

NATIONAL POLICY ON PROSECUTION

2016

1. Preamble

WHEREAS:

(1) The prosecutor occupies a formidable position in the administration of criminal justice and his prosecutorial decisions may profoundly affect the lives of others;

(2) In each case, the prosecutor must carefully evaluate the evidence, apply the law and decide if a prosecution is appropriate, the prosecutorial discretion should be exercised in a manner that is consistent, fair and objective, difficult decisions must be confronted, and the prosecutor must apply professional judgement;

(3) The prosecutor is guided at all times by the public interest, and exercises an important discretion on behalf of the public of whether or not to institute a prosecution of a suspect, and how to conduct the prosecution once it has begun; and

(4) There is need to maintain public confidence in the administration of criminal justice, and that the society has a legitimate interest in the work of the prosecutor

NOW THEREFORE it is imperative to adopt a National Policy on Prosecution, Code of Conduct and National Guidelines for Prosecutors that will prescribe statements of good values, best practices and a guide towards rendering efficient, effective, accountable and professional prosecutorial services in Nigeria.

2. Rationale for the Policy

A national policy is necessary for efficient and effective crime prosecution in a federation like Nigeria. It is essential in providing consistent, uniform and credible framework for improving cooperation, enhancing expertise and capacity of prosecutors across the country.

The Nigerian legal system comprises common law, sharia and customary law. The federal system of government allows each state to have its own criminal justice system.

The Constitution confers on the Attorney General of the Federation and of the States the responsibility for prosecution of crimes. At the federal level, there are several agencies responsible for investigating and prosecuting offences especially in specialized matters that require technical expertise. However, the day to day practice of prosecution is carried out through various prosecution agencies and the offices of the Directors of Public Prosecutions at the Federal and State levels.

With the increasing rate of organised and emerging crimes in the country, the National Policy on Prosecution provides the values and standards to guide prosecutors and prosecuting agencies in delivering quality services.

3. Application of the Policy

This National Policy on Prosecution shall be applicable to all prosecutors in Nigeria.

4. Vision

The vision of this Policy shall be the effective, fair, reliable and timely prosecution of criminal cases in Nigeria.

5. Mission Statement

(1) To provide effective, efficient, transparent, timely and quality prosecution in matters involving criminal activities in Nigeria.

(2) To foster respect for human rights and the rule of law in Nigeria.

(3) To ensure safety, security and compliance with the law through a just and fair criminal justice administration

(4) To pursue the use of innovative policies, practices and guidance in management of cases and human resources to ensure effective and efficient operations in the administration of criminal justice.

(5) To ensure professionalism, accountability and transparency in prosecution of cases in Nigeria.

6. Fundamental Principles of the Policy:

- (1) Justice
- (2) Public interest
- (3) Safety and security
- (4) Rule of law, human rights and public order
- (5) Economic growth
- (6) Crimes reduction
- (7) Professionalism

7. General objectives of prosecution

- (1) Punishment
- (2) Deterrence
- (3) Rehabilitation
- (4) Restitution
- (5) Restoration
- (6) Compensation
- (7) Justice for the victim, defendant and the society

8. Responsibilities of the prosecutor

The following are values which the prosecutor shall adhere to at each stage of the prosecutorial process:

- (1) The prosecutor shall be fair, impartial and objective;
- (2) The prosecutor shall conduct his duties with integrity and due diligence and ensure that in each case the right prosecutorial decision is made;
- (3) The prosecutor shall maintain the honour and dignity of the profession and exercise the highest standard of care;
- (4) The prosecutor shall keep himself well informed of relevant legal developments;

(5) The prosecutor shall respect the defendant's right to a fair trial and in particular, ensure that evidence or other materials favourable to the defendant is disclosed to the defence in accordance with the law and the Rules of Professional Conduct'

(6) The prosecutor shall balance the risks posed by the crime, seriousness of the crime, the interest of the public and ends of justice;

(7) The prosecutor shall be consistent and independent in the exercise of his discretion and professional judgement;

(8) The prosecutor shall promote mutually beneficial partnership among officials and agencies involved in investigation and prosecution across the country;

(9) The prosecutor shall ensure that those involved in the prosecution processes, namely, victims of crime, witnesses, complainants, and the general public understand -

(a) what is expected of them;

(b) what is expected of the prosecutor;

(c) the reasons behind decisions to prosecute or not to prosecute; and

(d) what rights of appeal or review are available.

(10) The prosecutor shall ensure that resources are committed to areas or activities that would yield maximum public benefit;

(11) The prosecutor shall ensure that the rights of individuals involved in the criminal justice process are respected and protected;

(12) The prosecutor shall avoid circumstances that may lead to personal conflict of interests and shall not rely on extraneous factors in exercising his discretion;

(13)The prosecutor shall ensure that those who have complaints or grievances receive accessible, open and fair hearing and that measures for redress are credible and effective; and

(14) The prosecutor shall from time to time inform a victim of crime of any prosecutorial process in relation to his case

9. Criteria governing the decision to prosecute.

The prosecutor shall consider the following issues in deciding whether or not to prosecute:

(1) The evidential test: is there sufficient evidence to justify the institution of a charge or continuation of the proceedings? The prosecutor may, where necessary, refer the case to the investigator for further investigation, and if no further evidence is furnished, the prosecutor shall advise accordingly.

(2) Deterrence test: will prosecuting the case assist in discouraging potential offenders from committing similar offences?

(3) Rule of law and human rights test: have all the legal rights of the suspect been respected in the process? Were the procedures followed in the case permitted by law?

(4) The public interest test: is it in the interest of the public to prosecute? In taking the decision to prosecute based on 'public interest', the prosecutor may consider the following:

(a) The prevalence of the offence,

(b) Possible cost of prosecution,

(c) Severity or gravity of the offence, and degree of harm or loss suffered by the victim,

(d) Age of the victim or the offender,

(e) Vulnerable status of the victim or the offender,

(f) Possibility of abuse of the legal process,

(g) Public morality and public safety,

(h) Circumstances of any previous offences and the likelihood of further offending,

(i) Availability of suitable alternatives to prosecution,

(j) Possibility of conviction resulting in a significant penalty

(k) Where the offence was premeditated, or violence was threatened or a weapon was used during the commission of the offence

(l) Where there is any element of corruption or other forms of economic or organised crime; and

(m) Such other factors as the circumstances of the particular case may require.

(5) Juvenile offenders: In dealing with a case involving a juvenile offender, the prosecutor shall give due consideration to the wellbeing and interests of the juvenile and take such action as is necessary in accordance with existing laws on juvenile offenders

(6) Prosecution of sexual offences: Where there is prima facie evidence that a sexual offence such as rape or defilement has been committed, it shall be in the public interest to prosecute.

