



CDPP

*Australia's Federal Prosecution Service*



# Right of Review Policy for Victims of Crime

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References to the law, policies and guidelines are current as at the date of publication. Users should confirm the currency of all source material at the time of using this document.

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**A. PURPOSE**


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1. The Office of the Director of Public Prosecutions (Cth) (**CDPP**) recognises that decisions made by the Office to not lay charges or to discontinue charges, where that decision ends all charges relating to a victim (**Key Prosecution Decisions**), are usually of great interest and significance to the victim/s of crime concerned.
2. This policy outlines the right of review that is available to victims of crime in relation to Key Prosecution Decisions. It sets out:
  - 2.1. the types of decisions that may be reviewed;
  - 2.2. who may request a review;
  - 2.3. how to seek a review; and
  - 2.4. the review process, including who will conduct the review and the timeframes involved.

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**B. PROSECUTION POLICY OF THE COMMONWEALTH**


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3. The CDPP is an independent agency created by the Parliament of the Commonwealth of Australia to prosecute offences against Commonwealth law. It is important to understand that the CDPP makes all prosecution decisions in accordance with the [Prosecution Policy of the Commonwealth](#), including decisions to not lay or to discontinue charges.

4. This policy should be read in conjunction with the [Prosecution Policy of the Commonwealth](#) and the [Victims of Crime Policy](#), which sets out the consultations that take place with victims in relation to decisions made by the CDPP, including Key Prosecution Decisions.
5. The CDPP does not act on behalf of a victim of crime in the way that private solicitors act for their clients. Instead, in carrying out its functions, the CDPP acts on behalf of the whole community. However, the CDPP recognises that victims play an important role in the prosecution process. Accordingly, the CDPP will seek out and consider the views of victims of crime, when making Key Prosecution Decisions.

### **C. WHAT IS A KEY PROSECUTION DECISION?**

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6. A victim of the crime in relation to which a Key Prosecution Decision is made has a right to request a review of that decision. For the purposes of this policy, a Key Prosecution Decision is defined as a decision to:
  - 6.1. not lay any charges relating to a victim; or
  - 6.2. wholly discontinue a charge (or charges) resulting in all charges relating to a victim of crime ending.
7. If the result of a prosecution decision is that proceedings in relation to the crime, including as it relates to the victim, continue (for example, against a different defendant or with different charges to those originally laid), it is not a Key Prosecution Decision and cannot be reviewed.
8. Decisions of the Attorney-General refusing to grant consent to a charge(s) being laid, are not Key Prosecution Decisions.

### **D. WHO MAY REQUEST A REVIEW OF A KEY PROSECUTION DECISION?**

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9. A victim of the crime in relation to which a Key Prosecution Decision is made can request a review.
10. A victim is an identified individual who has suffered harm as a direct result of an offence or offences committed, or alleged to have been committed, that are prosecuted by the CDPP.
11. In this definition, “harm” includes physical, psychological and emotional suffering, pregnancy, economic and other loss and damage.
12. In some circumstances, it may be appropriate for a person other than the victim of crime to request a review.
  - 12.1. In matters that involve the death of a person, a partner and/or immediate family member of the deceased victim is entitled to request a review of a Key Prosecution Decision.
  - 12.2. In matters that involve child victims, their parent/s or primary caregiver/s may request a review of a Key Prosecution Decision on their behalf.
  - 12.3. If a victim of an alleged offence is unable to make a request for a review, for example, because of a cognitive, physical or mental health issue, a family member and/or recognised support person may request a review of a Key Prosecution Decision on their behalf.
13. A victim is not entitled to request a review of a Key Prosecution Decision if the decision was made with their agreement, or because they withdrew their support for the prosecution.

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**E. WHEN CAN A VICTIM REQUEST A REVIEW?**

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14. A request for a review of a Key Prosecution Decision must be made within **10 business days** of the victim being advised in writing of the Key Prosecution Decision.
15. This timeframe is short, to ensure that any reviews can be conducted in a timely manner.

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**F. HOW CAN A VICTIM REQUEST A REVIEW?**

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16. A review can be requested by emailing a copy of the form at [Attachment A: Key Prosecution Decision Review Request Form](#) to [reviews@cdpp.gov.au](mailto:reviews@cdpp.gov.au). A victim of crime can record their concerns with the Key Prosecution Decision in the form at [Attachment A: Key Prosecution Decision Review Request Form](#) and provide any additional information about the case that might be relevant to the review.

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**G. WHO DETERMINES THE REQUEST FOR A REVIEW?**

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17. A request for review will be determined by the Director of Public Prosecutions, unless the Director decides that the review can be determined by another person, but only if that person is senior to or independent from the prosecutor who made the Key Prosecution Decision.

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**H. WHAT WILL THE REVIEWER CONSIDER?**

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18. Depending on the circumstances, the reviewer may consider whether there was any error in the decision, including misinterpretation of evidence, any flawed reasoning, misapplication or misinterpretation of the law or a failure to comply with the [Prosecution Policy of the Commonwealth](#).
19. The reviewer will consider any extra information the victim has provided.
20. The reviewer may also seek additional information or input from the investigative agency.

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**I. HOW LONG WILL A REVIEW TAKE?**

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21. The length of time a review will take can be influenced by many factors, including the complexity of the matter, whether additional information or evidence is being sought from the investigative agency, any existing court timetable and the CDPP's available resources.
22. The CDPP aims to complete reviews within a reasonable timeframe and will endeavour to keep victims up to date as to the progress of their review request, at regular intervals.

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**J. REVIEW OUTCOMES**

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23. A review may confirm the Key Prosecution Decision, find that the Key Prosecution Decision was incorrect and the prosecution should be commenced/recommended, or find that the Key Prosecution Decision cannot be changed because it is not possible or appropriate to commence/recommence the prosecution.
24. The outcome of the review will be communicated to the requesting victim in writing.

**K. ATTACHMENTS**

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25. [Attachment A: Key Prosecution Decision Review Request Form.](#)

**L. ATTACHMENT A: KEY PROSECUTION DECISION REVIEW REQUEST FORM**

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**Name:** Enter your full name.

**Name of the accused:** Enter the name of the accused.

**CDPP reference number:  
(if known)** Enter the CDPP reference number.

**Your preferred contact method:**  **Email:** Enter your email address.

**Phone:** Enter your phone number.

**Your address:** Enter your address.

**What concerns do you have with the CDPP's Key Prosecution Decision?**

(Note: a Key Prosecution Decision is defined for the purposes of a right of review as a decision to not lay any charges relating to a victim, or to wholly discontinue a charge (or charges), resulting in all charges involving a victim of crime ending. If a proceeding relating to the crime, including as it relates to a victim, is continuing against a different defendant or with different charges, the decision is not a Key Prosecution Decision and cannot be reviewed).

Please outline your concerns with the Key Prosecution Decision.