

Code of Conduct
for
Crown Prosecutors
Saint Lucia

2011

A. Introduction

1. Prosecutors will be guided by the Code of Conduct for Crown Prosecutors.
2. The Director of Public Prosecutions (the DPP) is responsible for issuing the Code of Conduct for Crown Prosecutors (the Code). The Code gives guidance to Crown Prosecutors on general principles to be applied when making decisions about prosecutions.
3. In this Code, the term “prosecutors” is used to describe members of the Crown Prosecution Service who exercise their powers in accordance with the instructions issued by the DPP.
4. In this Code, the expression “police or other investigators” is used to describe members of all investigative agencies, who prepare and present cases to the prosecution service.
5. In this Code, the term “suspect” is used to describe a person who is not yet the subject of formal criminal proceedings; the term “defendant” is used to describe a person who has been charged or summonsed; and the term “offender” is used to describe a person who has admitted his or her guilt to a police officer or other investigator or prosecutor, or who has been found guilty in a court of law.
6. The Code is a public document that informs the community 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.
7. Prosecution means all aspects of a criminal prosecution and includes pre-charge advice, the decision to prosecute, the decision to stop a prosecution, the

decision to recharge and proceedings ancillary to a prosecution, for example, forfeiture, restraint and confiscation.

8. The purpose of the Code is to ensure that the principles and practices as to prosecutions in Saint Lucia are underpinned by unified values. These values aim to achieve consistency in key decisions and trial practices. If these values are adhered to, Saint Lucia will continue to have prosecution processes that are open, fair to the defendant, witnesses and the victims of crime, and reflect the proper interests of society.

B. Decision Making

1. Prosecutors must always be guided by principles of fairness and justice for both sides. Prosecutors must never allow their personal beliefs or prejudices or associations to influence their decisions to prosecute.
2. Prosecutors must review every case file individually and ensure that it meets the Full Code Test laid down in this Code.
3. Prosecutors must also ensure that the charge (s) laid is the correct charge and determine whether to continue with the original charge or to amend it.
4. Wherever necessary cases should be discussed with the police investigator. Prosecutors must ensure that they have all the information they need to make an informed decision about how best to deal with the case. This will often involve prosecutors providing guidance and advice to the police and other investigators about lines of inquiry, evidential requirements, and assistance in any pre-charge procedures throughout the investigative and prosecuting

process. The prosecutor also advises the investigator on the conduct of cases.

This includes advice in relation to:

- i. what criminal charges are open, including :
- ii. whether there is sufficient evidence to support a charge;
- iii. the admissibility of evidence;
- iv. the most appropriate charge in the circumstances;
- v. the present state of the law;
- vi. whether a case should be tried summarily or on indictment; and
- vii. the disclosure of evidence.

5. The decision to prosecute is a serious step. Fair and effective prosecution is essential to the maintenance of law and order. It is the duty of prosecutors to make sure that the right person is prosecuted for the right offence and to bring offenders to justice wherever possible. Decisions taken fairly, impartially and with integrity help to deliver justice for victims, witnesses, defendants and the public.

6. It is the duty of prosecutors to review, to advise on and to prosecute cases. Prosecutors must ensure that the law is properly applied; that all relevant evidence is put before the court in accordance with the principles set out in this Code and that each case is considered on its own facts and on its own merits.

7. Prosecutors must only start or continue a prosecution when the case has passed both stages of the Full Code Test. When considering the institution or continuation of criminal proceedings the first question to be determined is the sufficiency of evidence. A prosecution should not be started or continued unless the prosecutor is satisfied that there is admissible, substantial and reliable evidence that a criminal offence known to the law has been committed by an identifiable person. The proper test is whether there is a realistic prospect of a conviction. This decision requires an evaluation of how strong the case is likely to be when presented at trial. When reaching this decision, the prosecutor will wish as a first step to be satisfied that there is no realistic expectation of an ordered acquittal or a successful submission of no case to answer.
8. Prosecutors must make sure that they do not allow a prosecution to start or continue where to do so would be seen by the courts as oppressive or unfair so as to amount to an abuse of the process of the court.
9. Review of cases is a continuing process and prosecutors must take account of any change in circumstances that occurs as the case develops. Wherever possible, they should talk to the police and other investigators first if they are thinking about changing the charges or stopping the case. Prosecutors, police and other investigators work closely together, but the final responsibility for the decision whether or not a case should go ahead rests with the prosecution service.