(7) Choice of law or charges: Having regard to the right of the prosecutor to amend a charge before judgment, charges shall be based on credible evidence. In deciding which offence to charge a suspect with, the prosecutor shall consider which offence the available admissible evidence would most likely result in conviction and the most appropriate punishment or remedy.

10. Victims of Crime

In deciding whether to prosecute, the prosecutor should consider the following remedies available to victims of crime

(1) Restoration,

(2) Restitution,

(3) Reparation

(4) Punishment of the offender,

(5) Apology to the victim, and

(6) Compensation.

11. Waiver from Prosecution

Where the prosecutor considers it necessary, he may grant a waiver from prosecution to an accomplice. Waiver should only be given in the interest of

justice and of the public. In deciding whether or not to grant a waiver, the prosecutor should consider the following:

- (1) the evidence that the accomplice can give is considered necessary to secure the conviction of the defendant, and that evidence is not available from other sources;
- (2) the degree of involvement of the accomplice in the criminal activity in question compared with that of the defendant;
- (3) whether any inducement has been offered to the accomplice;
- (4) the likely credibility or character of the accomplice;
- (5) Whether the accomplice has made, or is prepared to make full disclosure of all facts and matters within his or her knowledge; and
- (6) The nature and strength of any other evidence that will corroborate the evidence of the accomplice as required by law

12. Prosecution of trans-national crimes

In prosecuting trans-national crimes, the prosecutor may where necessary, seek mutual legal assistance from other jurisdictions. In dealing with foreign jurisdictions, the prosecutor shall liaise with the Central Authority Unit of the Federal Ministry of Justice.

13. Prosecution of specialised crimes

- (1) In prosecuting specialised crimes, the prosecutor shall endeavour to engage in inter-agency coordination and cooperation.
- (2) Specialised crimes shall include the following:
 - (a) Terrorism,
 - (b) Organised crime,
 - (c) Cyber crime,
 - (d) Economic crimes,
 - (e) Counterfeit medical products, and
 - (f) Other specialised crimes.

14. Bail and recognisances

In responding to a bail application, the prosecutor shall consider the following factors:

- (1) Constitutional rights on Bail;
- (2) Legal provisions on Bail;
- (3) The nature and seriousness of the offence;
- (4) The strength of evidence of the prosecution;
- (5) Protection and vulnerability of witnesses; and
- (6) The likelihood of the defendant jumping bail or committing other offences

15. Plea bargain and restorative justice

(1) In engaging in plea bargain or charge bargain, the prosecutor shall adhere to the provisions of the law and any other guidelines in this regard, paying attention to the interest of the victim of the crime, interest of the public and ends of justice.

(2) The prosecutor shall:

- (a) Consider the legality and other ethical considerations of plea bargain,
- (b) Ensure that the decision or process is authorized by the highest authority in the prosecution agency,
- (c) Ensure that there are safeguards against abuse of the plea bargain process by the prosecutor or any other party to the case,
- (d) Ensure that the prosecutor has the possibility of withdrawing the plea agreement where the interest of justice or of the public so warrants, and
- (e) Take into consideration the relevant provisions on plea bargain as contained in the *Guidelines for Prosecutors*.

16. Code of Conduct for Prosecutors

In order to promote best practices among prosecutors, there shall be a Code of Conduct for Prosecutors. The prosecutor shall also have regard to other

professional guidelines including the Rules of Professional Conduct for Legal Practitioners.

17. Empowerment of prosecutors

(1) To ensure that the prosecutor is able to carry out his professional responsibility independently and in accordance with this policy, the prosecutors should be protected against arbitrary interference.

(2) In general the prosecutor should be entitled to the following:

(a) To perform his professional functions without intimidation, hindrance, harassment, improper interference or unjustified exposure to civil, penal or other liability;

(b) Together with his family, to be physically protected by the authorities when his personal safety is threatened as a result of the proper discharge of their prosecutorial functions;

(c) Reasonable conditions of service and adequate remuneration, commensurate with the crucial role performed by them and not to have their salaries or other benefits arbitrarily diminished;

(d) Reasonable and regulated tenure, pension and age of retirement subject to conditions of employment or election in particular cases;

(e) Recruitment and promotion based on objective factors, and in particular professional qualifications, ability, integrity, performance and experience, and decided upon in accordance with fair and impartial procedures;

(f) Expeditious and fair hearings, based on law or legal regulations, where disciplinary steps are necessitated by complaints alleging action outside the range of proper professional standards;

(g) Objective evaluation and decisions in disciplinary hearings;

(h) Form and join membership of professional associations or other organisations to represent their interests, to promote their professional training and to protect their status;

(i) Relief from compliance with an unlawful order or an order which is contrary to professional standards or ethics; and

(j) Be informed of current relevant legal developments through training workshops, seminars and conferences.

Made by the Body of Attorneys General this 6th day of October, 2016

**ABUBAKAR MALAMI, SAN
HONOURABLE ATTORNEY GENERAL OF THE FEDERATION
FOR: BODY OF ATTORNEYS GENERAL**

GUIDELINES FOR PROSECUTORS IN THE FEDERAL REPUBLIC OF NIGERIA

TABLE OF CONTENTS

PREAMBLE

GENERAL PRINCIPLES

- 1. SCOPE AND APPLICATION**
- 2. ROLE AND DUTIES OF THE PROSECUTOR**
- 3. FAIRNESS**
- 4. DILIGENCE**
- 5. THE DECISION TO PROSECUTE: THE EVIDENCE AND PUBLIC INTEREST CRITERIA**
- 6. SELECTION OF CHARGES**
- 7. BAIL**
- 8. TRIAL**
- 9. SENTENCING**
- 10. RE-OPENING A PROSECUTION**
- 11. PLEA BARGAINS AND AGREEMENTS**
- 12. VICTIMS AND WITNESSES**
- 13. INTERPRETATION**

ENACTMENT

In exercise of the powers conferred by Section 174 and 211 of the Constitution of the Federal Republic of Nigeria 1999, (as amended) and all other powers enabling them in that behalf, the Attorney General of the Federation and the Attorneys-General of the States hereby issue these guidelines in order to ensure that prosecutions are carried out with regard to public interest and the need to prevent abuse of legal process.

General Principles

A fair and effective prosecution with the interest of the victim, defendants, witnesses and the public is essential to the proper functioning of the criminal justice

Every case is unique and must be considered on its own merits. The aim of these Guidelines for Prosecutors is to set out in general terms, the principles guiding the initiation and conduct of prosecution and to give general guidance to prosecutors on the factors to be taken into account at the different stages of prosecution to ensure that a fair, reasonable and consistent policy underlies the prosecution process.

