



MEDIA GUIDELINE

HEARING BLOCK 4 – PUBLICATION OF MATTERS IDENTIFYING CHILDREN THE SUBJECT OF ORDERS / CHILDREN'S COURT PROCEEDINGS

Purpose

This Media Guideline is intended to assist media to ensure any reporting during Hearing Block 4 complies with s 534 of the *Children, Youth and Families Act 2005 (Vic)* (CYF Act) and related permissions granted to Yoorrook.

It is to be read together with Yoorrook's existing media guidelines, available [here](#).

Context

As part of its evidence gathering and truth-telling processes, Yoorrook is hearing from witnesses with lived experience of the Child Protection and Criminal Justice systems in Hearing Block 4 (commencing on Wednesday 1 March 2023).

As a First Peoples truth commission, it is important for Yoorrook to provide opportunities for broad, informal truth-telling from community members as to historic and ongoing systemic injustices, so that their stories can be heard, recorded and inform recommendations for change.

However, it is also important that the media:

- (a) are aware of separate legislative prohibitions on the publication of information that may lead to the identification of a child the subject of orders of, or proceedings before, the Children's Court of Victoria; and
- (b) are sensitive to the risk that witnesses may disclose in their oral evidence matters that should not be reported upon.¹

The prohibition in s 534 & permission from the President of the Children's Court of Victoria

Section 534 of the CYF Act prohibits, among other things, the publication of proceedings in the Children's Court of Victoria that is likely to lead to the identification of a child or other party to the proceeding (including a witness). It also prohibits publication of any matter that contains any particulars likely to lead to the identification of a child as being the subject of an order made by the Court.

In practice, this risk may arise in the context of evidence concerning (amongst other matters):

¹ Note that there are separate legislative prohibitions under s 166 of the Family Violence Protection Act 2008 (Vic) and/or under s 121 of the Family Law Act 1975 (Cth) that the media should have regard to in their reporting.

- children in out-of-home care (including foster care, kinship care, group homes, residential accommodation) – including arrangements for contact and/or reunification with their families;
- family violence intervention orders; and
- criminal offences involving children.

However, there is an exception in section 534 where publication is permitted “with the permission” of the President of the Children’s Court of Victoria (President). In line with that exception, Yoorrook has sought and obtained permission from the President to publish certain material that would otherwise be prohibited by section 534(1) of the CYF Act.

The President has determined:

1. Yoorrook is permitted to publish any evidence given to it by adult witnesses:
 - a. about their own personal experience, if they have provided full and informed consent to Yoorrook for publication;
 - b. about other adults who were the subject of child protection proceedings or orders, if those adults have provided full and informed consent to Yoorrook for publication.
2. Any other person is permitted to publish evidence already published by Yoorrook in accordance with the requirements for full and informed consent set out above.

It is possible that Yoorrook may, on a case-by-case basis, seek further permissions from the President (for example, to publish information about children the subject of current proceedings or Orders).

What does this mean for media?

The permission obtained by Yoorrook means that the media in certain circumstances is permitted to publish information that would otherwise be prohibited under section 534. However, the scope of the permission is dependent upon any persons named having provided their free, prior and informed consent to Yoorrook for publication.

Accordingly, Yoorrook recommends that media following its proceedings in Hearing Block 4:

- have close regard to the written material published by Yoorrook in respect of an individual witness, to assist in determining whether relevant details (particularly: in the case of third parties named by a witness (or details capable of leading to the identification of such a person)) are able to be published; or
- otherwise confirm with Yoorrook that all required consents have been received before publication.

Yoorrook emphasises that the Children’s Court permission does not extend to the publication of details of children involved in active Court proceedings.

What other steps is Yoorrook taking to ensure participant’s safety?

Where appropriate, Yoorrook will continue to support witnesses to engage in truth telling regarding certain sensitive evidence by holding closed hearings, making non-publication orders and de-identifying children and/or families in any published evidence.

Contact details:

For questions about the application of the prohibition under the CYF Act and related permissions, please contact Yoorrook's Solicitor Assisting team at King & Wood Mallesons for further information:

Emily Heffernan: Emily.Heffernan@au.kwm.com, 0403 921 576

Chris Holland: Chris.Holland@au.kwm.com, 0478 006 047

For general enquiries in relation to Yoorrook and media guidelines, please call 0408 847 385 or email communications@yoorrook.org.au.