C. Full Code Test

1. The Full Code Test has two stages:
 - i. The ***Evidential Stage***;
 - ii. Followed by the ***Public Interest Stage***
2. Where there is enough evidence to provide a realistic prospect of conviction a prosecution should take place unless there are public interest factors operating against the prosecution which outweigh those in favour. Even though there are public interest factors weighing against the prosecution, the prosecution should go ahead and these factors should be put before the court for consideration during sentencing.

D. The Evidential Test

1. Prosecutors must be satisfied that:
 - i. There is enough evidence to provide a realistic prospect of conviction. A realistic prospect of conviction means that a Magistrate or Judge properly directed in accordance with the law is more likely than not to convict the defendant of the charge alleged;

- ii. They must consider whether the evidence can be used (admissibility) and whether it is reliable (reliability):
 - a. In considering the admissibility of the evidence whether the evidence will be excluded because of the way it was gathered or because it breaches any rules of admissibility such as hearsay or oppression or unfairness;
 - b. In considering reliability of the evidence consider whether a confession is unreliable because of the manner in which it was obtained, the nature of the confession, the age, understanding and any mental or physical disabilities of the suspect;
 - c. The credibility of the witnesses, their background, conduct, motive and attitude, which may affect their evidence;
 - d. Issues relating to the identity of the defendant whether the witness knows the defendant and is able to make a positive identification;
 - e. Prosecutors should not ignore evidence because they are not sure that it can be used or is reliable. But they should look closely at it when deciding if there is a realistic prospect of conviction.
- iii. They must also consider the defence raised and its effect on the prosecution's case.

E. The Public Interest Test:

1. Where the Evidential Stage is satisfied, prosecutors must go on to consider whether a prosecution is required in the public interest.
2. In balancing the factors for and against prosecution, prosecutors should consider the seriousness of the offence or the advantages to the offender. The more serious the offence or the offender's record of criminal behaviour, the more likely it is that a prosecution will be required in the public interest. The overriding principles should be the seriousness of the crime, and each case must be decided on its own peculiar facts.
3. Prosecutors must balance factors for and against prosecution carefully and fairly. Assessing the public interest is not simply a matter of adding up the number of factors on each side -and seeing which side has the greater number. Each case must be considered on its own facts and on its own merits. Prosecutors must decide the importance of each public interest factor in the circumstances of each case and go on to make an overall assessment. It is quite possible that one factor alone may outweigh a number of other factors which tend in the opposite direction. Although there may be public interest factors tending against prosecution in a particular case, prosecutors should consider whether nonetheless a prosecution should go ahead and for those factors to be put to the court for consideration when sentence is passed.

F. Common Public Interest Factors In Favour of Prosecution

1. The gravity of the offence.
2. The likelihood of a conviction resulting in a harsh sentence.
3. Was a weapon used or was violence threatened during the commission of the offence?
4. Was the victim a public servant or official and was the offence committed against him/her or in the conduct of his/her duties?
5. Was the defendant in a position of authority or trust?
6. Was the defendant the mastermind of the crime or the main participant?
7. Was the offence premeditated?
8. Was it a gang or group of offenders?
9. The vulnerability of the victim.
10. Was the victim threatened or intimidated or had an impairment or physical or mental disability?
11. Whether the crime was motivated by any form of discrimination against sex, race, religion, politics or nationality.
12. The difference in the ages of victim and defendant.

