

Dental
Protection



A guide for dentists on handling the media in Australia

PROFESSIONAL SUPPORT AND EXPERT ADVICE

How to contact us

DPL Australia Pty Ltd

PO Box 1013, Milton BC QLD 4064

For membership enquires

Ken Parker, Operations Manager

Tel: 07 3831 6800

Fax: 07 3831 7255

Freecall 1800 444 542

Email: ken.parker@dpla.com.au

For media-related advice

Brisbane office

PO Box 1013, Milton BC QLD 4064

Dr Ralph Neller, Dento-Legal Adviser

T (07) 3831 6800 F (07) 3831 7255

ralph.neller@dpla.com.au

Dr Mike Rutherford, Dento-Legal Adviser

T (07) 3831 6800 F (07) 3831 7255

mike.rutherford@dpla.com.au

Dr Annalene Weston, Dento-Legal Adviser

T (07) 3831 6800 F (07) 3831 7255

annalene.weston@dpla.com.au

Melbourne office

Level 3, 100 Dorcas Street, South Melbourne,
VIC 3205

Dr David Evans, Dento-Legal Adviser

T (03) 9682 0899 F (03) 9682 3566

david.evans@dpla.com.au

Dr George Lazaridis, Dento-Legal Adviser

T (03) 9682 0899 F (03) 9682 3566

george.lazaridis@dpla.com.au

Press Office

Email: pressoffice@mps.org.uk

Out of hours: +44 207 399 1300

DPL Australia Pty Ltd (DPLA) is a member of the Medical Protection Society Limited (MPS) (registered in England No.36142) group of companies providing discretionary benefits, subject to Australian law, for dentists and other dental care professionals. These benefits are set out in the MPS Memorandum and Articles of Association published on our website. Neither DPLA nor MPS are insurance companies.

DPL Australia Pty Ltd ABN 24 092 695 933, CAR No. 326134 is a Corporate Authorised Representative of MDA National Insurance Pty Ltd ABN 56 058 271 417, AFS Licence No. 238073. DPLA Members have access to the Dental Indemnity Policy underwritten by MDA National Insurance Pty Ltd.

Serving over 62,000 members in 70 countries around the world, DPL is the acknowledged international leader in dental risk management.

Contents

03 How DPL can help you with the media

05 Media enquiries about cases and patients

11 Dental pundits

15 What you can do if it all goes wrong

Introduction

One of the benefits of DPL being part of a large international organisation is that we have access to many resources that otherwise would not be readily available. One such resource is our press office, which is staffed by professionals experienced in dealing with television, radio and the press. They can advise on the best response to a press enquiry, how to draft a press statement, or even deal with the media on your behalf, acting as your spokesperson.

Few dentists would welcome being approached by a reporter with questions about a patient's care – especially when they are least expecting it. If you find yourself in this situation, it is important that you know what to do. This guide provides advice on the most effective way to respond to a journalist, from initial contact to issuing a statement, so that you can focus on your patients and your practice.

When a DPL member is introduced to the press office, they will firstly assess the best way to manage the situation and explain how they can help.

In many cases this will entail issuing an agreed statement on behalf of the member in response to an enquiry from the media. Whatever the case, they are there to help.

The press office helps over a hundred individual members a year and is available 24 hours a day, seven days a week, with an on-duty press officer contactable outside normal office hours, for emergency situations.

A close-up photograph of a large stack of rolled-up newspapers and magazines. The papers are tightly packed, showing various colors of the paper and some text on the edges. The stack is positioned diagonally across the frame. A semi-transparent blue horizontal band is overlaid on the top portion of the image, containing white text.

How DPL can help you
deal with the media

The press office is there to help members deal with media enquiries. Most members are fortunate enough never to need our services, but these days it is not so unusual for dentists to be caught in the media spotlight. There are many ways that this can happen; not infrequently, regional newspapers (and their websites) will cover a story involving a complaint about a local dentist. The source of information will often be a disgruntled patient. At the other extreme, some Dental Board or other hearings, being of wider public interest, attract high profile national coverage.

