



## Victims of Crime Assistance Tribunal

Chief Magistrate's Chambers  
Melbourne Magistrates' Court

### Practice Direction

No. 4 of 2008

## NOTIFICATION OF ALLEGED OFFENDERS AND THIRD PARTIES

PRACTICE DIRECTION ISSUED PURSUANT TO SECTION 58  
OF THE VICTIMS OF CRIME ASSISTANCE ACT 1996

### Purpose

The purpose of this Practice Direction is to specify the procedure to be followed where:

- the Tribunal is considering notifying a person with a legitimate or substantial interest in an application, including the alleged offender; or
- a person, including the alleged offender, considers that they have a legitimate or substantial interest in an application for assistance.

### Background

Pursuant to section 34(2) of the *Victims of Crime Assistance Act 1996* “the Tribunal may give notice of the time and place for the hearing to any other person whom the Tribunal considers to have a legitimate interest in the matter.”

Pursuant to section 34(3) of the Act “the Tribunal must not give notice of the time and place for the hearing to the person who committed, or is alleged to have committed, the act of violence without first giving the applicant an opportunity to be heard on the issue of whether that notice should be given.”

### Notification to the alleged offender(s)

Where the Tribunal indicates that consideration is being given to notifying the alleged offender of an application for financial assistance, the following procedures will apply:

1. The Tribunal will advise the applicant or their legal representative in writing that notification of the alleged offender is being considered, and 21 days will be allowed for a response.

2. At the conclusion of 21 days, the registrar will refer the matter, including any submissions/objections received, to the Tribunal Member considering the notification to make a decision as to whether the alleged offender will be notified of the application.
3. If the Tribunal Member determines that the alleged offender is to be notified of the application, the applicant or their legal representative will be advised of this in writing before the alleged offender is notified of the application. The applicant or their legal representative will be allowed 21 days to advise the Tribunal as to whether the application for financial assistance is still to be pursued.
4. If the applicant or their legal representative advises that the applicant wishes to proceed with their application for financial assistance, or no response is received by the Tribunal, the registrar will send notification of the application to the alleged offender by registered mail. The registrar will allow the alleged offender 14 days to advise the Tribunal as to whether they intend to participate in the hearing.
5. If no response is received from the alleged offender, the registrar will refer the application for financial assistance to the Tribunal Member for listing advice. In these circumstances, the registrar is required to advise the applicant or their legal representative that the alleged offender will not be attending the hearing.
6. If the alleged offender elects to be notified of the hearing, the registrar will list the application for a directions hearing and notify the applicant or their legal representative of the time, date and place of the directions hearing.
7. Pursuant to any directions given at the directions hearing, the application will be listed for hearing and both the applicant or their legal representative and the alleged offender will be notified of the time, date and place of the hearing.

#### **Notification of other person(s) with a legitimate or substantial interest**

Where the Tribunal indicates that consideration is being given to notifying a person who may have a legitimate or substantial interest in the application for financial assistance, other than the alleged offender, the following procedures will apply:

1. The Tribunal will advise the applicant or their legal representative in writing that notification to a potential third party is being considered, and 21 days will be allowed for a response.
2. At the conclusion of 21 days, the registrar will refer the matter, including any submissions/objections received, to the Tribunal Member considering the notification to make a decision as to whether the potential third party should be notified.
3. If the Tribunal Member determines that the potential third party has a legitimate or substantial interest in the application, the applicant or their legal representative will be advised of this in writing before the potential third party is notified. The applicant or their legal representative will be allowed 21 days to advise the Tribunal as to whether the application for financial assistance is still to be pursued.

4. If the applicant or their legal representative advises that the applicant wishes to proceed with their application for financial assistance, or no response is received by the Tribunal, the registrar will send notification of the application to the potential third party by registered mail. The registrar will allow the potential third party 14 days to advise the Tribunal as to whether they intend to participate in the hearing.
5. If no response is received from the potential third party, the registrar will refer the application for financial assistance to the Tribunal Member for listing advice. In these circumstances, the registrar is required to advise the applicant or their legal representative that the potential third party will not be attending the hearing.
6. If the third party wishes to be involved in the proceedings or to be notified of the hearing, the registrar will list the application for a directions hearing and advise the applicant or their legal representative and the third party of the time, date and place of the directions hearing.
7. Procedural directions for the further conduct of the proceedings will, unless otherwise ordered, be determined at the directions hearing.

### **Applications by person(s) with a legitimate or substantial interest**

Where a person, including the alleged offender, considers that they have a legitimate or substantial interest in an application for assistance, the following procedures will apply:

1. The third party/alleged offender must make an application in writing, setting out the reasons why they consider that they have a legitimate interest, substantial interest or should be notified of the proceedings. There is no prescribed form for the application and it can be made by letter addressed to the Tribunal.
2. The application is to be referred to a tribunal member for consideration.
3. Unless otherwise ordered by the Tribunal Member, the registrar will forward to the applicant or their legal representative a copy of the third party/alleged offender application. The applicant or their legal representative must respond to the Tribunal within 21 days as to whether they object to the third party/alleged offender participating in the proceeding.
4. If no response is received from the applicant, or the applicant does not oppose the application of the third party/alleged offender, the application will be referred to a tribunal member in chambers for determination of the application by the third party/alleged offender.
5. If the applicant opposes the third party/alleged offender application, the matter will be referred to a tribunal member for listing advice. If the application is listed for a directions hearing, the registrar is required to advise the applicant or their legal representative and the third party/alleged offender of the time, date and place of the directions hearing.
6. Procedural directions for the further conduct of the proceedings will, unless otherwise ordered, be determined at the directions hearing.

## **Revocation of previous Practice Direction**

This Practice Direction revokes the following Practice Directions:

- Practice Direction 5/2003 (Notification of alleged offender(s) pursuant to section 34(2) and (3) of the *Victims of Crime Assistance Act 1996*)
- Practice Direction 8/2003 (Persons with a legitimate and/or substantial interest pursuant to sections 34 and 35 of the *Victims of Crime Assistance Act 1996*)

## **Commencement**

This Practice Direction has effect from 1 January 2009.

**IAN L GRAY**

Chief Magistrate

11 December 2008