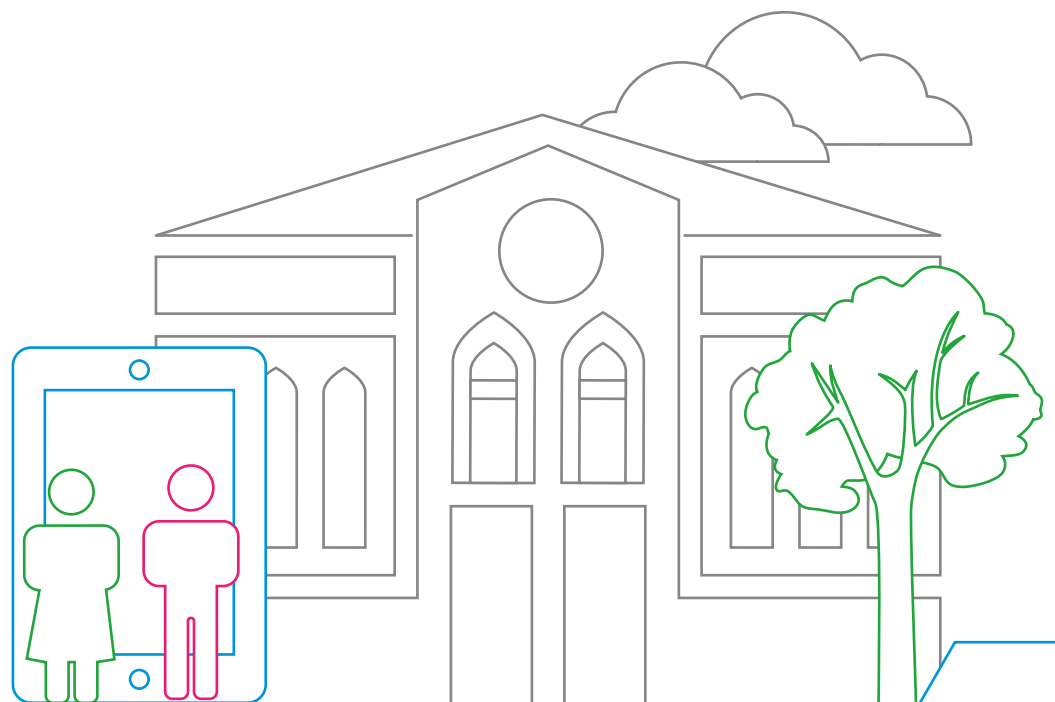




HM Courts &
Tribunals Service

Jurisdictional guidance to support media access to courts and tribunals

Family courts guide



Family courts

Accredited media representatives (journalists) have a “presumptive right” to attend most family court hearings, and family proceedings in the High Court. Although judges may refuse the media permission to attend in specific circumstances, the intention is that journalists should be able to attend most cases if they wish. This does not, however, entitle a journalist attending proceedings to report more than limited details about the case, particularly if the proceedings concern children or are in private.

Where exclusion is proposed, media representatives present are entitled to make representations to the judge. Under the terms of a pilot (Family Procedure Rules PD36J) 'legal bloggers' are given the same rights as accredited media representatives until June 2020. More details: https://www.justice.gov.uk/courts/procedure-rules/family/practice_directions/practice-direction-36j-pilot-scheme-transparency-attendance-at-hearings-in-private

Detailed guidance for the family courts on media access and reporting was developed in 2011 by the then President of the Family Division and Head of Family Justice, supported by the Society of Editors. It can be found here: <https://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Guidance/family-courts-media-july2011.pdf>

Further guidance was issued by the current President of the Family Division, Sir Andrew McFarlane, in October 2019 and is available at <https://www.judiciary.uk/wp-content/uploads/2019/10/Presidents-Guidance-reporting-restrictions-Final-Oct-2019.pdf>

Hearings not open to the media:

- Placement and adoption order hearings;
- Financial Dispute Resolution hearings;
- Some first hearings in children private law proceedings;
- Judicially assisted conciliation meetings, and
- Any hearings where the judge has previously decided that the media should be excluded from the entire proceedings or for that particular hearing.

All other hearings in chambers/courtrooms (including those to be heard 'in private') are open to the media unless a judge decides to exclude them.

Identification and accreditation

Only accredited media representatives are allowed to attend family proceedings which are in private. The required accreditation is the UK Press Card. Court staff should ensure that journalists are accredited before admitting them to family courts, unless the court itself permits them to be present.

