

Oifig an
Office of the



Stiúrthóra Ionchúiseamh Poiblí
Director of Public Prosecutions

How we make prosecution decisions

Plain English

Approved by NALA

About this booklet

This booklet explains how the Office of the Director of Public Prosecutions (DPP) makes prosecution decisions.

The decision whether or not to prosecute is very important.

If we decide not to prosecute, it can cause great stress and upset to victims and their families. On the other hand, if someone is prosecuted and later found not guilty, it can damage their reputation and they can suffer a lot of harm. So, we must consider very carefully whether or not to prosecute.

Who makes the decision?

The DPP or one of her lawyers decides whether or not to prosecute in serious criminal cases such as murder, manslaughter, sexual offences or fatal road incidents.

The Office of the DPP is independent. This means that no other person or body, such as the Government, can tell us to prosecute or not to prosecute any particular case.

How do we decide?

When making decisions, we follow the guidelines set out in our Guidelines for Prosecutors. Prosecutors must also follow

the standards set out in the Code of Ethics for Prosecutors. Both of these codes of practice help make sure that our decisions are fair and consistent.

What do we consider?

When making a decision, we must ask ourselves:

1. if the evidence is strong enough to prosecute the case;
and, if so,
2. is it in the public interest to bring the case to court?

How do we judge the strength of the evidence?

We must be satisfied that the evidence is strong enough before we decide to prosecute.

This means that we examine the evidence to see if it is:

- admissible (allowed in court);
- reliable; and
- sufficient to show that the suspect has committed a criminal offence.

We must also consider, based on the available evidence, if there is a **reasonable chance of conviction**.

The evidence needs to be strong enough so that a jury could decide beyond a reasonable doubt that the suspect is guilty of the offence they are charged with. To be able to prove a case 'beyond a reasonable doubt' is a very high standard to achieve.

In looking at the strength of the evidence, we must consider a number of factors. As every case is different, we cannot give a full list of everything that can be taken into account, but some examples of what we consider are:

- differences in the evidence given by witnesses;
- whether there is independent evidence to support what a witness says;
- whether the account of a witness is reliable;
- if the witnesses are available to give evidence in court;
- if identification of a suspect is an issue, whether the evidence of the witness who claims to identify the suspect is reliable;
- if the available evidence is admissible (allowed) in court.

How do we decide if there is a 'public interest' in prosecuting?

Even if there is enough evidence, the DPP must also decide if there is a public interest in prosecuting.

In considering the public interest, the DPP must take a number of factors into account, including the interests of the victim, the suspect and the wider community.

There is a clear public interest in making sure that the wrongdoer is prosecuted, convicted and punished when a crime is committed. The more serious the crime and the stronger the evidence, the more likely it is that it will be in the public interest to prosecute.

When assessing public interest, we consider factors such as:

- the seriousness of the crime;
- the impact on the victim;
- the age and personal circumstances of the victim and the suspect;
- the effect of the prosecution on the suspect and the victim;
- the risk of the suspect offending again;
- the alternatives to prosecution (if any).

Examples of two alternatives to prosecution are:

1. the **Adult Caution Scheme** where, in certain cases, a person aged 18 or over may receive a caution from the Gardaí rather than be prosecuted; and
2. the **Juvenile Diversion Programme** where a person under 18 receives a caution and may be supervised by the Gardaí for a period of time.

You can find more detailed information about public interest considerations in our Guidelines for Prosecutors on our website www.dppireland.ie.

Do we give reasons for our decisions not to prosecute?

Yes. If we decide not to prosecute, a victim can ask us for a summary of the reasons for our decision. This applies to all decisions made on or after 16 November 2015.

In fatal cases where the victim has died, a family member of the deceased victim can ask us for reasons for our decision not to prosecute. This applies to all fatal cases where the death occurred on or after 22 October 2008.

If the decision not to prosecute was made by the Gardaí, a victim can ask the Gardaí for a summary of reasons for the decision.

How can I request a summary of reasons for a decision made by the DPP?

You can request a summary of reasons for a decision not to prosecute by completing a **Request for Reasons Form**. The form is available on our website www.dppireland.ie or from your nearest Garda Station.

You must make a request **within 28 days** of the date you are told of the decision not to prosecute. In some cases the DPP might extend this time limit. She will do this only if there is a good reason and if it is in the interests of justice.

Can I ask the DPP to review a decision?

Certain people can ask the DPP to review a decision. These include:

- a victim of crime;
- a family member of a victim in a fatal case;
- a solicitor acting on behalf of either of the above.

How can I ask for a review of a decision made by the DPP?

If you wish to ask for a review of a decision made by the DPP, you can write to our Victims Liaison Unit at the address on page 10.

Is there a time limit for asking for a review?

Yes. If you have asked us for a reason for our decision, then your request for a review must be made **within 28 days** of the date on the letter telling you of the reason for not prosecuting your case.

If you have not asked us for a reason for our decision, you can still ask for a review. If you do this, your request for a review must be made **within 56 days (8 weeks)** of the date you are told of the decision not to prosecute.

In some cases the DPP may extend these time limits. She will do this only if there is a good reason and if it is in the interests of justice.

Where can I get more information?

You can find out more about how we work on our website www.dppireland.ie.

You can also see the following publications on our website:

- Victims Charter
- Role of the DPP
- Guidelines for Prosecutors
- Code of Ethics for Prosecutors
- Information booklet on how to request reasons and reviews

How can I contact the Office of the DPP?

Our contact details are:

Victims Liaison Unit
Office of the Director of Public Prosecutions
Infirmary Road
Dublin 7.

Tel: (01) 858 8500

Fax: (01) 642 7406

We hope you find this information booklet useful in explaining how we make prosecution decisions. Please note that it does not deal with every possible situation and it **does not give legal advice**. If you think you need legal advice, you should talk to a solicitor.

- Printed copies of this booklet are available from the Victims Liaison Unit in both Irish and English.
- Braille or audio versions are also available on request.
- Foreign language versions are available on our website, www.dppireland.ie.

