

To Whom it may concern

19 October 2009

PUBLIC CONSULTATION - REVISIONS TO THE CODE FOR CROWN PROSECUTORS

As you may know, I held a public consultation exercise in January this year based on amendments to the Code for Crown Prosecutors (the Code) that I was then proposing. However, during that exercise, other matters arose – not least the announcement of the merger of the Revenue and Customs Prosecutions Office with the Crown Prosecution Service – which led me to defer finalising the Code in the summer so that further amendments might be considered.

The current fifth edition of the Code was issued in 2004, since which time there have been several important changes to the role of the prosecution service, including the merger.

I have now had the opportunity fully to review our most important document and incorporate a number of relevant changes into the Code, and today I am launching a further public consultation exercise.

I am writing to alert you to that consultation and to highlight the major changes proposed, as I am interested in any comments you might have. My aim has been to make the document shorter, more focused, and clearer.

As you know, the Crown Prosecution Service applies the Code so that it can make fair and consistent decisions about prosecutions. The Code is designed to make sure that everyone knows the principles that the CPS applies when carrying out its work.

Below is a summary of the key changes in the draft.

Paragraph 4.7: This has been amended to read “A prosecution will usually take place unless the prosecutor is sure that there are public interest factors tending against prosecution which outweigh those tending in favour...”. This is to ensure that all cases where the prosecutor is satisfied that a prosecution is not needed in the public interest are dealt with in some other way.

Paragraph 4.10: This is a new paragraph. After some consideration, I have taken the view that it is right in this consultation on the Code to explore the possibility of including this clause on the issue of proportionality when taking prosecution decisions in some very limited situations.

Paragraphs 4.16 – 4.17: These are new paragraphs. They have been added to deal with the exceptional situation where it appears a prosecution should not be undertaken on public interest grounds, at a time when not all the evidence is available for consideration by the prosecutor.

Paragraphs 4.18 – 4.19: These are new paragraphs and relate to cases that require the consent of the DPP to prosecute. They have been added to bring this information into the Code for the first time and provide clarity on this type of case.

Section 7: This is a new section that has been added to deal comprehensively with the issue of out-of-court disposals. We have chosen to include paragraphs on simple and conditional cautions, and highlight the differences in approach between dealing with adult and youth offenders.

In addition, two main sections of the previous Code have been removed. These are the sections on accepting guilty pleas and the prosecutors' role in sentencing. Whilst clearly areas of great importance, I have taken the view that they should not be included in this revision of the Code. I have decided to include sections on these subjects in our new Core Quality Standards document which will be published later this year.

Together, as public documents, the Code and the Core Quality Standards will let everyone know what prosecutors do; how they take their decisions; and the level of service that the prosecution service is committed to providing in every key aspect of its work.

The deadline for consultation is 11 January 2010 and I look forward to receiving your comments in due course. I should be grateful if you could send your response by email to the Code Consultation team, Policy Directorate, CPS, at code.consultation@cps.gsi.gov.uk Any enquiries about the consultation should also be referred to this address.



Keir Starmer QC
Director of Public Prosecutions

Enc: Revised Code for Crown Prosecutors