13. Whether the Offence was committed in the presence of, or in close proximity to, a child.
14. Whether defendant has been convicted for a similar offence.
15. Are there grounds for believing that the offence is likely to be continued or repeated?
16. Whether the offence was committed while defendant was under an order of the court.
17. Whether the offence was committed in order to facilitate or cover-up offending.
18. The prevalence of that type of offence in the community.
19. Whether a prosecution would have a significant positive impact on maintaining community confidence

G. Some Common public interest factors against Prosecution

1. Is the offence a minor one and the Court is likely to impose a very small of light penalty?
2. Was the offence committed as a result of an accident, a genuine mistake or misunderstanding?
3. Was the loss or harm or injury to the victim minor?
4. If there has been a long delay between the offence taking place and the date of

trial unless:

- i. The offence is serious;
- ii. The delay was caused in part by the defendant;
- iii. The offence was only recently discovered or reported; or
- iv. The matter was a complex case which necessitated a long investigation; or new investigative techniques have been used to re-examine previously unsolved crimes and, as a result, a suspect has been identified.

5. Will the prosecution have an adverse effect on the victim's physical or mental health?

6. Is the defendant elderly or suffering from some physical or mental incapacity.

7. Has the defendant made right the loss or harm caused.

8. Has the defendant been subject to any appropriate regulatory proceedings, or any punitive or relevant civil penalty which remains in place or which has been satisfactorily discharged, which adequately addresses the seriousness of the offending

9. Whether a prosecution may require details to be made public that could harm sources of information, international relations or national security

H. The victim versus the public interest:

1. In the prosecution of cases, prosecutors should consider that the overriding factor is in the public interest, and not in the interest of one individual. However, the interest of the victim is an important factor when deciding where the public interest lie. Prosecutors should take into account the consequences of prosecution upon the victim.
2. Where the victim is a minor the protection of the victim should be of paramount importance.
3. Where the victim has suffered serious injury the welfare of the victim should prevail.
4. In deciding whether a prosecution is required in the public interest, prosecutors should take into account any views expressed by the victim regarding the impact that the offence has had. In appropriate cases, for example, a case of homicide or where the victim is a child or an adult who lacks mental capacity, prosecutors should be guided by the public interest while taking into account any views expressed by the victim's family.
5. However, the prosecutor does not act for victims or their families in the same way a defence lawyer acts for his client, and prosecutors must form an overall view of the public interest.

I. Reopening a Prosecution Decision

1. People should be able to rely on decisions taken by prosecutors. Normally, if a prosecutor tells a suspect or defendant that there will not be a prosecution, or that the prosecution has been stopped, that is the end of the matter and the case will not start again.
2. Occasionally there are special reasons where a prosecutor will restart the prosecution where that course is available under the applicable law, particularly if the case is serious.
3. These reasons include:
 - i. Rare cases where a reassessment of the original decision shows that it was clearly wrong and should not be allowed to stand;
 - ii. Cases which are stopped so that more evidence which is likely to become available in the near future can be collected and prepared. In these cases, the prosecutor will tell the defendant that the prosecution may well start again; and
 - i. cases which are stopped because of a lack of evidence but where more significant evidence is discovered later.

J. Victims and Witnesses

1. Victims of crime have a proper interest in the cases in which they are concerned. However victims cannot take a decision to discontinue the prosecution of a case. That authority lies only with the DPP and the prosecutor after weighing all factors and consultation with the DPP.
2. Prosecutors must always help victims to understand the court structure and process involved in the prosecution of their cases.
3. Victims who are minors must be spoken to in the presence of a parent or guardian or a social worker.
4. In cases involving sexual offences of minors, a Counselor or Social Worker should be contacted at the earliest opportunity to help prepare the victim for Court.
5. In cases of personal injury or damage to property victims must indicate how much compensation they are seeking and produce supporting evidence.
6. Before trial, prosecutors must review statements with all victims and witnesses before they are called to give evidence. Their statements should be read over and all inconsistencies clarified.
7. During the trial, prosecutors should try to give support and understanding to victims especially victims of sexual abuse and relatives of deceased persons.
8. As far as possible victims and witnesses should only be asked to attend Court

when they are required to give evidence.

9. A special time should be arranged with the Magistrate or Judge to take the evidence of a victim who is a minor, a school child or an expert.
10. As far as possible victims and witnesses should be informed of the progress of the case, explain any difficulties in the case and tell them if a particular course of action is being taken and explain to them the result of the case.

