

Publicising Sentencing Outcomes

Guidance for public authorities
on publicising information
(including via the internet) about
individual sentencing outcomes
within the current legal framework

Updated in June 2011

SUMMARY

- Verdicts and sentences in criminal cases are given out in open court and are a matter of public record.
- There should be a presumption in favour of the police, local authorities and other relevant criminal justice agencies publicising outcomes of criminal cases and basic personal information about convicted offenders so as to:
 - reassure the public;
 - increase trust and confidence in the CJS;
 - improve the effectiveness of the CJS;
 - discourage offending and/or re-offending.
- This is not a new concept and this is already happening in many areas.
- Providing this information is a legitimate and integral part of activity to engage communities and increase the transparency and accountability of criminal justice services.
- The internet gives many more opportunities to make information readily available to the public. But alongside these increased opportunities, come a number of data protection issues that need to be considered.
- In the great majority of cases, publication should be straightforward. A small number of cases will raise concerns. This guidance explains those issues to help manage risks.

GUIDANCE ON PUBLICISING SENTENCING OUTCOMES

Introduction and policy context

1. The Government expects all criminal justice services to be open, transparent and accountable to the people they serve. The police, the prosecution, the courts, probation and prison services should work together to help people understand their work and what the public can expect of them. They should be open about how they are performing and should strive to build trust and confidence in criminal justice services that are fair, effective and above all, working for the public.
2. Research shows a strong link between the extent to which the public receive accurate information about the CJS, and their confidence in it.
3. The Government is committed to increasing the **transparency** and **accountability** of public services. Openness and transparency have the potential to transform services, by strengthening people's trust and confidence in them, and encouraging greater public participation in decision-making. Transparency is also a key part of this Government's efficiency and reform agenda. By being open and accountable, services will enable the public to hold them to account, and deliver better value for money in public spending. Transparency supports community empowerment by giving people the information they need for positive involvement in their communities, and for accountability.
4. The '**Big Society**' is central to the Government's approach. The Prime Minister has said, "The Big Society is about a huge culture change, where people...don't always turn to officials, local authorities or central government for answers to the problems they face, but instead feel both free and powerful enough to help themselves and their own communities". The Big Society is not a programme, but a set of principles that apply across all public services. One of these principles is 'community empowerment', which requires services to be more answerable to local people. In the context of crime and justice, this means ensuring people are more informed about what agencies are doing to address their concerns locally, and empowering them to influence and hold agencies to account.
5. Verdicts and sentences are given out in open court and are a matter of public record. Copies of the court register, containing the outcomes of criminal cases and details of upcoming court cases, have been available to local newspapers and regularly reported for many years. This long-standing and important feature of local reporting is a vital part of keeping communities informed.
6. As a general principle, **there should be a presumption in favour of publicising outcomes of criminal cases** because this would help to:
 - reassure the law-abiding public that the CJS is fair and effective, by publicising successes;
 - increase public trust and confidence in the CJS;
 - improve the effectiveness of criminal justice, e.g. by encouraging victims to report crimes and witnesses to come forward; and
 - discourage potential offenders and reduce re-offending.
7. Publicising sentences is part of a set of initiatives to give the public more access to better information about the criminal justice system in a co-ordinated and integrated way. These are outlined in the Ministry of Justice Business Plan 2011-15, which can be viewed on the Justice site at www.justice.gov.uk

Purpose and scope of this guidance

8. **Easy access to clear and accurate information about the outcome of court cases helps to increase transparency and public trust in the criminal justice system.** The Government is supporting the publication of this information in various ways, including the reporting of specific sentencing outcomes. There are many misconceptions about the circumstances in which the law allows publication of personal data concerning sentencing outcomes.
9. This document is an update of guidance published in December 2009. Its purpose is to clarify that, in the vast majority of cases, there is **no legal impediment** to such publication by the police and local authorities in particular, acting as public authorities that have statutory functions connected with the criminal justice system. This document reflects current best practice and will be updated as and when future developments occur.

More specifically, this guidance aims to:

- clarify the legal issues around publicising sentencing decisions, and related personal information;
- set out the powers and responsibilities to publish information that agencies and services have; and
- support robust decision-making by providing a framework for consistent and proportionate local activity to publicise sentencing outcomes to communities.