1. Scope and Application

(1) These Guidelines shall apply to:

(a) a Prosecutor serving in the Federal and State Ministries of Justice;

(b) a prosecutor of :

(i) the Nigeria Police Force;

(ii) the Economic and Financial Crimes Commission;

(iii) the Independent Corrupt Practices and Other Related Offences Commission;

(iv) the Federal Inland Revenue Service;

(v) the National Drug Law Enforcement Agency;

- (vi) the National Agency for the Prohibition of Trafficking In Persons;
- (vii) the Code of Conduct Bureau;
- (viii) National Agency for Food and Drugs Administration and Control;
- (ix) Nigerian Security and Civil Defence Corps;
- (x) Nigerian Customs Service
- (xi) Nigerian Immigration Service
- (xii) State Security Service;
- (xiii) National Intelligence Agency;
- (xiv) Defence Intelligence Agency;
- (xv) Court Martial; and
- (xvi) any Regulatory or Law Enforcement Agency established by the federal or state government with powers under its statute to prosecute;

(c) Private Prosecutors:

- (i) with fiat of the Attorney General of the Federation, the Attorney-General of a State or any other prosecuting authority; or
- (ii) with the consent of the Attorney General of the Federation or a State.

2 Role and Duties of the Prosecutor

(1) The essence of a criminal prosecution is not to obtain a conviction at all costs but to lay before the court credible evidence relevant to the charge and the prosecutor shall ensure that all available evidence of the alleged crime is laid before the court.

(2) The Prosecutor is an officer of the court and minister in the temple of justice who is primarily to assist the court to ascertain the truth and ensure justice is done in accordance with law and the principles of fairness

3 Fairness

In furtherance of the duty of fairness in the discharge of the prosecutorial function, the Prosecutor shall file and serve all relevant processes in accordance with the rules of court and any relevant Practice Direction or extant law.

4 Diligence

(1) (a) It is a fundamental obligation of the prosecutor to assist in the timely and efficient administration of criminal justice in accordance with the Constitution of the Federal Republic of Nigeria 1999 as amended.

(b) The Prosecutor shall determine whether there are reasonable grounds that may justify further investigation, or the initiation or continuation of prosecution.

2) The Prosecutor shall:

(a) file the charge or information within a reasonable time and ensure that the particulars of the charge or information are served on the defendant by the court.

(b) prepare cases for hearing timeously;

(c) take reasonable steps to maintain and enhance knowledge, skills and the personal qualities necessary for the proper performance of prosecutorial duties by being well-informed of relevant legal developments and applicable human rights norms;

(d) provide guidance and advice to investigators throughout the investigation, where applicable, and prosecution of the case; and

(e) discontinue or terminate cases that do not meet the criteria of prima facie evidence and Public interest.

5. Issuance Of Legal Advice

General Principles for the Issuance of Legal Advice

(5.1) The decision to prosecute or not to prosecute must reflect sound knowledge of the law and careful consideration of the interests of victims, the suspect and the public at large. A prosecutor must note that such a decision is of great importance and that wrong decisions tend to undermine the confidence of the community in the criminal justice system.

(5.2) It is an abuse of the legal process to decide to prosecute where such decision is not well founded in law or fact, does not serve the public interest or

may unfairly expose citizens to the anxiety, expense and embarrassment of a trial. A prosecutor shall not initiate criminal proceedings which would be regarded by the courts as oppressive or unfair and an abuse of the court's process. A prosecutor is advised to recommend non-prosecution and request further investigation work where although the evidence is currently insufficient to justify initiating criminal proceedings, there are viable leads for such further investigation work.

(5.3) The issuance of legal advice recommending non prosecution in circumstances where prosecution ought to have been recommended shall amount to gross professional misconduct of such a nature as to seriously prejudice the interests of justice. Such misconduct may also negatively impact public security and safety.

(5.4) A legal advice is an opinion and not a judgment. It is therefore desirable that it should not contain conclusive statements regarding the culpability of persons suspected to have committed an offence.

(5.5) A prosecutor shall constantly recall that delays in issuing legal advice may have significant constitutional and legal implications for the liberty of persons remanded in prison custody pending the issuance of legal advice or trial.

(5.6) The Directorate of Public Prosecutions shall draft, review, finalise and dispatch legal advice within 30 days of the date of receipt of a request for legal advice. All prosecutors in the Directorate shall diligently carry out their tasks to ensure that this deadline is met.

Format of the Legal Opinion

(5.7) A concise and well-researched legal" opinion must be drafted prior to the preparation of the document containing the legal advice.

In preparing the legal opinion, counsel must recall that the legal opinion is the most important foundational document of the case and must therefore cover the most relevant issues pertaining to the case, including potential defences and witness credibility and availability issues.

It is suggested that the legal opinion should be drafted following the format below with necessary modifications to suit the circumstances of each case:

Introduction: This should contain the background facts, including a brief note on the historical evolution of the case from the police station of first instance to other police stations.

Issues: The issues should be raised in such a way that will finally determine whether or not a prima facie case has been established in the case.

Applicable Law: Counsel should outline the relevant principles of law applicable to the facts of the case.

Evaluation: Counsel should appraise issues and evaluate the facts using the applicable law and authorities. The evaluation should also assess the strength of potential defences or potential exculpatory evidence.

Conclusion/Recommendation: Counsel is expected to give his candid advice devoid of bias and sentiment. Principles for the Exercise of Prosecutorial Discretion in the Issuance of Legal Advice.

(5.8) Subject to the review of the Attorney-General of the State, legal advice issued by the Directorate is conclusive.

Format of the Legal Advice

(5.9) The legal advice is the first official notification of the intention of the Directorate to prosecute or not to prosecute an alleged offender. Counsel must recognise that it is a document that not only lays the foundation for ensuring that justice is done for the State, victim and suspect alike, but also projects the image and policy inclinations of the Directorate.

(5.10) The legal advice must be guided by the spirit and letter of the General Principles for the Issuance of Legal Advice and the Principles for the Exercise of Prosecutorial Discretion

(5.11) The reason or reasons for prosecuting or refusing to prosecute must be apparent on the face of the legal advice.

(5.12) The Directorate of Public Prosecutions shall routinely maintain and update indicators to measure the speed of issuing legal advice and the ability of the Legal Advisory Unit to deal with the volume of cases requiring legal advice.

(5.13) For the purpose of updating the indicators mentioned in Paragraph 5.15, the Head of the Legal Advisory Unit shall on a weekly basis collect and submit to the Director of Public Prosecutions and the Attorney-General of the State the following information for every legal advice issued:

(1) Name of the case.

