

**FAMILY CROWN SERVICES OPERATIONAL MANUAL**

DISCONTINUANCE OF COURT ACTION	New	Office of the Attorney General / Family Crown Services	Policy 11
Policy Title	New or Amended	Division / Branch / Section	Policy #

SLT		June 1, 2022	June 1, 2025
Approved by	This policy was approved on:	This version takes effect on:	This policy will be reviewed by:

**DISCONTINUANCE OF COURT ACTION**

**1. Statement of the policy**

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Occasionally, a hearing or trial is no longer required or advisable and a court proceeding must be discontinued in whole or in part.

**2. Circumstances where it may be appropriate to discontinue a proceeding**

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It may be appropriate for Family Crown Counsel to discontinue a proceeding in whole or in part in the following circumstances:

- (a) the legal or factual circumstances relied upon during the file approval have changed such that there is no longer sufficient admissible and reliable evidence to support a reasonable prospect of obtaining the requested relief;
- (b) the application is no longer in the public interest;
- (c) the matter has been otherwise dealt with in accordance with appropriate measures with the consent of the client.

In such cases, Family Crown Counsel shall note the reasons for discontinuance in the file.

**3. Consultation with client**

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Where the legal or factual circumstances relied upon during the file approval have changed such that there is no longer sufficient admissible and reliable evidence to support a reasonable prospect of obtaining the requested relief, Family Crown Counsel shall consult with the client to explain the change in circumstances and legal justification for the discontinuance.

If the client disagrees with the discontinuance, the matter may be referred to the Assistant Deputy Attorney General of Family Crown Services for resolution in accordance with Policy 10 – Initiating court proceedings and document review.

#### **4. Filing notice of discontinuance**

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Where ultimately a decision is made to discontinue a matter before the Court, Family Crown Counsel may file a Notice of Discontinuance (Form 25A) pursuant to Rule 25 of the *New Brunswick Rules of Court*. Where other parties to the proceedings are represented by counsel, Family Crown Counsel shall advise such counsel of their intention to discontinue the proceedings and seek to obtain a consent in writing to such discontinuance from said counsel on a “without costs” basis. Should Family Crown Counsel not be able to obtain such written consent, he/she shall file a Notice of Motion to the Court seeking leave to discontinue the proceedings without any costs.

#### **5. Related documents**

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Policy 10 – Initiating court proceedings and document review  
*New Brunswick Rules of Court*