

Office of the Director of Public Prosecutions

Victims' Right to Review Policy

Effective 3 February 2025

Acknowledgement of Country

The Office of the Director of Public Prosecutions recognises and acknowledges Aboriginal and Torres Strait Islander peoples as the First Peoples of Queensland and as the Traditional Custodians of Queensland's precious land and waters. We pay our respects to their Elders past, present, and emerging.

We recognise and celebrate the unique and continuing position of Aboriginal and Torres Strait Islander peoples in Australia's history, culture, and future, and acknowledge their ongoing strength, resilience, and wisdom. We are working to translate this recognition into fair, safe, and inclusive practices, policies, and services for Aboriginal and Torres Strait Islander peoples.

1. Introduction and purpose of policy

The Queensland Office of the Director of Public Prosecutions (ODPP) is committed to being responsive to victims of crime and robust in our decision-making processes and procedures. As part of this commitment, we consult with people impacted by our decisions and consider their views, when making certain decisions. From **3 February 2025**, the ODPP will provide victims with a right to request a review of specific prosecutorial decisions made.

The purpose of the Victims' Right to Review policy is to reinforce the value the ODPP places on promoting fairness and justice in our prosecutorial services. The introduction of a formal right to review policy will deliver a transparent and accessible process for victims to formally request a review of a prosecutorial decision to discontinue all charges, with the exclusion of the prosecutorial decisions made by the Director of Public Prosecutions (Director).

2. Language used in this policy

This policy will refer to a person who is eligible to request a review of certain decisions made by the ODPP as a 'victim'. This language is consistent with trauma-informed practice.

The use of the word 'victim' in this policy to describe a complainant in a criminal proceeding does not detract from the ODPP's commitment to impartial and evidence-based decision making. The ODPP remains mindful that under section 32 of the *Human Rights Act 2019* (Qld) a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law.

3. Overview of policy

Policy intent

This policy explains:

- the background of the policy
- the current ODPP discontinuance process
- the right of victims to seek a review of an ODPP decision to discontinue a prosecution
- the review process
- the possible outcomes of a review

Principles

This policy is underpinned by three important principles:

- The ODPP respects the rights of victims of crime under the Charter of Victims' Rights at Schedule 1 of the *Victims' Commissioner and Sexual Violence Review Board Act 2024* (Qld) and acknowledges the challenges they face while participating in legal processes.
- The ODPP recognises the importance of transparency and good communication in decision-making.
- The ODPP listens to and considers the views of victims of crime while maintaining independent prosecutorial discretion.

4. Current discontinuance process

As set out in the ODPP Director's Guidelines, Guideline 20, the decision to discontinue a charge/s cannot be made without consultation with a 'Principal Crown Prosecutor' (that is, the prosecutor in charge of the ODPP Chamber that has carriage of the prosecution).

If the charge/s being discontinued involve homicide, attempted murder, are of a high profile or high sensitivity in nature, or if it may be against the public interest to prosecute, consultation to discontinue must extend to a Deputy Director of Public Prosecutions (Deputy Director) or the Director.

If the discontinuance of charges is recommended, the legal officer or Crown Prosecutor with carriage of the matter will provide a memorandum to either the Principal Crown Prosecutor, Deputy Director or the Director setting out all the relevant issues. A decision will then be made as to whether or not discontinuing the charge/s is recommended.

Consultation with victims

The ODPP will seek the views of a victim prior to discontinuing a charge/s.

The views of the victim will be recorded and properly considered prior to any final decision being made.

Reasons for recommending that a charge/s be discontinued will be explained to the victim.

Consultation with police

The ODPP will advise the Queensland Police Service's investigating officer (investigating officer) if the office is considering discontinuing a charge/s. The investigating officer will be consulted on relevant matters and their views should be recorded prior to any final decision being made.

If the investigating officer or corroborating officer is not available for consultation within a reasonable time, attempts to contact them should be recorded.

After a decision has been made, the ODPP will notify the investigating officer as soon as possible.

This current discontinuance process will continue upon implementation of this policy.

5. Background of the policy

Women's Safety and Justice Taskforce recommendation

Recommendation 50 of The Women's Safety and Justice Taskforce, *Hear her voice*, Report 2 made the following recommendation:

The Queensland Police Service and the Office of the Director of Public Prosecutions establish a clear, robust, transparent, and easily accessible internal 'right to review' process of police and prosecutorial decisions for victims of sexual violence. The internal right of review will include an ability for a victim to request that a police decision to discontinue charges, and a prosecution decision made on behalf of the Director of Public Prosecution, be reviewed by another more senior officer. The outcome of the review could be for the decision to be changed, affirmed or an alternative decision made. The outcome of an internal review process including the reasons for the decision will be clearly communicated, using plain English to the victims.

In response to the recommendation, the Queensland Government stated it would explore the opportunity to establish appropriate mechanisms to facilitate reviews of police and prosecutorial decisions requested by victims.

This policy expands on and implements the Women's Safety and Justice Taskforce's recommendation with respect to the ODPP.

6. Right to review policy

Who is a victim?