This document has been designed as a practical, easy-to-follow guide for organisations intending to publicise sentencing outcomes. It is not focused at specific organisations, although it will likely be of more relevance to some (e.g. police forces and local authorities) than others (e.g. regulatory bodies that already have protocols in place for the release of such information).

10. **In the great majority of cases the decision-making process will be straightforward.** Frontline staff will routinely take decisions about publicising case outcomes and basic personal information about convicted offenders (name, age, offence and summary – rather than full – address) without the need for detailed reference to this guidance. It is generally safe to assume that if a court did not impose reporting restrictions, there is no legal impediment to publicising the outcome of the case. The way in which a case outcome is publicised may, however, be affected by statutory restrictions designed to protect the vulnerable.¹ Exceptionally, a particular case may raise specific legal questions or concerns. A decision-making checklist for use in such cases is included at Annex A, as a tool to help local agencies to reach robust decisions about publishing information in these cases.
11. This guidance focuses on the legal issues that may affect agencies involved in crime reduction and criminal justice when giving the public personal information about convicted offenders: for instance, in public meetings, in leaflets or local newsletters, or through a website. (This includes convictions for criminal offences following prosecutions initiated by local authorities – including local housing authorities – for example, under environmental protection legislation.)
12. This guidance is concerned with direct communication, by authorities involved with crime and justice, to communities, about completed criminal cases. It is not about reporting trials or appeals while they are in progress, or about convictions being publicised to or by the media.² It does not affect the existing long-standing arrangements for the courts to send court registers to the press, which the Government encourages. Nor does it cover the release of personal information about:

¹ The Crown Prosecution Service website (www.cps.gov.uk) contains specific information on contempt of court and court orders, and statutory restrictions that may be relevant. Detailed guidance on reporting restrictions can be found at: http://www.judiciary.gov.uk/Resources/JCO/Documents/Guidance/crown_court_reporting_restrictions_021009.pdf

² Publicity in accordance with this guidance should never give rise to a contempt of court. This is because contempt of court can only apply to proceedings which are 'active' (Contempt of Court Act 1981 s2(3)). Proceedings cease to be active when sentence has been passed. However proceedings can become active again if an appeal has been commenced, and they stay active until the appeal is resolved.

- suspects as part of an investigation;
 - defendants who have failed to appear in court;
 - people who have received Anti-Social Behaviour Orders³, Serious Crime Prevention Orders, or any other kind of non-criminal penalty.
13. Particular care must also be taken when information about sentencing outcomes includes personal information about victims (see 'exceptional cases' below).
14. This guidance is also not concerned with agencies' dealings with the media, or media reporting of local cases. Except where reporting restrictions are imposed, the media are free to report anything that is said in court. Nor does it cover the publication of information by third parties on free access websites.
15. Finally, this guidance does not cover disclosure of personal information other than that already released into the public domain during the sentencing process. In particular, it does not set out the additional considerations that may apply when photographs of offenders are published.⁴
16. As they are a matter of public record, the presumption should be in favour of publicising verdicts and sentences of Crown and magistrates' courts in the great majority of criminal cases. This includes fines, community sentences, absolute and conditional discharges, and Financial Reporting Orders and Travel Restriction Orders where these are imposed as part of a sentence. It is a reasonable expectation that a member of the public should be able to get information about the outcome of a case, whether as a victim of crime; a witness in a case; a member of a community affected by crime; or someone concerned about local crime. There is also a legitimate public interest in payments made by offenders under the Proceeds of Crime Act 2002, so these can be publicised under the same criteria as this guidance sets out for case outcomes.
17. This guidance **does not apply to out-of-court disposals**, such as cautions, conditional cautions, penalty notices for disorder and cannabis warnings.
18. **If reporting restrictions or other statutory restrictions have been imposed in a case**, the scope of any publicity must be limited by the terms of the restrictions, which must be adhered to scrupulously. It is important to remember that some courts may have standing reporting restrictions that may not be separately recorded with the outcomes of individual cases. In particular, there is a presumption that reporting restrictions will apply in criminal cases where the defendant is a juvenile (under 18), unless explicitly lifted. Or the court might impose specific restrictions, for example, in order to protect witnesses, or if the defendant is involved in other criminal proceedings where identity may be an issue.
19. **Particular care should be taken if disclosure of a sentencing outcome also reveals personal information about a person other than the offender.** Consideration should be given to whether it would be more appropriate to remove the details of third parties from the published information (see 'exceptional cases' below). If it is decided to publish the information then – in accordance with guidance from the Information Commissioner's Office – all such people should be informed. This could include the victim, witnesses, any members of the police service or CPS who will be identified as having been involved in the investigation, and

