



HM Courts &
Tribunals Service

**Jurisdictional guidance to support
media access to courts and tribunals**
Criminal courts guide

Criminal courts

Although journalists are often in court to report on particular proceedings, you may still be contacted outside a hearing to verify the facts about a case they have heard about or to get details of a specific case after the event. You can release factual information that is said or read out in open court, contained within a court document that is open to public inspection, or placed on a public notice board.

Information you must provide to the media and the public

Where you have the relevant information, it is not prohibited by a reporting restriction and the case is ongoing (or the verdict is less than six months ago), you must supply the following details on request from a member of the public or media (in court or by phone):

- a) the date of any hearing in public, unless any party has yet to be notified of that date;
- b) each alleged offence and any plea entered;
- c) the court's decision at any hearing in public, including any decision about bail, or the committal, sending or transfer of the case to another court;
- d) whether the case is under appeal;
- e) the outcome of any trial and any appeal; and
- f) the identity of the prosecutor, the defendant, the parties' representatives, including their addresses, and the judge, magistrate or magistrates, or justices' legal adviser by whom a decision at a hearing in public was made.

Details of any reporting or access restrictions ordered by the Court should also be given.

The full details of these responsibilities are contained within Rule 5.8 of the Criminal Procedure Rules at: <http://www.justice.gov.uk/courts/procedure-rules/criminal/docs/2015/crim-proc-rules-2015-part-05.pdf>

Disclosing defendants' addresses to the media

Alongside the above, there has been a long-standing practice of courts providing the addresses of defendants to the media (although not to the public) even when it is not read out in open court in order to ensure the accurate identification of those involved in criminal proceedings.

In rare cases, a judge will make a specific order that the address of the defendant cannot be disclosed to the media. If, for example, disclosure of the defendant's address would expose the defendant to a real and immediate risk to his or her life. Information contained in police antecedents, pre-sentence reports or medical and psychiatric reports cannot be given to the media or the public. These documents can only be used to verify an address on another document. The address found on the application for a Representation Order cannot, by statute, be used at all.

If you are uncertain as to whether the person requesting the address is a journalist ask to see their press pass, or if on the phone, ask them, or an editor, to email you confirmation.

Requests for copies of court documents

The public and media can make an application to the judge to seek publication of information and documents not covered by the Criminal Procedure Rules (as set out above). The decision on release is at the judge's discretion and is the subject of Criminal Practice Directions (see CPD/General Matters 5B Restrictions on Reporting Proceedings at <https://www.judiciary.uk/publications/criminal-practice-directions-amendment-no-7/>)

The general principle, as set out in Criminal Practice Directions, is that accredited media representatives should be supplied documents and information unless there is a good reason not to in order to protect the rights or legitimate interests of others, and/or if the request will not place an undue burden on the court.

It remains the responsibility of the media (or any other recipient of information or documents) to ensure that they comply with any and all restrictions such as reporting restrictions.

Requests for copies of the indictment

Reporters attending a criminal trial may ask for copies of the charge sheet or indictment and the practice directions state that this should be released as "The alleged offence(s) will have been read aloud in court, and their terms must be supplied under Criminal Procedure Rules 5.8(4)."

If you have concerns that draft indictments may be subject to amendments, particularly if they have been asked prior to the Pre and Trial Preparation Hearing and the defendant has not yet been arraigned, then a warning could be drafted along the lines:

"The charges specified on this draft indictment may still be subject to amendment and cases may not proceed in exactly the same way as the charges appear on the basis of this draft indictment."

It may also be sensible to point out that there may be reporting restrictions in place, or that the complainant may have the benefit of lifetime anonymity due to the nature of the offence. It is, however, the responsibility of the publisher to find out what reporting restrictions exist prior to publication.

If you are asked by the media for an indictment when a reporter was not in court for the Plea and Trial Preparation Hearing, as the charges must be lodged under the Criminal Procedure Rules by that hearing, you would be able to confirm the charges on the indictment after that point, unless there's a specific reason not to.

Details of the directions to courts on all aspects of access to information were updated by the Lord Chief Justice in July 2018 and take effect on 1st October 2018.

Full details are included in General matters 5B and can be found at <https://www.judiciary.uk/wp-content/uploads/2018/08/crim-pd-amendment-no-7-consolidated-july-2018.pdf>

Courts register and lists

Under a protocol agreed between HMCTS, the Society of Editors and the News Media Association (formerly the Newspaper Society and the Newspaper Publishers' Association), Magistrates' Court lists and court registers should be made available to the media on request and without charge. At a minimum, the lists should contain each defendant's name, age, alleged offence and address.

