



The Attorney General Falkland Islands

AGG4

The Attorney General's Guidance on File Standards

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The Law and Regulation Directorate
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1. Introduction

1. This Guidance is issued under the provisions of section 62(9) of the Criminal Procedure and Evidence Ordinance 2014 ('the Ordinance') and sets out arrangements prescribed by the Attorney General for the joint working of police officers and prosecutors during the investigation and prosecution of criminal cases and the expected standard for police files submitted for charging decisions.
2. When an investigating officer submits a case file to a prosecutor for a charging decision to be made it is crucial that the file contains all the available evidence and information necessary for the charging decision to be fully considered. In order to ensure consistency and maximise efficiency this document prescribes a set standard and format for file submission.
3. All police officers preparing files for submission to a prosecutor for a charging decision to be made are expected to follow these standards. Any deviation from the standards must be clearly explained otherwise the file will be returned to the officer concerned to rectify any shortcomings. Any such returns will build delay into the process and must therefore be avoided.
4. The setting of Prosecution Team Standards has a number of advantages:
 - It ensures consistency in the quality of files.
 - It acts as a benchmark by which file standards can be judged.
 - It provides guidance to officers as to what is required in a file.
 - It creates certainty as to what a file must contain.
 - It embeds good practice and ensures that officers can become familiar with all aspects of file-building and ensures that skills are not lost over time.
5. Once a case is charged and is to proceed to court, the prosecution file for the first hearing must be proportionate to the requirements of that hearing whilst at the same time providing the prosecutor with sufficient information to be able to conclude the case if the plea is guilty. It must also enable the prosecutor to conduct an effective case management hearing if a not guilty plea is entered. The only exception to this requirement is where the charging decision has been made applying the Threshold Test.

6. The File Standard provides for a staged and proportionate approach to the preparation of case files. It specifies the material required for the first hearing and identifies how the file is to be developed at appropriate stages throughout the life of the case. It will provide the prosecutor, the defence and the court with information proportionate and necessary to progress the case. The case management regime requires the court to identify, once a not guilty plea is entered, the precise details of the real issues in dispute in the case.
7. This will allow for the further proportionate development of the case in preparation for the trial hearing. Operation of effective case management hearings is dependent upon inclusion of the core material within the file for the first hearing which will allow the prosecutor to complete the Case Management Form as required.
8. Unnecessary file build and unnecessary adjournments in cases can be avoided by the strict adherence to this standard.

2. File Standard

Case file submitted for investigative advice

9. Investigative advice can be sought at any stage of a police investigation and on a wide range of legal and evidential issues. It is therefore undesirable to specify exactly the contents of a police file submitted for investigate advice as each submission will be different in nature.
10. The general standard to be expected is that a case file submitted for investigative advice must contain sufficient information and/or evidence for the advice sought to be given fully and contain at least a summary, on form MG3, of all relevant matters.
11. It is important that prosecutors are not asked to provide advice based on incomplete information as this may lead to inaccurate advice being given which requires amendment at a later date once the full picture has been revealed. It is therefore crucial that police officers seeking investigative advice set out the circumstances of the case in a fair and objective manner.
12. Where evidence has already been gathered in the form of witness statements etc. then as much evidence as possible should be provided with the file to assist the prosecutor in settling the advice.
13. Where evidence has yet to be obtained, for example where advice is sought on whether conduct can amount to a criminal offence, then a full summary of the case should be provided on form MG3.

Case file submitted for full charging decision

Mandatory documents

14. Every case file submitted for a charging decision must contain the following documents or there must be a good reason, explained on form MG3 as to why the item is not included in the file.

MG1: File front sheet containing information about the suspect and the case.

MG3: Submission to Attorney General

MG6C Schedules of unused material

MG6D

MG6E

MG9: List of Witnesses

MG10: Witness non-availability

MG11(s): Witness statement(s) - Typed

MG12: List of Exhibits

Copies of exhibits: Original exhibits **MUST NOT** be left on the police file and must not be submitted unless requested. Copies should be provided.

MG15: Interview Record: this will consist of a full transcript or accurate summary

Convictions: For all suspects and prosecution witnesses.

