



MEMORANDUM OF UNDERSTANDING

Between

The Office of the Director of Public Prosecutions (ODPP)

and

The Queensland Police Service (QPS)

**COMMUNICATION AND COLLABORATION BETWEEN
THE ODPP AND THE QPS
IN SEXUAL OFFENCE PROSECUTIONS**

MEMORANDUM OF UNDERSTANDING (MOU)

INTRODUCTION

The Director of Public Prosecutions (the Director) and the Commissioner of the QPS (the Commissioner) agree as follows:

1. This MOU is intended to complement the existing Guidelines issued by the Director of Public Prosecutions under section 11 of the *Director of Public Prosecutions Act 1984* (Qld) (Director's Guidelines) and the QPS Operational Procedures Manual (OPM) issued pursuant to section 4.9 of the *Police Service Administration Act 1990* (Qld).
2. The purpose of this MOU is to:
 - a) provide an understanding of how the ODPP and the QPS should communicate and collaborate with each other and with other parties involved in the criminal investigation and prosecution of sexual offences
 - b) support continuous improvement in the investigation and prosecution of sexual offences
 - c) support a victim-centric, trauma-informed response to victims of sexual violence.
3. This MOU does not intend to designate methods of communication and consultation between the ODPP and QPS. This MOU instead provides a communication framework that can be supplemented by local practices which must be consistent with the Director's Guidelines or the QPS OPM as applicable, and which best meets the needs of victims.
4. This MOU supersedes any previous memoranda between the ODPP and the QPS in relation to sexual offence prosecutions. It will:
 - a) commence on the date of signing by the parties
 - b) continue until it is terminated by either the Commissioner or the Director.
5. The operation of the MOU will be monitored and reviewed by the Sexual Offence Review Committee every 12 months to ensure it is achieving its purpose and will be amended as required.
6. This policy will refer to a person who has suffered harm because of alleged sexual offending as a 'victim'. This language is used because it is consistent with trauma-informed practice. The use of the word 'victim' to describe complainants in this policy does not detract from the ODPP's and QPS's commitment to impartial and evidence-based decision making. The ODPP and QPS remain 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.

Both the ODPP and the QPS:

- agree to adhere to the Charter of Victims' Rights¹ in all communications with victims and between themselves
 - understand the importance of engaging with all victims with courtesy, compassion, respect, and dignity and being responsive to the victim's needs, considering factors such as their age, gender identity, cultural background, linguistic diversity, sexuality, impairment, or religious beliefs
 - understand the importance of keeping victims informed of the progress of an investigation and/or prosecution
 - recognise that a victim may choose to have a support person present during any communication with the QPS or the ODPP
 - recognise the impacts and effects of trauma on victims of crime, particularly victims of sexual violence
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- respect each other's independence and responsibilities
 - acknowledge that
 - the QPS retains responsibility for decisions relating to the investigation and charging of criminal offences
 - the ODPP has primary responsibility for the decisions about a matter which they are prosecuting
 - recognise the need for effective communication and collaboration to ensure that they can carry out their individual responsibilities
 - acknowledge that an effective working relationship between QPS and ODPP is critical to the successful and fair resolution of criminal complaints of sexual violence
 - agree that an effective communication approach outlined in this MOU will enhance collaboration between QPS and the ODPP.

KEY DEFINITIONS

'Investigating officer', for the purposes of this MOU, means a police officer who conducts an investigation into an offence of sexual violence.

'Legal officer or crown prosecutor' means a legal professional working as part of a legal team with carriage of the prosecution of a sexual offence at the ODPP.

'Principal crown prosecutor' means the prosecutor in charge of the ODPP chamber which includes legal professionals who have carriage of the prosecution of a sexual offence.

'Nominated officer' means a police officer nominated by the investigating officer or the Officer in Charge to perform certain tasks described in this MOU.

'Officer in Charge' means the police officer in charge of the organisational unit (whether functionally or geographically based) in which the investigating officer is working.

