



**Director of Public Prosecutions right of review of bail decisions pursuant to s44 of the
Bail Act 1992
Director's guideline**

This guideline sets out the factors to be taken into account by my Office in deciding whether to seek a review of a decision to grant bail pursuant to s44 of the **Bail Act 1992**.

Section 44 permits the Director of Public Prosecutions ("the Director") to apply for a review of the decision of a court to grant bail if the director considers that exceptional circumstances exist and it is in the public interest to make the application: s44(2).

The right to review exists where a person is charged with a **family violence offence** or a **serious offence**.

Family violence offence is defined in the **Family Violence Act 2016** as **an offence if the conduct making up the offence is family violence**. **Family violence** is defined at s 8 of the Act and covers a range of acts committed by a person upon a family member. **Family member** is defined at s 9 of that Act to include intimate partners and domestic partners (including former partners), relatives, and children of domestic partners including former domestic partners, and a parent of a child of the person. **Intimate partner** and **relative** are further defined in that Act. **Relative** is defined to catch a broad range of familial relationships.

Serious offence is defined in the Bail Act to include a range of serious offences, including an offence of causing harm or threatening to cause harm punishable by imprisonment for more than 10 years.

The decision to review bail does not rest upon either a change of circumstances or the availability of fresh evidence. Other provisions in the Bail Act cover this.

An application will only be made where exceptional circumstances exist and it is in the public interest to make the application.

Those circumstances will primarily be concerns as to the likelihood of the person endangering the safety of anybody, or intimidating a witness or otherwise obstructing the course of justice if released on bail.

The endangering of the safety of the person, the interference with evidence, or the intimidation of a witness or otherwise obstructing the course of justice must all be of an exceptionally serious kind.

If serious threats to the safety of a person have been made, and those threats are credible, and the circumstances otherwise indicate a distinct and not fanciful possibility that threats may be carried out, these are factors which are relevant to the decision to make an application for review.

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