

Policy		Media and Public Comments
Introduction	1.1	As the regulator of the Legal Profession in Victoria, the VLSB+C are often approached by various media outlets seeking comment on or information about legal practitioners, legal practices and/or regulatory matters.
	1.2	The VLSB+C may provide information to the media and/or make other public comments to further their regulatory responsibilities, provided any information disseminated concords with the relevant legislative requirements.
Purpose	2.1	The purpose of this policy is to set out when and how the VLSB+C may speak to or communicate with the media and/or make a public comment.
Legislative Framework	3.1	The <i>Legal Profession Uniform Law Application Act 2014</i> (Vic), and its subordinate schedule, the <i>Legal Profession Uniform Law</i> (Victoria), limits what information the VLSB+C can disclose to the public.
	3.2	Specifically, section 462(1) of the <i>Legal Profession Uniform Law</i> provides that the VLSB+C must not, directly or indirectly, disclose to any other person any information which has been obtained in the execution or administration of the Uniform Law or the Uniform Rules.
	3.3	In certain circumstances as provided in s.462(2) of the Uniform Law, exceptions may apply to the disclosure of otherwise restricted information. These exceptions, however, do not extend to disclosure to the media, unless the person to whom the information relates provides prior written consent to its disclosure (see s.462(2)(c)).
Application	4.1	This policy applies to the Victorian Legal Services Commissioner, the members of the Victorian Legal Services Board and all staff, and persons acting at the direction of the VLSB+C.
Policy	5.1	Public comment spokesperson The Chairperson is the spokesperson for the Victorian Legal Services Board.
	5.2	The Commissioner is the spokesperson for the Victorian Legal Services Commissioner.
	5.3	The Communications Adviser, or a person appointed to act in that role in the Communications Advisors' absence, will assist the spokesperson(s) in managing and delivering public comments as required.
	5.4	Where a conflict of interest prevents a spokesperson from providing comment on a particular issue, an alternative spokesperson will be appointed by the Board or Commissioner for that issue, as required. Conflicts of interest will generally be publicly disclosed.
	5.5	The Communications Advisor may be directed to respond to the media and/or make a public comment on behalf of a spokesperson.

Public comment coordination

- 5.6 The Communications Advisor is the central point of contact for all incoming media and public comment enquiries.
- 5.7 The Communications Advisor is to inform the Board Chairperson and/or Commissioner of any media requests or public comment requests received.
- 5.8 The Communications Advisor will coordinate all incoming and outgoing public comments on behalf of the VLSB+C.

Method of communication

- 5.9 The VLSB+C may provide a public comment to the media and/or the public generally in a variety of media, including:
- print;
 - radio;
 - television;
 - Internet; and
 - social media.

What the VLSB+C may and may not comment on

- 5.10 The VLSB+C may comment publicly on the following topics:
- the regulation of the legal profession;
 - specific legal topics (for example, ethics in legal practice);
 - the client/lawyer relationship;
 - numbers, types and trends in complaints; and
 - issues of concern to the legal profession and the public.
- 5.11 The VLSB+C may not comment publicly on the existence of, or progress of, any matters under investigation, nor about matters which have been finalised but have not been heard by a court or tribunal. The VLSB+C may also not disclose any information about a practitioner or a law practice which does not appear on the Register of Legal Practitioners and Law Practices, or the Register of Disciplinary Action, which are published on the VLSB+C website.

Media Responses and Public Comments Register

- 5.12 The Communications Advisor maintains a register of media responses and public comments, recording details of:
- date of receipt of media request or request for public comment;
 - person or organisation who made the media request or request for public comment;
 - details of the media request or request for public comment; and
 - a copy, or details of, the media response or public comment.

Process for handling media requests

- 5.13 All media requests must be made or directed to the Communications Advisor.

