

Oifig an
Office of the



Stiúrtóra Ionchúiseamh Poiblí
Director of Public Prosecutions

The Role of the DPP



Plain English



Approved by NALA

About this booklet

This booklet explains in plain language what the Office of the Director of Public Prosecutions (DPP) does. It tries to answer the questions that people ask us most often. The booklet does not deal with every possible situation and does not give legal advice. If you need legal advice, you should talk to a solicitor.

If you have any questions about what happens in court during a criminal trial, you can read our booklet called *Going to Court as a Witness*. For a more detailed description of the work of our Office, please see our *Guidelines for Prosecutors*.

You may ask for copies of these publications from our Office (see contact details on page 22) or you can read them on our website, www.dppireland.ie. The website also has a *Victims and Witnesses* section which you may find helpful.

Please note

Printed copies of this booklet are available from our Office in both Irish and English. See contact details on page 22.

You can visit our website, **www.dppireland.ie** to download the booklet in any of the following languages:

- Irish
- English
- Arabic
- Chinese (Mandarin)
- French
- Latvian
- Lithuanian
- Polish
- Portuguese (Brazil)
- Romanian
- Russian
- Spanish

You may also ask for Braille or audio versions of this booklet from our Office.

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Key facts

1. What does the Director of Public Prosecutions (DPP) do?

The DPP decides whether or not to charge people for committing crimes – that is, to ‘prosecute’ them. The DPP also decides what the charges should be. Once the prosecution begins, the Office of the DPP is responsible for the prosecution case.

2. What does the Chief Prosecution Solicitor do?

The Chief Prosecution Solicitor acts as solicitor to the DPP and is head of the Solicitors Division of the DPP’s Office. The staff of the Solicitors Division represent the DPP in all courts in Dublin. Local state solicitors represent the DPP in courts outside Dublin.

3. Does the DPP investigate crimes?

No. An Garda Síochána (the Gardaí) investigate crimes. When the Gardaí investigate a serious crime, they send a file to the DPP. The DPP will then decide what charges, if any, to bring.

4. Does the DPP prosecute all criminal offences?

The DPP prosecutes all serious crimes and sometimes less serious crimes. A judge and jury will hear the

more serious cases in the Circuit Court or the Central Criminal Court. Serious cases can also be brought before three judges without a jury in the Special Criminal Court.

The Gardaí may prosecute less serious crimes. However, they still prosecute in the name of the DPP and the DPP has the right to tell the Gardaí how to deal with the case.

5. Is the DPP independent?

Yes, the DPP is independent when making decisions. This means that no-one – including the Government or the Gardaí – can make the DPP prosecute a particular case or stop the DPP from doing so.

6. Who can write to the DPP about a case?

The following people can write to the DPP about a case:

- a victim of crime;
- a family member of a victim of crime;
- an accused person;
- a family member of an accused person; or
- lawyers, doctors and social workers on behalf of their clients.

It is against the law for anyone else to ask the DPP to either stop or not to prosecute a case.

7. Are there different types of criminal offence?

There are two types of criminal offence – summary offences and indictable offences.

Summary offences:

- are less serious crimes;
- are heard by a judge without a jury in the District Court;
- cannot carry a prison sentence of more than 12 months for one offence (but for more than one offence a judge can impose a maximum prison sentence of 2 years in some cases).

Indictable offences:

- are more serious crimes;
- are heard by a judge and jury in the Circuit Court or the Central Criminal Court;
- are sometimes dealt with in the Special Criminal Court by three judges without a jury;
- carry more serious penalties, including life imprisonment for some crimes.

8. Will the Office of the DPP give me legal advice?

No. The Office of the DPP does not give legal advice to members of the public. If you have a legal question, you should talk to your solicitor.

9. Can I complain to the Office of the DPP?

Yes. If you have a complaint about how we work, you can contact us at our Office – see contact details on page 22.

Decisions of the DPP

10. How does the DPP decide to prosecute?

The decision whether or not to prosecute is very important. On the one hand, it can be very upsetting for someone to be prosecuted even if later found not guilty. On the other hand, a decision not to prosecute can cause great stress and upset to a victim of crime. Therefore, the DPP must carefully consider whether or not to prosecute.

When the Gardaí finish investigating the case, they send a file to the DPP. The DPP must read the file carefully and decide whether there is enough evidence to charge someone with an offence. The judge or jury must be very sure – beyond a reasonable doubt – that the person is guilty. It is not enough for them to think that the accused is probably guilty.

For this reason, it is helpful to know if there is independent evidence that supports what the victim says. This evidence could include, for example, evidence from an independent witness or evidence such as fingerprints or bloodstains which may give DNA information. Independent evidence makes a stronger case than a case that is based on the word of one person against another.

