

The Court of Appeal

Information for victims and their families

If an accused person has been convicted and sentenced for an offence, it is common for an appeal to be lodged with the Queensland Court of Appeal.

This factsheet contains information about the appeal process and answers some common questions.

Who can appeal?

There are generally three situations in which appeals can be lodged:

1. If convicted (found guilty) by a jury, the offender has the right to appeal the conviction and may also apply to the Court to appeal against their sentence.
2. An offender who has pleaded guilty to a charge may appeal against the sentence they received.
3. The Attorney-General can appeal against the sentence imposed in limited circumstances.

The party which lodges the appeal is called 'the appellant or applicant'. The other party is called 'the respondent'.

When can an appeal be lodged?

The law allows one calendar month from the date of the original order – that is, the date of the conviction or the date of the sentence - for an appeal to be lodged.

It is possible for an appellant to lodge a late appeal and ask the Court to grant them an extension of time. An extension may be granted and depends on the circumstances.

Can the prosecution appeal if the jury acquitted the accused?

No, there can be no appeal if the accused is found 'not guilty'. The legal process is over in relation to that charge and the accused is free to go.

Can a convicted person apply for bail once an appeal has been lodged?

In rare cases, an offender who has been sentenced to imprisonment may be granted bail until their appeal is heard.

You will be informed if the convicted person makes an application for bail while they are waiting for the outcome of their appeal.

How long does the appeal process take?

It is not possible to predict exactly how long the appeal process will take. It is common for it to be 6 – 12 months from the time the appeal is lodged to when an appeal hearing is held, but it may take longer.

Sometimes, an offender lodges an appeal but later decides not to continue with it. This is referred to as 'abandoning' their appeal. That means that the appeal process is finished, and the original conviction and sentence remain in place. The ODPP will notify you if an appeal is abandoned.

What happens at an appeal hearing?

Appeals are heard in the Court of Appeal by three or more judges. There is no jury present.

It is possible for the offender to represent themselves in the Court of Appeal, but they will usually have a lawyer. If the offender has a lawyer, the offender may or may not attend the appeal hearing.

A senior prosecutor from the ODPP will argue on behalf of the State – that is, against the lawyer for the offender.

The lawyers for both sides present arguments about legal issues to the Court. The judges listen to the arguments of both lawyers and have a transcript of the trial or sentence and other relevant material before them as the arguments are presented. It is unusual that evidence is called at an appeal hearing and there are normally no witnesses.

When they have considered the arguments, the judges come to a decision about whether to dismiss or allow the appeal. This may be on the same day, but it is usual for the judges' decision to be published sometime later. If the judges do not come to a decision immediately, this is referred to as the judges 'reserving' their decision.

When the Court of Appeal reserves a decision to be published later, it may be several months between the date of the hearing and the date a decision is published. The judges will usually prepare a written judgment. The ODPP is normally told the day before when a decision is going to be published.

What are the possible outcomes from the Court of Appeal?

If the appeal is dismissed or abandoned, the original conviction and sentence remains in place.

If the appeal is allowed against a conviction, the Court may:

- Order a new trial; or
- Order that an acquittal ('not guilty' verdict) be entered and the convicted person is free to go; or
- Convict the person of an alternative (lesser) offence.

If an appeal is allowed in relation to a sentence, a new sentence is ordered by the Court.

What is my role in the appeal process?

You will be notified:

- If a party lodges an appeal.
- If and when an appeal hearing is scheduled to be held.
- The outcome of the appeal.

Appeal hearings are usually open to the public and it is possible for you to attend the hearing if you wish. If you would like to attend the appeal hearing, please contact the ODPP in advance to discuss your attendance.

If you are not present, the ODPP will let you know the outcome as soon as possible after the hearing.

Will I have to give evidence at the appeal?

It is unusual that evidence is called at an appeal hearing and there are normally no witnesses. However, if the offender has appealed their conviction and the Court orders a new trial, you may be required to give evidence again at the re-trial in the future.

*Information in this brochure is general in nature.
ODPP – [2024]*

Are judgments from the Court of Appeal published?

Written judgments from the Court of Appeal are usually published on the website of the Supreme Court library at: <https://www.sclqld.org.au/>.

If the identity of any of the people referred to in the judgment – such as a child offender or the victim of a sexual offence – cannot be published, the judgment will refer to them using abbreviations (for example, *R v ABC*).

Can a decision of the Court of Appeal be appealed?

In rare cases, either party to an appeal determined by the Court of Appeal can ask for special permission (called 'special leave') from the High Court of Australia to appeal to that Court. This only happens in a small number of cases in Queensland each year.

Where is the Court of Appeal?

The Queensland Court of Appeal usually sits in Brisbane, but occasionally sits in Cairns and Townsville.

Further information is available on the Court's website at: www.courts.qld.gov.au.

Further information

If you have any questions or need help, contact the ODPP in your region.

Freecall

P: 1800 673 428

Brisbane

P: (07) 3035 1122

DPPVictimLiaisonSupervisor@justice.qld.gov.au

Beenleigh

P: (07) 3081 2300

ODPPVLOBeenleigh@justice.qld.gov.au

Cairns

P: (07) 4038 5731

ODPPVLOCairns@justice.qld.gov.au

Ipswich

P: (07) 3470 7419

ODPPVLOIpswich@justice.qld.gov.au

Maroochydore

P: (07) 5376 5200

ODPPVLOMaroochy@justice.qld.gov.au

Rockhampton

P: (07) 4921 6206

ODPPVLORockhampton@justice.qld.gov.au

Southport

P: (07) 5675 7000

ODPPVLOSouthport@justice.qld.gov.au

Toowoomba

P: (07) 4591 4758

ODPPVLOToowoomba@justice.qld.gov.au

Townsville

P: (07) 4781 8933

ODPPVLOTownsville@justice.qld.gov.au