How we can help

The assistance we can offer will depend on your circumstances, but in general we can help in the following ways:

- Providing experienced advice on handling the media.
- Speaking to the journalist on your behalf.
- Assisting and advising practice staff.
- Preparing press statements appropriate to the specifics of your particular situation.

Contacting us

During office hours please contact one of our Dento-Legal Advisers in the first instance.

Telephone (07) 3831 6800 or (03) 9682 0899

We will then be able to advise you on the situation as well as putting you in contact with the press office.

Out of hours

We can help you 24 hours a day – if you receive a call from a journalist outside office hours. Even in the middle of the night, and aren't sure how to deal with it, call our out-of-hours number on +44 207 399 1300 and ask to speak to a member of the press office team on duty.

Media enquiries about
cases and patients



Patient confidentiality

When responding to any media request for comment, it is important to remember your duty to respect patients' rights of confidentiality, and to follow any local Dental Board guidance when dealing with media enquiries.

Dentists and patients are not on a level playing field when it comes to speaking to the press. Dentists have an enduring professional duty to protect patients' rights of confidentiality/privacy, even when patients or their families have chosen to release information to the press. This can be frustrating, particularly if the resulting coverage is incomplete, one-sided or inaccurate, and casts the dentist in a poor light.

A dentist who breaks confidentiality, whether inadvertently or not, may face disciplinary action and regulatory sanction. However, there are ways in which you can respond to media enquiries without breaching the patient's privacy.

Dealing with the media by phone

Medical and dental topics have long attracted media attention simply because healthcare affects everyone at some point in their life. You may receive an enquiry about an existing complaint or claim that you already knew about, or the patient may have contacted the press directly with a new complaint about you and this is the first you hear of it.

Everything you say to a journalist can be published – if you don't want to see it in print, don't say it.

Example

You receive a call from someone who says he is a journalist working for a local paper. He is writing a story about a patient of yours and wants to know why your treatment left the patient in such pain after “filing her teeth down to stumps”.

So what should you do?

Firstly try to stay calm and professional, rather than getting defensive or irritated. The journalist may try to pressurise you into saying something you might later regret. Saying “no comment” straight away nearly always comes across as defensive. Avoid responding in detail immediately. It is usually wise to take time to think about what you are going to say; otherwise, you risk inadvertently making a remark that is misconstrued or could result in a complaint or referral to the Dental Board. Remember, the press office is always here to help, so get in touch with us for immediate advice.

What should you say to the journalist?

- What's your name?
- What is the name of your publication / programme?
- What, exactly, did you want me to comment on?
- Presumably you have obtained the patient's written consent for me to discuss details of their treatment with you? If so, please send me a copy.
- I'm sorry; I can't answer that right now. I need time to consider your questions because I'm sure you want an accurate reply from me.
- What is your deadline?
- Who else have you spoken to?
- Give me your number, and I'll ring you back.

Top tips

- Buy time and prepare.
- Always keep **patient privacy** in mind.
- Stay calm and professional.
- Write down the name and contact details of the journalist and publication.
- Find out the deadline for a response.
- Avoid saying, “no comment”. It is preferable to say, “As I am sure you will appreciate, professional confidentiality limits and privacy requirements limits what I can discuss with you.”
- Contact DPL for advice.

The media on your doorstep

Dealing with journalists and photographers in this situation requires a slightly different approach.

If you have been involved in a high profile case, a reporter might turn up at your home or place of work. Some journalists come alone and some will be accompanied by a photographer or video cameraman. This can be intimidating for anyone, but particularly for a dentist being pushed to comment on a delicate situation involving confidential patient details.

Top tips

- Behave calmly and professionally – you do not want to be seen as defensive or hostile.
- Ask the journalist for their contact details so you can get back to them.
- Get in touch with DPL to alert us to the fact that you may need help in preparing a statement.