(2) Date of receipt of the request for legal advice.

(3) Case reference.

(4) Date the legal advice was issued.

(5) Classification of the offences to be tried where applicable:

(5.14) Homicide (including Fatal Motor Accidents);

(5.15) Robbery (including Armed Robbery);

(5.16) Other Serious Offences (including Stealing, Fraud, Obtaining by False Pretences, Receiving Stolen Property, etc.);

(5.17) Sexual and Gender-Based Violence (SGBV); or

(5.18) By other means of classification as the Director of Public Prosecutions or the Attorney-General of the State may from time to time determine.

(5.19) Indication as to whether the recommendation in the legal advice is to prosecute or not to prosecute.

Review of Legal Advice

(5.20) Once issued by the Directorate, legal advice may be reviewed only in the following circumstances:

(1) Where new, cogent and compelling information is brought to the attention of the Attorney-General of the State or the Director of Public Prosecutions;

(2) The Attorney-General of the State or Director of Public Prosecutions determines that the conclusion reached in the legal advice would occasion a

miscarriage of justice, that the legal advice was fraudulently obtained or that established procedures were not followed in its issuance; and

(3) At the instance of the Attorney-General of the State in the public interest, the interest of justice, or to prevent abuse of legal process.

(5.21) In every case where legal advice is reviewed, the Directorate shall inform the relevant investigating police officer about the review and endeavour to obtain an updated duplicate investigation case file from the said officer.

(6) The Decision to Prosecute: The Evidence and Public Interest Criteria

(1) The overall consideration for prosecution is whether the offence or the circumstances of its commission are of such a nature that a prosecution is required in the public interest and accordingly, the prosecutor shall weigh the contending interests of the community, suspect and the victim in determining whether or not to prosecute.

(2) The Strength of the Evidence

(a) No prosecution shall be undertaken where *prima facie* evidence of the basic elements of the offence are lacking. Consequently, a prosecutor shall not decide to prosecute unless the proposed charge such that if it remains uncontroverted, a reasonable court may justifiably convict on it.

(b) In determining the strength of the evidence and the existence of a *prima facie* case, the prosecutor shall consider the prospects of a conviction.

(c) Evidence is insufficient if it is likely to go no further than to show on a balance of probabilities that it was more likely that the suspect committed the offence but does not go so far as to establish guilt beyond a reasonable doubt. It is however not necessary for the prosecutor to endeavour to anticipate and consider every possible defence or to accept at face value all information provided by the suspect.

(7) Evidential Test

(a) In evaluating the admissibility and strength of evidence, questions, which may arise for the evaluation of the prosecution's evidence includes, among others, the following:

(i) Are there grounds for believing that evidence may be excluded, bearing in mind the principles of admissibility under the Evidence Act or applicable law? For example, has a confessional statement been properly obtained?

(ii) If the case depends in whole or in part on admissions by the suspect, are there grounds for believing that the admissions may not be reliable considering all the circumstances of the case including the age, intelligence, mental state and apparent understanding of the suspect? Are the admissions consistent with what can be objectively proved? Is there any reason why the suspect would make a false confession?

(iii) Where the suspect was under 12 years at the time of the offence, is there evidence available to show that, at that time, he could distinguish right from wrong?

(iv) Does it appear that a witness is exaggerating, or has a faulty memory, or is either hostile or friendly to the accused, or may be unreliable for some reason? Did a witness have the opportunity to observe what he claims to have seen? Are there any other matters known to the prosecution which may significantly lessen the likelihood of acceptance of the testimony of a witness?

(v) Has a witness been consistent in his evidence? If not, can the inconsistencies be explained? Does the evidence tally with the behaviour of the witness?

(vi) Does a witness have a motive for lying or withholding information?

(vii) Could the reliability of evidence be affected by physical or mental illness or infirmity?

(viii) What sort of impression is a witness likely to make? How is the witness likely to stand up to cross-examination? Is the witness's background, including previous convictions likely to weaken the prosecution's case?

(ix) If there is conflict between witnesses, does it go beyond what might be considered normal and hence materially weaken the case?

(x) If, on the other hand, there is a lack of conflict between witnesses, is there anything which causes suspicion that a false story may have been concocted?

(xi) Are all the necessary witnesses available to give evidence, including any who may be abroad? In the case of witnesses who are abroad, the possibility of obtaining the evidence.

(xii) Are all the necessary witnesses competent to give evidence? If so, are they compellable? If competent but not compellable, have they indicated their willingness to testify?

(xiii) Where child witnesses are involved, are they likely to be able to give sworn evidence or unsworn evidence in accordance with the criteria in the Evidence Act or any other law? How is the experience of a trial likely to affect them particularly in cases of sexual offences or offences involving violence?

(xiv) In relation to mentally handicapped witnesses, are they capable of giving intelligible accounts of events pursuant to the proceedings?

(xv) If identification is likely to be an issue, how cogent and reliable is the evidence of those who claim to identify the accused?

(xvi) Where there might otherwise be doubts concerning a particular piece of evidence, is there any independent evidence to support it?

(xvii) If the suspect has given an explanation, is a court likely to find it credible in the light of the evidence as a whole? Does it support an innocent explanation?

(b) In assessing the evidence, the Prosecutor should also have regard to any defence which are plainly open to, or have been indicated by, the defendant/accused. The assessment of the credibility and reliability of evidence is ultimately a matter for the court. However where there are grave and substantial concerns as to the reliability of essential evidence, criminal proceedings will not be appropriate.

(4) Duty to continuously review evidence

The assessment of the evidence not only has to be made initially but needs to be reviewed at every stage of the proceedings.

(5) The Public Interest: There is a clear public interest in ensuring that crime is prosecuted and that the wrongdoer is convicted and punished, unless there is some countervailing public interest reason not to prosecute.

(8) The Public Interest Test

(8.1) After determining that there is sufficient evidence to provide a realistic prospect of conviction, the prosecutor must then determine whether the public interest is best served by the prosecution of the case.

(8.2) It is not in the public interest for the prosecutor to prosecute every case that could be prosecuted. Rather, to ensure proper administration of criminal justice, there is the need to put into consideration public interest, in the prosecution of a case on a consistent, principled basis.

(8.3) The factors which can properly be taken into account, and the importance of particular factors in deciding whether the public interest requires prosecution will vary from case to case. Each case must therefore be considered on its own facts and merit.