- 5.14 When a request is received, the following process is to be followed:
- the Communications Advisor will directly acknowledge the request;
 - the Communications Advisor will record the request in the media requests register;
 - the Communications Advisor will advise the Board and/or Commissioner of the request as soon as practicable;
 - the Board and/or Commissioner and the Communications Advisor will review the request and consult with the relevant senior staff where appropriate;
 - the Communications Advisor will inform the Attorney-General's office of the request where the request is of a particularly sensitive nature;
 - the Board and/or Commissioner will consult with the Communications Advisor and other staff as necessary to develop the appropriate response;
 - the Communications Advisor will assist the spokesperson in providing the response to the requestor, and if appropriate, inform the Attorney-General's office of the response;
 - the response is to be recorded in the media requests register; and
 - the Communications Advisor will report the request to the Board at the following Board meeting, including the response provided and details of any published article(s).

RPA News Blog

- 5.15 The VLSB+C website will be used to publish the disciplinary decisions from prosecutions of practitioners in a court or at the Victorian Civil and Administrative Tribunal. The blog will also publicise other information of interest to both the profession and consumers of legal services, as deemed appropriate.

How disciplinary decisions will be published

- 5.16 A summary of court and VCAT disciplinary cases and decisions will be published as a blog post on the website, where appropriate. This will be in addition to the VLSB+C website re-publishing an AustLII website link to the actual court or VCAT decision (where available) and the Board's Register of Disciplinary Action.
- 5.17 All blog posts, whether relating to the Commissioner's or the Board's functions, will be published by the Commissioner in line with the Commissioner's long-standing objective to educate the legal profession and consumers of legal services. The publication of blog posts is also done to meet the objectives of the Uniform Law, which include:
- to ensure lawyers are competent and maintain high ethical and professional standards in the provision of legal services;
 - to enhance the protection of clients of law practices, and
 - to protect the public generally.

Why disciplinary decisions will be published

- 5.18 The purpose of publishing disciplinary decisions is to educate the legal profession about the mistakes made by practitioners. The Commissioner intends the blog will allow all practitioners to examine and adjust their own practises, if necessary, to ensure they are complying with relevant legislation, regulations and rules, and that their conduct meets the expectations of the broader legal profession and consumers of legal services. Publishing disciplinary decisions is also intended to serve as an important consumer protection mechanism, enabling consumers to make informed choices when

looking for a lawyer.

Decisions might not be published

- 5.19 The Commissioner may publish any prosecutions undertaken by the Board or the Commissioner at his or her discretion. In certain circumstances, such as where the Commissioner believes there is no further benefit served by publicising certain information or where there are concerns of a serious risk to the health of the practitioner if a matter is publicised, the name of the practitioner(s) may be omitted, or the Commissioner may choose to not publicise a matter at all.

Limitation on publishing names

- 5.20 The names of practitioners will be removed from blog posts five years after a disciplinary decision is made, unless the duration of the disciplinary action taken against the practitioner extends beyond this time. This timeframe mirrors the legislative minimum timeframe for names to be published on the Register of Disciplinary Action.

Five-years after a post is published, the following steps will be taken:

- the original blog post will be removed from the website;
- the blog post URL will be removed from Google's search results; and
- the blog will be republished, marked at the original publication date, with the name of the practitioner(s) removed.

This process will provide the practitioner(s) with an end date for some publicity surrounding their disciplinary matter, while retaining the blog's educational value to the profession.

Human Rights considerations

- 5.21 When making a decision about or in preparing a media response or public comment, the following human rights are relevant:¹
- recognition and equality before the law;
 - privacy and reputation;
 - freedom of thought; and
 - freedom of expression.

¹ These rights are set out in the *Charter of Human Rights and Responsibilities Act 2006*. Please note that section 6 of the Legal Profession Uniform Law Application Act provides that the *Charter* has no application to the Uniform Law. This is because the Uniform Law applies in New South Wales where the *Charter* is limited in its application to Victoria. Consideration as to the application of the *Charter* to a particular situation will depend upon whether the applicable law being applied falls within the Uniform Law Framework.