Prison Reform Trust response to the public consultation on the Code for Crown Prosecutors – November 2026

The Prison Reform Trust (PRT) is an independent UK charity working to create a just, humane and effective penal system. We do this by inquiring into the workings of the system; informing prisoners, staff and the wider public; and by influencing Parliament, government and officials towards reform. The Prison Reform Trust provides the secretariat to the All Party Parliamentary Penal Affairs Group and has an advice and information service for people in prison.

The Prison Reform Trust's main objectives are:

- reducing unnecessary imprisonment and promoting community solutions to crime
- improving treatment and conditions for prisoners and their families
- promote equality and human rights in the criminal justice system.

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1. Do you have any views on the text on bias at paragraph 2.8?

We welcome the revised wording at paragraph 2.8 and its explicit recognition of the need to avoid bias, particularly in relation to protected characteristics. However, much of the substance of this provision is already reflected in the current Code through existing requirements for prosecutors to act fairly, objectively and impartially.

The revised wording therefore appears to clarify and consolidate existing expectations rather than introducing a materially different approach or practical framework for recognising, mitigating or challenging bias in decision-making.

Given that the CPS's research identified the potential for unconscious bias to influence charging decisions, consideration could be given to whether the Code should go further by encouraging prosecutors to reflect actively on the possibility of bias, challenge assumptions and stereotypes, and draw on relevant guidance, training and decision-making tools designed to support fair and consistent outcomes.

Such an addition would more clearly link the Code to the wider objectives of the CPS Action Plan on disproportionality and the accompanying measures intended to reduce disparities in charging decisions.

2. Do you have any views on the clarification of the timing of a charging decision and the appropriate use of action plans at paragraphs 4.3-4.4?

We have no specific comments on these proposals. In principle, measures which improve the timeliness and quality of charging decisions may be beneficial. However,

it will be important to ensure that any changes support efficient case progression without contributing to unnecessary delay or prolonged periods on remand while further evidential enquiries are pursued.

3. Do you agree that prosecutors should take into account any views provided by the victim, their circumstances and any risk to them, when making a charging decision? (paragraph 4.18, Question 1, bullet 1)

We agree that prosecutors should consider the circumstances of victims, including any views they may have provided and the impact of the offence on them. However, the revised wording gives greater prominence to victims' views than the existing Code and may create an expectation that those views will carry greater weight in charging decisions than is intended.

While the consultation makes clear that victims' views will not routinely be sought and that charging decisions remain matters of independent prosecutorial judgment, consideration could be given to reinforcing within the Code itself that victims' views are one factor among a wider range of public interest considerations and are not determinative of the decision whether to prosecute.

Without such clarification, there is a risk that victims, suspects, defendants and the wider public may interpret the revised wording as signalling a greater role for victims in charging decisions than is actually intended. This could create difficulties where a victim wishes a prosecution to proceed but prosecutors conclude that the evidential test is not met, where a victim opposes a prosecution but the public interest requires one, or where victims expect their views to be sought routinely when this is not envisaged by the Code.

Greater clarity within the Code would help ensure that victims' perspectives are given appropriate consideration while maintaining confidence in the independence of prosecutorial decision-making.

4. In cases charged under the Threshold Test, do you agree with bringing forward the deadline for the application of the Full Code Test to before the indictment is lodged? (paragraph 6.11)

We have no specific concerns regarding this proposal. Bringing forward the application of the Full Code Test appears likely to support earlier and more robust review of cases charged under the Threshold Test. In principle, measures that promote timely decision-making and reduce unnecessary progression of cases through the criminal justice system are welcome. We would expect implementation to support, rather than delay, the resolution of cases and minimise any unnecessary periods spent on remand while proceedings remain ongoing.

5. Do you have any views on the approach or the text at paragraph 7.2, which allows prosecutors to consider deterrent effect, cost and delay when selecting charges?

We have no specific concerns regarding this proposal. The amendment appears to be a pragmatic response to court delays and is not a substantial departure from the existing Code. We welcome the emphasis that any decision to proceed on a lesser charge must continue to satisfy the interests of justice.

Reducing unnecessary delay and pressure on the Crown Court may benefit victims, witnesses and defendants alike. However, it is important that considerations of cost and delay do not inadvertently outweigh other interests relevant to the fair administration of justice. Where proceeding on a lesser charge results in a case being heard in the magistrates' court rather than the Crown Court, there may be implications for defendants, including the loss of access to a jury trial.

6. Do you have any views on the inclusion of text, or on any of the specific text, on non-prosecution powers and proceedings in the Code? (paragraphs 1.4, 2.5, 3.1, 4.5, 4.7 and 4.13)

We welcome the clearer recognition of non-prosecution powers and proceedings within the Code, and support the principle that prosecutors should have access to a range of proportionate responses beyond prosecution where these are appropriate and in the public interest. Such measures may, in some circumstances, provide a more effective response than prosecution alone.

However, it is important that the use of non-prosecution powers remains proportionate, transparent and subject to appropriate safeguards. Consideration should also be given to the potential consequences of non-compliance, and to ensuring that such measures operate as genuine alternatives to prosecution rather than extending criminal justice intervention to individuals who might otherwise receive no further action. We would also welcome ongoing monitoring to ensure that access to, and use of, non-prosecution outcomes is applied fairly and consistently across different groups.

7. Do you have any other views on the draft Code?

We welcome the proposed amendments to both the rule of law and public interest sections of the Code.

In particular, we support the clearer articulation of the full range of outcomes available to prosecutors when reviewing a case, including prosecution, an out-of-court resolution, CPS non-prosecution proceedings, referral to a relevant public body, or no further action. Explicit recognition of these options helps reinforce that prosecution is not the only appropriate response in every case and may encourage consideration of more proportionate and effective alternatives where these are available and in the public interest.

We also strongly welcome the addition of a specific public interest factor requiring prosecutors to consider whether a prosecution may lead to an unjust outcome where a suspect was under 18 at the time of the offence but will be 18 or over by the date of conviction and sentence. Delays in the criminal justice system can have significant consequences for children and young people, particularly where those delays mean that an individual becomes subject to the adult sentencing framework despite having committed the offence as a child. The proposed amendment rightly recognises that prosecutors should take account of the impact of such delays when assessing whether a prosecution remains in the public interest.