K. The age of the offender

1. Where the offender is a juvenile, serious consideration should be given, to whether it is in the public interest to prosecute. Due to the fact that serious harm can result in a young offender being left with the stigma of a conviction.
2. But a prosecution ought not to be forgone because of age. The overriding consideration should be the seriousness of the offence and the offender's past behaviour.
3. The public interest will not normally require the prosecution of a juvenile who is a first offender where the alleged offence is not a serious one.

L. Charges

1. In selecting which charges to prosecute, it is necessary to consider:
 - i. The seriousness of the offence
 - ii. The sentencing powers of the court
 - iii. The ability to present the evidence in a clear and simple way
2. Prosecutors must not always continue with the most serious charge where there is a choice and there is difficulty with that charge and should not proceed with more charges than necessary.
3. In deciding whether to proceed Indictably or Summarily, prosecutors should be guided by the seriousness of the offence, the age of the victim or any other disabilities the victim may have, the delay in the trial if it is sent to the High Court.
4. Prosecutors must take account of any relevant change in circumstances as the case progresses after charge.

M. Guilty pleas

1. Prosecutors should only accept a guilty plea or a lesser charge if they think the court is likely to pass sentence which matches the seriousness of the offence. Prosecutors must never accept a guilty plea just because it is convenient. The DPP should **ALWAYS** be consulted before a guilty plea to a lesser charge is accepted.

2. The DPP alone can initiate or discontinue criminal proceedings and the decision of the DPP is final.
3. The Prosecutor must be prepared to explain their reasons in open Court why a lesser plea has been accepted.
4. Prosecutors must always explain to the victim why a lesser plea has been accepted. The views and interests of the victim must always be taken into consideration. However the decision rests with the prosecutor.
5. It must be made clear to the court on what basis any plea is advanced and accepted. In cases where a defendant pleads guilty to the charges but on the basis of facts that are different from the prosecution case, and where this may significantly affect sentence, the court should be invited to hear evidence to determine what happened, and then sentence on that basis.

N. Confidentiality

1. Prosecutors must not divulge the identity of victims or discuss the facts of case in their possession with non legal staff members of the Crown Prosecution Service or other persons, nor should they divulge their reasons for their decisions to discontinue in particular cases except with the victims or relatives of victims, or to inform the police where the matter is of great public interest.

O. Defence

1. The defence should not be permitted to attack the credibility or integrity of the prosecutor without justification. Any such attacks should be brought to the attention of the Judge or Magistrate and the Disciplinary Committee of the Bar Association.
2. Prosecutors should not seek primarily to accommodate the defence by accepting guilty pleas to lesser offences nor should they feel intimidated by defence.
3. Where the defence attacks the victim or the prosecutor in a plea of mitigation, an objection should be raised by the prosecutor and the Court should be asked to allow the prosecutor to address any issues raised.

P. Disclosure

1. Prosecutors must conform to the orders for disclosure made by the Court. Where insufficient time is given for disclosure, a request for the additional time should be made by the prosecutor.
2. If the court makes an order for disclosure of material that is not in the possession of the prosecutor, the prosecutor must inform the court.
3. Prosecutors will be guided by any Guidelines for Disclosure issued by the DPP and the law regarding Disclosure under the Criminal Code and the Rules of Criminal Procedure.

Q. Bail

1. Prosecutors must ensure they are fully conversant with and apply the Constitutional Provisions for the Protection of the Right to Personal Liberty (Section 3) and all laws governing bail. In particular, if the trial of a defendant remanded in custody has not started in a reasonable time, then if the delay was not caused by the defendant, in accordance with Section 3(5), the prosecutor will not oppose any bail application but may put forward reasonable conditions.
2. Prosecutors must always bear in mind that bail is not to be withheld as a form of punishment or prejudging of a case. Prosecutors should start on the basis that bail (with or without conditions) should be granted. They should only oppose bail where they believe that it is in the interests of justice and society as a whole that bail should not be granted.
3. When deciding whether or not to oppose bail prosecutors must consider carefully:
 - i. The law;
 - ii. The charges;
 - iii. The seriousness of the offence
 - iv. The strength of the evidence;
 - v. The protection of victims, witnesses and the general public;
 - vi. The personal circumstances of the defendant;

