



CCPE (2015)1

CONSULTATIVE COUNCIL OF EUROPEAN PROSECUTORS (CCPE)

Questionnaire for the preparation of the Opinion No. 10 of the CCPE on the relationship between prosecutors and police and/or other investigation bodies

A. Relationship between prosecutors and the police

1. Please briefly describe the relationship between prosecutors and the police or other investigation body in your country.
 - The Crown Prosecution Service (CPS) is the principal prosecuting authority for England and Wales. Established as an independent body in 1986 to prosecute criminal cases, the role of the CPS is as follows:-
 - (a) To decide which cases should be prosecuted, keeping them all under continuous review;
 - (b) To determine the appropriate charges in more serious or complex cases, in accordance with the Code for Crown Prosecutors – advising the police from the earliest stages of investigations and building strong cases from the start. The police retain the responsibility for deciding the charge in the remaining criminal cases;
 - (c) To prepare cases and present them at court – using a range of in-house advocates, self-employed advocates or agents in court; and
 - (d) To provide information, assistance and support to victims and prosecution witnesses.
 - As the national charging service for the CPS, CPS Direct provides the majority of CPS charging decisions to the police. Operating 24 hours a day, 365 days a year, CPS Direct has a network of dedicated Duty Prosecutors based across England and Wales.
 - Evidence is transmitted digitally between the police and the CPS, and officers can access 'real time' advice via the telephone; in some cases officers can receive a response electronically. For large scale or sensitive cases, such as sexual offences, CPS Area prosecutors will provide police officers with advice and charging decisions by way of face-to-face, telephone or digital consultations.
2. Is there any dialogue with the prosecutor concerning the work of the police or other investigation body?
 - Yes, we work closely with the police and other investigators to advise them on lines of inquiry and decide on appropriate charges or other outcomes, in accordance with the Code for Crown Prosecutors

3. Is the prosecutor involved in training the police or other investigation body?
- Not on a formal basis, although the Central Casework Divisions of the CPS organise ad-hoc training courses for prosecutors on specific topics to which the police are often invited.

B. Existing legal provisions and regulations

4. Is any relationship between prosecutors and investigation bodies determined by law or other provisions? Please describe briefly.
- The CPS was established as an independent body in 1986 to prosecute criminal cases. This relationship has its roots in the Prosecution of Offences Act 1985.

C. Responsibility of the prosecutor for setting priorities for investigating offences

5. How are priorities in starting criminal investigations in your country determined?
- Priorities are determined either as a reaction to an event or more proactively as a result of intelligence received by the police from sources.
6. Do prosecutors or the prosecution service in a direct way have an influence on this?
- Prosecutors have an influence on this only insofar as we work closely with the police and other investigators to advise them on lines of inquiry and decide on appropriate charges or other outcomes, in accordance with the Code for Crown Prosecutors

D. Responsibility of the prosecutor during the investigation

7. Are prosecutors responsible for the conduct of investigations in your country? If no, who is responsible for that?
- No, prosecutors are not responsible for the conduct of investigations in the UK. The police and other investigators are responsible for the conduct of investigations in England and Wales.
8. When does the prosecutor receive a complaint (as soon as the complaint is filed, or after the investigation has been conducted by the police)?
- This depends upon the nature of the offence. Once a suspect is held in furtherance of a complaint, in minor cases the police decide whether to caution them, take no further action, issue a fixed penalty notice or refer to the CPS for a conditional caution, or in the more serious cases, send the papers to the CPS to decide upon prosecution.
 - In very serious cases, we work closely with the police and other investigators from the outset to advise them on lines of inquiry and decide on appropriate charges or other outcomes.

9. What is the degree of autonomy of the police or other investigation body, if any, during the investigation?
 - The police and other investigative bodies (see 11 below for list) have a great degree of autonomy during investigations. This is tempered in very serious cases by the fact that prosecutors advise on lines of inquiry.