Optional documents

15. The following documents should always be included if available.

MG2:	Special measures assessment
MG5:	Case summary (if necessary)
MG6A:	Pre-interview disclosure
MG6B:	Disciplinary records
MG7:	Remand application
MG8:	Breach of bail conditions
MG13:	Application for orders on convictions
MG15:	Transcript of interview or descriptive note or copy of prepared statement
MG16:	Bad character
MG18:	Offences to be taken into consideration
MG19:	Compensation form
Form 7:	Notice of bail (conditions)
Form 15:	Drink drive procedure
Form 20:	Domestic violence protection notice
Form 25:	Road traffic collision report
Form 27:	Child abduction warning notice

3. Additional Notes

Witness Statements

16. Except in cases requiring a short form charging decision (where a remand in custody is to be sought) all witness statements should be typed prior to file submission. If there is a particular reason why typed statements cannot be presented then the officer in the case should liaise with a prosecutor to discuss the reasons why. Typed statements are required by the court and it is necessary to have prepared typed statements prior to charging decisions being made.

Scientific evidence

17. In any case in which material evidence against a person consists of a DNA or fingerprint or other forensic analysis, confirmation of the match report, accompanied by other supporting evidence in the case, or positive fingerprint identification will suffice for the purposes of making a charging decision.
18. Preliminary information on finger print lifts must indicate the location and position of any identified finger prints and their significance. Also notice should be given of any other fingerprints lifted and not belonging to the suspect; whether these have been identified and if so, whether the persons concerned have been eliminated from the enquiry. A full evidential statement detailing the analysis will only be required if the defendant enters a plea of Not Guilty and the defence confirm that they are challenging aspects of the forensic report.
19. Where a controlled substance has been identified through the use of a drug testing kit or in the case of cannabis by an experienced police officer, only where the identification is challenged will further scientific evidence be obtained after charge.

Medical evidence

20. Subject to the following paragraph, in any case involving an allegation of assault which is suitable for sentencing in the Summary Court, evidence of a medical practitioner will not be a necessity but if such evidence is readily available it should be obtained.
21. Otherwise good reliable eye-witness evidence or good quality photographs accompanied by descriptions of the extent of the injuries will suffice for most minor assault cases.

22. Where the victim of an assault has sought medical attention, this must be revealed to the prosecutor unless a statement from the medical practitioner forms part of the prosecution case. Medical notes should be checked as unused material and a copy should be obtained if a statement is taken.

Visually Recorded Evidence

23. There is no substitute for the prosecutor viewing the recording or photograph, as many times as is necessary, in order that an assessment can be made of the evidence it provides; the conduct of the suspect(s); the visual quality of the recording; and any interpretation that is necessary (e.g. is it likely that a claim of self-defence could be sustained).
24. The prosecutor will also have to consider the images viewed alongside other relevant evidence not recorded on camera; its overall effect on the conduct of the case and its likely impact on justice. Whenever visually recorded evidence is submitted to the prosecutor the officer in the case should provide a clear reference point for the start and end of the relevant parts of the recording and a chronology of events with timer/counter references. This will assist the prosecutor to quickly find the relevant footage.
25. Where a charging decision is required on a Threshold Test basis and it is not practicable for the relevant evidence contained in a visual recording to be viewed the prosecutor may consider accepting a summary of what can be seen on a visual recording if satisfied that:
 - (a) the summary is a factual account that has been prepared by an officer who has viewed the recorded material;
 - (b) the images displayed are of sufficient quality to clearly identify the suspect;
 - (c) where practicable, the visually recorded material was shown to the suspect in interview and any response recorded.
26. The prosecutor must then exercise judgement taking the following factors into account:
 - (a) does the summary of the recorded material taken together with any witness statements obtained provide a continuous account of the alleged offence?
 - (b) is the summary of the recorded material consistent with other evidence available?
 - (c) has the suspect put forward a defence which requires an interpretation of the recorded material?
 - (d) has the suspect put forward, as a defence, actions that are not referred to in the summary?

27. The summary provided should be accepted unless the prosecutor concludes the charging decision cannot properly be made without viewing the material.
28. The summary should be provided in report form on the MG3 and should be a clear factual account of what can be observed, specifying the actions of the suspect and any relevant reaction of others present. It should provide a clear description of the suspect including clothes worn.
29. It should also include a clear reference point for the start and end of the relevant parts of the recording and indicate the extent to which other parts of the recorded material have been viewed.

Third Party Material

30. All police officers must be fully trained in respect of the disclosure requirements of the Ordinance. In respect of the following types of complaints enquiries will be made with Social Services, Medical, Education and any other relevant authorities as to whether any records are held.
31. Where relevant the Disclosure Officer will also make enquiries relating to employment records including disciplinary records.
32. In all cases where a 'Not Guilty' plea is anticipated the Disclosure Officer will view all old case files / crime reports relating to the suspect, complainant and witnesses and schedule same if relevant to the offence under investigation. This will be done at an early stage in the investigation in order to better inform the officer in the case whether there is any undermining material.

Document Control

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