

ARRANGEMENTS FOR NOTIFICATION OF SUPPRESSION ORDERS IN HIGH PROFILE TRIALS

It is important that effective steps are taken to minimise the risk of mistrial through the inadvertent publication of material which has been suppressed. This material may include the name of an accused person or a victim or a witness, or evidence that has been suppressed, or evidence that has been ruled inadmissible.

To minimise this risk, the media need access to orders made at any stage during a trial and the precise terms of those orders. The Ministry of Justice and the Chief High Court Judge have agreed proposals to ensure suppression orders in high profile trials are more readily available to media outlets. The Media Freedom Committee of the Commonwealth Press Union have been consulted and are generally supportive.

These new arrangements are based on procedures adopted in recent high profile cases where steps have been taken to ensure media representatives with an interest in the trial are informed of orders before their publication deadlines expire.

The ultimate goal of establishing a register of suppression orders which can be accessed by media representatives remains. However, the mechanics and costs of organising this are such that it may be some time before that can be implemented.

In the meantime the following arrangements apply in high profile trials in the High Court.

Process

- The Presiding Judge determines whether the trial is “high profile”. The existence of significant media interest is generally known by court registry staff before a trial.
- At the commencement of the trial:
 - The court taker will invite media representatives to provide their business cards or contact details. Media organisations not present in court may provide contact details at any other time during the trial.
 - The presiding Judge will identify existing suppression orders, hear counsel and make any amendments or additions required.
 - Court staff will distribute these existing and revised orders.
- During trial, the Judge’s associate or court reporter will type any new orders as soon as possible for distribution on the day they are made to those present in court. Court staff will also email the orders to media representatives who have given their contact details to the court for the purpose of the particular case.

Responsibility

- Media organisations remain responsible for ensuring that suppression orders are complied with. Ultimately the responsibility lies with the publisher to ascertain the existence and terms of such orders and also to comply with any statutory restrictions on publication (such as the prohibition on the names or identifying particulars of complainants in sexual cases).

(Hon A P Randerson J)
Chief High Court Judge
5 May 2009