Depending on local staffing arrangements, a member of staff should escort the journalist into the court and identify him/her to the judge, or the journalist should knock on the door of the courtroom, enter, and identify him or herself to the judge.

Access to documents in family cases

The only documents that you may give the media is the cause list and the copy of the reporting restrictions order if one is made. No other court documents are to be shown or given to journalists. Those who wish to see other documents must apply to the court. Different rules apply in appellate proceedings, where a journalist (but not currently a legal blogger without permission) are entitled to a copy of a skeleton argument

Family Procedure Rules Practice Direction 30B – Appeals – Transparency provides for additional copies to be made of the judgment being appealed from and the skeleton arguments of the parties to be supplied to the court to

make available to court reporters at the hearing of any appeal in the High Court or Court of Appeal <http://www.justice.gov.uk/courts/procedure-rules/family/family-pd-making-29-june-2019.pdf>

And in the Civil Procedure Rules at Practice Direction 52C (paragraph 33) there is a requirement for parties to supply two extra copies of the skeleton arguments in any appeal to the Court of Appeal, including family cases, but with those in children cases redacted as necessary. <http://www.justice.gov.uk/courts/procedure-rules/civil/rules/part52/practice-direction-52c-appeals-to-the-court-of-appeal>

Cause lists and identifying open/closed hearings

The cause lists will be the first indication of which hearings are in public (e.g. Decree Nisi, Committal) that the media and public have a right to attend.

For cases held in private (i.e. not open to the public but in most situations, open to accredited media representatives), it should be clear to the court user and journalists which hearings are or are not open to the media.

Cause lists for family proceedings concerning children which are printed for display must not show the names of the parties, because the children are entitled to anonymity. Where party names are not automatically deleted from the printed cause list, they must be removed.

Cause lists for placement and adoption proceedings, Financial Dispute Resolution hearings, and First Hearings involving children in private law cases where the judge is conducting a conciliation between the parties, should be edited to show clearly that the hearings are “not open to the media”. Cause lists should also display this warning where a previous order has been made excluding the media from the specific hearing, or the entire proceedings.

Each courtroom not open to the media should have a notice on the door “The Media may not enter this courtroom”. Journalists might apply to the court for permission to attend – and if the court consents, the notice on the door should be amended accordingly.

Media attendance in family cases – other issues

Experience of family court hearings suggests that courts will generally be able to accommodate reporters.

Journalists are unlikely simply to wander into a hearing in the family court on the off-chance that there may be interesting cases on. However, in Combined Courts there may be days where journalists may be present covering criminal trials. If journalists are at the courthouse on any sitting day, the question will arise about whether they can attend any particular hearing.

Courtroom seating

For each family hearing room, including chambers, court staff should consider the seating plan and identify seating available, or which could be made available, for the media. If there are more media than seats available, seats should be allocated on a first come, first served, basis.

In some small courtrooms and chambers, there may be no separate seating area available for journalists.

This is not a reason to refuse admission to the media. Consideration should be given, in discussion with the judge or bench and journalists, to moving the case to a different courtroom, if practicable, or to seating them in general public areas of the court, or moving them to a separate room with appropriate audio-visual link so that they can see and hear all the proceedings (provided that your court has these facilities available).

Queries from the press and media representatives

It is not possible to draw up a definitive list of the questions journalists might ask, but the following summarises the position for some of the most frequently asked questions:

- **Date and venue of the first/next hearing in a particular case**
 - Family proceedings not involving children can be provided.
 - Family proceedings involving children and adoption proceedings – can be provided in response to a specific enquiry from a media representative but identifying information cannot be included in the printed cause list.
- **Whether family proceedings involving children are pending/ongoing in relation to a person involved in criminal proceedings**
 - You should provide information in response to specific queries from individual journalists. They need to know this information to ensure they are not in breach of reporting restriction provisions, particularly in relation to identifying children involved in proceedings. You can indicate whether such proceedings are ongoing or not.
- **Whether a reporting restriction order has been made**
 - It is important that where reporting restriction orders are made the media and legal bloggers are told about them. If a journalist asks about other aspects of a case and you are aware that a reporting restriction order has been made you should bring it to his/her attention. Journalists should be given a copy of the order upon request. (DO NOT attempt to assess yourself whether the particular information is covered by the order).
 - You should provide factual information about any order but not advice on its effect or meaning. Journalists should obtain their own legal advice if they are unsure.
- **Names and addresses of parties**
 - Proceedings not involving children can be provided.
 - Proceedings involving children can be provided if proceedings have concluded. If proceedings are still ongoing you should check with the judge.