¹ Charter of Victim's Rights, Schedule 1 *Victim's Commissioner and Sexual Violence Review Board Act 2024* (Qld)

'Practice manager' means a legal professional with operational management responsibility of legal professionals who have carriage of the prosecution of sexual offences at the ODPP.

COMMUNICATION WITH THE VICTIM

7. At the start of an investigation, the QPS investigating officer is responsible for:
 - a) informing the victim of their right to review decisions and/or make a complaint under the Charter of Victims' Rights
 - b) informing the victim about support services available to them
 - c) facilitating the referral of the victim to suitable support services
 - d) reminding the victim of their right to review decisions and/or make a complaint under the Charter of Victims' Rights.
8. When a matter is referred to the ODPP and a victim liaison officer is allocated, the ODPP is responsible for:
 - a) informing the victim of their right to review decisions and/or make a complaint under the Charter of Victims' Rights
 - b) informing the victim about support services available to them
 - c) facilitating the referral of the victim to suitable support services
 - d) reminding the victim of their right to review decisions and/or make a complaint under the Charter of Victims' Rights.
9. In every matter, the QPS and ODPP will:
 - a) consult with the victim regarding their preferred means of contact (telephone, text, email, support person, etc.) and their availability
 - b) ensure the victim is kept informed of the progress of the investigation and prosecution process, and any decisions regarding the matter within reasonable timeframes. These updates include, but are not limited to:
 - i. bail matters (including conditions)
 - ii. hearing, trial, and sentence dates
 - iii. amendments or changes to charges that will significantly affect the penalty likely to be imposed
 - iv. the outcome of the prosecution
 - v. any subsequent appeals.
10. In the lead up to a trial, the ODPP will arrange for appropriate court support and/ or special measures for the victim, where it is available and reasonably practicable.

ADVICE TO POLICE

11. Advice to police is confined to that prescribed by Guideline 26 of the Director's Guidelines.

COMMUNICATION AND COLLABORATION BETWEEN THE ODPP AND THE QPS

Timely contact with victims by QPS and ODPP

The ODPP is committed to contacting a victim within 48 hours of receipt of a prosecution brief. This commitment relies on the police to provide a victim's contact details to the ODPP Victim Liaison Officer as soon as practicable.

When QPS police prosecutions are responsible for the committal:

12. The QPS investigating officer will supply the ODPP with the contact details for the victim and the *List/ Non-Availability of Witnesses (Incl. Police Officers)* form (QP323 form or similar document) detailing witness availability as part of the brief of evidence (OPM 3.8.2).

When the ODPP are responsible for the committal:

13. Within 48 hours of the ODPP receiving the file from the QPS, the ODPP Victim Liaison Officer will email the investigating officer requesting provision of the victim's contact details. The investigating officer will complete the supplied form and return it by email to the ODPP Victim Liaison Officer within 24 hours of receipt of the request.

Nomination of contact officers and establishing partnership

The ODPP and QPS will work together throughout the criminal justice process. To best serve the interests of victims, we will work as partners and communicate with each other clearly and effectively.

14. The ODPP and the QPS will nominate contact officers within 2 weeks of a matter being allocated to an ODPP legal officer. This contact will be initiated by the ODPP.
15. The assigned ODPP and QPS contact officers will meet in person, virtually or otherwise make personal contact to establish:
 - a) each other's preferred methods of contact throughout the prosecutorial process
 - b) an agreed process for communication with the victim, including progress of the matter.

Such arrangements will be informed by the needs and wishes of the victim.

Provision and update of contact and availability information

It is in the best interests of justice and the wellbeing of victims that the ODPP and the QPS share and maintain relevant information with each other and that court processes run smoothly.

16. At the first meeting between the assigned contact officers, the QPS officer will provide the ODPP with:
 - a) contact details (including email address and mobile phone number) of the investigating officer and a relevant senior officer (for example, sexual violence liaison officer or officer in charge), who can respond in the event the investigating officer is unavailable.

b) confirmation that a *List/ Non-Availability of Witnesses (Incl. Police Officers)* form (QP323 or similar document) detailing witness availability and contact details is included in the brief of evidence, including

- i. information about regional, interstate, or international witnesses
- ii. leave/unavailability periods
- iii. the date they last spoke with the witness about their availability and current contact details.

