respective areas.

An Garda Síochána

All District Court matters outside Dublin are presented by a Garda Court Presenter or prosecuted by the Superintendent / Inspector.

10. Indictable Prosecutions — Dublin

Who Conducts the Proceedings?

Solicitors Division and Sexual Offences Unit, Office of the DPP

All matters proceeding on indictment in the Central Criminal Court, Special Criminal Court, Dublin Circuit Court. Most advocacy is carried out by Counsel briefed by the DPP who are on a DPP Panel of Counsel.

These matters are dealt with by the Circuit Court Section, Superior Courts Section, Sexual Offences Unit and the Special Financial Unit.

11. Indictable Prosecutions — Outside Dublin

Who Conducts the Proceedings?

State Solicitor Service

Local State Solicitors' responsibilities include the management and preparation of indictable prosecutions in the Circuit Criminal Courts in their area. They support the relevant County Prosecutor, who is the DPP Counsel, to present the prosecution case in the Circuit Court in their respective county.

12. Other Prosecution Matters

Who Conducts the Proceedings?

The following sections/units within the Office of the DPP deal with all Dublin and non-Dublin matters:

Appeals Section

The Appeals Section deals with all indictable criminal appeals to the Court of Appeal from every Circuit Court, the Central and Special Criminal Courts. The Appeals Section also deals with applications for review of sentence on grounds of undue leniency.

Judicial Review Section

This section deals with all judicial reviews, Article 40 (*habeas corpus*) applications, constitutional and plenary actions, and High Court bail appeals.

International Unit

The International Unit deals with all European Arrest Warrants and Extradition applications, Mutual Legal Assistance requests to other states, and policy issues on police and judicial co-operation generally.

13. Expenditure — Cost of Providing the Prosecution Service

The total cost of providing the prosecution service can be broadly broken down into five main categories as follows:

- i) **Salaries and Wages:** This represents the cost of salaries of staff employed in the Office of the DPP.
- ii) **Fees to Counsel:** These are fees paid to the barristers who prosecute cases on behalf of the Director in the various criminal courts. Fees are set within the parameters set by the Minister for Public Expenditure and Reform.
- iii) **State Solicitor Service:** This refers to payment of amounts agreed by contract with 32 State Solicitors in private practice who are contracted to this Office to represent the Director in courts outside Dublin.
- iv) **Office Expenses:** This relates to general office administration costs including purchase and maintenance of office equipment, office supplies, library costs, office premises maintenance, travel and other incidental expenses.
- v) **General Law Expenses:** This refers to the payment of legal costs awarded by the courts in legal proceedings against the Director.

The annual cost of providing the Prosecution Service, including a breakdown of the expenditure each year, is detailed in our [Annual Reports](#).

APPENDIX I: Criminal Prosecution Process in Ireland

