

The Crown Prosecution Service

Private Prosecutions

Principle

A private prosecution is a prosecution started by a private individual who is not acting on behalf of the police or any other prosecuting authority or body which conducts prosecutions.

The right to bring private prosecutions is preserved by section 6(1) Prosecution of Offences Act, 1985 . There are, however, some controls:

- the DPP has power under section 6(2) Prosecution of Offences Act 1985 to take over private prosecutions;
- in some cases, the private prosecutor must seek the consent of the Attorney General or of the DPP before the commencement of proceedings.

In principle, there is nothing wrong in allowing a private prosecution to run its course through to verdict and, in appropriate cases, sentence. The fact that a private prosecution succeeds is not an indication that the case should have been prosecuted by the CPS. Parliament has specifically allowed for this possibility by the way section 6 is constructed: there is no requirement for the CPS to take over a private prosecution.

However, there will be instances where it is appropriate for the CPS to exercise the Director's powers under section 6(2), either to continue the prosecution or to discontinue it.

The decision whether or not to take over a private prosecution should be made by the CCP (or Deputy CCP) or relevant Head of Casework Divisions.

Where the private prosecution requires extradition proceedings, prosecutors should follow the Legal Guidance on Extradition.

How the CPS may find out about a private prosecution

The private prosecutor is not under a duty to inform the CPS that a private prosecution has commenced. The CPS may therefore find out about a private prosecution in one of the following ways:

- where the private prosecutor, or a representative of the private prosecutor, asks the CPS to take over the prosecution;
- where the defendant, or a representative of the defendant, asks the CPS to take over the prosecution;
- where extradition is required and the Home Office (directly or indirectly) refers the private prosecutor, or a representative of the private prosecutor, to the CPS;