- vii. The likelihood of the commission of further offences if granted bail;
 - viii. The likelihood of failure to attend court;
 - ix. The protection of the defendant;
 - x. Preserving public peace and safety; and
 - xi. Any other relevant factors.
- 4. Prosecutors must be fair and firm when considering a response to an application for bail. In every case where there is an application for bail the prosecutor must study the case docket before preparing an affidavit in response.
- 5. If legal issues arise concerning bail when a prosecutor who is not a lawyer has conduct of a case, then it must be referred immediately to the DPP or a nominated person.
- 6. The prosecutor must seek and accept police expertise as to any bail risks presented by the defendant, however, the ultimate decision as to what will be said to the Court about eligibility for bail is the responsibility of the prosecutor. This is not incompatible with the role of the police whose legitimate views as to bail must be placed before the Court.
- 7. The prosecutor will fairly consider any application for bail on appeal taking into account those matters raised at paragraph 3 and in particular the strength of evidence (on appeal against conviction) and the reasonable prospects of success of the appeal

R. Trial Fairness

1. Prosecutors must do everything they properly can to bring about a fair trial within a reasonable time. Prosecutors must endeavour to reduce to a minimum the number of adjournments both, before and after the commencement of a trial.

2. Every effort should be made to ensure trials are not delayed at their commencement and continue on consecutive working days until conclusion. Applications to adjourn should be vigorously opposed unless they are absolutely unavoidable

3. It is not the duty of a prosecutor to obtain counsel for a defendant or put forward a defendant's case. However, assistance must be offered to the court and a defendant if the interests of justice so require

4. A prosecutor should only put a witness in the witness box when satisfied that the evidence provided will be relevant and credible. Prosecutors should ensure that witnesses are aware of what is required and also provide as much assistance as they legitimately can to secure the best evidence from witnesses.

5. Prosecutors must ensure that the prosecution case is fully ready for the time fixed for trial. This includes ensuring:
 - i. The prosecution case is known thoroughly;

 - ii. All legal, evidential and procedural issues are known, researched and ready for presentation to or argument before the court;

- iii. Every effort has been made to agree pre-trial issues and evidence, adduce evidence without the necessity for witness attendance, prepare schedules, maps, diagrams for the better presentation of a case;
- iv. the proper and timely response to all requests and questions reasonably raised by the defence and the timely supply of all material reasonably requested by the defence, respecting and recognising at all times the continuing duty to disclose evidence in the prosecutions possession;
- v. That witnesses are available and attend court;
- vi. All required exhibits held by the prosecution are at court, whether for the prosecution or defence;
- vii. Where considered appropriate, there are copies of all relevant documents for all persons;
- viii. An assessment has been made of the likely defences and how they may properly be countered.

6. Prosecutors represent the public and the public interest. Presenting the prosecution case requires professionalism, objectivity and detachment that is also mindful of the reasonable needs of any victims of the crime.

7. Prosecutors must be courteous throughout to everyone. In particular, a prosecutor must not intimidate, harass or question oppressively any witness. A prosecutor must intervene to stop any advocate who attempts to do this to any witness.
8. Prosecutors must assist the court at all times as to the correct law and procedure and actively intervene if the court is being misled in any way or is not applying the correct law and procedure. Prosecutors must 'put the prosecution case' to defence witnesses and ensure the defence case is put to prosecution witnesses

5. The Role of the Prosecutor in the Sentencing Process

1. The prosecutor has an important role in the sentencing process. The responsibility to assist the court after conviction is part of the prosecutor's general duty in the administration of criminal justice.
2. The public interest requires the prosecutor to assist the court to have access to all relevant matters which might affect sentence. The prosecutor must seek to ensure that proceedings do not miscarry at a critical point, and to protect the court from appealable error. There are obvious ways in which the prosecutor should discharge the duty to lay before the court the facts upon which reliance is placed.
3. On a plea of guilty, the prosecutor should supply the court with a summary of the facts which substantiate the case against the offender. At the time of sentencing the prosecutor will, where appropriate, advise the court of the antecedents of the offender, and also deal with any ancillary issues. These may include costs, compensation, forfeiture, restitution and the disposal of exhibits.

