

Lincolnshire Police

Policy Document



Victim right to review policy PD 262

Policy document information

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Policy sponsor:	ACC Mayo
Policy owner:	DCS Elizabeth Rogers
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Version history

Version	Date	Reason for issue
1		New policy
2	27/09/23	Change to finalisation process – 2.6.13
3	Sept 2025	Biennial Review and amendments added

Code of Ethics

All staff involved in carrying out functions under this policy and associated procedures and appendices will do so in accordance with the principles of the Code of Ethics. The aim of the Code of Ethics is to support each member of the policing profession to deliver the highest professional standards in their service to the public.

Legislative compliance

This document has been drafted to comply with the principles of the Human Rights Act. Proportionality has been identified as the key to Human Rights compliance, this means striking a fair balance between the rights of the staff and those of the rest of the community. There must be a reasonable relationship between the aim to be achieved and the means used.

Equality and Diversity issues have also been considered to ensure compliance with the Equality Act 2010 and meet our legal obligation in relation to the equality duty. In addition, Data Protection, Freedom of Information and Health and Safety Issues have been considered. Adherence to this policy or procedure will therefore ensure compliance with all relevant legislation and internal policies.

Other legislation/law which this policy has been drafted to comply with:

- [Human Rights Act 1998 \(in particular A.14 – Prohibition of discrimination\)](#)

- [Equality Act 2010](#)
- [Data Protection Act 2018](#)
- [Freedom Of Information Act 2000](#)

Security classification

Policy to be published on Intranet: Yes

Policy to be published on Force Website: Yes

Authorised Professional Practice (APP)

This policy has been checked against APP. There is no current APP recorded in relation to this subject matter, however this policy is In line with NPCC guidelines:

[National Policing Guidance on Police Victim Right to Review](#)

1. Policy aims (Purpose)

- 1.1. The overall aim of this policy is to set out the principles and parameters of the Lincolnshire Police Victim Right to Review (VRR) scheme. This scheme offers victims of crime a system of review without recourse to court proceedings.

The policy is based on national guidance. It provides a level of consistency that ensures the process is clear, accessible, and fair for all victims.

2. Background and Scope

- 2.1 Victim Right to Review (VRR) relates to a right for a victim to ask for a review of a decision not to prosecute a suspect.
- 2.2 The right of a victim to request such a review was considered in the case of R v Killick and is set out in Article 11 of the EU Directive on Victims (EU Directive), which came into effect in November 2015.

- 2.3 Following a pilot scheme in July 2014 the CPS confirmed its adoption of a VRR scheme and issued national guidance. CPS last updated their policy in May 2021, police VRR reflects CPS VRR.
- 2.4 The Victims and Prisoner Act 2024 (3) states the victims' code must make provision for services which reflect the principles that victims require:
- (d) the ability to challenge decisions which have a direct impact on them.
- 2.5 Under Right 6 of the Victims Code, the Victim's Right to Review Scheme gives victims the **Right** to ask for a review of a police decision not to prosecute a suspect. This applies to cases in which a suspect has been identified and interviewed under caution, either after an arrest or voluntarily.

3. Qualifying Cases

- 3.1 The VRR scheme is only applicable to police decisions made on or after 1st April 2015
- 3.2 VRR will apply to National Crime Recording Standard (NCRS) offences
- 3.3 An exception to the rule of NCRS offences relates to reviewing road traffic matters in which the victim sustained life changing injuries.

Life changing is defined as 'The injured person is not able to lead an independent life. This would include loss of limbs (not fingers), severe head injuries with a loss of cognitive ability and full or partial paralysis.'

- 3.4 VRR will only apply to cases in which a suspect has been identified and interviewed under caution, either following an arrest or by voluntary arrangement.

An 'interview' in this context is intended to cover situations where a suspect has an allegation put to them under caution in some detail as opposed to limited questioning that might take place in the immediate aftermath of an incident, for instance during a stop and search. It will be classed as an 'interview' if, during the Covid pandemic, interview questions were put to a suspect via a legal representative for their account.

3.5 The right of a victim to request a review arises where the police:

- make a decision not to bring proceedings in cases where the police have authority to charge; or
- make a decision that the case does not meet the evidential test for referral to the CPS for a charging decision.