Example

A journalist and camera crew arrive unannounced at your practice, asking for your comments about your standard of infection control and the fact that they have been made aware that an investigation is taking place to establish whether or not patients have been placed at risk. A response of “no comment”, accompanied by an unflattering photograph with an unhelpful gesture looks defensive, hostile and culpable. A measured response delivered with composure, conveys a professional and dignified message – for example:

“I am sorry but I’m not able to answer your questions right now, but if you give me your contact details I will get back to you.”

Photographers and camera operators

If you are approached by photographers or camera operators, allow them time to take your picture – they will take it anyway and you can make sure that you maintain a professional demeanour rather than looking foolish or evasive. Do not cover your face or react inappropriately by expressing anger. Similarly, smiling can sometimes convey the wrong message. If photographers appear outside your practice, let your staff know, so that they can be prepared and take appropriate steps to prevent patients being harassed and to preserve their confidentiality.

Top tips

- Do not run away from cameras or try to hide – this will create a negative image. Instead, let the photographer take a full shot of you. Do not be tempted to cover the lens with your hand or push the camera away.
- Let your staff know that there is/has been media attention; advise them to follow the same guidance.

What can you say to the media?

It is difficult to give guidance for every situation, as each case is different, but there are a few general principles that you can follow. If you work in government employment or in any other employed position, it may be wise to liaise with your employer, to agree, wherever possible, on the key messages. If you are unsure, discuss this with one of DPL's Cases Consultants.

Preserving patient confidentiality/privacy must be your foremost concern when deciding what you can and cannot say to a journalist, and this helpfully provides you with a means of “buying time”.

Whilst you may not be able to give a lot of detail, you can explain why this is the case. This might be because of your ongoing duty to respect the patient's privacy, or because the case is the subject of legal proceedings.

In certain situations, it may be appropriate to make a specific comment. For instance, if a patient has apparently suffered pain or is dissatisfied, it is usually appropriate to express regret. If a patient has made a complaint about your treatment directly to the press instead of to the practice, you might want to mention in general terms that your practice operates a complaints procedure in order to allow any patient to raise concerns.

You could also say, for example, that you always try to provide the highest standard of care to your patients and rather than discuss the treatment of any patient in public - which would be inappropriate - you encourage any patients with concerns to raise them directly with the practice. It is easy to assume, when faced with a journalist who knows that you have treated a particular patient, that the patient must have placed this in the public domain and therefore has waived their right of privacy. The journalist may have acted upon a “leak” from the patient’s solicitors, a friend, or the patient’s family. So you should always assume that the patient’s right of privacy still exists.

It is best to keep your statement brief and factual; about 150 words is a general guide. Column inches are limited, and a wordy statement gives the journalist an opportunity to edit what you have said and potentially change the meaning or emphasis.

Ensure your team is aware of how to handle any media enquiries.

Practices – supporting your team

Handling media enquiries can be daunting for anyone who has not had any experience in dealing with the media before, including your team. It is therefore important that you decide in advance what to do, should the media approach the practice for comment.

We suggest that you nominate a suitable member of your team to be the first point of call for all media enquiries (perhaps the practice manager or the member of staff who handles complaints), as this will help to ensure a consistent approach. This will help the team feel more confident in dealing with an unfamiliar situation and provides the dentist with an opportunity to deal with the enquiry once the current patient has been treated.

The advice contained in the rest of this booklet can be used as a basis for developing other aspects of team involvement in more detail, particularly where patient confidentiality is involved.

If you anticipate that you may receive some media attention concerning a patient you have treated, you should make sure that you brief your team so that they all know what they can (and can’t) say. Ask staff to follow the principles for *dealing with the media by phone, dealing with the media on your doorstep and photographers and camera operators* (see page 6-9).



