



## Office of the Director

### **EARLY RESOLUTION OF INDICTABLE MATTERS**

1. In the early stages of a prosecution of solely indictable matters or either way charges to be dealt with on indictment, the Western Australian Police Force (WAPF) has the conduct of the prosecution.
2. In metropolitan matters, the Office of the Director of Public Prosecutions ODPP only takes over a prosecution after a matter has been adjourned to a disclosure/committal hearing. In regional matters, the WAPF retains conduct of the prosecution until after committal.
3. While there is no requirement that the WAPF seeks the authorisation of the ODPP to resolve solely indictable matters, it has long been the case that some members of the WAPF are hesitant to resolve such matters before the ODPP takes over the conduct of the prosecution, usually due to the seriousness of the case, or its complexity.
4. This sometimes results in an accused being unable to enter into productive plea resolution discussions with the WAPF at a stage prior to the matter being adjourned to a disclosure/committal hearing (or, in the regions, before committal). This has substantial implications for accused (for whom an early plea of guilty or discontinuance has many advantages), the WAPF (who have to provide full disclosure pursuant to s 42 of the CPA) and victims of crime.
5. Accordingly, the ODPP has implemented an 'Early Resolution Advice Practice' (ERAP).
6. The ERAP is a facility solely for use by the WAPF, and enables the WAPF to seek advice from the ODPP in relation to plea offers or resolutions in cases involving indictable charges.
7. The advice may be sought by the investigating officer, or a Police Prosecutor, although in some cases they will need to seek authorisation from a superior officer before seeking the advice.
8. The ERAP is not limited to consideration of solely indictable charges, but all indictable charges.
9. It is entirely a matter for the WAPF as to whether it seeks advice in any given case. It is still the case that members of the WAPF are entitled to engage in plea resolution discussions without ODPP involvement, if they wish to do so. Further, the WAPF is under no obligation to accept the advice provided.
10. A decision of the WAPF to seek advice, and any advice given, is not disclosable and there is no obligation for the WAPF to provide reasons to an

accused or their legal representative as to a decision made in relation to a plea resolution submission, although a member of the WAPF may do so to facilitate an acceptable resolution.

11. Communication with victims of crime regarding the outcome of any plea resolution discussion is a matter entirely for the WAPF.
12. Legal representatives of accused who have instructions to resolve one or more indictable charges at an early stage, and particularly solely indictable charges, are encouraged to submit, in writing, any reasonable plea resolution proposal, together with the full factual basis of the resolution proposed and any other matters they consider to be relevant, to the prosecutor (being the investigating officer or the police prosecutor responsible for the matter).
13. Reasonable submissions as to the discontinuance of the proceedings can also be considered under this process, on provision to the prosecutor of a submission made in writing setting out its basis.
14. In the event that advice is sought from the ODPP, the ODPP will provide advice to the WAPF within 30 days, unless otherwise advised.
15. The ODPP will not engage in direct discussion with an accused or their legal representatives as part of the ERAP. All communication must go through the person to whom the plea resolution proposal has been made.

Amanda Forrester SC  
DIRECTOR OF PUBLIC PROSECUTIONS

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