11. Why might the DPP decide not to prosecute?

Lack of evidence is the most common reason why the DPP might decide not to prosecute a case. If there is not enough evidence to convince a judge and jury beyond a reasonable doubt that someone is guilty, the prosecution will fail. It is not enough that the court may believe the victim's account. The test is whether all of the evidence shows that an accused is guilty beyond a reasonable doubt.

In a small number of cases, even though the evidence may be strong, there may be no prosecution for other reasons. These include, for example:

- if the offender is under 18 years of age and can be supervised by the Gardaí under the Juvenile Diversion Programme rather than prosecuted;

- if an adult is given a warning under the Adult Cautioning Scheme for certain minor offences rather than prosecuted; or
- if there is some other good reason not to prosecute, for example, if the offender is terminally ill.

You can find more details about how the DPP makes a decision to prosecute in our Guidelines for Prosecutors. You can read this publication on our website, www.dppireland.ie.

12. How long does it take the DPP to reach a decision?

Each case is different and the DPP considers all cases carefully. If a case is straightforward, the DPP will make a decision within a few weeks. Other cases may take longer because:

- they are more complicated;
- there is a lot of evidence to think about;
- there is more than one accused person; or
- the DPP needs more information to make a decision.

13. Does the DPP prosecute cases for victims of crime?

The DPP prosecutes cases on behalf of the people of Ireland, not for any one person.

However, the DPP will always take into account the consequences for the victim of deciding whether or not to prosecute. The DPP will also consider the views of the victim or the victim's family.

However, the victim's views and interests cannot be the only concern when deciding whether or not to prosecute.

14. Will the DPP give me a reason for a decision not to prosecute?

Yes. You can ask the DPP for a summary of reasons not to prosecute if you are:

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

However, you can only ask about decisions not to prosecute made:

- on or after 16 November 2015; and
- in fatal cases where the death occurred on or after 22 October 2008.

15. How do I ask for a summary of reasons?

You must complete a 'Request for Reasons Form'. You can get this form on our website, www.dppireland.ie, or from your local Garda Station. You must send the form to our Communications and Victims Liaison Unit within **28 days** of the date you are told of the decision not to prosecute (see contact details on page 22). In some cases the DPP may extend this time limit, but only if there is a good reason and it is in the interests of justice.

16. Will the DPP give a summary of reasons in all cases?

No. 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.

The DPP cannot give reasons for decisions in cases where the suspect is dealt with under the Garda Síochána Adult Caution Scheme or the Juvenile Diversion Programme.

Also, the DPP cannot give reasons for a decision not to prosecute if giving the information would:

- interfere with an ongoing criminal investigation;
- prejudice a future court case;
- put someone's safety at risk; or
- put the security of the State at risk.

17. Can I ask the DPP to review a decision?

If you are a victim, or a family member of a deceased victim, and you are not satisfied with the reasons for our decision not to prosecute, you can ask for a review. The review will be carried out by a lawyer who was not involved in making the original decision.

You should write to us and ask for a review within **28 days** of the date on the letter telling you of the reason for not prosecuting your case. You should send your letter to our Communications and Victims Liaison Unit (see contact details on page 22).

Even if you did not ask us for a reason for the DPP's decision, you can still ask for a review of the decision. In this case, you should write to us and ask for a review within **56 days (8 weeks)** of the date you were told of the decision not to prosecute.

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

18. Can a crime victim meet with a staff member from the DPP's Office to discuss a particular decision?

No. The staff of the DPP's Office do not meet victims of crime to discuss decisions. However, if you are a victim of crime, you may write to the DPP's Office about a decision.

19. Can I get information from a prosecution file under the Freedom of Information Act?

No. The Freedom of Information Act states that only records about the general administration of the DPP's Office can be made public. This means that you cannot get information from files on individual cases.

20. Will the victim be told if the DPP decides to prosecute?

Yes. The investigating Garda will keep the victim up-to-date on how the case is developing and should tell the victim about the DPP's decision when it is made. If the DPP decides to prosecute a case, the Garda should also tell the victim the time, date and place of the court hearing.

Going to court

21. What happens when the case goes to court?

This depends on whether the crime is a summary offence or an indictable offence (see question 7).

For summary offences, a judge in the District Court hears the case. Either a Garda or a prosecution solicitor will present the prosecution case in court.

For indictable offences, a judge and jury hear the case and a solicitor working for the DPP will prepare the case for court. A barrister acting for the DPP will present the prosecution case in court.

You can find out more about what happens in court during a criminal trial in our booklet *Going to Court as a Witness*. If you would like a copy of this booklet, please contact our Office (see contact details on page 22). You can also read it on our website, www.dppireland.ie.