(8.4) Some public interest factors tending in favour of prosecution are listed below. Prosecution is more likely to be required if:

(1) a conviction is likely to result in a significant sentence;

(2) The offence involved the use of a weapon or the threat of violence;

(3) The offence was committed against a person serving the

(4) The offence appears to be premeditated;

(5) The offence appears to have been carried out by a group;

(6) The offence appears to have been committed in the presence of, or in close proximity to, a child;

(7) The offence appears to have been motivated by any form of discrimination against the victim's ethnic or national origin, gender, disability, age, religion or belief, political views, sexual orientation or gender identity; or the suspect demonstrated hostility towards the victim based on any of the aforementioned characteristics;

(8) The offence appears to have been committed in order to facilitate the commission of more serious offences;

(9) The victim of the offence was in a vulnerable situation and the suspect took advantage of this;

(10) There was a marked difference in the ages of the suspect and the victim and the suspect took advantage of this;

(11) The offence involves one form of sexual violence or another;

(12) There was a marked difference in the levels of understanding of the suspect and the victim and the suspect took advantage of this;

(13) The suspect was in a position of authority or trust and he took advantage of this;

(14) The suspect was a ringleader or an organiser of the offence;

(15) The suspect's previous convictions are relevant to the present offence;

(16) The suspect is alleged to have committed the offence in breach of an order of court;

(17) Prosecution would have a significant positive impact on maintaining community confidence in the criminal justice system;

(18) There are grounds for believing that the offence is likely to be continued or repeated;

(19) It will deter others from committing the same offence or a similar offence; and

(20) Prosecution would reinforce and facilitate the implementation of the policies of the Government to deal with contemporary problems in society.

(9) Public Interest Test:

(a) Once the prosecutor is satisfied that there is sufficient evidence to justify the institution or continuance of a prosecution, the next consideration is

Whether, in the light of the provable facts and the whole of the surrounding circumstances the public interest requires a prosecution to be pursued. A decision not to prosecute a complex case on ground of public interest must be brought to the notice of the Attorney General within 2 days of taking the decision

(b) The factors to consider in assessing where the public interest lies, includes the seriousness of the alleged offence and whether there are any aggravating or mitigating factors.

(10) Aggravating Factors

(a) Seriousness of the offence

The following aggravating factors, which are not intended to be exhaustive, tend to increase the seriousness of the offence and if present will tend to increase the likelihood that the public interest requires prosecution:

(1) where a conviction is likely to result in a significant penalty;

(2) where the Legislature has prescribed a mandatory penalty or other consequence of a conviction such as a disqualification or forfeiture;

(3) if the defendant was in a position of authority or trust and the offence is an abuse of that position;

(4) where the defendant was a ringleader or an organiser of the crime;

(5) where the offence was premeditated;

(6) where the offence was carried out by a group;

(7) where the offence was carried out pursuant to a plan in pursuit of a joint criminal enterprise;

(8) where a weapon was used or violence threatened or the victim of the offence has been otherwise put in fear, or suffered personal attack, damage or disturbance. The more vulnerable the victim the greater the aggravation;

(9) where there is a marked difference between the actual or mental ages of the defendant and the victim, and the accused took advantage of this;

if there is any element of corruption;

(10) where the defendant has previous convictions or criminal record relevant to the present offence;

(11) if the defendant is alleged to have committed the offence whilst on bail, on probation, or subject to a suspended sentence or an order binding the accused to keep the peace and be of good behaviour, or released on licence from a prison or a place of detention;

(12) where there are grounds for believing that the offence is likely to be continued or repeated, for example, where there is a history of recurring conduct.

(11) Mitigating factors

(a) The following mitigating factors, if present, tend to reduce the seriousness of the offence and hence the likelihood of a prosecution being required in the public interest:

(1) if the court is likely to impose a very small or nominal penalty and prosecution is likely to be protracted;

(2) where the loss or harm can be described as minor and was the result of a single incident, particularly if it was caused by an error of judgment;

(3) where the offence is a first offence, if it is not of a serious nature and is unlikely to be repeated;

(4) Whether there has been a long delay between the date of the offence and the trial.

(12) Other factors to consider include:

(a) In addition to factors affecting the seriousness of an offence, other matters

Which may arise when considering whether the public interest requires prosecution may include the following:

- (i) the availability and efficacy of any alternatives to prosecution;
- (ii) the prevalence of offences of the nature of that alleged and the need for deterrence, both generally and in relation to the particular circumstances of the offender;
- (iii) the need to maintain the rule of law and public confidence in the criminal justice system;
- (iv) whether the consequences of a prosecution or a conviction would be disproportionately harsh or oppressive in the particular circumstances of the offender;
- (v) the attitude of the victim or the family of a victim of the alleged offence to a prosecution;

(13) Delays

The prosecutor shall, where there has been a long delay since the offence was committed, consider in the light of the law whether that delay is such that the case should not proceed. Some of the considerations which the prosecutor should bear in mind are the following:

- (a) whether any delay was caused or contributed to by the suspect;
- (b) whether the fact of the offence or of the suspect's responsibility for it has recently come to light;
- (c) where any delay was caused by a long investigation, whether the length of the investigation was reasonable in the circumstances;
- (d) whether there is a real and serious risk of an unfair trial;
- (e) where the victim has delayed in reporting the offence, the age of the victim both when the offence was committed and when it was reported;
- (f) where there has been a delay in making a complaint, whether the complainant was emotionally and psychologically inhibited from or incapable of making the complaint, and, if so, to what extent and in what manner, and

(g) whether this was by reason of behaviour that could be attributed to the suspect, whether by overt actions or threats or a more subtle form of dominion or psychological control;

(h) whether there is specific prejudice caused to the alleged offender by reason of any delay or lapse of time;

(i) whether the suspect has admitted the offence.

14. Selection of Charges

(1) In selecting charges to be preferred against a suspect, the prosecutor shall select those which-

(a) are within the Court jurisdiction;

(b) reflect the seriousness and extent of the alleged offence;

(c) can lawfully, reasonably and conveniently be tried together or in groups;

(d) enable the case to be presented to a court in a clear and comprehensive way;

(e) lay the charge under the statutory provisions that provide for adequate punishment that reflects the seriousness of the offence;

(f) consider the facts and evidence that conveniently support the prove of the alleged offence; and

(g) enable the court to make suitable ancillary orders

15. Bail

(1) The prosecutor shall ensure that he is fully conversant with and complies with the Constitutional provisions for the protection of personal liberty and the laws governing bail.

(2) When a question arises as to whether or not to oppose bail, the prosecutor shall consider carefully:

(a) the law;

(b) the charges especially the nature and seriousness of the charge and severity of the punishment;

(c) the strength of the evidence;

- (d) the protection of victims, witnesses and the general public;
- (e) the personal circumstances of the accused;
- (f) the likelihood of the commission of other offences if granted bail;
- (g) the likelihood of failure to attend court; and
- (h) any other relevant factor.