4. The prosecutor has other important responsibilities:
- i. It is the duty of the prosecutor, where the offender has pleaded guilty, to ensure that the facts which are then placed before the court support each and every ingredient of the charges laid, and that they provide a sufficiently comprehensive factual basis for sentencing;
 - ii. Where there is a major difference between the factual basis upon which an offender pleads guilty and the case contended for by the prosecution, there is an adversarial role for the prosecutor in establishing the facts upon which the court should base its sentence (*R v Newton* (1982) 4 Cr App R(S) 388);
 - iii. The prosecutor must be aware of any legal limitations on sentence, including the maximum sentence, and whether the court has jurisdiction to impose any particular sentence. This assists the court to avoid appealable error;
 - iv. The duty of the prosecutor is to draw the attention of the court to any facts which may affect the assessment of sentence, and this applies equally whether it involves a mitigating or an aggravating factor. The former consideration bulks large when the offender is not represented;
 - v. The prosecutor should be familiar with the relevant '*tariff*' or '*guideline*' cases prior to sentencing.

- vi. When matters are advanced in mitigation of sentence which the prosecution can prove to be wrong, the duty of the prosecutor is first to inform the defence that the mitigation is not accepted. If the defence persists in the matter it becomes the duty of the prosecutor to invite the court to put the defence to proof of the disputed material and if necessary to hear any rebutting evidence. The prosecutor must then decide whether the inaccuracies are of such a nature as to require his or her intervention to prevent the court from proceeding on a wrong basis;
- vii. The prosecutor should not volunteer information about the prevalence of particular offences but should be ready to assist the court if he or she has reliable material which is called for by the court. Statistics which are accurate and up to date can properly be tendered if requested;
- viii. The prosecutor should bring to the attention of the court the victim's circumstances and views whenever this is appropriate;
- ix. If the offender has assisted the authorities, the prime responsibility for ensuring that the sensitive material to be advanced in mitigation reaches the judge in circumstances of strict security lies with the prosecutor; and
- x. The prosecutor should inform the court of matters contained in the pre-sentence report which he/she takes issue with.

T. Proceeds of Crime

1. The prosecutor seeks to ensure that the offender does not profit from his or her criminal conduct. The confiscation of the proceeds of crime is an issue to be considered from the outset of all cases where profit is or may be involved. Confiscation should not be viewed as a mere optional addition to sentence proceedings or to the conduct of a prosecution.
2. If it is necessary to prevent the dissipation of profits which might be required to satisfy a confiscation order, the prosecutor should apply at an early stage for a restraint order. After conviction, the prosecutor must apply, where appropriate, for a confiscation order.

U. Appeals

Appeal Against Conviction

1. When there is an appeal against conviction the duty of the prosecutor is to assist the court as required to achieve a just disposal of the appeal.
2. The prosecutor should be familiar with, and observe the relevant practice directions.
3. Once the perfected grounds of appeal are received, together with the appellant's authorities, the prosecutor should decide upon, and serve such additional authorities as will assist the court in determining the issues raised by the appeal. The duty of the prosecutor to assist the court through the preparation of a written submission applies irrespective of whether the appellant is represented.

4. When an appellant is not represented, the prosecutor should scrutinise the papers with special care to determine whether there is any legitimate ground of appeal which has not been noticed. If he or she discovers such, the court should be informed.

5. Although the prosecutor will generally seek to uphold a conviction, if the view is formed that the appeal should succeed the prosecutor should acquaint the court of that view and explain the reasons for it. If the court disagrees, the prosecutor is entitled to adhere to his or her view and is not obliged to conduct the appeal in any way which conflicts with his or her own judgment. At the same time it remains the prosecutor's duty to give assistance to the court if requested to do so.

6. When a conviction is quashed, the prosecutor should consider whether or not a retrial is required. It is incumbent upon the prosecutor to apply for a retrial if this is appropriate. In deciding whether or not to make an application, regard should be had to the following:
 - i. The basis on which the appeal was allowed;

 - ii. The seriousness of the offence;

 - iii. The strength of the case against the accused, including the availability of witnesses;

 - iv. The lapse of time since the alleged offence and since the trial;

- v. The extent to which the sentence has been served;
- vi. The attitude of the victim and his or her family, and of the police or other investigators.

