



NCAT Administrative and Equal Opportunity Division Procedural Direction 9

PUBLICATION, ANONYMISATION AND SUPPRESSION

This Procedural Direction applies to:	Proceedings in the Administrative and Equal Opportunity Division
Effective Date:	19 March 2014
Replaces Procedural Direction:	Administrative Decisions Tribunal's Publication, Anonymisation and Suppression: Guideline
Notes:	You should ensure that you are using the current version of this Procedural Direction. A complete set of Procedural Directions and Guidelines is available on the Tribunal website at www.ncat.nsw.gov.au

Purpose

1. This procedural direction provides information about publication, anonymisation and suppression of information by the Tribunal.

Relevant Legislation

2. The main provisions that apply are s64 and s65 of the *Civil and Administrative Tribunal Act 2013* (NCAT Act), the *Civil and Administrative Tribunal Regulation 2013* and the Civil and Administrative Tribunal Rules 2014.

General Rule

3.1 Publication of information by Tribunal

The Tribunal routinely publishes hearing lists and decisions. Hearing lists are published in the daily newspapers, on the Tribunal's website and are displayed at the Tribunal. The Tribunal's decisions are routinely published on the Tribunal's website, on the CaseLaw NSW website and by other web based and text publishers.

3.2 **Publication of information by third parties**

Hearings of the Tribunal are open to the public, including the media. Third parties can access documents or things in the registry with the permission of the Registrar (Rule 42). Generally these requests are only granted after the matter has finished. The kinds of documents provided may include pleadings, evidence, decisions and transcripts. Anyone can publish information about cases obtained either at a hearing or from documents made available by the Registrar unless specific legislation or a suppression order restricts publication.

3.3 **Request for non-publication**

If a party or witness wishes to have all or part of the hearing held in private or any aspect of a case suppressed, including their name, they need to apply to the Tribunal. The request should be in writing giving reasons to support it and a copy provided to the other party. The request must be made before the proceedings have finished.

3.4 The Tribunal may make a suppression order of its own motion.

Statutory restriction for certain matters

4.1 Section 65 restricts the publication of the names of people by persons (other than the Tribunal) in the following kinds of cases:

- (a) proceedings in the Guardianship Division (or internal appeals against decisions made in such proceedings),
- (b) proceedings for a decision for the purposes of the community welfare legislation within the meaning of the *Community Services (Complaints, Reviews and Monitoring) Act 1993* (including an internal appeal against such a decision),
- (c) such other proceedings (or classes of proceedings) as may be prescribed by the regulations for the purposes of this section.

4.2 Additionally it is the Tribunal's policy to anonymise the name of the applicant in certain types of cases. The applicant's name is replaced with a set of initials that are not those of the applicant. In some instances this anonymisation will extend to other parties or witnesses in the case, depending on the circumstances. Anonymisation routinely occurs in the following matters:

- (a) under the *Child Protection (Working with Children) Act 2012*: the applicant's name is anonymised in lists and decisions. Also relevant is section 578A of the *Crimes Act 1900* which prohibits the publication of any matter, which identifies, or is likely to lead to the identification of the complainant victim in a prescribed sexual offence;
- (b) in all applications under the *Privacy and Personal Information Protection Act 1998* and the *Health Records and Information Privacy Act 2002* the applicants' names are anonymised in lists and decisions. An applicant may agree to having his or her name published;
- (c) in all applications for review of recognition payment by victims under the *Victims Rights and Support Act 2013*.

Government Information (Public Access) Act Matters

5. In those applications under the *Government Information (Public Access) Act 2009* involving the revelation of an individual's personal information, the practice is to consider the question of anonymisation or suppression at the first planning meeting. The Tribunal lists will show the applicant's name until a decision is made about anonymisation, or a suppression order is sought.

(Sgd)

19 March 2014

MAGISTRATE NANCY HENNESSY

Deputy President