The ODPP will be guided by this advice when contacting witnesses and requesting court hearing dates.

17. The QPS officer will provide the ODPP with updated contact and/or witness availability details

- a) in the event these details change
- b) upon request from the ODPP.

The ODPP will keep QPS and witness contact details and related information confidential and utilise them only for purposes related to the prosecution of the matter.

18. At or before the first meeting between the assigned contact officers, the ODPP will provide the QPS investigating officer with an email confirming:

- a) contact details (including email address and phone number) of the ODPP legal officer and the legal officer's supervisor (in the event the officer is unavailable), and crown prosecutor or other counsel briefed to prosecute the matter where available.

19. The ODPP will provide the QPS with updated contact details

- a) in the event these details change
- b) upon request from the QPS.

The QPS will keep the contact details confidential and utilise them only for purposes related to the prosecution of the matter.

Exchange of investigative and prosecutorial information

Sometimes the ODPP will require the QPS to conduct further investigations for a matter. To prevent this unnecessarily delaying the finalisation of the justice process for victims, it is important this occurs in a timely way and that communication between the ODPP and QPS is clear. It is also important that the QPS are kept up to date by the ODPP about the progress of a matter.

20. Where the ODPP requires additional brief materials, evidence and/or investigative steps, the ODPP will put that request in writing to the QPS (formal requisition) identifying a reasonable timeframe for response. This can occur by sending a formal requisition letter by email. If the matter is urgent or complex, the ODPP can verbally request the information, with written confirmation provided immediately afterwards. Upon receipt, the investigating officer will acknowledge the requisition by return email.

21. The QPS investigating officer will provide a substantive response to the ODPP within 4 weeks of receipt of a request for additional briefing materials, evidence and/or investigative steps. If the matter is urgent the ODPP legal officer or crown prosecutor may request a response within a shorter designated timeframe.

- a) **Shorter timeframe for ex-officio indictments** – An ex-officio indictment is an indictment consented to by the Director of Public Prosecutions without a committal process, often used to speed up the progress of the matter through the court system. In the case of ex-officio indictments, the investigating officer will provide the material within 2 weeks, or a shorter timeframe negotiated between the investigating officer and the crown prosecutor. This is because the court will be required to deal with the matter quickly. If the investigating officer is unable to provide the material or a reasonable explanation for the material not being provided in the agreed timeframe, the Director of Public Prosecution's consent for the matter to proceed by way of ex officio indictment will be withdrawn.

If the QPS investigating officer cannot give a substantive response within 4 weeks (for example, because of the need to wait for evidence) or the shorter time frame requested for urgent matters they will notify the ODPP legal officer or crown prosecutor in writing as soon as reasonably practicable after becoming aware of the delay, and the reason for any delay.

22. The ODPP legal officer or crown prosecutor will provide updates on the progress of the prosecution and significant decisions to the QPS investigating officer, as soon as reasonably practicable. These updates, except for urgent matters (for example, bail matters including conditions), should be sent in writing by email and include, but are not limited to:

- a) the fact of the presentation of an indictment
- b) bail matters (including conditions)
- c) hearing, trial, and sentence dates
- d) amendments or changes to charges that will significantly affect the penalty likely to be imposed
- e) the outcome of the prosecution
- f) any subsequent appeals.

Court listings, proceedings and associated procedural requirements

To best support the victim in the lead up to trial and to allow the trial to run smoothly, the ODPP and QPS will work together to ensure all trial preparation is complete prior to commencement of the trial.