10. Does the prosecutor have the power to prevent or stop an investigation?
 - No but the prosecutor can provide advice to the police on lines of inquiry and on whether the evidence obtained from the investigation as it stands is enough to provide a realistic prospect of conviction or not.

11. How is it decided which service of the police or other investigation body, if any, is competent to investigate?

It depends upon the type of case it is. Most of the titles below are self-explanatory:-

- Police – There are 43 police forces across England and Wales responsible for the investigation of crime generally, collection of evidence and the arrest or detention of suspected offenders.
 - National Crime Agency – the NCA leads the UK's law enforcement's fight to cut serious and organised crime. The NCA has national and international reach and the mandate and powers to work in partnership with other law enforcement organisations to bring the full weight of the law to bear on serious and organised criminals
 - UK Border Agency
 - Her Majesty's Revenue and Customs
 - Department for Work and Pensions
 - Department for Environment, Food and Rural Affairs
 - Department of Health and
 - Medicines and Healthcare products Regulatory Agency
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12. If the prosecutor leads the police or other criminal investigation in your country, does the prosecutor have the power to monitor compliance with his/her instructions? If so, please briefly describe.
 - The prosecutor does not lead the police criminal investigation but as set out in 2 above, gives advice as to the direction of the investigation. The prosecutor does not have actual power to monitor compliance but the result of non-compliance with advice given by the prosecutor would be that the prosecutor would be unable to conclude that there was enough evidence to provide a realistic prospect of conviction (as required by the Code for Crown Prosecutors) and therefore would not authorise a prosecution.

E. Responsibility of the prosecutor for the respect of the law

13. Is it a responsibility of the prosecutor to control respect for the law by the police or other investigation body, if any? If yes, at which stage and by which means of control?
 - No it is not.

F. Common principles concerning the police

14. Are there written regulations concerning the conduct of criminal investigations by the police or other investigation body?

- Yes, the law relating to the police's powers to stop and search persons, to enter and search premises and to seize property therein, to make arrests, to detain persons without charge and after charge and to question persons who have been detained is largely contained in the Police and Criminal Evidence Act (PACE) 1984 (The Act). The Act defines the limits of the police officers in these areas and provides a series of checks and controls over the exercise of those powers. The Act is supplemented by a series of Codes of Practice.
- The Codes of Practice apply to:
 - (a) Police officers (including police forces such as the British Transport Police) and
 - (b) Persons "other than police officers who are charged with the duty of investigating offences or charging offences".

Category (b) includes Revenue and Customs officers, officers of the Serious Fraud Office, officers investigating tax fraud, but not local tax inspectors. The codes can also apply to store detectives or similar security officers and are not just restricted to officers of central government or other persons acting under statutory powers. It is a question of fact whether or not a particular individual is a person "charged with the duty of investigating offences".

15. What are these regulations about? (for instance, the way to carry out interrogations, deprivation of liberty etc.)

- See response to question 14 above.

G. General control over police

16. What is the general control system of the police or other investigation body, if any (internal/external?) Does the prosecutor play a role in this system?

- Offending police officers are subject to criminal sanctions and prosecution in the same manner as other members of the public.
- HM Inspectorate of Constabulary (HMIC) independently assesses police forces and policing, asking the questions that citizens would ask and publishing information to allow the public to compare the performance of their force against others
- The Independent Police Complaints Commission is a non-departmental public body in England and Wales responsible for overseeing the system for handling complaints made against police forces in England and Wales.

17. Is the prosecutor competent to take sanctions?

- Yes, CPS prosecutors are competent to bring offenders (including police officers) to justice. This helps reduce both crime and the fear of crime, thereby promoting public confidence in the rule of law through the consistent, fair and independent review of cases and through their fair, thorough and firm presentation of cases at court.

H. Conclusions

18. What are the major challenges in relations between prosecutors and investigation bodies in your country?

This is too broad a question to answer in this questionnaire format
