

Practice Direction

Domestic & Family Violence Act

Access to Magistrates' Court files (Domestic Violence)

John Birch
Acting Chief Magistrate
20 April 2010

The following practice direction, governing access to Domestic Violence files by parties and members of the public, is issued pursuant to section 201A of the *Justices Act* and will apply from the date of this practice direction.

This practice direction rescinds the practice direction dated 19 January 2004.

Whether to permit access remains in the discretion of the Registrar at all times.

In respect of any documents not included in this practice direction, or where staff are unsure, the matter is to be referred to the Registrar for determination.

Access by party:

- a) A party may view and take a copy of:
 - Applications without contact details of the applicant/protected person
 - Orders
 - Affidavits of service or declaration of service
- b) A party may view transcript but **NOT** take a photocopy of it. (Pursuant to section 13 of the *Records of Depositions Act*, parties may apply in writing for a copy of the transcript and, upon payment of the prescribed fee, a copy will be provided).
- c) A party may **NOT** have access to the following documents

- File notes (written by staff or Magistrates)
- Bench sheets
- The court file cover, without leave of the Registrar
- Subpoenaed documents or other documents not yet in evidence, without an order of the Registrar or Magistrate
- Affidavits not yet in evidence or relied upon, without an order of the Registrar or Magistrate
- Correspondence, without leave of the Registrar or Magistrate. (Access by parties to the correspondence section of a Court file is generally denied. However, in some cases it may be appropriate for a party to view correspondence from another party to the Court. Parties seeking to view correspondence should make a request to the Registrar).

- d) If a document names a child as a protected person, witness or who is otherwise mentioned as likely to be involved in the proceedings, that child's name and details shall be obscured from any inspection of that document.

In dealing with this provision, the Registrar shall ensure the document accessed by a party

does not infringe section 123 (Publication of names and identifying information about children) of the Act.

Access by non-party:

A non-party may **NOT** view or take a copy of any documents on the Court file, without an order of the Court.

- (A) For the purposes of this practice direction, a non-party is any person who is not the applicant, protected person, defendant, legal practitioner for a party or police officer/legal practitioner responsible for the prosecution of the application before the Court.

Procedure:

- Documents and files cannot be removed from the Registry
- Access to a document or file shall be subject to a search fee
- Access to a document or file must be undertaken in the presence of the Registrar or delegated Court Officer
- Photocopying of a document is to be done by Court staff only and will be charged at the prescribed fee in item (4)(b) of the Local Court Regulations. ●