23. The ODPP legal officer or crown prosecutor will:

- a) seek a listing which reflects the most recently provided witness availability advice when listing matters for trial.
- b) as soon as reasonably practicable but no later than 21 days before the date on which the trial is to commence or the sitting in which the trial is listed after receiving the listing date, provide the investigating officer with:

- i. written notice of the trial date and trial review date
 - ii. copies of subpoenas for each civilian witness.
- 24. The QPS investigating officer will:
 - a) serve subpoenas and return affidavits of service to the ODPP as soon as reasonably practicable, but no later than 4 weeks after receiving the subpoenas from the ODPP or 21 days before the date on which the trial is to commence or the sitting in which the trial is listed, whichever is earliest
 - b) communicate issues, such as difficulties locating witnesses and/or serving subpoenas, to the ODPP legal officer as soon as reasonably practicable.
- 25. The QPS investigating officer or other nominated officer will be available to assist the ODPP in the weeks prior to a matter listed for trial or substantive hearing to gather further evidence, contact and arrange witnesses and make further enquiries.

Discontinuance or substantially reducing charges

Collaboration between the ODPP and the QPS, and consultation with the victim, about a decision to discontinue or reduce charges, or to discontinue a prosecution, provides support for the victim during this process.

- 26. The exercise of the prosecutorial discretion to discontinue a prosecution, or substantially reduce charges, is governed by the:
 - a) ODPP Director's Guidelines where the ODPP is responsible for a matter
 - b) QPS OPM where QPS Prosecutions Service is responsible for a matter.
- 27. Where the ODPP or QPS Prosecutions Service are considering discontinuing a prosecution or substantially reducing charges, a legal officer, or a prosecutor from the agency responsible for the prosecution of the matter will consult with the:
 - a) QPS investigating officer, to ensure that all relevant facts are considered and determine whether any further action can be taken
 - b) victim (subject to discussion with the victim's support person/provider) to seek the views of the victim which will inform (but not determine) any decision that may be made.
- 28. The ODPP legal officer or crown prosecutor will advise the QPS investigating officer in writing of the reasons that a prosecution is discontinued or charges are discontinued or substantially reduced as soon as reasonably practicable and appropriate after the decision is made. The investigating officer will be advised before the victim is advised unless that is not reasonably practicable.
- 29. Written reasons for discontinuing or reducing a charge cannot be copied or disclosed to any person other than QPS members without the consent of the Director of Public Prosecutions.
- 30. Ordinarily, the agency making the decision to discontinue a prosecution or substantially reduce a charge will contact the victim to give reasons for discontinuance or reduction when a decision is made. However, wherever possible, the ODPP legal officer or crown

prosecutor and the QPS investigating officer will jointly meet with the victim to explain why the charges were discontinued or reduced.

31. In exceptional cases, the QPS investigating officer will be the appropriate person to speak with the victim to give reasons for discontinuance or reduction in charge. In these cases, the ODPP legal officer or crown prosecutor will provide the QPS investigating officer with a written explanation for the discontinuance or reduction in charge which is to be communicated to the victim.
32. When communicating with a victim about a discontinued prosecution or discontinued or reduced charges, the ODPP legal officer or crown prosecutor and/or the QPS investigating officer must:
 - a) explain to the victim that they can have a support person/provider present at all discussions if desired
 - b) tell the victim of their right to request a review of the decision (where applicable)
 - c) tell the victim of their right to make a complaint under the Charter of Victims' Rights or otherwise
 - d) provide information on how to exercise their rights.

ESCALATION OF ISSUES ARISING FROM OPERATION OF MEMORANDUM

33. Where an ODPP legal officer or prosecutor is not complying with their obligations under this MOU, attempts to resolve the issue should proceed as follows:
 - a) The investigating officer will attempt to resolve the issue with the legal officer or prosecutor directly
 - b) If no resolution occurs, the issue must be escalated to the legal officer or prosecutor's practice manager
 - c) If there is still no resolution, the investigating officer's officer in charge should liaise with the practice manager.
34. Where a QPS investigating officer is not complying with their obligations under this MOU, attempts to resolve the issue should proceed as follows:
 - a) The legal officer or prosecutor will attempt to resolve the issue with the investigating officer directly
 - b) If no resolution occurs, the issue must be escalated to the investigating officer's officer in charge
 - c) If there is still no resolution, the legal officer or prosecutor's practice manager should liaise with the officer in charge.
35. Where the practice manager and officer in charge cannot come to a resolution:
 - a) The relevant ODPP principal crown prosecutor should liaise with the relevant QPS detective inspector

- b) If the issue still cannot be resolved, the ODPP deputy director and the QPS detective superintendent should meet to reach a resolution.

