



# Legal Services Directorate

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## Referrals

- Insolvency Service
- Companies House
- Employment Agent Standards Inspectorate
  - BEIS Regulatory Teams



## Stats

Prosecutions April 2018 – March 2019:

144 defendants prosecuted

85% of defendants pleaded guilty

34 disqualification orders (Section 2 CDDA) were ordered for all cases prosecuted.

Confiscation orders: 5 orders made totalling £235,502

Civil disqualifications (Section 6 CDDA) since June 2018: 7 disqualifications orders and 45 undertakings.

## Code for Crown Prosecutors

- Issued by the Director of Public Prosecutions (DPP) under Section 10 of the Prosecution of Offences Act 1985.
- Governs all prosecution decisions and prosecution bodies.
- Two stage test:  
Evidential Stage – sufficient evidence for a realistic prospect of conviction?  
  
Public Interest Stage – prosecute unless factors against prosecution outweigh those in favour.





## The Evidential Stage: The Burden and Standard of Proof

- Burden of Proof :
  - The Prosecution have to prove the offence has been committed.
  
- Standard of Proof:
  - When making a decision to prosecute, there must be a realistic prospect of conviction.
  - Once proceedings have been initiated, the offence must be proved '**beyond a reasonable doubt**'.

Contrast standard in civil cases: **on a balance of probabilities**



## The Public Interest Stage: Public Interest Factors

- How serious is the offence committed?
- What is the level of culpability of the suspect?
- What are the circumstances of and the harm to the victim?
- Was the suspect under the age of 18 at the time of the offence?
- What is the impact on the community?
- Is a prosecution a proportionate response?



## Acting as a Prosecution Witness

- Explaining technicalities and terminology
- Evidential issues – Continuity
- Witness Statement



## Disclosure

- The Criminal Procedure and Investigations Act 1996 (CPIA)
- The obligations under CPIA are underpinned by the Code of Practice (“The Code”) under Part II of the Act
- The Attorney General’s Guidelines on Disclosure (“The Guidelines”) reissued in 2013
- Supplementary Guidelines issued by the Attorney General dealing with the Disclosure of Digitally Stored Material (“Digital Material”) gives guidance on dealing with digital material
- The Protocol for the Control and Management of Unused Material in the Crown Court (“The Protocol”) gives guidance to the Judiciary on managing the process
- Criminal Procedure Rules 2015





## Headlines

- Every person has the right to a fair trial.
- Disclosure is integral to ensuring that right.
- Criminal investigations in our cases usually result in large quantities of material being gathered, only some of which is used in the prosecution case.
- The remaining material (“unused material”) may be significant to a defendant in either supporting the defence case or in undermining the prosecution case.
- It is essential that a defendant has access to this material as provided by the relevant legislation.



## The disclosure test

Material which “might reasonably be considered capable of undermining the case for the prosecution against the accused, or of assisting the case for the accused”