3.6 The following cases **DO NOT** fall within the scope of police VRR:

- Cases where no suspect has been identified and interviewed, for instance investigations that are filed 'at source'.
- Cases where charges are brought in respect of some (but not all) allegations made or against some (but not all) possible suspects.
- Cases where a charge is brought that relates to the matter complained about by the victim, but the offence charged differs from the crime that was recorded, for instance the suspect is charged with common assault, but an offence of actual bodily harm has been recorded.
- cases which are concluded by way of out of court disposal; and
- cases where the victim retracts their complaint or refuses to co-operate with the investigation and a decision is therefore taken not to charge/not to refer the case to the CPS for a charging decision. However, if at any point in the future the victim does cooperate, an investigation can be reviewed before considering VRR.

N.B It should be noted that VRR specifically relates to decisions not to prosecute and does not cover crime recording decisions or decisions not to continue with enquiries.

4. Who Can Apply Under the Scheme?

4.1 Any victim in a qualifying case where a decision is made not to prosecute, is entitled to seek a review of that decision.

4.2 Under the Victims and Prisoners Act 2024, a victim is defined as ‘A *person who has suffered harm (physical, mental, emotional, or economic loss) which was **directly** caused by criminal conduct*’

4.3 This includes:

- Close relatives of a person whose death was directly caused by criminal conduct.
- Parents or guardians where the main victim is a child or youth under 18.
- Police officers who are victims of crime.
- Family spokespersons of victims with a disability or who are so badly injured that they cannot communicate; and
- Businesses, providing they give a named point of contact.

And additionally:

- Legal Persons on behalf of the victim with their consent.
- Support services acting on behalf of the victim with their consent e.g. registered charities in support of victims.

4.4 All victims should be notified of their right to ask for a review at the point they are informed of the decision not to prosecute. However, reviews will not ordinarily take place until the conclusion of the investigation. This is to cater for situations where no further action has been taken against one or more suspects, but the case remains open and actively investigated. This further investigation may result in other suspect(s) being prosecuted and thereby put the case outside the scope of qualifying cases.

4.5 Victims should be reminded of their right to review at the point they are notified their case is being filed, if the case remains within the scope for a review to be conducted (see qualifying cases).

4.6 The OIC will ensure the victim has been made aware of their right to ask for a review. The notification itself can be made as part of a verbal update as the victim will be updated according to the Victim Code of Practice. An

explanation of the VRR is provided on the Lincolnshire Police website found at [Victims' Right to Review Scheme | Lincolnshire Police](#)

- 4.7 VRR is specifically intended to allow a victim to have an avenue to appeal a decision not to prosecute. It is not intended to allow others, such as campaigning groups, to direct reviews of cases that relate to their area of interest and such requests should be declined.
- 4.8 The VRR administrator is the CJU Supervisor. The process for VRR requests can be found at **Appendix B**. This includes self-referral from the Lincolnshire Police website or through a request direct to staff.

5 Victims Entitled to An Enhanced Service

- 5.1 Victims entitled to an enhanced service are those eligible as defined in The Victims' Code which identifies three categories of victim who are entitled to receive an enhanced service: vulnerable or intimidated victims, victims of the most serious crime and victims who are persistently targeted.
- 5.2 Lincolnshire Police will ensure that victims entitled to an enhanced service are given an appropriate level of support to enable them to make an informed decision regarding their right to ask for a review. This can include the Investigating Officer ensuring that relevant victim support agencies are engaged in helping the victim with their decision regarding VRR.
- 5.3 Reviews requested by a victim who is entitled to an enhanced service should be prioritised, as the effect of the crime and of uncertainty regarding the outcome of the investigation are likely to have an increased impact on them. The Review Officer will be responsible for making initial contact with the victim to advise of their interest in the review and agree timescales for its completion.

6 Conducting the Review

- 6.1 Reviews will be conducted by at least an Inspector or above according to the nature, specialism, and gravity of the case. Reviews can be conducted

by a reviewing officer of the same rank as the original decision maker if the decision maker was an Inspector or above..