THE QPS AND ODPP SEXUAL OFFENCE REVIEW COMMITTEE

36. The QPS and ODPP established the *QPS and ODPP Seeking Justice Committee* following recommendations from the then Crime and Misconduct Commission's (CMC's) 'Seeking Justice' report (June 2003).
37. In 2024, in response to recommendations 45 and 46 from report two of the Women's Safety and Justice Taskforce 'Hear Her Voice' report, the QPS and ODPP established the *Sexual Offence Review Committee* (Committee), expanding the scope from a focus on failed sexual offence prosecutions to reviewing sexual offence investigations and prosecutions where the QPS and/or ODPP can identify high value learnings. The Committee replaces the *QPS and ODPP Seeking Justice Committee* and the associated Failed Sexual Offence Prosecutions Working Party.
38. The purpose of the Committee is to review sexual offence investigations and prosecutions to promote continuous improvement and victim-centred and trauma-informed responses to persons affected by the investigation and prosecution including victims of sexual violence and defendants who allege they have been abused or victimised.
39. The *Victims' Commissioner and Sexual Violence Review Board Act 2024* (Qld) establishes the Sexual Violence Review Board to identify and review systemic issues in relation to the reporting, investigation and prosecution of sexual offences (section 61, 62). Also established under this Act is the Office of the Victim's Commissioner, whose functions include the identification and review of systemic issues relating to victims (section 7, 9 and 25). It is envisioned that the work of the Committee will include the provision of reports to these two bodies.
40. The key functions of the Committee are:
- a) identify, share and exemplify good practice
 - b) identify, discuss and resolve practice issues, patterns and trends, failings and barriers
 - c) identify systemic issues, including rates of attrition, that need to be addressed by the QPS and/or the ODPP
 - d) collate written reports outlining systemic issues identified in reviews and evaluations, including recommendations to enhance service delivery in the QPS and/or the ODPP
 - e) monitor compliance with the Memorandum of Understanding (MOU) between the QPS and the ODPP regarding sexual offence prosecutions
 - f) resolve disputes about a failure to comply with either the Director's Guidelines, the QPS Operational Procedures Manual or a failure to comply with the MOU
 - g) monitor and review the MOU to ensure it is achieving its purpose
 - h) identify and refer relevant matters to the Sexual Violence Review Board (Board) or the Victims' Commissioner
 - i) provide reports to the Board or the Victims' Commissioner as required.

41. The ODPP legal officer or crown prosecutor or QPS investigating officer will make every effort to resolve any specific issues relevant to the purpose and/ or functions of the Committee at a local level first.
42. However, if resolution is not possible at a local level, the specific issue will be referred to the Committee for resolution.

EXECUTION

IN WITNESS WHEREOF the parties have executed this Memorandum of Understanding on the dates indicated below:

Signed for and on behalf of the
THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

T FULLER KC

Director of Public Prosecutions

(NAME)

(POSITION TITLE)



(SIGNATURE)

18/3/25

(DATE)

Signed for and on behalf of the
THE QUEENSLAND POLICE SERVICE

S CHELEPY APM

Acting Commissioner, Queensland Police
Service

(NAME)

(POSITION TITLE)



(SIGNATURE)

4/3/25

(DATE)

ANNEXURE 1: Escalation Pathway for Issues Arising from Operation of Memorandum

Memorandum of Understanding

The Office of the Director of Public Prosecutions (ODPP) and the Queensland Police Service (QPS)