3 Information on publicising Anti-Social Behaviour Orders is downloadable from the archived Home Office site, pp.53-57: http://webarchive.nationalarchives.gov.uk/20081223042927/http://respect.gov.uk/uploadedFiles/Members_site/Documents_and_images/Enforcement_tools_and_powers/ASBOGuidance_HOAUG2006_0043.pdf

4 ACPO's 'Guidance on the release of images of suspects and defendants' to the media offers some advice on releasing photographs before and after conviction – it is available from ACPO offices. Another piece of guidance on publishing photographs of defendants who have failed to appear at court, called 'GDC 26 – Defendant photographs', also includes useful advice – it is downloadable from the archived Frontline Matters website, in the 'Defendant Attendance' section: <http://webarchive.nationalarchives.gov.uk/20100920143552/http://frontline.cjsonline.gov.uk/guidance/general/>

any other individual who may be identified from the information being made available. The communication to such people should include information on who to contact for further information, or any concerns. Where the publicity is going to be through a website, details of how to apply to have information removed from it should also be made available.

Exceptional cases

20. There may be exceptional cases where disclosure would not be appropriate. **In most cases, if the court has not considered it necessary to impose reporting restrictions, it is safe to assume that disclosure is permissible.**
21. In some cases where the court did not impose formal reporting restrictions, disclosure may nevertheless cause harm (for instance, where the relevant facts were not before the court at the time). For example, it might not be appropriate to release information where:
- it could be used to identify victims or witnesses, especially if this would cause the victim undue embarrassment or distress, or place them at risk of suffering reprisals from friends or associates of the offender; or expose them to unwanted media or public attention. Victims should anyway be consulted about proposed publicity and made aware of possible press coverage;
 - it could be used to identify offenders' families (over and above a surname that they share with the offender), especially if disclosure would place them at risk of harm (e.g. reprisals);
 - the offender is known to have a specific vulnerability (e.g. mental health issues or physical ill health), which might mean that publicising the conviction risks unwarranted adverse consequences (i.e. not simply that the offender objects to the publicity). This may arise in particular if the sentence includes a drug or drink rehabilitation order or a mental health disposal;

- wider disclosure could undermine a police investigation.

22. Even in such cases, it does not necessarily follow that it is unlawful to disclose any information at all. For instance, it might be possible to address the concern by limiting the information to a small number of individuals (e.g. the community affected by the crime), by giving it out in a meeting or leaflet rather than putting it on a website so it will only be seen by people in the local area and it will be less easy to copy. Or in a particular case, it may be possible to reassure a community by making it known that a conviction for a specific offence has been secured without the need to disclose personal information (for instance, it might be possible to give details of the sentence without disclosing that the sentence involved a mental health disposal).

Risks and safeguards

23. **There is no hard and fast rule about how quickly a conviction should be publicised and how long for – but it is advisable that any publicity aimed at local communities (i.e. police force areas or more locally) should be ‘timely’ and ‘time-limited’.** If your organisation does not already have specific protocols in place, as a rule of thumb, we recommend that convictions remain publicised for no longer than a month, and that any such publicity material (web page, leaflet, posters) be removed within six months of the conviction being recorded (this does not apply to regulators discharging statutory duties or objectives by publicising enforcement action). Removal of the relevant material within the suggested time limits is not a specific legal requirement under the Data Protection Act 1998 (DPA). However, the Rehabilitation of Offender's Act 1974 (ROA) is relevant in this context. Delaying the publication of sentencing outcomes increases the risk that a sentence may become spent before it is publicised or removed from a website, and that publication may therefore breach the provisions of ROA. (It should be noted that

this advice does not apply to publicising convictions of companies.) The policy on timeframes for publicising convictions is consistent with guidance provided by the Crown Court Manual⁵ and the Information Commissioner's Office (ICO)⁶.

