A Guide to the Sexual Offences Interactive Legal Education Program

Professional development advancing best practice in sexual offence cases
Project Board
Office of Public Prosecutions (OPP)
Legal Services Board (LSB)

Stakeholder Advisory Committee Members (By Organisation)
Office of Public Prosecutions
Victoria Legal Aid
Supreme Court of Victoria
County Court of Victoria
Magistrates’ Court of Victoria
Department of Justice
The Victorian Bar
Victorian Criminal Bar Association
Victoria Police
Judicial College of Victoria
Law Institute of Victoria

Funders
Legal Services Board
Victoria Law Foundation (Evaluation of the Project)

Consultants
Australian Institute of Management
Synergistiq

Acknowledgments
The OPP and LSB thank the stakeholders who contributed their time and expertise to this project, along with specialist legal and corporate staff from the OPP.

Despite demanding schedules, many judges, barristers, lawyers, prosecution and defence staff on the stakeholder advisory committee will deliver aspects of the training on a voluntary basis.

The OPP also acknowledges the support of the LSB in funding this important project and the contribution of Grants Manager Susan Ball to the Project Board.
Foreword from the DPP and SPP

**Director of Public Prosecutions, John Champion S.C.**

In my former role as the Chair of the Victorian Criminal Bar Association I extended my support, and that of the Criminal Bar Association, to this project and its ultimate funding by the LSB. It now gives me great pleasure to introduce the Sexual Offences Interactive Legal Education Program as the Director of Public Prosecutions.

The criminal justice system faces many existing and emerging challenges with greater demands on all stakeholders to deliver just outcomes to the community. This education program is unique. It brings together many stakeholders to collaborate and pilot new and traditional types of training. It uses technology and modern adult learning principles to advance excellence in this complex area of the criminal law.

Given the collective importance of our public service roles, there can never be enough training and professional development opportunities that focus on delivering just outcomes to the community. I am particularly pleased that the OPP and LSB have partnered to deliver this opportunity to practitioners free of charge.

**Solicitor for Public Prosecutions, Craig Hyland**

I am proud of this ground breaking education program. The OPP has welcomed the opportunity to work collaboratively within the criminal justice system and the aim of everyone involved has been to enhance the way the profession approaches sexual offence matters.

The OPP has spent considerable time consulting with stakeholders to ensure the overarching aims of the project are met. Where possible, we have facilitated system wide participation and brought prosecutors and defenders together. This has enabled knowledge to be shared and professional standards to be improved collaboratively. As a result, the education framework delivers on the ideas, needs and requests of all stakeholders.

We have also worked with adult learning experts to ensure the education model meets best practice training standards by making it interactive, practical and modern. I look forward to hearing feedback about the program from participants.
Background of the program

In 2004 the Victorian Law Reform Commission handed down its final report on sexual offence law and procedure. The report made 202 recommendations to improve the way sexual offences were dealt with by the criminal justice system.

In 2006 a wide ranging sexual assault reform package was introduced that included new legislation, the establishment of the OPP’s Specialist Sex Offences Unit and specialist court lists in the County and Magistrates’ Courts. The recommendations also referred to the need for specialised training for barristers and lawyers working in this complex area of the criminal law.

In 2009 the LSB funded the OPP to lead and deliver an innovative legal training program that would take a collaborative multi-agency approach to interactive training for prosecutors and defenders in sexual assault cases.

Although the legislative reforms have been in place for some time, this area of the criminal law continues to present complex legal and procedural challenges for judges and practitioners. Re-trial rates continue to be high.

The Sexual Offences Interactive Legal Education Program is a three-tiered pilot program. Its development has benefited from in-depth consultation, legal and training expertise, and a body of established procedures and case precedents since the 2006 legislative reforms came into effect.

This innovative pilot program introduces various new methods of training, including an online cross-examination simulation. This has never been tried before and the OPP has worked with one of the few companies in Australia offering this sort of technology for adult learning.
Aims of the program

The program aims to:

• Promote a best practice approach to advocacy and case preparation in sexual offence cases.

• Increase the knowledge, skills and confidence of prosecution and defence practitioners (barristers and solicitors).

• Increase awareness of the sexual offence legislative and procedural framework, and improve consistency in the application of the legislation.

• Increase awareness, sensitivity and responsiveness to the needs and experiences of victims of sexual assault.

The OPP has included the following features in the training that were not part of the original scope of the project:

• An online resource. The online program will make the training more accessible and easier to use for busy practitioners, especially those working in regional areas. The online product captures current knowledge in this area of the criminal law. This resource will enable the largest number of practitioners and relevant stakeholders to be reached.

• Police prosecutors will be invited to attend key workshops to ensure a consistent, best practice approach to sexual offence case preparation across the summary and indictable jurisdictions.

• The online training will be available to all Victoria Police members investigating sexual offence cases. It will be particularly useful when considering appropriate charges. The online content includes a reference guide to the legislation. This reference guide includes a complete analysis of all the offences, new and historical, with a breakdown of the elements, penalties and transitional provisions of the many pieces of legislation in this area of the criminal law.

• An ‘information hub’ that brings stakeholders and online resources together.
How to approach the training

The training is free of charge and available between April and September 2012. The three stages of the pilot program are designed to be undertaken in sequence where possible. Each stage incorporates a different mode of learning for optimal skill development.

