

### **Can I start a private prosecution?**

There are a number of steps that you need to consider before embarking on a private prosecution.

### **Do I need to report the matter to the police?**

Whilst there is no requirement to report the alleged crime to the police or other authority, it is advisable to do so.

The police and CPS ought to be given the opportunity to take on the prosecution. If you fail to do that, you may be criticised later when seeking costs from central funds.

### **Do I need a solicitor to prepare a private prosecution?**

There is no requirement for you to be legally represented, however compliance with the criminal procedure rules, and rules of evidence, can be complex even for experienced lawyers.

It is therefore always advisable to seek legal advice.

### **Who will pay for the private prosecution?**

Prosecutions have to be privately funded.

### **Steps to be taken**

The first step is to preserve and collate the evidence.

Private investigators and forensic computer experts maybe required to secure electronic evidence contained on a company's server. This is particularly true in cases of fraud.

Once sufficient evidence has been collated, we can advise on the strength of the case.

We must then draft a charge to go before the Magistrates' Court to persuade the court that the process is being used appropriately. If we are able to do that a summons will be issued and criminal proceedings will start.

### **Might the authorities step in?**

The Director of Public Prosecutions (DPP) through the Crown Prosecution Service always has the power to take over a private prosecution if they think fit. The DPP will need to consider the standard 2-phase test under the code for Crown Prosecutors i.e.

- Is there sufficient evidence to provide a realistic prospect of conviction?
- Is the prosecution in the public interest?

**When might I start a private prosecution?**

Private prosecutions can be considered for any criminal offences, but they are often used to recover the proceeds of theft or fraud. A private prosecution might be cheaper and more efficient than civil litigation.

Private prosecutions can also be used when groups of people have been wronged. The obvious advantage to this is the cost advantage.

**If I win, will I recover my costs?**

In the event that the private prosecution is successful, you may recover costs from the defendant if they have the means to pay, or alternatively, from central funds.

There is, however, a possibility that the costs can be awarded against you if the court form the view that the prosecution was vexatious or improper. For that reason, it is important to seek legal advice as to the merits of prosecution.