

POLICY FOR PROSECUTING ROAD TRAFFIC OFFENCES

SUMMARY OF CONSULTATION RESPONSES

The PPS's consultation on the updated Policy for Prosecuting Road Traffic Offences was issued on 5 July 2019 for an initial period of 12 weeks. This was then extended, closing on 25 October 2019. The aim of the consultation was to seek a wide range of views to inform the updated policy.

Responses were received from:

- The Law Society of Northern Ireland.
- Police Service of Northern Ireland.
- The Superintendents' Association of Northern Ireland.

All comments were taken fully into consideration. A summary of the points raised is set out below.

The Law Society of Northern Ireland	
Comment	PPS Response
<p><u>Response to Question 1</u> The overall purpose of the policy is to explain the approach of the PPS in taking prosecutorial decisions in respect of road traffic offences. In your view does the document deliver this?</p> <p>The Law Society of Northern Ireland believes that this document delivers an explanation on the PPS approach to such decisions.</p>	Noted.
<p><u>Response to Question 2</u> Is there sufficient information / guidance as to the PPS's approach across the range of road traffic offences covered by the policy? (see Chapter 2).</p> <p>The Law Society is content that sufficient guidance appears to be available.</p>	Noted.

<p><u>Response to Question 3</u> Is information / guidance required in respect of any additional road traffic offences? (i.e. offences not already covered in the policy document – see Chapter 2).</p> <p>The Law Society has no comment.</p>	<p>Noted.</p>
<p><u>Response to Question 4</u> At Chapter 3, is there sufficient information / guidance regarding the ‘mode of trial’ (i.e. prosecution in either the Crown Court or the Magistrates’ Court), and the relevant aggravating and mitigating factors considered by prosecutors?</p> <p>The Law Society would have nothing to add save that cognizance of developing case law in the area of jurisdiction must be a factor as well.</p>	<p>Noted and accepted. Reference to case law has been inserted at paragraph 3.1.4</p>
<p><u>Response to Question 5</u> Is there sufficient information / guidance with respect to the prosecutor’s role in assisting the court in sentencing matters? (see Chapter 4).</p> <p>There does appear to be sufficient information.</p>	<p>Noted.</p>
<p><u>Response to Question 6</u> At Chapter 7, is there sufficient information with regard to the PPS’s approach in cases involving a driver who has caused the death of a relative or someone with whom they share a close, personal relationship?</p> <p>There does appear to be sufficient information for such cases.</p>	<p>Noted.</p>

<p><u>Response to Question 7</u> Thinking about the document as a whole, is the information clear and easy to understand? For example, is there any complex legal language or jargon which needs to be amended or explained?</p> <p>The Law Society believe that the information is clear and easily understood.</p>	<p>Noted.</p>
<p><u>Response to Question 8</u> In your view are there any aspects of this policy that are likely to have an impact (positive or negative) on equality of opportunity across any of the S.75 categories?</p> <p>This is a matter for the PPS to satisfy themselves.</p>	<p>Noted.</p>
<p><u>Response to Question 9</u> In your view are there any aspects of the policy that are likely to have an impact (positive or negative) on good relations?</p> <p>This is a matter for the PPS to satisfy themselves.</p>	<p>Noted.</p>
<p><u>Response to Question 10</u> Are there any other comments you would like to make about this policy?</p> <p>The policy would benefit from acknowledging the need to consider representations from a suspect and their legal representative.</p>	<p>Agreed. Information on legal advice and representation has been added at section 1.3 of the document.</p>

Police Service of Northern Ireland	
Comment	PPS Response
<p><u>Response to Question 1</u> The overall purpose of the policy is to explain the approach of the PPS in taking prosecutorial decisions in respect of road traffic offences. In your view does the document deliver this?</p> <p>Yes, the document has been improved from its previous lay-out and flows better for the reader. The introduction in Chapter 1 sets the context before getting into the specifics of the individual offences and the particular considerations for each.</p>	Noted.
<p><u>Response to Question 2</u> Is there sufficient information / guidance as to the PPS's approach across the range of road traffic offences covered by the policy? (see Chapter 2).</p> <p>The guidance appears to take cognisance of recent cases that have tested the law such as cyclists knocking down pedestrians and the prosecution options available.</p>	Noted.
<p><u>Response to Question 3</u> Is information / guidance required in respect of any additional road traffic offences? (i.e. offences not already covered in the policy document – see Chapter 2).</p> <p>Nothing obvious identified - seems comprehensive.</p>	Noted.

