The Code for Crown Prosecutors
October 2018
8th Edition

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Some words are in bold. There is a list of what they mean on the last page.
What this paper is about

The Crown Prosecution Service (CPS) wrote this paper.

We work in England and Wales.

We decide if someone should go to court when the police or other organisations think they have done a crime.

We also decide what crime the person should be charged with.

We give information and support to victims and witnesses.
This **Code** is a set of rules to help **prosecutors** decide if they should **prosecute** someone.

It helps them think about:

- If there is enough **evidence** to **prosecute**.
- If it is in the **public interest** to take the **case** to court.
What we do

- **Prosecutors** are independent. This means they are not part of the police or parliament and they make their own decisions.

- **Prosecutors** can decide if a case should go to court. But they cannot decide if a person is guilty or not.

- If a **prosecutor** decides not to charge someone, it does not mean there was no crime.

- Deciding if there should be a **prosecution** or not is an important decision. It affects **suspects**, **victims** and **witnesses**.
Every case is different. But prosecutors think about general rules to use the law properly.

Prosecutors must be fair to everyone and not let their own feelings or ideas affect their decisions.

Prosecutors protect the rights of suspects as well as victims.

Public organisations like the CPS must not discriminate. We must also keep to international laws and agreements about Human Rights.
When we **prosecute** for other government departments, we must think about their rules.

If the law is different in England and Wales, **prosecutors** must also think about other **CPS** rules on Welsh law.
Deciding if we should prosecute

Prosecutors decide about serious or complicated crimes.

The Code helps them decide if we should charge the person and which crime to charge them with.

The police think about the same things when they decide about less serious crimes.

The police decide if they should start or stop investigating a crime. Prosecutors should give them advice to help them collect all the information they need.
Prosecutors cannot tell the police or other organisations if they should investigate a crime or how to investigate. But they can think about what the police have failed to do when deciding if there should be a prosecution.

Prosecutors look at every case that the police or other organisations send them.

They keep checking whether anything has changed that might make it easier or more difficult to prove the defendant did the crime.

If the CPS decide to stop a case they must think carefully and and they should try to speak with the police before the case is stopped. This is because it can affect the victim’s rights.
Parliament says some *cases* can only go to court if the *Attorney General* or someone in charge of a government department agrees. The *Attorney General* advises the government about the law.
The Full Code Test

The CPS must only start or carry on with a prosecution if it passes the 2 parts of the Full Code Test:

Part 1. Is there enough evidence to prosecute the person for the crime?:

- There is enough evidence if it is more likely than not that the person will be convicted in court.

- Can the evidence be used in court?

- Is there any reason not to believe or trust the evidence?
Is there any other material or information that the **prosecutor** should think about when deciding if there is enough **evidence**?

**Part 2. Is it in the public interest to charge the person?:**

- If the **CPS** prosecute the crime is this good for the public or the rest of society?
- Could they deal with it in a better way without going to court?

**Prosecutors** must think about:

- How serious the crime was.
How much the suspect is to blame for the crime.

If the suspect planned the crime.

If they might keep doing crimes or do more serious crimes.

How the crime affected the victim.

How old and grown-up the suspect was - younger suspects are less likely to be prosecuted.
● How the crime affected the community.

● If it might harm other persons or investigations if the public knew information about this case.
The Threshold Test

If a prosecution does not pass the Full Code Test, the prosecutor can sometimes use the Threshold Test.

A prosecution has to pass all 5 parts of this test:

1. Is there enough evidence to show the person might have done the crime?

2. Can you get more evidence so that it is more likely than not that the person will be convicted in court.

3. Is the case so serious that you need to decide straight away whether to charge or not?
4. Is the person someone who should not be given **bail**?

5. Is it in the **public interest** to **charge** the person?

A **prosecutor** can use this test to decide to take a **case** to court. But they must use the Full **Code** Test as soon as they have the extra **evidence** they need.
Deciding which crime to charge someone with

A charge is when the police or CPS say which crime they think the person did.

They can charge someone with more than one crime.

The charge must:

- Match what the person did.
- Help the court to give the right sentence or punishment for what the person did.
• Make it easy to see if the person did the crime.

This might mean they sometimes choose a less serious **charge** if it means the **suspect** will still be given the right **sentence** or **punishment** for what they did.

**Prosecutors** should not use lots of **charges** to get someone to say they did some of them.

They should not **charge** a **suspect** with a more serious crime just to make them say they are guilty of something less serious.
Dealing with cases without going to court

The **CPS** can deal with less serious crimes without going to court.

This is called an out-of-court disposal. The crime is written down and can be used against the person if they do another crime in the future.

We can only use some out-of-court disposals if the person says they are guilty of a crime.

When deciding if we should use an out-of-court disposal, we think about the person who did the crime and how serious the crime was.
Deciding which court to use

Different types of courts have different powers.

**Prosecutors** must tell the judge which court they think should deal with each case.

They must think about how it could affect the **victim** and **witnesses** if choosing a higher court takes longer.

Children and young people under 18 should usually be sent to the youth court. This court is better at giving these people the support they need.
If someone says they are guilty

A defendant might want to say they are guilty of only some of the charges or a less serious crime.

Prosecutors must make sure this gives the court the powers they need to punish what the defendant did.

They should never let someone say they are guilty of only some charges or a less serious crime just because it makes things easier for them.

Prosecutors must think about what is good for the victim, when deciding if it is right to let the defendant say they are guilty of only some of the charges or a less serious crime.
They must tell the court what the **defendant** wants to say they are guilty of.
Changing a decision

People must be able to trust CPS decisions.

Once we decide not to prosecute things usually only change if:

- We look at things again and see that the decision was wrong, and decide to prosecute so people trust the police and CPS.
- We get more evidence.

Victims have the right to ask us to look again at our decision not to prosecute or to stop a prosecution.
How to contact us

If you would like this information in a different format or would like to find out more, please contact us:

Email: enquiries@cps.gov.uk

Our website is: www.cps.gov.uk
What the words mean

**Attorney General**
The Attorney General advises the government about the law.

**Bail**
When you are arrested or prosecuted for a crime you might be able to go home as long as you promise to later turn up in court or go to a police station. This is called bail. Sometimes you can only get bail if you or someone else promises to pay money to the court if you do not turn up.

**Case**
A possible crime that has happened that the police are looking into or the CPS is prosecuting.

**Charge**
When the police or CPS accuse someone or say that they think they did a crime.

**Code**
A set of rules that tells people how to do something.

**Criminal Justice System**
The police, CPS, courts, probation service and prisons.

**Crown Prosecution Service (CPS)**
The organisation that decides whether someone should go to court after the police have looked into a crime.

They decide which crime the person should be charged with and get the information together to take the person to court.

They sometimes present the case in court.
**Defendant**
The person who is accused of doing a crime.

**Discrimination**
When someone treats you worse than other people because of who you are.

**Evidence**
Facts and information we use that prove that something has happened.

**Human Rights**
Things that everyone should have, like freedom and a trial that is fair.

**Investigate**
Look into a crime and try to find all the facts about what happened.

**Prosecutor**
Prosecutors work for the government and CPS. They decide what crime someone should be charged with and present cases at court.

**Public interest**
Good for the public or the rest of society.

**Sentence**
The punishment a court gives someone when they decide they are guilty of a crime.
**Suspect**  
A person the police think might be guilty of a crime

**Victim**  
Someone who is harmed, injured or killed because of a crime.

**Witness**  
Someone who sees a crime happen.
Credits

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