From 20 April 2012 the stage one online module and supplementary manual, along with instructions on how to register for stages two and three, will be available at www.ilep.opp.vic.gov.au

When you first register to use the online system you will be creating a unique log on. This will enable you to use the online product as a reference guide and complete the online learning module at your convenience. The module consists of a number of multiple choice questions based on the online reference material.

Some of the workshops will require pre-workshop preparation. The online system will provide email alerts about your registration for workshops and pre-workshop preparation, which will include an online cross-examination simulation and other updates.

You will be entitled to receive continuing professional development (CPD) points from the relevant professional association or agency you belong to across all stages of the training program. The relevant professional agencies have all agreed as part of the development of this program to allocate CPD points in the usual way, namely a point per hour of training.

If you are a barrister, you should also ensure that you advise your clerk as you complete stage one and the workshops in stage two. This will allow the OPP Briefings team to take your completion of stages one and two workshop(s) into consideration when briefing decisions are made regarding sexual offence cases.
Three-tiered Education Framework

Stage 1
April 2012
Online Learning Module and Supplementary Manual

Stage 2
May and June 2012
A series of four interactive and experiential workshops which focus on key advocacy skills in prosecuting and defending sexual assault cases

Stage 3
August 2012
Professional feedback sessions that deliver confidential one on one feedback to a small group of prosecutors and defenders following the conclusion of a sexual offence trial. Feedback will be provided following peer review by eminent legal professionals (senior defence and prosecution barristers and judges). The feedback will be based on an objective set of trial advocacy skills/competencies that have been developed by the Victorian Bar in conjunction with the OPP and VLA.
Stage One – Online Learning Module and Supplementary Manual

The online product contains learning material, information on registering and updates.

The online manual is not designed to be a text book on sexual offences. It is a practical overview designed to guide barristers and solicitors through key case preparation information as quickly as possible given the demands on busy lawyers. Junior or non-specialist practitioners, and particularly regional practitioners, will benefit by being guided through key preparation points in sexual assault cases. The online manual will also act as a refresher for more senior and specialist practitioners.

The online training module is based on the reference materials and incorporates a series of multiple choice questions that take about three hours to complete, including reading time.

The online product is also an ‘information hub’ with sample court documents and links to key stakeholders and reference sites, such as the Judicial College of Victoria.

Participants can use the online product as a guide to the relevant procedural and legal information in sexual assault cases, or they can use it in conjunction with the online training module.
Stage Two – Workshops

Go to the online program for information on registration www.ilep.opp.vic.gov.au

Workshop 1 (2.5 hours)
Thursday 10 May 2012, 4:30 to 7:00pm
Neil McPhee Room, Level 1 Owen Dixon East
205 William St, Melbourne

Strategies for best practice preparation of a sexual offence trial & the avoidance of appellable error
Presented by the Honourable Justice Neave AO and Barrister Chris Beale
Limited to 40 participants

Workshop 2 (2.5 hours)
Thursday 7 June 2012, 4:30 to 7:00pm
Melbourne County Court, 250 William Street, Melbourne

Dealing with the evidence of adult sexual offence victims
Best Practice examination-in-chief and cross-examination
Presented by His Honour Judge Mullaly and County Court Judges at the Melbourne County Court
Limited to 40 participants

Workshop 3 (2.5 hours)
Thursday 14 June 2012, 4:30 to 7:00pm
Neil McPhee Room, Level 1 Owen Dixon East
205 William St, Melbourne

Dealing with the evidence of child sexual offence victims
Best Practice examination-in-chief and cross-examination
Presented by a County Court Judge and Barrister
Limited to 40 participants

Workshop 4 (2.5 hours)
Thursday 28 June 2012, 4:30 to 7:00pm
Neil McPhee Room, Level 1 Owen Dixon East
205 William St, Melbourne

Best practice conferencing of sexual offence victims and accused charged with sexual offences
Presented by the Director of Public Prosecutions and a panel of prosecution and defence experts
Limited to 40 participants
Stage Three – Professional Feedback Sessions

A major issue raised during the OPP’s consultations with stakeholders was the absence of a professional and structured peer review system based on objective standards and criteria. This issue was raised by judges, senior and junior barristers alike.

Stage three addresses this gap. The peer review component is reserved for six to 10 barristers (over three to five trials). Some of the most senior members of the profession will provide participants with free professional advice on their skill development.

This is a unique opportunity to receive highly structured professional feedback. It will be delivered by an experienced training consultant, similar to the 360 degree feedback that judges undertake through the Judicial College of Victoria. This type of feedback is regularly used by non-legal professionals looking to improve their performance and further hone their technical skills.

The review of trial performance will focus on how you assessed your own performance compared with how the judge and an independent peer reviewer assessed your performance. The feedback will be entirely confidential and is designed to offer you objective feedback in a professional and constructive way. It is purely for training purposes and your own individual professional development.

Pre-trial agreement will be obtained from the prosecutor, defender and trial judge that professional feedback will be provided as part of this training program. The independent peer reviewer (one of a team of five eminent barristers) will observe key points of the trial either in court or via video.

For more information on registering your interest please go to the online program at www.ilep.opp.vic.gov.au