(3) If a legal issue arises concerning bail in a case where the prosecutor is not a legal practitioner, the issue shall be referred immediately to the Attorney General or the Director of Public Prosecutions expeditiously.

16. Trial

(1) The prosecutor shall endeavor to reduce to a minimum the number of adjournments both before and after the commencement of a trial. Every effort should be made to ensure a trial is not delayed at its commencement and continues on consecutive working days until conclusion. Applications to adjourn should be opposed unless they are absolutely unavoidable.

(2) It is not the duty of the prosecutor to obtain counsel for an accused person or put forward the case of a defendant. However, the prosecutor shall assist the court and the defendant if the interests of justice so require.

(3) The prosecutor shall ensure that the prosecution's case is fully ready for the time fixed for trial. This includes ensuring that:

(a) the prosecution case is known thoroughly

(b) all legal, evidential and procedural issues are known, researched and ready for presentation to or argument before the court;

(c) the prosecution has complied with the duties of a prosecutor to avoid and prevent unnecessary delays in accordance with any relevant rules of court or Practice Direction in Force.

(d) proper and timely response to each request and question reasonably raised by the defense and the timely supply of all materials reasonably requested by the defense;

- (e) witnesses are available and attend court,.
- (f) each required exhibit held by the prosecution is in court, whether for the prosecution or defense;
- (g) there are copies of all relevant documents for all persons who need them, where appropriate; and
- (h) an assessment has been made of the likely defences and how these can be properly countered.

This provision is based on the Federal High Court (Criminal) Practice Direction 2013 particularly paragraphs 4 and 6 thereof;

17. Sentencing

(1) When sentence is being considered and the prosecutor is called upon by the court to make a contribution, the prosecutor shall respond as appropriate.

(2) If the mitigation put forward after a guilty plea-

(a) amounts to a denial of the offence, then the prosecutor should advise the court that the defendant's plea should be changed to one of not guilty; or

(b) is so different to the prosecution's version of the facts that it would affect the sentence, then the prosecutor should ask for a hearing to determine the basis on which sentencing should take place.

(3) The prosecutor should challenge any significant assertion made in mitigation that is inaccurate or misleading. If the defense persists in the inaccurate or misleading assertions then the court should be invited to hear evidence before sentence is passed.

(4) Where derogatory assertions of any person are made in mitigation then the prosecutor should ask the court to consider if the assertions are relevant to sentence and, if so, to hear evidence on them before sentence is passed.

18. Re-opening a Prosecution

(1) Where there are special and compelling reasons, a prosecution may be started or reopened in the following cases: Where:

(a) the original decision of the prosecutor to close or discontinue a case was clearly wrong; or

(b) fresh evidence comes to light which previously:

(i) could not reasonably have been known; or

(ii) could not reasonably have been obtained

19. Plea Bargains and Agreements

(1) No prosecutor shall enter into a plea bargain discussion with a defendant without the prior knowledge and approval of the Attorney General of the Federation or the State as the case may be.

(2) Where the prosecutor enters into a plea bargain discussion with a defendant-

(a) The views of the investigator and the victim may be sought at the outset of formal discussions and before any formal position is communicated to the defence; and

(b) Such views must be recorded in the file.

(3) An agreement made pursuant to this section shall also be subject to the Attorney General's approval.

(4) Where before trial or in the course of trial a defendant indicates readiness to plead guilty to a lesser charge as part of a plea bargain agreement, the prosecutor may, subject to paragraph 11(1), (2) and (3) above, enter into discussion leading to such agreement where:

(a) the alternative charge adequately reflects the essential criminality of the conduct and the plea provides adequate scope for sentencing;

(b) there is need to obtain reliable and material testimony from an accomplice as prosecution witness and the evidence cannot be obtained in any other way;

(c) the evidence available to support the prosecution's case is weak in any material respect;

(d) the saving of cost and time weighed against the likely outcome of the matter if it proceeded to trial is substantial;

(e) it will save a witness, particularly a victim or other vulnerable witness, from the stress of testifying in a trial; and

(f) a victim has expressed a wish not to proceed with the original charge or charges.

(5) Where the discussion leads to a plea bargain agreement, the agreement must be reduced into writing as a plea agreement, signed by both parties and including:

(a) A list of the charges;

(b) A statement of the facts; and

(c) A declaration, signed by the defendant personally, to the effect that he accepts the above stated facts and admits he is guilty of the agreed charges.

(6) When seeking the approval of the Attorney General for an agreement referred to in paragraph 13(5) of these guidelines, the prosecutor must send with the request:

(a) The draft plea agreement;

(b) The extent to which the views of the investigator and the victim were considered;

(c) A joint submission by the prosecutor and the counsel for the defence on considerations taken into account in proposing the sentence;

(d) Any relevant sentencing guidelines or authorities;

(e) All of the material provided by the prosecution to the defendant in the course of the plea discussions;

(f) Any material provided by the defendant to the prosecutor; and

(g) The minutes of any meetings between the parties and any correspondence generated in the plea discussions.

20. Victims and Witnesses

(1) Interests of Victims and witnesses

(a) The prosecutor shall pay special attention to the interests of victims and witnesses. When a decision is taken not to go on with a prosecution or to change a case significantly, then the prosecutor must inform the victim and the witnesses.

(b) The prosecutor shall consider the interests and safety of victims and witnesses before, during and after trial. In particular, the prosecutor shall endeavor to have trials started as soon as possible and reduce to a minimum the number of times victims and witnesses have to attend court. Once a trial has started, the prosecutor shall endeavor to ensure that the testimony of victims or witnesses is heard promptly and without adjournment and they are allowed to leave immediately on completion.

(c) The prosecutor shall ask for special measures if this would improve the quality of a witness's evidence. Particular attention must be paid to vulnerable witnesses like women, children, the aged and the disabled.

(d) The prosecutor shall not act for the victims of crime or their families in the way a lawyer acts for his client but must act on behalf of the public and in the interests of justice as a whole.

(2) Preparing witnesses

(a) The prosecutor shall not put a witness in the witness box without a pre-trial conference. The prosecutor must be satisfied that the evidence to be given will be relevant and credible.

(b) A prosecutor should never put words in the mouth of a witness during pre-trial conference but should let every witness tell his story by himself.

(c) A prosecutor shall as much as possible avoid holding pre-trial conference at the venue of the court on the day of the case. A pre-trial interview should, as

much possible, be held prior to the day of hearing. The prosecutor shall do the following during pre-trial conferences:

(1) Introduce everyone present at the pre-trial conference and thank the witness for his or her cooperation and efforts to serve the cause of justice.

(2) Explain why the witness has been asked to attend the pre- 10 trial conference.

