



Office of the Director of Public Prosecutions  
Government of Western Australia

# Public Officer Guidelines 2018

**From 1 September 2018**

## ***Director of Public Prosecutions Act 1991***

### ***Guidelines to Police Officers and other Public Officers for the Exercise of the Discretion Not to Prosecute Indictable Offences***

#### **INTRODUCTION**

Every decision whether or not to charge a person with an indictable offence must be in the public interest.

When a charge is laid there is a written record of the charge and the evidence in support is available in due course for review.

These Guidelines are intended to clarify the exercise of discretion by police officers and public officers in situations where the public interest does not require a person to be charged with an indictable offence.

These Guidelines should not discourage Police Officers and other Public Officers from exercising the discretion. The Guidelines are to promote consistency and to improve accountability.

The Director of Public Prosecutions is the only person with statutory authority to grant indemnities from prosecutions.

Furthermore, the only bodies able to grant an undertaking that answers given or statements made by a person will not be used in evidence are Courts and the Director of Public Prosecutions.

Police Officers and other Public Officers do not have these powers.

Therefore, the decision not to proceed with a prosecution in the public interest is one that must always be capable of review.

#### **GUIDELINES**

1. There will be occasions, when despite sufficient credible evidence Identifying a person as having committed an offence, a Police Officer or Public Officer will exercise a discretion not to charge that person.
2. Such a discretion should only be exercised in the public interest and by applying to the particular facts and circumstances the *Statement of Prosecution Policy and Guidelines* issued by the Director of Public Prosecutions for Western Australia and published in *Government Gazette*, and as amended from time to time.
3. The reasons for the exercise of a discretion not to lay a charge in a particular case must be recorded in writing.
4. The exercise of a discretion not to lay a charge in a particular case should be subject of routine review within the Police Service or other responsible authority. The review must also be recorded in writing.
5. These Guidelines apply to all indictable offences, including indictable offences triable summarily, and are operative from 1 September 2018.

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