- 6.2 The Reviewing Officer (RO) should not have been involved in making the original decision and should be independent of the case so that they can approach the review objectively.
- 6.3 The RO will contact the Investigating Officer, their line manager, and any other role involved in previous decision making (e.g. Custody Sergeant). The RO will explain their role including the premise that 'no blame' is associated with the review.
- 6.4 The RO will enquire with the Investigating Officer to establish the existence and availability of evidence or intelligence that is not retained within the electronic systems.
- 6.5 In cases requiring a level of specialist knowledge, such as certain Public Protection and financial investigations, the RO should have relevant experience/qualifications in the field.
- 6.6 The RO must approach the case afresh and reach their own conclusion regarding whether a prosecution should be brought, whether the matter should be referred to the CPS, whether further enquires are necessary or that no further action should be taken. Their decision will, in all cases, be made against the Full Code Test as, even if the original decision was made against the Threshold Test, it is highly unlikely that the conditions justifying use of the Threshold Test will exist by the time of the review.
- 6.7 An RO decision will take precedence over the original decision.
- 6.8 The RO should not assess whether the original decision was justified based on the process that was taken to reach it.
- 6.9 Decisions to overturn a decision not to prosecute must be grounded in the principle that the original determination was wrong. This is to ensure that such decisions have a legal foundation that will withstand challenge.
- 6.10 Factors that might be regarded as leading to a determination that the original decision was wrong include:

- An unreasonable decision to disregard compelling evidence.
- A significant misinterpretation of the evidence.
- A failure to consider, or an unreasonable decision to ignore, relevant policy.
- An incorrect application of the law.

6.11 The outcome of the review and the rationale for the reviewing officer's decision will be recorded on NICHE on form VRR record of review part two Findings and Decisions. The rationale should clearly set out why the original decision was wrong, considering the four factors. This is important if the decision is subsequently challenged through judicial review.

6.12 The CPS provide guidance entitled, 'Reconsidering a Prosecution Decision', to their prosecutors which may be of some assistance for police reviewing officers. An RO can refer to this guidance online at:

[Reconsidering a Prosecution Decision | The Crown Prosecution Service](#)

7 Time Limits

7.1 Victims should be allowed to request a review within three months of being notified of the decision not to prosecute, as this is the period during which they can request a judicial review. If a victim makes a request after this period, it shall be explained that national and force policy is within three months. If this is appealed by the victim, the decision to continue with a review will be at the discretion of the Chief Inspector or DCI of the department in which the decision was made (See appendix B)

7.2 A request from a victim seeking right of review will be acknowledged in within ten working days. If the request meets the criteria for a VRR an RO should be appointed within this ten day period and it will be for the RO to acknowledge the request. If the request does not meet the criteria, the VRR administrator will communicate this to the victim.

7.3 On receipt, the RO will contact the victim to identify and explain their role. The NICHE VRR acknowledgement letter should be sent to the victim, this can be sent electronically.

- 7.4 Wherever possible, the review will be completed and decision communicated to the victim within an overall timeframe of 6 calendar weeks from the point of request. The point of request will be taken as the date of receipt by the administrator and decision made that it meets the criteria.
- 7.5 In cases which are particularly complex or sensitive, or it has not been possible to provide a VRR decision within the usual time limits, the RO should notify the victim accordingly and provide the victim updates on progress every 28 days thereafter. Victim updates are to be recorded on NICHE.
- 7.6 Where a case is due to become statute-barred every effort should be made to expedite the review, particularly where the CPS will ultimately be required to make the charging decision and early liaison should be made with CPS in such cases.

8 The Outcome of The Review

- 8.1 There are six potential outcomes of a review:
- i. the original decision to take no further action is upheld.
 - ii. the original decision is overturned, and proceedings are commenced against the suspect, i.e., they are charged/summonsed.
 - iii. the original decision is overturned, and the suspect is dealt with by way of an out of court disposal.
 - iv. the original decision is overturned, and the case is referred to the CPS for a charging decision.
 - v. it is determined that further enquiries need to be completed before the reviewing officer can make their decision.
 - vi. the original decision is overturned but the case is statute-barred, and proceedings cannot be instigated.
- 8.2 The method of communicating the outcome of a review with a victim may be determined on a case-by-case basis but review decisions should be confirmed in writing on a NICHE VRR findings letter, unless the circumstances of the case make it inappropriate to do so or the victim has stated that they do not wish to receive written communication.