Dental pundits



You might be approached by the media – regional or national newspapers, radio or television – to comment on a dental or professional issue. You are not obliged to agree to an interview, but if you are keen to get your point of view across then it is wise to plan carefully what you want to say. If you want to make yourself available to the media in the future, you might wish to consider obtaining media training. There are many organisations that offer this.

If the story relates to a local issue, it may be appropriate to inform your employer or colleagues about any media interest, particularly if it is likely that they will also be approached for a comment.

Another scenario where the press may want your expertise is through commissioning an opinion piece or feature for a dental publication.

TV and broadcast interviews

Example

You are contacted by reporter from a TV channel who is running a story on the safety of fluoride. He would like to record an interview with you about the proposed introduction of fluoride to the water supply in your area.

The press office does not generally give specific advice on elective TV and radio interviews unless they relate to a case we are assisting with, but the following general points might be of use to you.

If you are approached to contribute to a programme, find out as much as you can about it before deciding whether to agree (you can always decline). You need to feel comfortable that what is being asked of you lies within your sphere of expertise and that the programme or publication is something you are happy to be associated with. Before you agree to participate, you should ask the producer for a written indemnity in respect of any claims involving you arising from the programme.

Things to find out

- What is the storyline or angle?
- Who is the audience?
- When and where will it be broadcast?
- What are the questions they will be asking you?
- Who else will be contributing?
- Will the programme be recorded, or will it be a live transmission?

There are greater dangers in recorded programmes because the message you convey can be greatly influenced by the editing process. Will you have the opportunity to view the final edited version before transmission?

Take time to prepare yourself for the interview; think about the key points you would like to make, questions you may face and the answers you will give.

Preparation is essential for getting your message across effectively. Do not respond to pressure from the reporter or producer for an immediate telephone interview. It is both sensible and reasonable to make sure you have time to collect your thoughts. Arrange to call them back when you have had time to prepare.

if you are pressured to participate in a programme at very short notice, you should think very carefully before you agree - because it is more likely in these situations that there is a 'hidden agenda' that you may not be aware of.

When giving any interview, take time to talk a little more slowly than you would in normal conversation. This will allow you to get your point across clearly and succinctly. Journalists will usually use around twenty seconds of a pre-recorded interview in a clip.

Top tips

- Make sure you are fully prepared before you speak and are clear on your key messages.
- Be concise and clear.
- Body language and good eye contact is as important as what you say in a filmed interview.

Opinion pieces and features

Example

You are contacted by the editor of a dental publication. He would like you to write a feature on teledentistry.

Ensure that you get a clear idea of what is wanted. Before committing yourself, ask for a written brief to be sent or emailed to you setting out what is required – topic, specific issues to address, areas of particular interest. Also ask about the word count and deadline. Whether or not you are being paid to write the article, it is advisable to have a clear agreement with the publisher about your obligations to each other and, importantly, whether you will be retaining copyright or assigning it to the publisher.

Remember to reference the work of others as appropriate.

Your article will be edited, so ask to be given sight of the edited copy before publication to make any final corrections and keep a written record of the original request, and any subsequent agreement to this.

Top tips

- Don't commit yourself until you know what the commission entails and are happy with the conditions.
- Negotiate a deadline that suits both of you.
- Insist on seeing edited copy before publication and get this confirmed in writing.
- Clarify copyright arrangements in writing from the publisher (preferably in a formal contract).
- Obtain a written indemnity from the publisher.



What you can do
if it all goes wrong



Introduction to redress

Picture the scene – you pick up the local paper and see your name under a scurrilous headline. Your first thought might be to ring the editor of the paper and give her a piece of your mind, or you might want to hide away from the embarrassing humiliation of it all. But either of these options has the potential to backfire. What DPL can offer you is objective professional advice, and you can get this from our local Cases Consultants or the press office 24 hours a day. They will talk you through your options and do what we can to put the situation right.

