

113. As the Codes evolved with the law as it changed, it will be seen that they became targeted at particular areas of the criminal justice system, at specific types of offending and at a consideration of the victims of crime. In this sense, the Codes evolved over time from being suspect focused to more victim focussed.

1986 Code for Crown Prosecutors, 1st Edition [Exhibit GM/6]

114. The test for a prosecution as set out by the first CPS Code was one of sufficiency of evidence. The Code required prosecutors to be;

“satisfied that there is admissible, substantial and reliable evidence that a criminal offence known to the law has been committed by an identifiable person.”

The Code continued,

“The Crown Prosecution Service does not support the proposition that a bare prima facie case is enough, but rather will apply the test of whether there is a realistic prospect of a conviction. When reaching this decision the Crown Prosecutor as a first step will wish to satisfy himself that there is no realistic expectation of an ordered acquittal or a successful submission in the Magistrates’ Court of no case to answer. He should also have regard to any lines of defence which are plainly open to, or have been indicated by, the accused and any other factors which in his view would affect the likelihood or otherwise of a conviction.”

The Crown Prosecutor in evaluating the evidence should have regard to the following matters:-

(i) In respect of any evidence, having regard to the requirements of the Police and Criminal Evidence Act 1984 and Codes of Practice, are there ‘grounds for believing that breaches of the requirements may lead to the exclusion of the evidence under Part VIII of the Act?’

(ii) If the case depends in part on admissions by the accused, are there any grounds for believing that they are of doubtful reliability having regard to the age, intelligence and apparent understanding of the accused?

(iii) Does it appear that a witness is exaggerating, or that his memory is faulty, or that he is either hostile or friendly to the accused, or may be otherwise unreliable?

(iv) Has a witness a motive for telling less than the whole truth?

(v) Are there matters which might properly be put to a witness by the defence to attack his credibility?