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Law Council calls for ALRC review of suppression orders, uniformity across jurisdictions

The Law Council of Australia is calling for national uniformity of suppression orders and an examination of whether such laws need to be reviewed in the digital era.

Law Council President, Arthur Moses SC, said he will be asking Attorney-General Christian Porter to refer the matter to the Australian Law Reform Commission (ALRC) for an inquiry.

“At its core, this issue involves striking the right balance between open justice including the public interest in court reporting, and the right of the individual to a fair trial,” Mr Moses said.

“In an age of digital communication and globalisation, uniformity of suppression orders across Australia should be considered and we need to recalibrate the balance.

“This is important in order to ensure that suppression laws are fit for purpose and promote open justice.

“Suppression orders should operate in a consistent manner across Australian jurisdictions – which does not currently happen – to ensure that the right balance is achieved between open justice and the need for suppression.

“Media reporting of cases that come before our courts is central to open justice – it means that not only is justice done, it is also seen to be done.

“Open justice is one of the fundamental attributes of a fair trial and this means wherever possible, media should be able to report on matters that come before our courts.

“While suppression orders and closed hearings are appropriate in particular cases, such as family court hearings and when hearing evidence from child witnesses, or where an accused may otherwise be unable to obtain a fair hearing, their need should always be balanced with the broader public interest in open justice.

“The internet has no borders, so something that is suppressed in Australia can be reported in other countries by journalists who have not been present in the court room.

“Our journalists are amongst the best trained and respected in the world and informed reporting of our legal system maintains public confidence in the judiciary and the courts.

“This is a matter that needs review – it was first put on the table 10 years ago and needs resolution. The time is now.

“This is why I will be writing to Attorney-General Christian Porter to request a referral of a review to the ALRC into suppression orders in the digital era and the standardisation of suppression orders in Australia,” Mr Moses said.

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