Case details – provision of information about family cases

You should, wherever possible, give information in response to media enquiries. But the relevant legislation, particularly in respect of children, is complex and may restrict the information which can be provided. In some instances, journalists might have to apply to the court for disclosure. Always seek advice from the judge or family court legal adviser in the case if you are not sure if you can give information requested.

(Under section 12 of the Administration of Justice Act 1960 there are strict restrictions on what can be reported from cases heard in private. Accredited reporters should be aware of these restrictions.)

Divorce, dissolution of civil partnership etc cases

For cases in the bulleted list below, including judicial separation, divorce, dissolution and nullity, and dissolution, annulment or separation regarding a civil partnership, you may disclose the names, addresses and occupations of the parties and witnesses.

You may also give concise details of the charges and defences in respect of which evidence has been given in the case, any submissions made on a point of law and the court's decision on that, and any judgment and observations made by the judge whilst giving judgment.

These rules also cover financial relief cases which are taking place in connection with such applications. If, however, the parties have children, you should check with the judge before giving out information which might identify a child as being involved in the proceedings.

The rules described above apply to the following categories of cases:

- all matrimonial causes and matters;
- all applications under Part III of the Family Law Act 1986 (declarations of status);
- all civil partnership causes and matters;
- applications under s.58 of the Civil Partnership Act 2004;
- applications under s.27 of the Matrimonial Causes Act 1973;
- applications under Part 9 of Schedule 5 to the Civil Partnership Act 2004;
- Marriage (Same Sex Couples) Act 2013;
- Children and Families Act 2014; and
- Crime and Courts Act 2013.

Cases involving children

In family proceedings involving children you need to consider if the information requested by the media relates to identity information or information about the detail of the case.

Identity information

The restriction discussed in this section applies to the identification of children who are involved in the proceedings under any of the following:

- Parts I, II and IV of the Children Act 1989;
- the Adoption and Children Act 2002;
- the inherent jurisdiction of the High Court concerning children (this will only affect High Court cases);
- the Matrimonial Causes Act 1973;
- Schedules 5 and 6 of the Civil Partnership Act 2004;
- the Domestic Proceedings and Magistrates' Courts Act 1978;
- Part III of the Matrimonial and Family Proceedings Act 1984;
- the Family Law Act 1996;
- Marriage (Same Sex Couples) Act 2013;
- Children and Families Act 2014;
- Crime and Courts Act 2013.

If proceedings involve a child and are not within the list above, check with the judge if you are unsure.

You must NOT disclose any information relating to proceedings for a parental order under the Human Fertilisation and Embryology Acts 1991 and 2008.

Identity information concerns any information that could identify the child as being involved in proceedings, and will include their address or school. If in doubt, consult the judge.

Section 97(2) of the Children Act 1989 makes it a criminal offence to publish information which could identify the child whilst proceedings are ongoing. So, unless the court has made a specific order allowing publication of such information, there are limits on when such information can be provided.

Once the proceedings have concluded, you will be able to give identification information, unless a court has made an order that the child's identity should continue to be protected. You need, therefore, to check whether any orders have been made, and whether the proceedings have finally concluded (it is very common in proceedings concerning children for there to be ongoing reviews of progress even after a final hearing). If in doubt, check with the judge.

Case details

This is subject to different legislative provisions compared to the identity of the child and you can give out the following information.

But if a case is ongoing, **the rules on the publication of identity take precedence** and you cannot give out information (particularly a, b and c below) if it would identify the child as being concerned in any of the types of proceedings listed under "Identity Information".

- a) the fact that a child is a ward of court and is subject to wardship proceedings / is the subject of residence or other proceedings under the Children Act 1989 / is the subject of proceedings relating wholly, or mainly, to his or her upbringing, or maintenance (as appropriate);
- b) the name or address of that child;
- c) the names or addresses of the parties (or, if the child is a party, the other parties) to the proceedings;
- d) the date, time or place of a past or future hearing of such proceedings;
- e) the outline nature of the dispute in the proceedings (e.g. residence);
- f) the name or address of a witness who has given evidence;
- g) the party on whose behalf that witness gave evidence; and
- h) a text, or summary, of the whole or part of any order made in the proceedings.

Bear in mind that no other information can be provided unless the judge has lifted restrictions in the case. Always check whether there are orders in place which restrict or relax these restrictions. If the judge has relaxed restrictions, check with him or her what you can properly tell media representatives – it may be more than listed above.

Also remember that, unlike the general rule for the identification restrictions, restrictions on other case details do continue beyond the conclusion of the case except to the extent that the judge has specifically relaxed them.