The full protocol can be seen in full at Annex A of this guidance and can be read online at: [http://www.newsmediauk.org/write/MediaUploadsrite/MediaUploads/PDF%20Docs/Protocol for Sharing Court Documents.pdf](http://www.newsmediauk.org/write/MediaUploadsrite/MediaUploads/PDF%20Docs/Protocol%20for%20Sharing%20Court%20Documents.pdf)

This guide is not intended to reduce the frequency or volume or the amount of information already supplied to or published by the media. Although there is no direct equivalent to the magistrates' court register in the Crown Court, similar principles should apply. Given the relatively small number of cases heard in the Crown Court and the fact that they have in the main come from the magistrates' court, it is recognised that newspapers are often already alerted to their content and interest value. Crown Court staff are encouraged to cooperate with local newspapers when they make enquiries.

Crown Court lists may be accessed at www.courtserve.net/homepage.htm.

Guidance on reporting restrictions

The making of reporting restrictions is covered by Part 6 of the Criminal Procedure Rules. It sets out which restrictions may be imposed by a criminal court and should serve as a guide to court staff where there is uncertainty about what restrictions may apply and how they should be managed and administered.

Part 6 is available in full at Annex B of this guidance and can be read online at: <http://www.justice.gov.uk/courts/procedure-rules/criminal/docs/2015/crim-proc-rules-2015-part-06.pdf>

In addition, you should refer to guidance issued by the Judicial College, and supported by the News Media Association, Society of Editors and Media Lawyers' Association. It sets out a "structured approach for magistrates and judges" to ensure reporting restrictions are correctly applied and observed, including the advance notification of the media of such an application. The guidance can be read online at: <https://www.judiciary.uk/wp-content/uploads/2015/07/reporting-restrictions-guide-may-2016-2.pdf>

Applications for reporting restrictions

Where the court has the power to impose a restriction on the reporting of events at a public hearing, or on public access to an otherwise public hearing, or has the power to withhold information from the public during a public hearing, the court may do so on application by a party or on its own initiative. The party who wants the restriction imposed must apply as soon as reasonably practicable, notify any other party, and any other person as the court directs. They must specify the proposed terms, how long the restriction should last, what power the court has to make the order, and why such an order is necessary.

If the application is for the trial to be held in private, court officers must display a notice of the application being made at a prominent location near the courtroom, and give notice of the application to the media according to any other administrative direction given by the court manager.

The media should be allowed an opportunity, if they want, to make representations to the court about a discretionary reporting restriction that the court is thinking of making or is being asked to make. If the decision to impose the restriction is being taken at a hearing in public, which will usually be the case, then that of itself allows the media a sufficient opportunity to attend and raise any objections that they may have.

If, exceptionally, the court is asked to impose a reporting restriction at a hearing in private, or without a hearing at all, then action should be taken to inform the media, in the same way they are informed of an application for a trial to be held in private.

Display of a reporting restriction Order

Any reporting restriction imposes potential criminal liability on any media organisation that breaches it and it is therefore essential that the restriction(s) imposed is written up as soon as possible in clear and precise terms, and drawn up as a court order as soon as practicable.

Subject to the requirements of Part 6 of the Criminal Procedure Rules, local procedures may vary. But as a rule court staff will be responsible for producing the relevant order and any accompanying notices that will be displayed following an order for reporting restrictions in any type of case. These notices should be drawn up promptly and agreed with the judge/magistrate who made the order. The following information will be available from the order and should be included in any notice:

- date of order
- name of trial
- who made the order and where
- reason for the decision and the legal basis
- what or who is affected by the order
- how long the order is intended to last
- lifting restrictions in place.

The notice should also mention that if the media wish to challenge the order, they will need to make representations to the judge/magistrates.

Orders that are rescinding, replacing, updating or amending a previous order must make this clear, including the status of previous orders. All decisions from the list above must be clearly recorded on the court file and on XHIBIT/CREST.

All notices setting out the above information must be clearly displayed on the courtroom door, by daily lists and in the pressroom, if there is one. Copies of the notices should be made and retained on the court file so that queries can be easily answered. CREST/electronic systems, including public display screens, should also be updated and the listing officer should then ensure that details appear on the court list so all staff and media are alerted to the fact that reporting restrictions are in place.

The media should be able to find out if there are reporting restrictions on a particular case in a timely fashion but court staff should not attempt to interpret the restrictions.

The appropriate members of staff should however, be available and briefed to deal with media inquiries, inside and outside of court hours, this could be a nominated press or media lead. Whilst HMCTS is under a duty to ensure any reporting restrictions are accurately recorded and displayed. Newspapers are expected to pay close regard to the reporting restrictions made and carry the risk of contempt of court if they publish information subject to reporting restrictions.

If the media want further clarification, they should seek legal advice. If the media publish an article that is based on inaccurate interpretation by court staff, it could be the provider of the information that may be held in contempt of court. Court staff should avoid any requests for advice on the interpretation or scope of reporting restrictions.

When appropriate, inform the media that there is a restriction order on communications. If the media wish to challenge the order, the representative will need to make representations to the judge/magistrates. If the order is ignored, then the responsible organisation or representative (as determined by the court) could bear any repercussions.

Jurors

We do not give jurors' names to the media (or anyone else). The only reason the names are read out in open court is because the defendant has a right to hear the names of the jurors who are about to try them in the interests of justice. This is in case they may know any of the names and may need to challenge that juror sitting on the trial.

Jury visits

The media are entitled to attend jury visits, but their attendance needs to be carefully handled.

When the jury, judge and parties come together on a site visit, the court is effectively 'in session' just as it would be in the courtroom. All the normal contempt rules therefore apply – the group cannot be filmed or photographed and evidence must not be interfered with but equally the media should be allowed to attend the visit.

The local police should be approached well in advance of the jury site visit to discuss what assistance they can give in controlling the media attendance at the site visit. If possible, a cordoned area should be set aside for the media, as close to the site as possible.

Experienced ushers or other senior staff from the court where the trial is being held should also attend to perform the same role they would in a normal court in controlling the media's attendance. They should remind any media attending that the normal contempt of court rules apply in relation to filming or photographing jurors, the judge or anyone else attending the site visit.

Defendants entering court by a side entrance

You may be asked to allow defendants on bail to enter the court through a side entrance to avoid the press in the street. This could lead to complaints from the media.

You should only allow defendants to use a side entrance if you have been specifically advised to, on security grounds, by the police or the judge. If the media do make complaints you should tell them that the decision was made following police advice.

Transcripts

Anyone may ask for an available transcript of a hearing held in public for a fee. The transcription company must not provide information where a reporting restriction applies if doing so would contravene the reporting restriction.

For a hearing held in private, the transcription company can only provide the transcript to a person who was present at the hearing (or to the registrar).

Youth courts

The media are entitled to attend and report on proceedings in the youth court, and we should facilitate this. Unlike members of the public, the media do not need permission to attend, however it is reasonable to request identification from a journalist or media representative before giving them access to the courtroom (this could be a UK press card or a letter from their editor).

There are automatic reporting restrictions that apply to protect the identity of under-18s involved in the following proceedings:

- proceedings in the youth court;
- proceedings on appeal from a youth court;

- proceedings in a magistrates' court that relate to a breach, revocation or amendment of a Youth Rehabilitation Order (occurring when the offender has since turned 18);
- proceedings on appeal from a magistrates' court relating to a YRO.

The court can, however, lift or amend such restrictions by order.

If you receive calls from the media about youth court cases the following information can be given out:

- result of the case
- the name and address of the defendant (in most cases the journalists will already know it), but remind them that these details cannot be published
- the age, including the date of birth recorded on the court file
- details of any order under section 49 of the Children and Young Persons Act 1933 dispensing with the prohibition under section 49(1).

As you are giving out information not normally available to the public, if you do not know the journalist, you can ask them to email you to prove they are press or, if in person, ask to see a press card.

The point of providing these details is to promote accurate reporting; responsibility for what is published always rests with the media organisation.

Power to prohibit publication

Section 45 of the Youth Justice and Criminal Evidence Act 1999 allows a court to prohibit publication that would identify a young person concerned in any other criminal proceedings. The court may direct that:

- no report of the proceedings shall reveal the name, address, school or place of work, or include any particulars calculated to lead to the identification, of any child or young person concerned in the proceedings, either as being the person or in respect of whom the proceedings are taken, or as being a witness therein; and
- no picture (still or moving) shall be published as being or including a picture of any child or young person so concerned in the proceedings.

Protocol for sharing court registers and court lists with local newspapers

There is a longstanding policy encouraging magistrates' courts to provide copies of the court register and court lists to the media.

The Government believes that assisting newspapers to report what is happening in their local courts is important for increasing confidence in the criminal justice system. It also supports compliance with obligations under the European Convention on Human Rights to ensure that justice is open and trials are held in public.

The Government has therefore decided that the courts should not normally charge newspapers for the supply of court registers or court lists, whatever the form in which they are supplied.

When sharing such data, however, HMCTS must ensure that there are appropriate, common-sense safeguards in place.

HMCTS will:

- wherever possible, provide copies of court registers and court lists by e-mail¹ marked "*Personal Sensitive Data*" in the body of the email;
- ensure the email contains the following disclaimer: "*This email contains information intended to assist the accurate reporting of court proceedings. It is vital you ensure that you safeguard the Personal Sensitive Data included and abide by reporting restrictions (for example on victims and children). HMCTS will stop sending the data if there is concern about how it will be used.*";
- not charge for copies of court registers or court lists;
- if unable to provide copies of the court register or lists by e-mail, ask the newspaper to collect a hard copy or to pay the cost of postage² and ensure the following disclaimer is placed inside the envelope: "*This contains information intended to assist the accurate reporting of court proceedings. It is vital you ensure that you safeguard the Personal Sensitive Data included and abide by reporting restrictions (for example on victims and children). HMCTS will stop sending the data if there is concern about how it will be used.*";
- ensure that court registers contain details of any reporting restrictions when they are first made;³
- ensure that magistrates' court lists, which are supplied or made available to newspapers on request, contain each defendant's name, age, alleged offence and address;
- take steps to satisfy themselves that they are providing information to a genuine journalist or agent. (Paper copies must be collected in person by a representative from the newspaper who must produce ID such as a UK Press Card Authority or a letter from the editor authorising collection, together with suitable ID. The package must be signed for and a record kept of the collection);
- ensure that any email lists/contact details of newspapers and journalists are reviewed regularly for accuracy (at least twice a year);
- reserve the right to refuse to disclose data if there is a concern about how that information will be used (e.g. sold to a third party, used to create internet lists of sex offenders etc).

Newspapers will:

- only request court registers and lists which are appropriate to their editorial coverage and intended use;

- be clear on what cases they are genuinely interested in and the regularity with which they need information (given the fact that the magistrates' courts deal with a massive range of business, including non-criminal and traffic matters);
- provide bona-fide e-mail addresses and identification as appropriate;
- safeguard the information that is passed to them, so far as is appropriate and reasonable;
- destroy the data supplied within 6 months or other appropriate longer period, if recommended by their legal advisers or insurers. (Although they can retain details of individual cases for journalistic purposes);
- shred printed copies of registers;
- not pass the information contained in court registers to third parties (i.e. outside the media and its legal advisers, for reasons unconnected with journalism);
- comply with reporting restrictions and any other legal restrictions on the use of information.⁴

Endnote

Nothing in this guidance is intended to change any local arrangements which work effectively (provided they are lawful), aside from ending any charges which may have been made for the supply of the court registers or lists. This guidance is intended to encourage the courts' supply of court registers and lists and the information which they contain to the media. Nothing in this guidance is intended to reduce the frequency or volume or the amount of information already supplied to or published by the media.

Although there is no direct equivalent to the magistrates' court register in the Crown Court, similar principles are to apply insofar as they can. Given the relatively small number of cases heard in the Crown Court and the fact that they have in the main come from the magistrates' court, it is recognised that newspapers are often already alerted to their content and interest value. Crown Court staff are encouraged to cooperate with local newspapers when they make enquiries.

This protocol has been agreed between HM Courts and Tribunals Service, the News Media Association and the Society of Editors.

Any issues arising should be subject to local discussion but thereafter can be escalated to MoJ Press Office.

¹ Note that sending disks is in breach of current data security controls

² Note that hard copies must be securely packaged, the envelope being marked with the court's address and telephone number.

³ There is a requirement in Rules that court registers will inform details of reporting restrictions when first made but they cannot be automatically included in court lists or in register entries pertaining to subsequent hearings

⁴ See JSB Guidelines on Reporting Restrictions in the Magistrates Court, Home Office Circular no 78/1967; Home Office Circular no 80/1989, Statement of Justice Secretary House of Commons 15 July 2008.