24. **You should note that some sentences become spent less than six months after they are imposed, for example where the sentence given is a compensation order alone.** Compensation orders are spent when paid in full, and so may become spent in less than six months. Officials who are in any doubt should seek advice from a senior officer.
25. It follows that **careful consideration should be given to whether and where hard-copy formats like posters and leaflets should be placed.** Officials will need to feel confident enough that they will be able to remove these publicity materials so they are not in breach of legislation. Any doubts should be referred to a senior officer.
26. **Where a subsequent appeal against a conviction is successful, details of the original conviction that have been placed on a website should be removed.** This should be done as soon as practicable. Any posters detailing the conviction should also be removed. Details of successful appeals against convictions or sentences that had been publicised in previous editions should be included in subsequent publicity.
27. Care must be taken to ensure that information published is accurate, to minimise the risk of mistaken identity. Even correct information could lead to an innocent person being wrongly identified by a third party as the offender if, for instance, there is another person locally with the same name and/or the same partial address as the offender.

28. **When details of sentencing outcomes are posted on a website or any other publicity material, you may want to consider including the following message:**

“This information is made available for a limited period in order to promote the openness, transparency and accountability of the criminal justice system to the people it serves. It is made available solely on the basis that it is for the individual use of the person who has accessed this page. The information on this web page/poster/leaflet must not be stored, recorded, republished, or otherwise processed without the explicit agreement of [name of the public authority].”

The legal framework

29. The main legal consideration which criminal justice agencies and local authorities must take into account in reaching decisions about disclosing and publicising personal information is the Data Protection Act 1998 (DPA).
30. **In the great majority of cases where basic personal information is being publicised in connection with a criminal case outcome, and no reporting restrictions have been imposed, the Act should not be a barrier to publicising the information.**
31. The DPA applies to “personal data”, i.e. information of which a living individual is the subject or from which a living individual can be identified. Processing of data must comply with the eight principles set out in Schedule 1 of the Act.

⁵ See section 30 of the Crown Court Manual.

⁶ In guidance to data protection officers on ‘Publication of Offender / Offence Information on Police Websites’, the ICO says: “We would point out that the longer that information is retained on a website the greater the opportunity there is for that information to be misused or subjected to secondary processing by third parties, as has been outlined above. It should also be kept in mind that the longer that the information is retained the greater the risk that the information will become out of date and/or inaccurate. In light of the above we would recommend that retention periods are kept as short as possible.”

32. In particular, the first principle requires that personal data should be processed fairly and lawfully and, in particular, should not be processed unless at least one of conditions in Schedule 2 of the Act is met. Also, in order to lawfully process sensitive personal data (defined in section 2(g) of the Act to include medical information and information about the commission or alleged commission of an offence), disclosure needs to comply with a condition from Schedule 3 to the Act.
33. In all but exceptional cases of the kind described above, publishing sentencing outcomes in the manner discussed in this guidance will comply with the first principle in the DPA. The Information Commissioner's Office has expressed the opinion⁷ that the publication of personal information about convictions is "perfectly possible, without compromising either the Data Protection Act 1998... or placing individual members of the public at risk" as long as "due consideration [is] given to all of the implications and consequences that may impact upon the different parties involved".
34. In particular, in all but exceptional cases:
- disclosure will generally be 'fair', because people who have been convicted of offences can expect that the fact of their conviction will be made public, and there is a legitimate public interest in doing so;
 - disclosure by relevant public authorities will generally be 'lawful', because it will normally be made by a public authority in connection with the exercise of its functions⁸;
 - disclosure of sentencing information will generally comply with a condition in Schedule 2 of the Act. In particular, in most cases it will fall within paragraph 5(b) (processing necessary for the exercise of any functions conferred on any person by or under any enactment) and paragraph 5(d) (processing necessary for the exercise of any other functions of a public nature exercised in the public interest by any person). In this context, a measure is 'necessary' if a pressing social need is involved and the measure is proportionate to the legitimate aim pursued.⁹ It is usually in the public interest – for the reasons described in this guidance – for public authorities to publicise sentencing outcomes, which in the absence of reporting restrictions will already be public, where it is connected to the exercise of their statutory functions;
- disclosure of sensitive personal information (such as information about criminal convictions) will generally comply with Schedule 3 paragraph 7(1)(b) (processing necessary for the exercise of any functions conferred on any person by or under any enactment), for similar reasons, subject to the points in 'exceptional cases' and 'risks and safeguards' above.¹⁰
35. The third principle requires that data should be adequate, relevant and not excessive; the fourth principle requires that data should be accurate and up to date; and the fifth principle requires that data should not be kept for longer than necessary. To ensure that these principles are complied with, see 'exceptional cases' and 'risks and safeguards' above.
36. The eighth principle concerns transfers of data outside the European Economic Area. Even though it may be possible to access information held on a website in non-EU countries, this will generally not engage the eighth data protection principle, given that

⁷ In a letter to Police Data Protection Officers, 22 April 2009, about the publication of offender/offence information on police websites.

