

# Magistrates' Court of Victoria

## Guide for people seeking permission to publish information about victims of sexual offences

### 1 INTRODUCTION

- 1.1 Under Victorian law, there are restrictions on publishing information that could identify a victim<sup>1</sup> of a sexual offence ('restricted information').<sup>2</sup> An example of restricted information is a victim's name.
- 1.2 The restriction relates to publications like newspapers, radio or television broadcasts, and electronic communications. The restriction does not apply to an individual telling a family member or friend, reporting matters to the police or for other purposes connected with court proceedings.
- 1.3 If you want to publish restricted information, the permission of the victim and/or a court may be needed. This guide explains:
- whose permission is needed; and
  - the process for applying to a court for permission.

### 2 WHOSE PERMISSION DO I NEED?

#### *If a complaint is made to police, but court proceedings have not started*

- 2.1 If a complaint about the sexual offence has been made to police, but court proceedings have not started, publication can be made with the permission of the victim. A victim can therefore make publications which identify themselves at this stage or give permission to others to publish their identity.
- 2.2 Application can be made for permission by a court. The court will wish to know the views of the victim, so anyone who wishes to apply should first seek the permission of the victim.
- 2.3 If you wish to obtain permission from a court, you should apply to the Magistrates' Court, which is where most criminal proceedings are commenced.

#### *If criminal court proceedings have started*

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<sup>1</sup> For simplicity the term victim is used throughout this document to encompass a person against whom the sexual offence is/was alleged to have been committed (in the court context a complainant) and a person against whom a sexual offence has been found to be committed. This is not a prejudgment of legal proceedings. It is acknowledged that different terms such as survivor or victim/survivor are preferred by some individuals.

<sup>2</sup> The *Judicial Proceedings Reports Act 1958* (Vic) ('the Act') prohibits publication of 'any matter that contains any particulars likely to lead to the identification of a person against whom a sexual offence... is alleged to have been committed' – s 4(1A).

- 2.4 If court proceedings about the sexual offence have started, publication requires the permission of the court that is hearing the proceedings.
- 2.5 If you are a victim of a sexual offence and you are not sure which court is hearing the proceeding you may wish to contact the police or prosecution service who you have been in contact with to get this information.
- 2.6 Alternatively, if you know the name of the person charged, you can call the court registries to confirm which court is hearing the proceeding:

Supreme Court Criminal Registry – (03) 8600 2059

County Court Criminal Registry – (03) 8636 6570

Magistrates' Court Sex Offence Registry – (03) 9628 7826

*If the accused has been convicted and the victim is 18 or over*

- 2.7 If court proceedings about the sexual offence have finished and the accused was convicted, and the victim is 18 years of age or older, the permission of both the victim and a court (Supreme Court, County Court, or Magistrates' Court) is needed. You should apply to the court where the offender was convicted. If you are unsure which court this was you can contact the police or prosecution service or the above registries and they can check.
- 2.8 If the victim is under 18 years of age, the court cannot grant permission and you cannot publish the restricted information.

### **3 HOW DO I APPLY TO THE MAGISTRATES' COURT FOR PERMISSION?**

- 3.1 Any person can apply to the Magistrates' Court for permission to publish restricted information. You can apply in writing, by completing the 'Application for Permission to Publish Details' form (<https://mcv.vic.gov.au/form-finder/application-permission-publish-details-form>) and emailing it to your local court. For Melbourne metropolitan matters, please email [sexoffences@courts.vic.gov.au](mailto:sexoffences@courts.vic.gov.au) or phone (03) 9628 7826. For regional courts, please contact your court coordinator. Contact details are on our website.
- 3.2 If for some reason the above process is unsuitable, arrangements can be made for a verbal application during court proceedings. The application form should be referred to as the same information will be required by the Court. If you are a victim you may wish to speak to the police or prosecution service you have been in contact with who can advise you of upcoming court dates.
- 3.4 There is no fee for making an application.
- 3.5 If you apply to the Magistrates' Court but it is more appropriate for another court to deal with your application, we will contact you.

#### **4 IF I APPLY IN WRITING, WILL I NEED TO GO TO COURT?**

- 4.1 Once you have emailed your application form to the Magistrates' Court, we will check to see if your form includes all the necessary information. If your form is incomplete, we will contact you.
- 4.2 If your form is complete, the Magistrates' Court will consider whether:
- your application can be decided 'on the papers', meaning there does not need to be a hearing, and you will receive an email about the outcome of your application; or
  - there needs to be a court hearing to decide your application.
- 4.3 We will contact you to let you know whether your application is being decided 'on the papers', or with a court hearing. If a court hearing is required we will provide you with more information about the process. There are different ways to conduct court hearings. Some involve coming to court, others do not. If a court hearing is required you will have the opportunity to speak at the hearing, but depending on the circumstances you may not need to.

#### **5 HOW WILL THE MAGISTRATES' COURT DECIDE MY APPLICATION?**

- 5.1 The law states the Court cannot give you permission to publish restricted information if:
- the restricted information you want to publish would disclose the identity of another victim involved in the court proceedings in which the accused was convicted, and that victim does not give their permission;
  - the restricted information you want to publish would disclose the identity of a victim who is under 18 years of age; or
  - it is not appropriate in all the circumstances for the victim's identity to be disclosed.
- 5.2 In more complex matters, for example where multiple victims are involved, the Magistrates' Court may seek the assistance of the Director of Public Prosecutions before deciding on your application. The Court may also make inquiries about whether any other person may be affected by, or should be notified of, your application.
- 5.3 There may be orders which restrict the publication of information in relation to court proceedings for other reasons. The Court may have used pseudonyms in judgments to protect the identity of victims. The Court may bring these matters to your attention and seek your views.

## **6 DO I NEED A LAWYER TO APPLY TO THE MAGISTRATES' COURT?**

6.1 No, but you may be represented by a lawyer if you would like.

## **7 WHAT IF I NEED HELP WITH MY APPLICATION?**

7.1 If you would like help completing your application form, you can contact the court. For Melbourne metropolitan matters, please email [sexoffences@courts.vic.gov.au](mailto:sexoffences@courts.vic.gov.au) or phone (03) 9628 7826. For regional courts, please contact your court coordinator. Contact details are on our website.

7.2 Legal advice and assistance is available to victims through the following agencies:

### **Women's Legal Service**

This service is staffed by female lawyers who can advise individual women on how the current law might affect them. Mondays to Fridays between 9am and 5pm.

Metro Melbourne: (03) 8622 0600

Regional callers: 1800 133 302

**Victoria Legal Aid** advice line tel (03) 9269 0442.