(3) Briefly explain the administration of criminal justice process and the nature of criminal proceedings to the witness.

(4) Describe the courtroom, courtroom procedures and courtroom etiquette to the witness.

(5) Explain the procedure for examining witnesses from examination-in-chief, cross-examination to reexamination.

(6) Request the witness to recount the relevant incident as he or she remembers it. In this regard, the witness may be allowed to refresh his or her memory using his or her statement made at the police station.

(7) Inform the witness about the significance of the oath taken prior to giving testimony and explain the importance of responding to questions during examination-in-chief, cross-examination and re-examination with truthful answers.

(8) Inform the witness to seek clarification or ask that a question be repeated whenever the question is unclear or ambiguous.

(9) Inform the witness to say, "I do not know" where he or she does not know the answer to a question asked during witness examination.

1(0) Inform the witness of the need to use precise language – for example, the witness should not say, "I do not know" when he or she means to say, "I do not recall".

(11) Inform the witness to speak clearly, audibly and slowly in court.

(12) Give the witness the following useful information.

(13) The need for punctuality and the required time of arrival.

(14) Pre-arranged, secure place for the witness to meet with the prosecutor on the date of the hearing.

(15) Honourable Judges at the High Court are to be addressed as "My Lord" or "Your Lordship", while Magistrates are to be addressed as "Your Honour".

(16) The need to remain calm at all times and avoid quarrels and arguments with counsel or the Court.

(17) The need to be appropriately dressed during the trial.

(d) A prosecutor shall communicate the details of key witnesses to the witness support officer responsible for his or her court at least two (2) weeks before the witness is scheduled to testify. The details shall be provided in the format specified in the Second Schedule to this Manual.

(e) It is mandatory for both the prosecutor and witness support officer to attend the pre-trial conference.

(f) The prosecutor shall pay special attention to the following factors during pre-trial conferences:

(1) Effect of time on memory;

(2) Estimations of time and distance;

(3) Personality traits, including gregarious, over-confident and rash attitudes;

(4) Trauma;

(5) Lack of understanding of the court process;

(6) Age;

(7) Possibility of being intimidated while testifying.

(21) The Witness Support Group

(21.1) The Witness Support Group shall provide a single point of contact for civilian prosecution witnesses to keep them updated in respect of their cases, and informed about the criminal justice system and courtroom procedures, thereby minimizing the stress of attending court.

(21.2) The Witness Support Group shall achieve the following strategic objectives:

- (1) Improve the quality of prosecutions by ensuring that witnesses are adequately prepared for trial;
- (2) Reduce the length of criminal proceedings by ensuring that witnesses promptly appear as scheduled; and
- (3) Improve the level of satisfaction of witnesses with the criminal justice system by treating witnesses with respect and paying due attention to their concerns.
- (4) Improve the level of satisfaction of witnesses with the criminal justice system by treating witnesses with respect and paying due attention to their concerns.

(21.3) The Witness Support Group shall achieve the following specific objectives:

- (1) Ensure that witnesses show up in court to give testimony;
- (2) Ensure that the experience of giving testimony is as pleasant as possible;
- (3) Assist witnesses to be prepared and confident when giving testimony;
- (4) Ensure that pre-trial conferences are held for all key witnesses; and
- (5) Monitor the security situation of witnesses and make recommendations to the Director of Public Prosecutions whenever appropriate.

(21.4) The Witness Support Group shall observe the following:

- (1) All the officers in the Witness Support Group shall closely monitor the Judicial Information System website of their respective State Judiciary in order to be promptly notified of the assignment of cases to their respective courts.
- (2) Upon being so notified, an officer in the Witness Support Group shall immediately proceed to the Registry of the Directorate of Public Prosecutions to review the relevant case file and obtain the names and contact details of all potential prosecution witnesses.
- (3) The witness support officer will, within five (5) working days of receiving notification of the assignment of the case to his or her court, make the initial

contact with each prosecution witness in the case by ensuring that a letter in is sent to the witnesses.

(4) The witness support officer shall then follow up on the initial contact by regularly calling the witness over the phone or, where necessary, meeting face-to-face with the witness.

(5) The witness support officers shall routinely update their respective Court Group Heads about the progress made or challenges encountered in contacting or ensuring the appearance of witnesses.

(6) The witness support officer shall inform the Court Group Head and the counsel responsible for supervising the Group about difficult witnesses deserving of their intervention.

(7) Where a key witness is difficult, the Court Group Head shall promptly apply for the issuance of a witness summons, and if necessary, a bench warrant against the witness.

(21.5) The Witness Support Group shall on a weekly basis submit information in the Form specified in the Third Schedule to this Practice Manual to the Director of Public Prosecutions and the counsel responsible for supervising the Group.

(21.6) The Directorate of Public Prosecutions shall develop and utilize indicators to measure the following activities:

(1) Changes in the number of witnesses who appear as a percentage of the number of witnesses called.

(2) The effect of witness appearance on the outcome of a case.

(3) The effect of pre-trial conferences on the readiness and capability of witnesses to give evidence.

22. Interpretation

(1) In these guidelines:

“Attorney General” means the Attorney General of the Federation and of the State;

“designated person”	means any person authorized by the Attorney General and mentioned under Sections 174 and 211 of the Constitution of the FRN 1999) or other persons authorised by law to prosecute;
“harm”	includes physical or psychological harm, the loss of an immediate family member or the loss, destruction of, or damage to property;
“legal practitioner”	means a legal practitioner as defined in the Legal Practitioners Act;
“Media officer”	means in the case of the Federal Ministry of Justice the Chief Press Secretary in the office of the Attorney General and in the case of state ministry of justice or relevant agency the person in charge of Media Liaison and Communications by whatever name called in that ministry, agency or organization;
“Ministry”	means the Federal or State Ministry of Justice
“relevant agency”	means a body or organization referred to or which falls under paragraph 1.(1)(b) of these Guidelines;
“victim”	means a person who suffers harm as a direct result of an act committed, or apparently committed, by another person in the course of a criminal offence and includes a member or nominated representative member of the victim's immediate family if the person is deceased.

(2) A case is to be regarded as complex or difficult where the case

(a) has a significant international dimension;

(b) involves cash or assets of a value exceeding N50 million;

- (c) requires specialized knowledge of financial, commercial, fiscal or regulatory matters such as the operation of markets, banking systems, trust or tax regimes;
- (d) involves allegations of fraudulent conduct against numerous victims;
- (e) involves substantial or significant loss of funds by a Ministry, Department or public agency;
- (f) is likely to be of widespread public concern; or
- (g) involves an alleged misconduct which amounts to an act of professional misconduct
- (h) cases involving trans-border activities, terrorism, hostage taking, kidnapping, cyber crime, or organized crime economic sabotage .