⁸ In *R (Ellis) v Chief Constable of Essex Police* [2003] EWHC 1321 (Admin), paragraph 32, the court accepted that an offender naming scheme operated by a police force was devised to assist them in performing their statutory duty under the Crime and Disorder Act 1998 to formulate and implement strategies for reduction of crime in their area. In *R (Stanley, Marshall and Kelly) v Metropolitan Police Commissioner* [2004] EWHC 2229 (Admin), paragraph 21, the court accepted that section 2(1) of the Local Government Act 2000 gives local authorities a legal basis to disclose information about particular individuals who are the subjects of anti-social behaviour orders.

⁹ *Stone v South East Coast Strategic Health Authority* [2006] EWHC 1668 (Admin), paragraph 60; *Ellis*, paragraph 29.

¹⁰ Compare *Stone*, paragraph 63.

the information was not directly transferred to people outside the UK.¹¹

37. If disclosure is compatible with the DPA, it will generally also respect the rights of the data subject under Article 8 of the European Convention on Human Rights.¹²

38. It may be contrary to the Rehabilitation of Offenders Act 1974 to publish information about spent convictions. That Act will not prevent publication of sentencing outcomes if the information is only published for a short period after the sentence is imposed.

Practical guidance on how to publicise sentencing outcomes

39. *Consider which cases the public want to know about* – Not every case passing through the courts should or need be the subject of publicity. However, Crown Court and magistrates' court proceedings could both be of interest. Police forces are increasingly publishing information about convictions for serious offences in the Crown Court. The more serious an offence, the more likely it is that publicity is sought. However, it does not follow that only convictions for so-called 'serious' offences can be published. It may well be that less 'serious' offences are in fact those that are causing most concern locally and where publicity would actually do more to reassure communities that action is being taken and build confidence and trust in services. These are vital considerations in informing local policy on publicity. Such cases may include:

- cases which reflect the **priorities in the community**;
- crime which has particularly affected the community and where there have been **multiple victims**;
- where a criminal has been convicted for a **prevalent local crime**;

- **persistent offenders** who have caused ongoing harm in their community;
- cases where the **offence itself attracted publicity**;
- local authority prosecutions such as **fly tipping**.

As with all information about crime and anti-social behaviour, the public are most likely to be interested in convictions as a result of crime that has happened very locally to them – in the area immediately surrounding their home, or the group of streets around a shopping centre for example.

40. *Develop a local policy framework* – In order to provide clarity about decision-making, many local partnerships are agreeing their approach to publicising criminal convictions within a local policy framework. For instance, Blackpool Council and Lancashire Constabulary worked together at Community Safety Partnership (CSP) level to agree a partnership protocol of this kind, drawing on the above guidance. The local document should cover not only the legal authority to publicise but the practicalities, such as who makes decisions, how priorities are identified and how victims are notified.
41. *Trust the public with information* – Some practitioners have said that they are concerned that sentences handed out at court will not match the public's expectations. This is a circular argument – the less we tell the public, the lower their confidence will be. There will be cases where the public are concerned about a particular sentence. However, evidence from programmes such as 'You be the Judge' suggests that the more the public know about sentencing, the higher their confidence. Wherever possible, the release of information on convictions should be supported by contextual information to help people understand sentences and sentencing.

¹¹ Case C-101/01 *Lindqvist* [2003] ECR I-12971.

¹² *Ellis*, paragraph 29.

