

**SUPREME COURT
OF THE
NORTHERN TERRITORY OF AUSTRALIA**

**PRACTICE DIRECTION
No 3 of 2014**

Removal of Identifying Material from Published Decisions

Introduction

1. The purpose of this Practice Direction is to set out how **personal information** is to be dealt with in published decisions and to provide a process to remove personal information from published decisions in appropriate cases.
2. This Practice Direction will apply to all decisions except for any decisions or category of decisions exempted from the operation of this Practice Direction from time to time by subsequent Practice Direction.
3. For the purposes of the proposed Practice Direction:
 - (a) “**decision**” includes sentencing remarks;
 - (b) “**publication**” or “**published**” refers to all forms of publication and includes publication on the internet or the Supreme Court website but not the decision delivered orally in Court;
 - (c) “**personal information**” is any material which identifies, or may tend to identify, a person other than a party to a civil proceeding or a defendant in a criminal proceeding.
4. In general terms any **personal information** in a **decision** will be removed before **publication**.

Anonymising Decisions for Publication

5. Decision makers will have regard to this Practice Direction when preparing **decisions for publication**. Associates and Personal/Executive Assistants will check **decisions** for compliance with this Practice Direction prior to submitting the decision for **publication**.

6. Supreme Court Library staff will lastly check all **decisions** for compliance with this Practice Direction before they are **published**. Any queries they have concerning compliance will be referred at first instance to the relevant Judge's Associate or Personal Assistant or to the Master's Executive Assistant, as the case may be.
7. Decision makers will usually and where practicable, assign a judgment category to a **decision** in accordance with the "*Guide to Uniform Production of Judgments*", second edition, published by the Australian Institute of Judicial Administration. There are three such categories, namely A, B and C.

Category A decisions are essentially matters which have ongoing precedent value and are routinely published and often reported in official reports.

Category B decisions are more routine matters which are essentially decided based on discrete facts and on the routine application of well-known and understood principles. Such decisions are not routinely published.

Category C decisions are those without precedent value but which may contain data such as assessments of damages which may result in their publication in the short term as a record for purposes associated with that data

8. A **decision** which is assigned a Category C by the decision maker will not be **published** in the ordinary course and, at the discretion of the decision maker, the **decision** may contain personal information.

Removal of Published Decisions

9. A person whose **personal information** is contained in a **published decision** may request to have the **decision** removed from **publication** or to have that **personal information** anonymised.
10. Only **decisions** which have been assigned or, where no actual Category has been assigned by the decision maker, which should have been assigned, a Category B or C in accordance with the "*Guide to Uniform Production of Judgments*", will be considered for removal and then only if it is determined that the **decision** does not have, or no longer has, any precedent or record value. In all other cases the request for removal will be declined and in lieu will be considered only as a request to have the **personal information** anonymised.
11. The request is to be made in writing to the Registrar, or in the absence of the Registrar, to the Master, annexing a copy of the relevant decision and setting out the facts relevant to the request and the reasons in support of the request.
12. The Registrar or the Master, as the case may be, may require any facts set out in the request to be verified by affidavit or may require further information or material to be submitted in support of the request.

13. Where the Registrar first considers the request, the Registrar will assess whether the relevant **decision** has any current and ongoing precedent value and will then refer the request to the Master for determination with a report setting out that assessment and whether, in the opinion of the Registrar, the request complies with this Practice Direction.
14. The Master will then review and determine the request, save that the Master will consult with the Chief Justice if, in the opinion of the Master, the request is proper for determination by the Chief Justice. Where it is determined that **personal information** is to be anonymised, the Master shall determine the appropriate method of anonymising that information.

Dated 6 October 2014

Chief Justice