

[REDACTED]

FOI 344/23-24

10 October 2023

[REDACTED]

I refer to your email dated 13 September 2023 in which you asked for information concerning the Public Interest Test. Your request has been dealt with under the terms of the Freedom of Information Act 2000.

Freedom of Information Act 2000

The Freedom of Information Act creates rights of access for any person making a request for information to a public authority. The rights of access are twofold. First, to be informed by the public authority if it holds information of the description specified in the request, and if that is the case, secondly, to be provided with that information. These rights are subject to important limitations, which are designed to achieve a proper balance between the right to know and considerations of law and policy in the broader public interest.

You had asked the following:

Under Freedom of Information legislation please provide a copy of the PPS policy/agreed position and/or accepted definition/determination of what is the Public Interest Test; when this was last reviewed and any amendments this brought and who (rank/job title) decides when and how it is applied.

In response, I can advise that the Test for Prosecution (which includes the Public Interest Test) is set out in detail in the PPS [Code for Prosecutors](#).

Prosecutions are initiated or continued by the PPS only where it is satisfied that the Test for Prosecution is met. The Test for Prosecution is met if:

- The evidence which can be presented in court is sufficient to provide a reasonable prospect of conviction – the Evidential Test; and
- Prosecution is required in the public interest – the Public Interest Test.

This is a two stage test and each stage must be considered separately and passed before a decision to prosecute can be taken. The Evidential Test must be passed first before the Public Interest Test is considered. If this is also passed, the Test for Prosecution is met.

The Test for Prosecution is applied by individual Public Prosecutors when taking a decision whether or not to prosecute or to divert an offender through an alternative to prosecution.

'Public Prosecutors' at various grades are individual members of staff of the PPS who have been designated as such by the Director and delegated to act on his behalf. Public Prosecutors must either be a member of the Bar of Northern Ireland or a solicitor of the Court of Judicature of Northern Ireland.

The latest version of the Code for Prosecutors was published in May 2023. A summary of the changes made to the Code (including amendments to the Public Interest Test) is available on the [PPS website](#).

If you are dissatisfied in any way with the handling of your request, you have the right to request a review in accordance with our review procedure. You should do this as soon as possible or in any case within two months of the date of this response and you can do so by writing to the Head of Policy and Information, Public Prosecution Service, Belfast Chambers, 93 Chichester Street, BELFAST, BT1 3JR or alternatively by sending an e-mail to info@ppsni.gov.uk. You should state the grounds on which you are requesting the review.

Alternatively, you may wish to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Yours sincerely,

Information Management Team
Public Prosecution Service