<p><u>Response to Question 4</u> At Chapter 3, is there sufficient information / guidance regarding the ‘mode of trial’ (i.e. prosecution in either the Crown Court or the Magistrates’ Court), and the relevant aggravating and mitigating factors considered by prosecutors?</p> <p>Yes, the guidance appears to have been further refined as a result of the experiences over the last 8-9 years in prosecuting a number of high profile cases. The public expectation of what can be achieved have been raised and it is important to draw distinction between Careless and Dangerous, difficult as this may be. I think the explanations do a pretty good job and use scenarios and examples to illustrate the points made.</p>	<p>Noted.</p>
<p><u>Response to Question 5</u> Is there sufficient information / guidance with respect to the prosecutor’s role in assisting the court in sentencing matters? (see Chapter 4).</p> <p>The guidance is clear and readily understandable for the lay person. It provides a clear rationale and emphasises the issue of “culpability” in traffic cases which can be difficult for the Injured Party to grasp.</p>	<p>Noted.</p>
<p><u>Response to Question 6</u> At Chapter 7, is there sufficient information with regard to the PPS’s approach in cases involving a driver who has caused the death of a relative or someone with whom they share a close, personal relationship?</p> <p>A comprehensive explanation of the factors and considerations is provided. The factors involved both for and against are fully explained.</p>	<p>Noted.</p>

<p><u>Response to Question 7</u> Thinking about the document as a whole, is the information clear and easy to understand? For example, is there any complex legal language or jargon which needs to be amended or explained?</p> <p>Whilst it is inevitable that some of the issues are complex, the author has done a good job keeping the explanations easily understood and accessible for the average reader.</p>	<p>Noted.</p>
<p><u>Response to Question 8</u> In your view are there any aspects of this policy that are likely to have an impact (positive or negative) on equality of opportunity across any of the S.75 categories?</p> <p>Nothing identified.</p>	<p>Noted.</p>
<p><u>Response to Question 9</u> In your view are there any aspects of the policy that are likely to have an impact (positive or negative) on good relations?</p> <p>An equitable and even-handed decision making approach based solely upon the objective evidence available should deliver transparent justice to all sections of our community. In that regard I think it does have the potential to positively impact good relations.</p>	<p>Noted.</p>
<p><u>Response to Question 10</u> Are there any other comments you would like to make about this policy?</p> <p>No.</p>	<p>Noted.</p>

The Superintendents' Association of Northern Ireland

Comment	PPS Response
<p><u>Response to Question 1</u> The overall purpose of the policy is to explain the approach of the PPS in taking prosecutorial decisions in respect of road traffic offences. In your view does the document deliver this?</p> <p>Yes.</p>	<p>Noted.</p>
<p><u>Response to Question 2</u> Is there sufficient information / guidance as to the PPS's approach across the range of road traffic offences covered by the policy? (see Chapter 2).</p> <p>Yes.</p>	<p>Noted.</p>
<p><u>Response to Question 3</u> Is information / guidance required in respect of any additional road traffic offences? (i.e. offences not already covered in the policy document – see Chapter 2).</p> <p>2.13 deals with Driving in Emergency Situations</p> <p>An additional section should address Use of a Vehicle for Legitimate Policing Purposes. This should recognise that police pursuit drivers are trained in the tactic of a tactical contact whereby the police vehicle deliberately strikes a suspect vehicle in a controlled way to bring it to a halt. Reference might also be made to the necessary use of a radio by the driver of a single crewed police vehicle during a police operation.</p>	<p>Noted. It is considered that the points raised are a matter for the PSNI in the first instance.</p>

<p><u>Response to Question 4</u> At Chapter 3, is there sufficient information / guidance regarding the ‘mode of trial’ (i.e. prosecution in either the Crown Court or the Magistrates’ Court), and the relevant aggravating and mitigating factors considered by prosecutors?</p> <p>Section 3.2, Aggravating factors - an addition should be made to include vehicles used against the police or other emergency services in a manner that would be likely to cause injury to a person or animal, (police dog), damage to property and or to obstruct or otherwise impede or delay the emergency service from performing their role.</p>	<p>The list of factors is not exhaustive and it is not considered necessary to add to the list. Each case will be dealt with on its facts and in this situation the points raised would be taken into consideration.</p>
<p><u>Response to Question 5</u> Is there sufficient information / guidance with respect to the prosecutor’s role in assisting the court in sentencing matters? (see Chapter 4).</p> <p>Yes.</p>	<p>Noted.</p>
<p><u>Response to Question 6</u> At Chapter 7, is there sufficient information with regard to the PPS’s approach in cases involving a driver who has caused the death of a relative or someone with whom they share a close, personal relationship?</p> <p>Yes.</p>	<p>Noted.</p>
<p><u>Response to Question 7</u> Thinking about the document as a whole, is the information clear and easy to understand? For example, is there any complex legal language or jargon which needs to be amended or explained?</p> <p>Yes.</p>	<p>Noted.</p>

<p><u>Response to Question 8</u> In your view are there any aspects of this policy that are likely to have an impact (positive or negative) on equality of opportunity across any of the S.75 categories?</p> <p>None noted.</p>	<p>Noted.</p>
<p><u>Response to Question 9</u> In your view are there any aspects of the policy that are likely to have an impact (positive or negative) on good relations?</p> <p>None noted.</p>	<p>Noted.</p>
<p><u>Response to Question 10</u> Are there any other comments you would like to make about this policy?</p> <p>Section 10 - care of victims and families. Consideration should be given to a maximum time frame to reach a prosecutorial decision</p>	<p>Prosecutors strive to ensure that decisions are taken as expeditiously as possible. Time frames depend on a range of factors, for example the complexity of the case and whether there is a requirement for the issue of a decision information request to police.</p>

The PPS would like to thank all those who responded for their comments.

**Policy and Information Unit
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