It may seem most unjust, but if the story merely casts you in an unfavourable light while avoiding errors of fact, you may not have grounds for redress. Unless the story contains factual errors or has mis-quoted you, there is often not much that can be done. Journalists are trained to write their copy within the law. They may write sensationally, but most are careful to write accurately. Careful use of language (eg, “alleges”, “claims”) can imply incompetence or fault without explicitly stating it. In a country with a free press, the right to comment or express opinions can create a very one-sided story, although the concept of ‘free speech’ in Australia has always sat uneasily balanced between the protection of the federal constitution and the local state variations in the treatment of defamation actions.

How can you seek redress?

If it can be demonstrated that the story concerned is factually inaccurate, the publisher can be asked to print an apology and a correction. Depending on the context of the published errors, the publisher might also print an article correcting the false impression given in the original.

Defamation law in Australia varies from state to state, despite a Law Reform Commission having recommended uniformity some thirty years ago. In most cases, a publication should be given the opportunity to make amends. Printing an apology is a major admission of error by the publication and can be a considerable source of embarrassment to the editor concerned. But this can still be a double-edged sword because it puts the matter into the public domain for a second time, perhaps bringing it to the attention of people who did not see the original article.

Misquoting

Media stories that quote you out of context or quote you incorrectly can be damaging to your reputation. Your comments may be edited and used selectively to best fit the particular news agenda of the day. If this happens, there are two courses of redress open to you – seek an apology and a correction or report the publisher to the relevant media regulator (see page 18).

Factually incorrect articles

In a specialist area like dentistry, the scope for factual errors creeping into media stories is very wide.

In some cases, a reporter may have spoken directly to one of your patients, or their family, about their experiences while being cared for by you.

The patient might present a skewed version of events for a number of reasons – their perspective could be altered by anger or disappointment, they could have misunderstood the clinical aspects or have poor recollection of events. In a few cases, they might be seeking retribution. Certain forms of solicitors are well-known for using the media to create added leverage when bringing claims against dentists. These factors should be borne in mind when responding to the media – any perceived hostility towards the patient and/or the family could be exploited and publicised to the detriment of the dentist.

Correcting inaccuracies reported by patients is not easy because the dentist concerned is still bound by a duty to respect and protect the patient's privacy. Although patients can talk openly about their dental condition, the dentists and the dental team can't. The press office will be able to advise you about the best way of handling this situation.

Court proceedings

Evidence presented in open court (which applies to most civil claims and Dental Board proceedings) can be reported in the media, unless reporting restrictions are specifically imposed. This means that the media can publish unproven allegations made in court. As long as they report proceedings accurately, there would be no scope for redress through claims of defamation or contempt of court.

Defamation

Defamation law varies from state to state, with only NSW, Vic and Qld being broadly aligned in approach.

Defamation proceedings are expensive and notoriously time-consuming, unpleasant and the outcome is often hard to predict, so a defamation action is not something to be undertaken lightly.

There are three ways in which you might find yourself involved in a defamation case: as a claimant, as a defendant, or as a witness.

If you believe you have been defamed contact DPL for advice. DPL can also assist with defamation actions brought against you, provided the matter arises from your professional practice.

If defamation proceedings have been brought against you because of something you have published in a book, journal or newspaper, your publisher should be responsible for defending the case. If you are involved in a radio or television programme, you should ask the producer for an indemnity before you agree to participate (see pages 12-13).

If you are the subject of defamation proceedings arising from your role as an official spokesperson for a dental association or royal college, that organisation should provide you with an indemnity.

The Australian Press Council (APC)

The APC is a self-regulatory body that deals with complaints from members of the public about the editorial content of newspapers, journals and magazines whether in print or on the internet. All complaints are investigated under a published APC Complaint Procedure.

www.presscouncil.org.au

Australian Communications and Media Authority (ACMA)

ACMA is Australia's statutory regulator for broadcasting, the internet, radio and tele-communications. www.acma.gov.au

ACMA publishes Codes of practice and investigates complaints in relation to alleged infringements by broadcast journalists. If you have concerns about a TV or radio programme, you can also complain to the broadcaster directly.