- 8.3 Communication of the decision in any format should include the following:
- i. Provide information regarding the evidence considered in the decision-making process.
 - ii. The outcome of the review.
 - iii. An explanation of any terminology used in the letter.
- 8.4 If proceedings are to be commenced following review, the suspect should be advised. Suspects should not be made aware of the victim's request for a review during the review process or in cases where the original decision is upheld.
- 8.5 It is important that suspects are given clear information if they are informed of a decision to take no further action against them, making them aware that proceedings may still be initiated in light of fresh evidence or a review of the decision. This is important to prevent abuse of process arguments precluding the instigation of proceedings following a review.
- 8.6 In cases where it is determined that further enquiries are needed, consideration should be given as to whether the RO will decide on the most appropriate course of action and record the investigative priorities on Niche. Responsibility for action will normally be remitted to the original Investigating Officer supported by their line manager. The RO has discretion to direct according to the needs of the review. If following completion of the further enquiries, no further action is still the proposed outcome the matter should be brought back to the reviewing officer for determination.
- 8.7 In cases which are statute-barred, but where the RO believes that the original determination was wrong, the only option available is to offer an explanation and, where appropriate, an apology to the victim.
- 8.8 This is a single tier review scheme with no further right of appeal by the victim through the police.

- 8.9 A victim who remains dissatisfied with the outcome of the police review and wishes to pursue the matter further can apply to the High Court for a judicial review.
- 8.10 It is possible that a victim could appeal a police decision not to prosecute resulting in that decision being overturned and the matter being referred to the CPS for a charging decision. The CPS could then decide to take no further action and the victim would then be entitled to ask for a review of the CPS decision under the CPS VRR scheme and ultimately to refer the matter for a judicial review.

9 Reviews, Complaints and Operational Learning

- 9.1 Reviews of decisions not to prosecute are not considered as 'complaints' against the police.
- 9.2 If a review of an investigation reveals issues of misconduct or under-performance then these should be dealt with in the normal manner, but the purpose of a review is not to apportion blame.
- 9.3 Where lessons can be learned from the outcome of a VRR request, the RO will ensure feedback is offered to the Investigating Officer(s) and line manager,
- 9.4 An expression of dissatisfaction by the victim in relation to a review decision should not automatically be treated as a complaint under the Police Reform Act. The appropriate way for a victim to challenge the RO's decision is by way of judicial review. As such, allegations made solely about the decision itself may be regarded as an abuse of process, and therefore, not recorded or be subject of a disapplication.
- 9.5 Complaints made regarding the RO but not specifically about the decision itself, such as alleged incivility, should be dealt with in the usual manner.

10 Performance Monitoring

- 10.1 Data will be collected on the performance of the scheme to allow for local and national reporting. The data will include the following:

1. Number of VRR conducted annually
2. Number of cases overturned vs upheld
3. Number and % of VRRs completed in the timeframe of 6 calendar weeks.
4. Victim gender.
5. Victim ethnicity.

10.2 The performance measures support the Victims Code and provide for greater reporting of Lincolnshire Polices VRR performance, providing an opportunity for sharing good practice to improve the service provided to victims whilst also improving the transparency of the VRR process and assisting to build confidence.

11. Other related documents and appendices

11.1. Appendices.

- Appendix A – ACPO National Policing Guidelines on VRR Scheme
- Appendix B – Internal Process VRR scheme
- Appendix C – NPCC VRR Victims Script

12. Monitoring and review

4.1 This policy will subject to ongoing review through the chair of Putting Victims First to ensure that any changes in legislation, guidance or procedures are incorporated as soon as possible. A formal review will be conducted biennially.

13. Who to contact about this policy

5.1. This policy is owned by Detective Chief Superintendent Elizabeth Rogers.

5.2 Any enquires about this policy should be directed to DCI Jo Fortune
jo.fortune@lincs.police.uk