

# Legal Restrictions on Family and Domestic Violence Reporting

As discussed in the “Legal restrictions” section of the Advisory Guideline, the reporting of family violence is heavily regulated. In addition to concerns about defamation law, there are substantial restrictions on reporting about or identifying individuals involved in proceedings in the Family Court of Australia and in the various Children’s Courts in each state and territory. Similarly, all Australian jurisdictions regulate reporting about proceedings related to (as they are variously called) Apprehended Violence Orders, Domestic Violence Orders, Interventional Orders, Protection Orders and the like. Judges in some states are much more prepared to grant suppression orders than their counterparts in other jurisdictions. In Queensland, section 159 of the *Domestic and Family Violence Act 2012* prohibits the publication of information that may identify the victims of family violence or their children, unless expressly authorised by the court or other legislation or with the express consent of “each person to whom the information relates”.

Finally, there are general restrictions that apply to all forms of court reporting, but especially to criminal proceedings. For example, the *sub judice* rule restricts the publication of matters which are under consideration by a court. It would amount to a serious contempt of court to interfere with (or criticise the testimony of) witnesses, or to publish material that might prejudice the case of one of the parties, especially a defendant facing criminal charges. The Victorian Government Solicitor’s Office (VSGO) defines the *sub judice* head of contempt as follows:

“the common law offence of publishing material which has a tendency to interfere with the administration of justice while proceedings are *sub judice*; that is, under a judge’. The rationale for the offence is to avoid a ‘trial by media’ by prohibiting the publication of material which might prejudge issues at stake in particular proceedings, or which might influence or place pressure on persons involved in the proceedings, including jurors, witnesses or potential witnesses, and parties to the proceedings. In deciding whether material is prejudicial, the court will attempt to balance the public interest in free speech with the public interest in ensuring a fair trial”.

Describing the typical approach to applying the rules, the VSGO states that:

“Anyone involved in publishing contemptuous information or communicating such information to the media can be held liable for *sub judice* contempt. Courts are most interested in bringing contempt proceedings against people who have real control over the content, production, distribution or broadcasting of contemptuous material”.

Press Council member publications are clearly covered, but it is likely that the courts would also scrutinise Australian-based social media as well, given the potential reach and influence of these digital platforms.