



**NIACRO'S RESPONSE TO THE PUBLIC
PROSECUTION SERVICE CONSULTATION
ON THE POLICY FOR PROSECUTING
CASES OF RAPE**

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NIACRO, the Northern Ireland Association for the Care and Resettlement of Offenders, is a voluntary organisation, working for almost 40 years to reduce crime and its impact on people and communities. NIACRO provides services under the headings of; working with children and young people who offend; providing services to families and children of offenders; supporting offenders and ex-prisoners in the community and working with prisoners.

NIACRO receives funding from and works in partnership with all the main criminal justice agencies in Northern Ireland.

We welcome the opportunity to respond to the PPS consultation on the Policy for Prosecuting Cases of Rape.

NIACRO works with both the perpetrators and the victims of rape: with offenders in custody and in the community providing: -

- Childcare and Family Support.
- Resettlement support through the APAC programme (Assisting People and Communities) which assesses need and works to motivate and gain engagement on issues such as finance, accommodation, alcohol/drug dependency, relationships, health and presenting issues, with linkage to local community resources.
- Employment Related Services through our Jobtrack Programme and access to attaining learning and vocational skills.
- Personal and social development opportunities.
- Mentoring (with trained volunteers) as an additional support in the community.
- NIACRO also provides signposting services to voluntary, community and faith based organisations.
- NIACRO works closely with the Women's Support Network / Women's Centres alongside Probation, to develop a model of community support for women offenders.

Recent research published by the Home Office¹ emphasises the importance of addressing the needs of women offenders as victims of abuse.

¹ Corston (2004) [A report by Baroness Jean Corston of a review of women with particular vulnerabilities in the criminal justice system](#), Home Office, London

DRAFT PPS POLICY FOR PROSECUTING CASES OF RAPE

1. NIACRO has welcomed the re-defining of rape within the Sexual Offences (NI) Order 2008 and that it will apply (2.9) to all offences committed after 2nd February 2009.
2. The Test for Prosecution involves (i) the evidential test and (ii) the public interest test. NIACRO concurs with the view that the interests of the victim and the implications for the victim (3.19) must be considered when deciding where the public interest lies.
3. Where a victim withdraws support for a prosecution, the PPS proposes to take a number of steps (4.7) which NIACRO believes will help ensure the original complaint was genuine, that the victim has not been put under pressure and their safety is protected.
4. It is stated (5.1) that in *most cases* the Public Prosecutor will consult with the victim prior to taking a decision about prosecution. It is difficult to identify a situation where this should not be done.
5. NIACRO welcomes the commitment to treating victims and witnesses with “sympathy, sensitivity, courtesy, etc” at consultation (5.7). Whilst acknowledging the need for police to gather evidence, it would be helpful for victims if they were given an indication of the likely time-frame between reporting an incident and the first consultation with the PPS.
6. A victim or witness will be advised by letter about the decision to prosecute (5.12). This decision will have significant implications for the victim/witness. NIACRO recommends the PPS should take some responsibility for making sure individuals are referred on to appropriate help services and/or followed up by investigating police.
7. It is stated (5.14) that the prosecutor *will normally* consult with the victim or witness before the trial – possibly on the day of the trial – depending on the nature of the evidence. This focus here is clearly on the needs of the Prosecution Service rather than the needs of victims/witnesses.

Whilst the PPS has an independent role, it also has responsibility to put forward the case against the defendant and the victim/witness will be relying on the PPS to do so. Victims/witnesses should expect to have consultation with the PPS in all circumstances and always prior to the day of trial.

8. NIACRO welcomes the commitment to explaining to victims the reasons (6.4) why a decision is made not to prosecute.
9. It is also helpful that a victim may request a review of this decision (7.1) and that there is the possibility that the decision may be overturned.

10. Not being informed of developments/progress is one of the most significant problems that victims/witnesses experience. Every effort must be made to explain to victims in advance why a charge may be withdrawn by prosecution or substantially reduced (8.7).
11. Whilst acknowledging the efforts being made to avoid unnecessary delays in the progression of a case, it would be helpful if the PPS could offer victims a key contact for communication throughout the process (9.3).
12. At the outset, the presumption in favour of granting bail must be explained to victims and witnesses (10.3). The fears and concerns of victims need to be taken into account by the investigating police without raising the expectations of victims that the accused will be held in custody.
13. It is stated the prosecutor *will endeavour* to speak to victims and witnesses before they give evidence. This should be a mandatory requirement in all cases, particularly in respect of victims (11.2).
14. The practice of “plea bargaining” is not considered acceptable by the PPS. However, any offer made by defence – even if it is consistent with the evidence available – may be construed as plea bargaining by the victim. It is the responsibility of the prosecutor to ensure the victim does not feel they have not been believed. (11.12).
15. NIACRO concurs with the view that referrals to Witness Services should be made at the earliest possible opportunity so that pre-trial support can be offered (12.16).
16. Following a finding of guilt, the PPS should help prepare victims for the sentencing process, explaining what the Judge will be taking into account in making his decision, so that they better understand the judgement when it is made (13.7).
17. In conclusion, it is NIACRO’s view that whilst this policy gives recognition to the needs of victims and witnesses, the independent role of the PPS does mean that there may well be occasions when the individual victim may not feel their interests are being represented. It is important that when the public come forward with legitimate complaints of rape, they are supported and feel represented.

NIACRO recommends the PPS should monitor these procedures closely, with the support of the voluntary sector agencies involved, and seek feedback from victims, witnesses and their families in regard to their implementation.