

Criminal Justice and Courts Bill

Fact sheet: youth reporting restrictions

Introduction

The Government is providing the courts in England and Wales with a clear discretionary statutory power to apply lifelong reporting restrictions to victims and witnesses under the age of 18 in criminal cases. This will be available to courts to consider in circumstances where evidence or cooperation is likely to be diminished by fear or distress in connection with being identified by members of the public as a victim or witness in the proceedings.

Youth reporting restrictions are also being updated so that they will apply to online content. Currently, unlike other reporting restrictions that for example apply to victims of sexual offences or adult witnesses, youth reporting restrictions apply only to print and broadcast media.

What is the current position?

Youth reporting restrictions for under-18s apply automatically in Youth Court proceedings and appeals from the Youth Court, and they may be varied or revoked at the court's discretion. In addition youth reporting restrictions may be applied by any other court, such as the Crown Court, and may be varied or revoked at the court's discretion. However, currently these youth reporting restrictions end automatically when an individual reaches the age of 18. There are some reporting restrictions, not specific to youths, that apply beyond the age of 18 but they relate only to particular offences or circumstances, for example victims of sexual offences.

In contrast an adult witness may be subject to a reporting restriction that applies for their lifetime where the court is satisfied that the quality of their evidence or the level of cooperation they give is likely to be diminished by reason of fear or distress in connection with being identified by members of the public as a witness in the proceedings.

In the case of *JC and RT v the Central Criminal Court and others* [2014] EWHC (1041) the President of the Queen's Bench Division remarked that "it is truly remarkable that Parliament was prepared to make provision for lifetime protection available to adult witnesses in appropriate circumstances but not to extend that protection to those under 18 once they had reached the age of majority even if the same qualifying conditions were satisfied." The High Court went on to say that "victims and witnesses need individual and tailor-made protection within the criminal justice system" and that "it is for Parliament to fashion a solution: the problem requires to be addressed as a matter of real urgency."

Furthermore youth reporting restrictions apply only to print and broadcast media. In contrast other reporting restrictions, such as those that apply to victims of sexual offences or adult witnesses, already include online content within their scope.

On 22 July 2014 the House of Lords Communications Committees' first report: social media and criminal offences stated that:

"A number of statutes passed before the invention of the internet refer to publications in terms only of print media. For example, section 39 of the Children and Young Persons Act 1933 restricts reporting by newspapers in relation to children involved in criminal proceedings: electronic communications and social media are not caught; we believe they should be."

What are the proposed changes?

A new section inserted into the Youth Justice and Criminal Evidence Act 1999 will provide any criminal court dealing with a victim or witness under the age of 18 with the power to order a lifelong reporting restriction in specified circumstances. The underlying purpose is to ensure that the victim or witness' evidence or cooperation is not diminished by fear or distress if they are identified by members of the public as being concerned in the proceedings. In many cases one of the youth reporting restrictions already on the statute book is likely to be sufficient in the circumstances of a particular case, but in some situations a lifelong reporting restriction may be considered to be appropriate by a criminal court.

We are also extending the scope of youth reporting restrictions to include online content and thereby bringing them into line with other reporting restrictions such as those that apply for the lifetime of adult witnesses.

How will it work?

In respect of a victim or witness under the age of 18 eligible for a lifelong reporting restriction, when considering whether to make such an order the court must have regard to the subject's welfare; whether it would be in the interests of justice to make the direction; and also the public interest in avoiding the imposition of a substantial or unreasonable restriction on the reporting of proceedings. A lifelong reporting restriction may also be varied or revoked by the court or an appellate court. The court may only vary the restriction where it is satisfied that it is necessary in the interests of justice to do so or it is satisfied that the reporting restriction imposes a substantial and unreasonable burden on the reporting of proceedings and it is in the public interest to remove or relax the restriction.

To extend the scope of youth reporting restrictions to include online content and thereby bring them into line with other reporting restrictions, they will rely on the term "publication" and thereby cover "any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public".

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