

Prosecution Guidelines

Updating the guidelines 2021-24

On 12 December 2024, the Solicitor-General published updated [Prosecution Guidelines](#). This was the culmination of an extensive review of the existing guidance.

Read more: [Media Statement](#) from the Solicitor-General about the Guidelines issued on 12 December.

The previous Solicitor-General's Prosecution Guidelines were published in 2013, to coincide with the Criminal Procedure Act 2011 coming into force. Some supplementary guidance was issued between 2013 and 2023.

The 2024 guidelines were first published on 1 October with a revised edition published on 12 December. They were developed between 2021 and 2024, which included consultation with key stakeholders, research, drafting, and receiving and responding to feedback.

Key changes

The 2024 edition is an entirely new suite of guidelines, which in general provide more guidance on a greater range of topics.

They are now fully digital, on a searchable website. Crown Law has applied a consistent style across all the revised Guidelines and have ensured that versions published online meet the NZ Government Web Accessibility Standard 1.1.

The format has also changed, in that the overarching Principal guideline | Aratohu matamua is now much shorter and addresses only the foundational elements of the Guidelines which will apply to all prosecutions. More detailed guidance is now provided in a suite of subject-specific guidelines, which can be amended as necessary to reflect changes in law or practice.

The Principal guideline | Aratohu matamua brings together key matters all prosecutors should be aware of, some of which were discussed in the 2013 edition and some of which were not. There are clear statements about the status of the guidelines, in that they set expectations, not rules and the role of the Solicitor-General as well as a set of principles is outlined to guide prosecutors in decision-making.

Key matters are identified, with detailed guidance provided in these guidelines:

- Decisions to prosecute | Te whakatau ki te aru;
- Prosecution policies | Ngā kaupapa here mō te aru; and
- Making unbiased decisions | Te whakatau rītaha-kore.

Guidance is also provided on important topics such as tikanga, te reo Māori, and the New Zealand Bill of Rights Act 1990.

It is confirmed that the Solicitor-General may seek information from agencies and Crown Solicitors to monitor the application of the guidelines in practice.

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As to the test for prosecution:

- The wording of the evidential test has been simplified and now reads “Is there enough evidence to prove the proposed charge beyond reasonable doubt?”.
- The public interest test, like the 2013 edition, asks whether prosecution is required in the public interest.
- Detailed guidance is provided on both limbs of the test in the guideline on Decisions to prosecute | Te whakatau ki te aru. Prosecutors should note in particular the new structure for applying the public interest test.

Most guidelines replicate and/or expand on existing guidance (whether in the 2013 edition or supplementary guidance issued subsequently).

The guidelines below contain significant new content:

- Principal guideline | Aratohu mātāmua;
- Decisions to prosecute | Te whakatau ki te aru;
- Prosecution policies | Ngā kaupapa here mō te aru;
- Making unbiased decisions | Te whakatau rītaha-kore;
- Bail | Peira;
- Sentencing | Te whiu;
- Victims | Ngā pārurenga; and
- Disclosure | Te tūhura.

Editor’s note: We have not attempted to summarise all the changes between the two editions but are highlighting the key substantive changes.