42. *Use the 'you said, we did' format in communications* – Research shows that the public want to be given factual information about action taken in response to the problems local people say they are concerned about, so that they can form their own conclusions. For example, regular information about those who have been convicted of criminal damage will be of interest as much, if not more, than one-off details of a conviction for a higher level crime.
43. *Use practical safeguards to protect information online* – Making information available online presents some challenges but can be an important part of publicity. See paragraphs 17 to 28 above. If photographs of offenders are provided, it is also sensible to do so in a format that is not easy to save by others who may try to use the image for another purpose. Avon and Somerset Police's 'Offenders Brought to Justice' website is a good example of online information on sentencing. (For guidance on release and publishing of photographs, see Footnote 4).
44. *Use leaflets and newsletters* – The internet is a key route to information for large sections of the public, but some people still do not have internet access. And few among those who do can be expected to spontaneously visit official websites. Research shows that leaflets remain a popular way for people to receive local information. It is a good idea to also provide information on those who have been convicted of crimes locally in newsletters and at public meetings. Crimes or offenders of particular concern – a prolific local burglar, for example – might be notified via one-off leaflets. Greater Manchester Police have taken this approach in Rochdale. It is recommended that the information about convictions relate to local priorities, and these will often be the kinds of offences dealt with by magistrates' courts.
45. *Use all sources of information on convictions* – There are a number of channels from which information on convictions can be obtained, and all of these can contribute to an effective local strategy. Crown Court decisions are accessible by the police and others via the XHIBIT system whilst magistrates' court decisions can be viewed on the Libra system. Local authorities hold a large amount of information on environmental and trading standards convictions which may, for example, be of interest to residents suffering noisy neighbours or under-age sales of alcohol. Probation can contribute information on areas cleaned up by offenders on Community Payback. Hertfordshire Criminal Justice Board has employed the South Bedfordshire News Agency to prepare short summaries of selected Crown Court case outcomes that are prominently displayed (and regularly updated) on the homepage of the police website at www.bedfordshire.police.uk
46. *Consider use of social networking sites* – There is nothing to prohibit you using social networking sites for the purposes of publicising sentencing outcomes. There have been a number of such initiatives, like the recent West Midlands Police tweet-a-thon of court results from Birmingham magistrates' court. But you should contact your senior officer for advice before you do so.
47. *Make use of examples of good practice* – Kent Police regularly publicises magistrates' court results on the 'Justice Seen, Justice Done' part of its website. Details are also sent to local newspapers who often use them as fillers in their publications. For high-profile cases at Crown Court, details are published on the website and also sent to local media with photos of the convicted person where applicable (in accordance with ACPO guidelines).
48. For queries about this guidance or requests for more detailed information about the legal framework referred to in it, please contact:
- Neighbourhood Justice and Courts Strategy
Ministry of Justice
Zone 8.19
102 Petty France
London SW1H 9AJ
Email: general.queries@justice.gsi.gov.uk**

Further information and queries

ANNEX A : DECISION-MAKING CHECKLIST

Name and date of birth of offender:	<input type="text"/>	<input type="text" value="(dd/mm/yy)"/>
Date of conviction and court:	<input type="text" value="(dd/mm/yy)"/>	<input type="text"/>
Offence(s) and sentence(s):	<input type="text"/>	
Any reporting restrictions (either court orders or statutory restrictions) in place?	<input type="text"/>	
What would be the aim(s) of publicising personal information about this offender/conviction? Please tick as appropriate.	<p>To improve confidence in the CJS by reassuring the public that this crime has been brought to justice, and that the offender has been sanctioned <input type="checkbox"/></p> <p>To reduce or prevent crime by deterring other potential offenders <input type="checkbox"/></p> <p>To meet an identified need of the community to know how crime is being dealt with in their area <input type="checkbox"/></p> <p>Other (please specify) <input type="text"/></p>	
Why should this particular offender/conviction be publicised? ¹	<input type="text"/>	
How much information needs to be published to achieve the aim? ²	<input type="text"/>	
Would publicising this information allow a victim/witness to be identified? Even if not, has the victim/witness been consulted? ³	<input type="text"/>	
What effect would publicising this information have on the offender's family ? ⁴	<input type="text"/>	
How/to whom is it proposed that the information be distributed/publicised (e.g. by a leaflet or newsletter, in a community meeting or on a website)? ⁵	<input type="text"/>	
Would publicising this information in this way have an unjustifiably adverse effect on the offender ? ⁶	<input type="text"/>	
Taking the above into account, is the decision to publicise the conviction?	<input type="text"/>	
If so, what personal information will be given out? ⁷	<input type="text"/>	
Have you double-checked that this information relates to the offender? ⁸	<input type="text"/>	
Has the offender and anyone else identified in the publicity been informed ?	<input type="text"/>	
How long will the publicity last for (if applicable)? ⁹	<input type="text"/>	
What steps will be taken to ensure the information could not subsequently be misused ? ¹⁰	<input type="text"/>	
Name of decision-maker (who should be a police officer or local authority official) and date .	<input type="text"/>	<input type="text" value="(dd/mm/yy)"/>