Appeal Against Sentence

1. The proper role for prosecution appeals is to enable the courts to establish and maintain adequate standards of punishment for crime and occasionally to correct a sentence which is so disproportionate to the seriousness of the crime as to shock the public conscience.
2. The prosecution's right to appeal against sentence should be exercised sparingly, and any appeal must not be instituted unless it can be asserted with some confidence that the appeal will be successful.
3. In considering a prosecution appeal against sentence it is to be borne in mind that the sentence for a specific offence will vary according to its nature, the circumstances of its commission, the antecedents of the offender, and the effect on the victim. Consequently, for any given offence there exists a range of legitimate penalty options. An appellate Court will not interfere with the exercise of a Judge's or Magistrate's sentencing discretion unless an error in the exercise of that discretion can be demonstrated. In practical terms the Court must be satisfied that the sentence imposed falls clearly outside the appropriate penalty range and may consequently be characterised as manifestly inadequate. Mere disagreement with the sentence passed is insufficient

4. Where an offender appeals against sentence, the prosecutor should be in a position to assist the court as required. This may involve drawing its attention to the relevant '*guideline*' or '*tariff*' cases. He or she should also, if required, be in a position to address the court on the prevalence of the offence, on the customary range of sentences for a particular offence.
5. Applications for review of sentence must be decided by the DPP. No other prosecutor is authorized to make any decision in relation to sentence or to give undertakings about the prosecution's attitude.
6. Where the prosecutor disagrees with the sentence he/she should immediately inform the DPP of the sentence imposed and provide her with a copy of the file summary of the case along with the tariff imposed in similar cases.

V. The Prosecutor and the Media

1. The prosecution have an interest in the fair and accurate reporting of criminal cases by the media, and basic levels of assistance should be provided. The reporting of criminal proceedings is important as it lets the community know who is being prosecuted and for what, and the sentences which are being imposed. A policy of transparency ensures that the media have access to relevant material wherever possible, and at the appropriate time. Although there is no objection to a prosecutor confirming facts already in the public domain there should be no discussion of the facts and issues to be decided in the case as long as the matter is before the court, based on the principle of sub judice.
2. There is no objection to a prosecutor confirming facts already in the public domain. Subject to any court order, it is proper to provide details upon request of matters presented in open court, such as a charge sheet or a summary of facts. Information

about when a trial will start, when a particular witness will testify, and if there is to be pre-trial argument can properly be disclosed. Subject to any court order, the media may be advised what a case is about, what the charges are, who the defendant is, who the witnesses are, but not the identity of any protected complainant or witness.

3. Matters which should not be discussed with the media include :
 - i. The likely outcome of proceedings;
 - ii. The intended approach of the prosecution;
 - iii. The correctness or otherwise of a judicial decision;
 - iv. Any part of the trial conducted in the absence of the jury or not in open court;
 - v. The name or identifying particulars of a protected witness, including a complainant in a sexual offence, a blackmail victim, or a juvenile defendant, unless authorised;
 - vi. The contact details of any victim or witness;
 - vii. Any information which might lead to the identification of a protected informant;

- viii. Any privileged information, including legal advice and internal case discussions with colleagues or law enforcement officials;
 - ix. The existence of any plea negotiations or possibility of a plea of guilty or other disposition.

- 4. It is no part of the prosecutor's role to comment to the media on a verdict or sentence or the prospect of appeal or review proceedings being instituted. These are matters for the DPP, and nothing should be said which might affect subsequent consideration of the case. If the prosecution are to appeal or seek a review of sentence, the practice is not to release details to the media until the appeal has been filed and served on the respondent.

- 5. Questions from the media should be referred to the DPP when they concern :
 - i. Appeals against decisions of the courts;
 - ii. Reviews of sentences;
 - iii. General prosecution policy;
 - iv. Decisions to terminate prosecutions.

- 6. When in doubt about a media inquiry, a prosecutor should seek the advice of the DPP.