22. What can a victim of crime expect from the prosecution team?

The prosecution solicitor will work with the Gardaí to keep the victim up-to-date about developments in the case. In the most serious cases, such as sexual offences or other crimes of violence, the Office of the DPP will offer the victim, or the family of a victim who has died, a pre-trial meeting (see question 23). In most other cases, the victim may ask for a pre-trial meeting.

23. What is a pre-trial meeting?

The purpose of a pre-trial meeting is to explain to the victim what will happen in court. The meeting takes place with the investigating Garda, the prosecution solicitor and the barrister dealing with the case.

They cannot discuss the actual evidence that witnesses will give. This is so that nobody can claim that someone told the witness what to say in court.

The Garda will give the victim contact details for local victim support services. The Crime Victims Helpline – a telephone support service for victims of crime – can also give contact details for court support and other victim support services. The helpline number is Freephone 116 006 or text 085 133 7711.

24. Does the DPP decide the sentence for a person found guilty?

No. The judge decides what sentence to give based on the evidence of both the prosecution and the defence. Judges also make decisions about:

- the listing of court dates;
- the fixing of trial dates; and
- whether to change a trial date.

Under the Constitution of Ireland, judges are independent.

Appealing a sentence

25. Can the DPP appeal a sentence?

The DPP can appeal a sentence if the trial took place in the Circuit, Central or Special Criminal Courts. The DPP cannot appeal a sentence of the District Court.

The DPP can ask the Court of Appeal to review a sentence that she thinks is 'unduly lenient'. The DPP must ask for a sentence review within 28 days of the judge giving the sentence. In some cases, the DPP can apply for more time to ask for a review but not more than 56 days from the sentence date.

26. Who can ask the DPP to appeal an unduly lenient sentence?

You can ask the DPP to appeal a sentence if you are:

- a victim of crime;
- a family member of a victim of crime;
- a doctor, lawyer or social worker representing a client.

27. How do appeal court judges review a sentence?

Appeal court judges will read the written record of the trial to understand the trial judge's reasons for giving the sentence. They will consider a sentence

to be 'unduly lenient' only if they believe that the trial judge was wrong in law to give such a light sentence.

An appeal will only be possible in a small number of cases.

28. If the accused is acquitted, can the DPP ask for a retrial?

In some cases, the DPP can ask the Court of Appeal for a retrial if the accused was acquitted in the Circuit, Central or Special Criminal Courts. However, the DPP can do this only in very limited circumstances.

Office of the Director of Public Prosecutions

How to contact the DPP's Office

Office of the Director of Public Prosecutions

Infirmary Road

Dublin 7.

Tel: (01) 858 8500

Fax: (01) 642 7406

Website: www.dppireland.ie

Communication and Victims Liaison Unit

Office of the Director of Public Prosecutions

Infirmary Road

Dublin 7.

Tel: (01) 858 8444 (business hours)

Fax: (01) 642 7406

Website: www.dppireland.ie

Chief Prosecution Solicitor

Solicitors Division

Office of the Director of Public Prosecutions

90 North King Street

Smithfield

Dublin 7.

Tel: (01) 858 8500

Fax: (01) 642 7406

Website: www.dppireland.ie

Local state solicitors

You can get contact details for each local state solicitor around the country from our Office on (01) 858 8500 or on our website, www.dppireland.ie.

Other useful contacts

Crime Victims Helpline

Freephone: 116 006

Text: 085 133 7711

Email: info@crimevictimshelpline.ie

Website: www.crimevictimshelpline.ie

Victim support services

You can contact the Crime Victims Helpline (see above) for details of court support and other victim support services.

Courts Service

Information Office

Phoenix House

15/24 Phoenix Street North

Smithfield

Dublin 7.

Tel: (01) 888 6000

Fax: (01) 873 5250

Website: www.courts.ie

Department of Justice and Equality

94 St. Stephen's Green

Dublin 2.

Tel: (01) 602 8202

Fax: (01) 661 5461

Website: www.justice.ie

Victims of Crime Office

Commission for the Support of Victims of Crime

Department of Justice and Equality

Second Floor

Montague Court

Montague Lane

Dublin 2.

Tel: (01) 476 8686

Fax: (01) 476 8619

Websites: www.victimsofcrimeoffice.ie

www.csvc.ie

Criminal Injuries Compensation Tribunal

Second Floor

Montague Court

7-11 Montague Street

Dublin 2.

Tel: (01) 476 8670

Fax: (01) 476 8616

Website: www.justice.ie

Legal Aid Board

Quay Street

Cahirciveen

Co. Kerry.

Tel: (066) 947 1000

Fax: (066) 947 1035

Website: www.legalaidboard.ie

More information

You can visit our website, www.dppireland.ie, for more information including information booklets and leaflets on:

- How we make prosecution decisions
- How to request reasons and reviews
- Going to court as a witness
- Victims Charter
- Complaints Policy

How the Office of the DPP is organised