Made by the Body of Attorneys General this 6th day of October, 2016

ABUBAKAR MALAMI, SAN
HONOURABLE ATTORNEY GENERAL OF THE FEDERATION
FOR: BODY OF ATTORNEYS GENERAL

CODE OF CONDUCT FOR PROSECUTORS

PREAMBLE

WHEREAS:

The Body of Attorneys-General is concerned that public prosecution should be carried out with the highest ethical standards, hereby issues this Code for the guidance of all prosecutors in Nigeria to ensure:

- i. Public confidence in the integrity of the criminal justice system;
- ii. That all prosecutors play a crucial role in the administration of criminal justice;
- iii. That the degree of involvement, if any, of prosecutors at the investigative stage varies from one case to another;
- iv. That the responsibility entailed in the exercise of prosecutorial discretion is consistent with personal rights, sensitive to the need not to re-victimise victims and should be conducted in an objective and impartial manner; and
- v. Observance of applicable professional codes/rules governing the conduct of lawyers and public servants

PART A- ETHICAL OBLIGATIONS

1. Professional Conduct

The prosecutor shall:

- (1) Maintain the honour and dignity of the profession;
- (2) Conduct himself professionally, in accordance with the law, rules and ethics of the profession;
- (3) Exercise the highest standards of integrity;
- (4) Keep himself well-informed and abreast of relevant legal developments;
- (5) Strive to be, and to be seen to be, consistent, independent and impartial;

(6) Respect the defendant's right to a fair trial, and in particular ensure that evidence favourable to the defendant is disclosed in accordance with law;

(7) Serve public interest, respect, protect and uphold universal concept of human dignity and human rights, and decisions in the course of prosecution are:

(a) transparent;

(b) consistent with law; and

(c) in accordance with the Policy and Guidelines for Prosecutors

2. Independence

In exercising prosecutorial discretion, the prosecutor shall act independently without bias and free from any form of interference.

3. Impartiality

The prosecutor shall perform his duties without fear, favour or prejudice. In particular he shall:

(1) Carry out his functions impartially;

(2) Not engage in conduct that would give rise to a reasonable inference that the prosecutor's impartiality, integrity, reputation or the reputation of the institution that he serves has been compromised;

(3) Remain unaffected by individual or sectional interests and public or media pressures and shall have regard only to the law and public interest;

(4) Act with objectivity;

(5) Take special care to ensure that prosecutorial duties are unaffected by improper considerations or corrupt motives such as:

(a) financial gains or personal benefit; or

(b) benefits to family or friend.

(6) Have regard to all relevant circumstances, irrespective of whether they are to the advantage or disadvantage of the suspect or defendant/accused;

(7) In accordance with laws or the principles of fair trial, seek to ensure that all necessary and reasonable enquiries are made and the result disclosed, whether that points towards the guilt or the innocence of the suspect or defendant;

(8) Always search for the truth and assist the court to arrive at the truth and to do justice between the State, the victim and the offender according to law and the dictates of fairness.

4. Role in criminal proceedings

(1) The prosecutor shall perform his duties in accordance with the law and prosecutorial policy and guidelines.

(2) The prosecutor shall perform an active role in criminal proceedings as follows:

(a) Where authorised by law or practice to participate in the investigation of crime, or to exercise supervision over the police or other investigators, he shall do so objectively, impartially and professionally;

(b) While supervising the investigation of crime, he shall ensure that the investigator respects legal precepts and fundamental human rights;

(c) The prosecutor shall when giving advice, do so impartially and objectively;

(d) In the institution of criminal proceedings, the prosecutor shall proceed only where there is *prima facie* evidence and shall not continue with the prosecution in the absence of such evidence;

(e) Throughout the course of the proceedings, the case shall be firmly and fairly prosecuted and not beyond what is indicated by the evidence;

(f) Where the prosecutor exercises a supervisory function in relation to the execution of a court decision or performs other non-prosecutorial functions, he shall act in the public interest and in the interest of justice.

(3) The prosecutor shall:

(a) Maintain professional confidentiality;

(b) In accordance with the law, procedure and the principles of fair trial, consider the views, legitimate interests and possible concerns of victims and witnesses, where their personal interests are or might be affected, and ensure that victims and witnesses are informed of their rights;

(c) Ensure that any aggrieved party is informed of the right of recourse to some higher authority or court;

(d) Safeguard the rights of the defendant in co-operation with the court and other relevant agencies;

(e) Disclose to the defendant relevant prejudicial and beneficial information as soon as is reasonably possible in accordance with the law, procedure and the principles of fair trial.

(f) In accordance with the law and the principles of fair trial, may waive prosecution, discontinue proceedings conditionally or unconditionally or cause to be transferred criminal cases, particularly those involving young offenders from the formal justice system, with full respect for the rights of suspects and victims, where such action is appropriate;

(g) Not conduct the prosecution of a case which is beyond his competence, knowledge or experience.

5. Co-operation

In order to ensure the fairness and effectiveness of prosecution, the prosecutor shall:

(1) Co-operate with the police, the courts, defence counsel, public defenders and other agencies, whether nationally or internationally; and

(2) Render assistance to the prosecution services and colleagues of other jurisdictions, in accordance with the law and in the spirit of mutual co-operation within defined limits as maybe set-out by the Attorney General of the Federation.

6. Public appearance and conduct in court

(1) The prosecutor should rise when addressing or being addressed by the court.

(2) The prosecutor should always be attired in a proper and dignified manner and abstain from any apparel or ornament calculated to attract attention to himself.

(3) The prosecutor should not assume an undignified posture and should not without the court's permission remove his wig or gown in the courtroom while court is in session.

PART B – SANCTIONS

7. Disciplinary Measures

(1) The prosecutor who breaches any of the provisions in this Code may be proceeded against by the Office of the Attorney General for misconduct and where the prosecutor is a:

(a) law officer, disciplinary measures under the Public Service Rules shall apply. He shall also be referred to the Legal Practitioners Disciplinary Committee.

(b) private legal practitioner, in addition to a withdrawal of any Fiat or authority to prosecute conferred by the Attorney General, the matter shall be referred to the Legal Practitioners Disciplinary Committee; or

(c) non-legal practitioner, disciplinary proceedings by his organisation.

(2) The above disciplinary measures are without prejudice to instituting an action or prosecution where the conduct of the prosecutor amounts to a civil wrong or criminal offence.

Made by the Body of Attorneys General this 6th day of October, 2016

ABUBAKAR MALAMI, SAN

HONOURABLE ATTORNEY GENERAL OF THE FEDERATION

FOR: BODY OF ATTORNEYS GENERAL