

Example prosecution protocol

Summary of steps to be undertaken in prosecution:

Step No.	Description of step	Personnel involved
1.	Preparation of investigation file (factual)	Officer in charge
2.	Report to team leader / manager	Officer in charge
3.	Decision to refer file to legal services for prosecution	Team leader / manager
4.	Preparation of prosecution file (preliminary)	Officer in charge
5.	Legal review of prosecution file (preliminary)	Legal services
6.	Meeting to discuss prosecution file	Legal services, officer in charge, team leader / manager
7.	Recommendation on whether or not to prosecute	Legal services
8.	Decision to prosecute	Team leader / manager
9.	Preparation of Court file	Legal services (in consultation with officer in charge)
10.	Filing and service of information / notice of prosecution	Legal services (in consultation with officer in charge)
11.	Preparation of prosecution file for defended hearing	Officer in charge
12.	Preparation for and attendance at Court hearing	Legal services accompanied by officer in charge
13.	Reporting back on the Court hearing	Legal services, officer in charge, team leader / manager

Note: Officer in charge must have authority to instruct solicitor – before, during and after Court attendance.

Detail of steps to be undertaken in prosecution:

1. Preparation of investigation file (factual) by officer in charge. This file contains all relevant information concerning the current prosecution.
2. Preparation of report to team leader / manager requesting prosecution, by officer in charge. Report uses a standard form, which includes assessment of the file against legislation-specific sentencing factors and any prosecution criteria established by council or the responsible manager(s).
3. Decision by team leader / manager to refer to Legal Services (or a lawyer who will act on behalf of the council) for prosecution. On the basis of the report from the officer in charge and all other relevant information, the team leader / manager determines whether the file should be further considered for prosecution. This occurs by way of referral to legal services for a review and recommendation as to prosecution.

Note: Once a file has been referred to legal services (or the lawyer acting on behalf of the council) to prosecute, any information received by the officer in charge in relation to the file needs to be referred to legal (including any correspondence or contact from the defendant or defendant's legal representative).

4. Preparation of prosecution file (preliminary) by officer in charge. The file contains the following information (where relevant):
 - information on potential defendant's identity -CT (owner), company search (director's names), licenses (ability to use property)
 - copies of relevant sections of legislation and/or copies of any bylaw identifying such things as the alleged offence and any potential defences
 - copies of relevant parts of the district plan
 - draft information (can be in note form), or notice of prosecution or infringement
 - draft summary of facts
 - names of potential witnesses
 - exhibits list (and corresponding name of the witness who is to produce the item of document / evidence)
 - chronology of events
 - date by which charges must be laid (usually six months after incident occurred)
 - original files to be maintained by officer in charge - copy to legal services
5. Review of prosecution file (preliminary) by legal services. Legal services are to review a copy of the prosecution file (preliminary), officer report, checklist and any other information provided by the officer in charge. This includes undertaking an analysis of the evidence in light of the following:
 - the offence section and regulation
 - elements of the offence
 - potential defences
 - potential penalty.
6. Meeting to discuss findings in review of the prosecution file (preliminary) called by legal services (or lawyer acting on behalf of the council), with the officer in charge and team leader/ manager. The object of the meeting will be to determine if a recommendation can be made whether or not to prosecute, and what the reasons for that recommendation would be. A recommendation will be postponed, if legal services and officers agree that further information is required and can reasonably be obtained.
7. Recommendation on whether or not to prosecute by Legal Services (or lawyer acting on behalf of the council). Legal services make such a recommendation to the team leader/manager, in reference to the terms of the review.
8. Decision to prosecute by team leader / manager. The team leader / manager considers the recommendation from legal services (or lawyer acting on behalf of the council) and decides whether or not to prosecute. Note: The team leader/manager must have appropriate delegation to take this decision.
9. Preparation of Court file by legal services (or lawyer acting on behalf of the council). If the team leader / manager after receiving the recommendation from legal services decides to prosecute, the Court file is to be prepared by finalizing the information / notice of prosecution and the summary of facts (both in consultation with officer in charge).
10. Filing and service of information / notice of prosecution by legal services (or lawyer acting on behalf of the council).

11. Preparation of prosecution file for defended hearing by officer in charge. The prosecution file (preliminary) is to be completed into readiness for a defended hearing by reference to the following checklist:
- copies of relevant sections of legislation and/or copies of any bylaw identifying such things as the alleged offence and any potential defences
 - informant's copy of the information(s)
 - summary of facts
 - witness schedule
 - briefs of evidence for all witnesses (supported by copy of original statement)
 - exhibits schedule (with corresponding name of the witness who is to produce the item of document/evidence)
 - copies of exhibits to be produced
 - victim impact statement.

Note: original files to be maintained by officer in charge; copy to legal services (or lawyer acting on behalf of the council).

12. Preparation for and attendance at Court hearing. The respective roles of legal services (or lawyer acting on behalf of the council) and the officer in charge are as follows:
- a. legal services (or lawyer acting on behalf of the council).
 - liaise with Court / defendant's counsel
 - prepare and present legal submissions (including any necessary research)
 - prepare bundle of documents (in conjunction with officer in charge)
 - prepare cross-examination
 - attend at Court (interlocutory and actual hearing) – responsible for presenting case in Court
 - b. officer in charge
 - accompany solicitor to Court
 - be familiar with evidence / case generally
 - liaise with and coordinate witnesses (including organising all witness travel arrangements to/from Court)
 - issue witness summonses
 - present own evidence in Court
 - take responsibility for exhibits
 - attend at Court (interlocutory and actual hearing).

Note: Legal services (or lawyer acting on behalf of the council) and the officer in charge liaise closely when the matter is being prepared and presented, and in the event of a plea negotiation. Legal services acts on instructions from the officer in charge, who may need to refer back to the team leader / manager.

13. Reporting back on the court hearing. The officer in charge shall advise the team leader / manager of the court hearing on return. Legal services (or lawyer acting on behalf of the council) shall provide notes of the judge's sentencing. The officer in charge, in consultation with legal services and the team leader / manager, will present the team with lessons learnt from the proceedings.