



Central  
Investigation  
Service

# Prosecutions Policy



Department of  
**Agriculture and  
Rural Development**

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Central Investigation Service










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# tions Policy

To go straight to section click on red button

## Table of Contents

	Introduction	2
	Central Investigation Service	3
	Code for Crown Prosecutors	4
	Evidential Test	4
	The Public Interest Test	5
	Formal Cautions	6
	Referral of cases to the Police	7
	Publicity	7
	Equality	8

# Prosecu

## Introduction

The use of the criminal process to institute legal proceedings is an important part of the Department's approach to combating fraud and irregularity. It aims to punish wrongdoing, to avoid a recurrence and to act as a lesson to others.

This booklet outlines the policy of the Department of Agriculture and Rural Development in Northern Ireland Central Investigation Service, with regard to the prosecution of offenders.

This Prosecution Policy takes account of the criteria set out in the Code for Crown Prosecutors 1994. The Policy is not and cannot be a set of hard and fast rules stating when legal proceedings must and must not be recommended to the Director of Public Prosecutions for prosecution. Rather, it sets out the guidelines, which Central Investigation Service will observe when conducting investigations with a view to recommending prosecution to the Director of Public Prosecutions.

The principles of this policy will be applied consistently throughout the Department. It will be reviewed periodically and, if appropriate, revised.

# tions Policy

## **Central Investigation Service**

The Department's Central Investigation Service provides the Department, its Agencies and NDPBs with investigative services on a wide range of programmes. The Service is responsible for investigating all external fraud and irregularity perpetrated against the Department. In conducting investigations the Service adheres to the codes of practice issued under Part II of the Criminal Procedure and Investigation act 1996 and the provisions of the Police and Criminal Evidence (NI) order 1989 codes of practice. The aim of the Service is to provide evidence enabling the successful prosecution of persons who have defrauded the Department or contravened relevant legislation. When there is sufficient evidence to proceed with legal action, cases are referred to the Director of Public Prosecutions.

Central Investigation Service recognises that the institution of prosecution proceedings is a serious issue that should only be taken after full consideration of the implications and consequences. Decisions concerning the institution of prosecution proceedings Central Investigation Service will take account of the Code for Crown Prosecutors 1994.

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## **The Code for Crown Prosecutors**

When deciding whether to recommend prosecution to the Director of Public Prosecution of an alleged offender, Central Investigation Service will first of all apply the criteria of the Code for Crown Prosecutors 1994.

The criteria in the Code for Crown Prosecutors are applied to all public prosecutions and two tests are applied to any prospective prosecution.

### **1. *The Evidential Test***

### **2. *The Public Interest Test***

#### **1. *The Evidential Test***

A prosecution will not be commenced or continued by Central Investigation Service unless it is satisfied that there is sufficient, admissible and reliable evidence that the offence has been committed, and that there is a realistic prospect of conviction. A realistic prospect of conviction is an objective test. It means a court properly directed in accordance with the law is more likely than not to convict a defendant of the alleged charge. The case will need to be proved “beyond reasonable doubt” rather than on the balance of probabilities as with civil cases.

#### **2. *The Public Interest Test***

The Public Interest test, which may affect the decision to prosecute, will depend on the seriousness of the offence and/or the circumstances of the offender. Central Investigation Service will consider the following Public Interest factors before a decision is made to recommend legal proceedings.

# tions Policy

## **Public Interest factors in favour of a recommendation for prosecution include:**

- Seriousness of offence
- Likelihood of continuance of offence or repeat offences
- Intent of the offender, individually and/or corporately
- Previous history of the person concerned
- Any previous convictions or cautions relevant to the present offence
- Conviction likely to result in a significant sentence
- Defendant in a position of authority or trust
- Offences carried out by a group
- Deterrent effect on the offender and others

## **Public Interest factors that could influence in favour of not pursuing a prosecution include:**

- Minor offence likely to attract small penalty on conviction
- Minor offence committed as genuine mistake
- Minor loss or harm resulting from a single incident offence
- Long delay between offence and trial unless:
  - (a) serious offence,
  - (b) delay caused in part by defendant,
  - (c) offence only recently came to light
  - (d) complex offence involving long investigation.
- Elderly defendant
- Young defendant
- Poor physical or mental health of defendant (unless the offence is serious or likely to be repeated).

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## Formal Cautions

There will be instances where Formal Caution will be used as an alternative to a prosecution. Home Office guidance states that the purpose of a formal caution is:-

- To deal quickly and simply with less serious offences;
- To divert less serious offences away from the courts;
- To reduce the chances of repeat offences.

Formal Cautions will only be issued:

- Where the Code for Crown Prosecutors Evidential and Public Interest tests are met, that is to say when there is sufficient evidence to prosecute;
- When there is an admission to an offence; and
- When a suspected offender understands the significance of a Formal Caution and gives an informed consent to being cautioned.

The decision as to whether to issue a Formal Caution or to recommend prosecution will be made by the Head of Central Investigation Service in consultation with the investigating officer.

A Formal Caution will not be used if:-

- The suspected offender does not make a clear and reliable admission of the offence; and
- There is insufficient evidence for prosecution.

If a person declines the offer of a Formal Caution, Central Investigation Service will normally proceed with a prosecution.

# tions Policy

## **Referral of cases to Police**

On occasion Central Investigation Service will refer cases to the police. This normally occurs immediately if there are large amounts of money involved, if the case is of a serious or complicated nature, or if after a preliminary investigation has been performed and the additional powers of the police are required to complete the investigation.

## **Publicity**

Where cases of fraud and irregularity against the Department of Agriculture and Rural Development are referred for criminal proceedings and subsequently brought to Court, the Department will issue press releases detailing all successful prosecutions. The emphasis will be on maximum publicity to deter reoccurrence and to act as a lesson to others.



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**Equality**

We have considered the equality implications of this policy and have identified none. This document will be made accessible in a variety of formats on request.

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AN ROINN

**Talmhaíochta agus  
Forbartha Tuaithe**

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MÁNNYSTRIE O

**Fairms an  
Kintra Fordèrin**

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