

Number: WG31268



Llywodraeth Cymru  
Welsh Government

Welsh Government  
Consultation Document

# The Welsh Government Prosecution Code

Date of issue: 24 May 2017

Action required: Responses by 16 August 2017

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.  
This document is also available in Welsh.

**Overview** The purpose of this consultation is to seek views on the proposed Welsh Government Prosecution Code.

**How to respond** You may respond by sending your written response to the address below or by email to the address provided.

**Further information and related documents** **Large print, Braille and alternative language versions of this document are available on request.**

**Contact details** For further information:  
  
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**Data protection** How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address

published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

## **Purpose of this Consultation**

This consultation seeks views on the proposed Welsh Government Prosecution Code (the “Code”). The Code will give guidance to Prosecutors on the principles to be applied when making decisions about Welsh Government prosecutions. This Code will be issued by the Counsel General.

The Counsel General, by virtue of section 45 of the Government of Wales Act 2006 is a member of the Welsh Government. Section 67 of the Act enables the Counsel General to commence prosecutions in the Counsel General’s name. There may be occasions where the power to commence a prosecution is reserved to the Welsh Ministers. In those instances, prosecutions will be commenced in the name of the Welsh Ministers.

A draft of the Code is attached to this consultation document.

## **What is the current position?**

At present the decision as to whether a Welsh Government prosecution should be commenced or discontinued is made in accordance with the CPS Code for Crown Prosecutors (the “CPS Code”).

## **Why are we proposing change?**

As part of an informal evaluation of procedures it was identified that there is a need for a prosecution code which takes into account specific Welsh Government prosecution functions.

The proposed Code is based on the existing CPS Code. However, the Code specifically takes Welsh Government prosecution functions into account. For example, the public interest factors relate closely to the type of prosecutions that may be commenced by the Counsel General and the Welsh Ministers.

We welcome comments from everyone with an interest in this area. We have identified a number of questions on which we would particularly invite comment:

1. Are the roles of the Counsel General and the Welsh Ministers in relation to Welsh Government prosecutions explained clearly enough?
2. Is the sufficient evidence stage of the Prosecution Test explained clearly enough?
3. Is the public interest stage of the Prosecution Test explained clearly enough?
4. Are the public interest factors explained clearly enough?
5. Is the relationship between the Code and the Code for Crown Prosecutors explained clearly enough?

6. Is there any section of the Code that you think should be expanded, and, if so, what do you think should be included?

**Consultation  
Response Form**

Your name:

Organisation (if applicable):

email / telephone number:

Your address:

**Question 1:** Are the roles of the Counsel General and the Welsh Ministers in relation to Welsh Government prosecutions explained clearly enough?

**Question 2:** Is the sufficient evidence stage of the Prosecution Test explained clearly enough?

**Question 3:** Is the public interest stage of the Prosecution Test explained clearly enough?

**Question 4:** Are the public interest factors explained clearly enough?

**Question 5:** Is the relationship between the Code and the Code for Crown Prosecutors explained clearly enough?

**Question 6:** Is there any section of the Code that you think should be expanded, and, if so, what do you think should be included?

**Question 7:** We would like to know your views on the effects that the Code would have on the Welsh language, specifically on

- i) opportunities for people to use Welsh and
- ii) on treating the Welsh language no less favourably than English.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

**Question 8:** Please also explain how you believe the proposed Code could be formulated or changed so as to have

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

**Question 9:** We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: