

Protocol on sharing court lists, registers and documents with the media

There is a longstanding policy and practice of magistrates' courts providing copies of the court register and court lists to the media free of charge, as well as providing access to documents used in particular cases and hearings.

HMCTS believes that assisting the media to report what is happening in local courts is important in order to maintain and increase confidence in the criminal justice system, and to uphold a clear commitment to open justice.

As the information provided is not routinely available to the general public, media organisations and journalists receiving it must conform to appropriate, common-sense safeguards and recognise their wider legal obligations relating to publication.

This protocol has been agreed by HMCTS, the Society of Editors and the News Media Association, and approved by the Lord Chancellor for the purposes of conforming to the Criminal Procedure Rule 5.8, and comes into effect on the 6 April 2020. It accords with all legal obligations including General Data Protection Regulation and the Data Protection Act 2018.

HMCTS will:

- provide copies of court registers and court lists by e-mail marked "Note this email contains Special Category Data as defined by Data Protection Act 2018, formally known as Sensitive Personal Data, and should be handled appropriately." 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 Special Category 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
- ensure that court registers contain details of any reporting restrictions when they are first made¹
- ensure that magistrates' court lists, which are supplied or made available to the media on request, contain each defendant's name, date of birth (when provided), age, alleged offence and address
- ensure that the information is being provided to an accredited journalist or media organisation. This is normally done by requesting to see an individual's UK Press Card²
- Any dispute should be referred to HMCTS press office to resolve.
- ensure that any email lists/contact details of media organisations 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).

1 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.

2 The UK Press Card Authority(UKPCA) manages a voluntary scheme for issuing press/media credentials- the UK Press Card – to professional newsgatherers working in the UK. Further information is available on UKPCA's website, together with contact details for the Secretary of the UK Press Card Scheme. (<http://www.ukpresscardauthority.co.uk/> and <http://www.ccsi.co.uk/Press/UKPressCardAuthorityPoster.pdf>)

The media will:

- only request court registers and lists to assist their role in reporting court proceedings and editorial coverage
 - provide bona-fide e-mail addresses and appropriate accreditation information, as requested
 - safeguard the information that is passed to them, so far as is appropriate and reasonable
 - destroy the electronic data supplied, and any printed copies, of lists and registers within six months or other appropriate longer period, if recommended
- by their legal advisers or insurers (although details of individual cases for journalistic purposes can be retained)
 - not pass the information contained in court lists, registers and documents to third parties 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 information³.

³ See Judicial Communications/ News Media Association/ Society of Editors/ Media Lawyers Association Guide to Reporting Restrictions in the Criminal Court and predecessor JSB Guidelines on Reporting Restrictions in the Magistrates Court, Home Office Circular no 80/1989, Statement of Justice Secretary House of Commons 15 July 2008.

Single Justice Procedure cases

The Single Justice Procedure was established under the Criminal Justice and Courts Act 2015 to enable some magistrates' court cases to be dealt with "on the papers" without the need for a traditional physical hearing by a single magistrate sitting with a legal adviser.

It is used for cases involving summary-only non-imprisonable and victimless offences where a defendant pleads guilty and indicates that he or she would like to have the matter dealt with in their absence, or fails to respond to the notice at all.

Cases being heard as part of the Single Justice Procedure should conform to HMCTS's wider commitment to open justice and the media should have access to the same information in SJP cases (including lists, registers and documents) they are entitled to in respect to other magistrates' court cases.

The documents that the media may request are:

- the prosecution statement of facts or, if there is no statement of facts, the witness statement(s);
- any defence representations in mitigation (although not the defendant's statement of means which would not be read aloud, or treated as read aloud, were the case being heard in public)

Accredited journalists should be provided with such documents, subject always to any judicial restrictions that, exceptionally, prohibit it.

Media requests for documents will normally be made via HMCTS Courts & Tribunals Centres rather than individual courts and should be provided within 1 working day from the receipt of a request by email which should include the individual's UK Press Card to authenticate the request.

Members of the general public can seek such documents under rule 5.8(7) of the Criminal Procedure Rules. But in order to do so they must apply for judicial adjudication before HMCTS provides access to these.

Endnote

This guidance is intended to encourage the courts' supply of court lists, registers and relevant documents 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 lists and register in the Crown Court, similar principles in relation to media access to information are to apply insofar as they can. Crown Court staff are encouraged to provide the equivalent information in response to media enquiries.

This protocol has been agreed between HMCTS, the News Media Association and the Society of Editors, and approved by the Lord Chancellor for the purposes of conforming to the Criminal Procedure Rule 5.8 (<http://www.justice.gov.uk/courts/procedure-rules/criminal/docs/2015/crim-proc-rules-2015-part-05.pdf>).

The protocol shall be reviewed by the three parties on an annual basis, and any amendments agreed on a collective basis.

It forms part of HMCTS's wider guidance to staff relating to media access issues. Any disputes arising from this issue should be escalated to the HMCTS Press Office currently provided by MoJ Press Office.