Checklist notes

- 1 While each case should be dealt with on an individual basis, it may be sufficient to confirm that publicising information about this particular type of offence/offender complies with current local policy. Otherwise, the reason might be that the offence committed, or the type of crime in general, is of particular local concern, or is particularly serious, or has received a particular sentence. The more serious the offence and the sentence, the easier it will be to show that publishing information is justified. But it does not follow that only information about convictions for serious offences can be published.
- 2 What is the least interference with the offender's – and, more importantly, his or her family's – right to respect for private and family life that is possible while still achieving the aim(s) identified? The need to identify an offender, as opposed to simply saying that someone has been sanctioned, should be specifically considered. If it is decided that personal information should be publicised, and while all decisions need to be made on an individual basis, there can be a presumption (which should be set out in a local policy) that 'basic' personal information – e.g. name, age, offence and summary address (but not full address) – can be released unless there are clear reasons to the contrary (these reasons should be surfaced by answering the questions on the checklist). There needs to be a specific justification for publishing *additional* personal information, in particular a photograph. This could be that this additional information would increase confidence in the CJS, reassure the public, deter potential criminals or help to prevent crime, over and above the publication of 'basic' personal information. For instance, publication of a photograph might be justified if:
 - the offender is known by sight in the area, but not generally by name; therefore residents would need to see a photograph to be reassured that this particular offender has been convicted;
 - the offences were so prevalent and/or of such concern to the community that it is felt only publication of a photograph could reassure the public that they had been brought to justice;
 - seeing the offender's image is likely to encourage victims of and witnesses to other offences to come forward.
- 3 Information that could be used to identify victims or witnesses should not be released, especially if this would cause the victim undue embarrassment or distress, place them at risk of reprisals from friends or associates of the offender, or expose them to unwanted media or public attention. Victims should anyway be consulted about proposed publicity regardless and made aware of possible press coverage (except possibly in cases where there is no 'personal' victim, and/or the crime is already visible to the public – e.g. criminal damage).
- 4 Similarly, information that could be used to identify offenders' families (over and above a surname that they share with the offender) should not be released, especially if this would place them at risk of ostracism, harm (e.g. reprisals) or infringement of their own right to respect for their private and family life.
- 5 Where only a small number of individuals (e.g. the community affected by the crime) need to know the information, then giving it out in a meeting or leaflet will be a more proportionate method of publication than putting it on a website. Communicating case outcomes online will achieve wider publicity and impact than by other means, but may also have long-term adverse consequences for (ex-)offenders if information about their offence is accessed after it has been taken down from a site, as it can be. For this reason, online publicity needs to be justified, and will not usually be appropriate for minor offences/sentences or for first time offenders (although please note paragraph 2).
- 6 Is the offender known to have a specific vulnerability (e.g. mental health issues or physical ill health), which means that publicising their conviction risks unwarranted adverse consequences (i.e. not simply that the offender objects to the publicity)? That apart, what is the potential impact of the publication of this information in this way on the future rehabilitation of the offender?
- 7 Although as mentioned above there should be a presumption that 'basic' personal information can be released unless there are clear reasons to the contrary, it does not follow that *all* of this information need be released in each case to achieve the intended aim.
- 8 The utmost care must be taken not to mistakenly identify the wrong individual as a convicted criminal; the consequences of doing so could be severe for the individual concerned, and lay agencies open to the risk of libel action.
- 9 Such publicity should be time-limited. The objective is to draw attention to the conviction and sentence when they are handed down, not to provide any kind of ongoing record. The longer information is retained on a website, the greater the opportunity for that information to be misused or subjected to secondary processing by third parties, and the greater the risk that it will become out of date and/or inaccurate. As a general rule, information should be removed from websites after a month.
- 10 Information published online, particularly photographs, should be in a format that cannot be easily copied/saved by anyone viewing the site. Where a subsequent appeal against a conviction is successful:
 - if details of the original conviction have been placed on a website; and are still there, they should be removed; and/or
 - if the original conviction was publicised in other ways, the individual concerned should be offered the opportunity to have the successful appeal publicised in the same way.

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