

20 October 2025

Our ref: [BC:CrLC]

Mr Todd Fuller KC
Director
Office of the Director of Public Prosecutions
State Law Building
50 Ann Street
Brisbane QLD 4000

By email: [REDACTED]

Dear Director Fuller

ODPP Victim's Right to Review Policy

I write on behalf of Queensland Law Society's Criminal Law Committee members in relation to the Office of the Director of Public Prosecution (**ODPP**) Victims Right to Review Policy (**Policy**).

The Society is aware of the ODPP's implementation of the Policy and understands its role is to provide victims with a formal right to review specific prosecutorial decisions. I understand that the Policy is subject to review 12-months post-implementation, and it is in that context that we raise the below matters for your consideration.

The Policy expands the ODPP's current discontinuance process to include consultation with the victim prior to discontinuing the charges. I understand this includes instances where the ODPP seeks to discontinue all charges following a successful restorative justice process, including where all agreed terms have been fulfilled. In our view, the application of the Policy on that basis raises significant concerns about fairness and finality for those who have engaged in restorative justice pathways in good faith. Specifically, it creates a risk that defendants who have complied in good faith may face reinstated prosecution, often without the resources to secure further legal representation. Such outcomes undermine the principles of restorative justice, particularly where conferencing has occurred:

1. With the informed consent of the victim, obtained both through consultation with the ODPP and via a comprehensive intake assessment process; and
2. In lieu of prosecution or as part of a diversionary pathway.

Restorative justice conferencing is a resource-intensive, facilitated process that empowers victims, fosters accountability, and provides meaningful redress. Once the agreed outcomes are met, the matter is considered resolved within a non-adversarial, rehabilitative framework. Applying the Policy to these cases introduces procedural uncertainty and risks eroding the finality and integrity of mutually agreed and executed resolutions.

Accordingly, I write to advocate for amending the Policy to exclude matters resolved through restorative justice conferencing or private restorative mediation from the scope of reviewable

decisions. Where a victim has already participated in a successful restorative process and all parties have complied, triggering a review due to disagreement with a subsequent discontinuance, risks reopening a matter that has been meaningfully resolved.

We also recommend amending the timeframe for victims to request a review, in all matters, from 10 business days to five business days, which we consider more appropriate and practical.

Separately, we raise concern about the inconsistencies with victim consultation. While victims are routinely consulted on decisions to downgrade charges or discontinue matters, both of which are questions of law, it appears they are not consulted when proposals for justice mediation or alternative resolutions are submitted by the defence. Members of our Criminal Law Committee report two scenarios commonly arising when diversionary options are canvassed by defence:

1. A unilateral determination is made by the ODPP as to whether a matter is to be considered suitable for referral to a diversionary process (such as restorative justice), in the absence of any consultation with the victim; or
2. When a victim is informed an offer of mediation or compensation has been made in good faith by a defendant, the legal officer also expresses a pre-determined view about the appropriateness and/or utility of the victim engaging in that process, without providing any information as to the potential benefits.

Neither decision-making process is based on any legislative limitation on the type of matter which is capable of being referred for a diversionary process. This undermines the principle of meaningful victim participation. If a victim is to be consulted on potential discontinuance, they should also be informed of any offer of mediation or compensation made in good faith by the defendant's legal representative. Such offers may significantly influence victim's views, provide a resolution which is more beneficial than the traditional, adversarial court process, and should be part of a transparent and inclusive process.

Thank you for your consideration of this matter. If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via policy@qls.com.au or by phone on [REDACTED] [REDACTED]

Yours faithfully

[REDACTED]
Genevieve Dee
President