A victim is:

- A person who is alleged to have suffered harm as the result of an alleged criminal offence.
- A parent or guardian of a child victim or a victim with impaired capacity who is alleged to have suffered harm as the result of an alleged criminal offence.
- A victim also includes a family member of a deceased person who died as a result of an alleged criminal offence.

A victim can nominate a support person to act on their behalf and the ODPP will communicate with the victim and/or their nominated support person throughout the review process.

References to a victim throughout this policy includes a parent or guardian or nominated support person, if applicable.

What decisions can be reviewed?

- A decision to discontinue all charges against a defendant relating to a victim.

What decisions cannot be reviewed?

- A decision to discontinue some but not all charges against a defendant.
- A decision to change or amend a charge/s against a defendant.
- A decision to discontinue all charges made at the start of, or during a trial.
- A decision to discontinue all charges against a defendant relating to a victim made by the Director.

When must a victim be informed of their right to request a review?

A victim/s must be advised of their rights under this policy and provided with a copy of this policy at the time they are informed of the decision to discontinue all charges against a defendant relating to them, but before the charge/s are formally discontinued.

When can a victim request a review?

If a decision is made to discontinue all charges against a defendant, relating to a victim, the ODPP will inform the victim of their right to request a review of this decision before the charge/s are formally discontinued.

After a victim is informed of the decision to discontinue charge/s against a defendant relating to them, they have **10 business days** to request a review.

If after 10 business days a victim does not request a review, the ODPP will commence formal discontinuance processes in the relevant jurisdiction.

How can a victim submit a request for a review?

A victim can complete a request in the following ways:

- **Online:**
 - A victim can complete a request for a review form online at the ODPP website <https://www.justice.qld.gov.au/about-us/services/public-prosecutions/review>
 - A victim can also download the Request a Review form ([PDF](#)).

Need help in your language?

Calling from within Australia:

Call 1800 512 451 and ask for an interpreter in your preferred language.

Calling from overseas:

Call +61 7 3022 6100 and ask for an interpreter in your preferred language.

Requests for a form and / or completed forms can be submitted by one of the following methods:

- **Post:**
Right to Review
Office of the Director of Public Prosecutions
GPO Box 2403, Brisbane Qld 4001
- **Email:** DPPRighttoreview@justice.qld.gov.au
- **Phone:** (07) 3035 1122 or 1800 673 428

Should a victim require assistance to complete the form, for example if English is not their first language, an ODPP staff member will support them to complete the form.

Once a request for a review has been received by the ODPP, the office will contact the victim advising them that their request has been received and that they will be further contacted by the reviewing prosecutor and notified of the outcome in due course.

Who will conduct the review?

When a request for a review is received, the ODPP will firstly assess whether the decision is eligible for review in line with this policy.

For decisions that proceed to review, the ODPP will select a prosecutor (the 'reviewing prosecutor') who is senior to the original decision-maker to conduct the review. In practice, this will be either a Principal Crown Prosecutor, Consultant Crown Prosecutor, Deputy Director or the Director.

What will be reviewed?

The decision to discontinue all charges will be considered afresh. This will involve a reviewing prosecutor conducting a review of all the brief material as well as any other material provided by the original decision-maker.

As part of considering the decision, the reviewing prosecutor will look at several factors, including whether:

- the evidence was significantly misinterpreted
- the law was incorrectly applied
- the relevant ODPP guidelines and guidance documents were applied
- the original decision-maker applied flawed reasoning.

The reviewing prosecutor will consult with the victim as part of their review process. The reviewing prosecutor may also consult with relevant officers from the Queensland Police Service.

Outcome of the review process

If the reviewing prosecutor *agrees* with the original decision-maker's decision to discontinue the charge/s, the ODPP will affirm and explain this decision to the victim.

The charge/s will then be discontinued by the ODPP at an appropriate time (if they have not already been discontinued).

If the reviewing prosecutor *disagrees* with the assessment of the original decision-maker, they will consult with the ODPP Directorate and the ODPP will either:

- Maintain prosecution of the charge/s; or
- If the charge/s have been discontinued, if possible and appropriate to do so, the ODPP will recommence prosecution of the charge/s. However, this will only occur in exceptional circumstances that are consistent with the ODPP Director's Guidelines, Guideline 20(v).

This decision will be communicated to and explained to the victim.

The victim will be notified of the outcome of the review process by the reviewing prosecutor, which will also be confirmed in writing.

The original decision-maker will also be notified of the outcome of the review process.

Review timeframes

The ODPP will conduct reviews of reviewable decisions within 30 business days of the request being received. If the ODPP requires further information or requires additional time to consider the request, the victim will be notified of this in writing.

Learning lessons from the review process

Where lessons can be learned from a victim's review request the ODPP will, where appropriate and possible, make the necessary changes to processes to reduce the likelihood of the situation arising again.

Other complaints or concerns

The ODPP will deal with concerns or complaints outside the scope of this policy under its Compliments and Complaints Policy (PDF) (DOCX), available on the ODPP website <https://www.justice.qld.gov.au/about-us/services/public-prosecutions/compliments-complaints>.

Policy review

The ODPP will review this policy 12 months from commencement and update it as required.

7. Accountability

The Director is accountable for ensuring the management and maintenance of this policy, including ensuring its continued appropriateness to the business, compliance with legislation and external requirements, and periodic review.