



HM Courts & Tribunals Service

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Sir Robert Neill MP
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House of Commons
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Dear Chair

Thank you for your letter dated April 13th 2020 and for your generous remarks about HMCTS colleagues. Their work to maintain a functioning justice system during this crisis has been nothing short of heroic, and I will ensure your comments are communicated to them.

As you rightly say, open justice is a fundamental principle of our courts and tribunals system and we are working hard to uphold it despite the unprecedented circumstances we face. The significant increase in the use of remote hearings using video and audio technology, as well as the wider public health advice on travel and social distancing, has inevitably made the task of doing so more challenging. But providing access to the media and the public is a top priority, and new measures will be introduced over the coming weeks that will further improve current arrangements.

I will answer each of your questions in turn.

Can you assure us that staff are being made aware of the guidelines and that, while the current pressures will inevitably cause prioritisation problems, they will be as helpful to reporters as is possible?

Yes. We work closely with the media to enhance access to courts and tribunals. Two years ago, I invited a range of media representatives to join a HMCTS working group to help us to improve media access arrangements. This has resulted in a number of positive changes, including the provision of guidance to our staff – endorsed by the Society of Editors and the News Media Association – on dealing with the media. The latest update to this general guidance was published in March and I am in no doubt that the wider work of this group has made a significant difference in enhancing the relationship between our staff and the media at local and national levels. The guidance is attached in Annex A and this is also available online at: <https://www.gov.uk/government/publications/guidance-to-staff-on-supporting-media-access-to-courts-and-tribunals>.

The HMCTS working group met remotely earlier this month and media representatives, including dedicated court reporters, gave their feedback on how the arrangements in place currently were working. The feedback we received demonstrated a mixed picture with some good examples of where the media had been provided with remote access

to hearings, while other examples raised concerns about the timeliness of requests being handled.

As a result of this feedback, we have issued more specific guidance to HMCTS staff on how to handle media requests to gain remote access to a hearing. This came into force on April 17th. We believe that, while many courts are facing staffing pressures because of the crisis, this should help ensure that media requests are picked up and processed in a timely way.

Can you assure us that remote access for journalists will be provided unless cases are, exceptionally, being held in camera under one of the established legal grounds and procedures for so doing?

Accredited media are able to request remote access to a particular hearing, even to those hearings that take place in person where dedicated press seats are also available. The media have been informed of how to make requests to individual courts and the staff guidance I refer to above should improve the way we process these. The ability to support such requests will always be dependent on the view of the relevant judge, magistrate or panel and the availability of relevant audio or video equipment (which in most courts and tribunals now exists due to the significant increase in capacity we have rolled out over the last month).

In considering the use of telephony and video technology in any particular case, the judiciary will have regard to the principles of open justice, as they do now, and may determine that a hearing should be held in private if this is in the interests of justice.

Can you provide any information on what guidance is being given to judges, advocates, prosecutors and others on how to make virtual hearings comprehensible as well as accessible?

We provide comprehensive information about the use of video and audio equipment to support hearings on our gov.uk site at <https://www.gov.uk/guidance/hmcts-telephone-and-video-hearings-during-coronavirus-outbreak>. This information includes specific guidance to court users who have been asked to join a hearing by telephone or video. The Judicial Office has published extensive guidance to the judiciary on such issues, and this is available at: <https://www.judiciary.uk/coronavirus-covid-19-advice-and-guidance/>.

Can you assure us that steps are being taken to ensure that privileged conversations are not available to reporters or the wider public?

I, too, was concerned to hear this particular story relayed to me by a reporter. This was obviously a mistake and should not have happened. I am confident, however, that, as staff become more familiar with operating these arrangements so such incidents become less likely to occur.

Most courts and tribunals that are currently able to provide remote access are doing so via telephone or “off the shelf” video software such as Skype. However, over the next few weeks, we will be introducing increased capacity for courts and tribunals to use a bespoke fully video hearings platform that has been developed as part of the HMCTS reform programme. This has already been piloted and allows for confidential and privileged conversations to take place safely and securely

It is important to reflect that while we are committed to doing all we can to facilitate remote access, the task of doing so, particularly when it involves requests from members of the public, does carry with it an increased risk that the information provided from a hearing is misused. We will work very hard to mitigate such risks but I believe it is sensible for us all to be understanding of this as we operate these arrangements at this challenging time.

What additional listing and other information is being provided so that members of the media and members of the public are able to know what cases are taking place on any given day?

The provision of court lists and other information continues in the same way as before the crisis. This includes:

- Publication of court and tribunals lists, and much of this is online.
- Transcripts for hearings in those jurisdictions where they are available now. Any party or interested person is able to request a transcript. Judges may direct that the transcript be made available at public expense where appropriate.
- With the permission of the judge, an audio recording of a hearing can be made available to be listened to in a court building.
- With the permission of the judge, in jurisdictions where this is already done, the notes of the hearing can be made available on request.
- Publication of the outcome of High Court and Court of Appeal hearings, orders or results.
- Access to hearings and information to accredited media, such as the provision of listing and results information in Magistrates' Courts via email.
- Where possible, our lists will include the way in which the hearing is taking place. This is to allow those interested in observing to give advanced notice to the court.

Can you provide details of how observers, who are entitled to attend public hearings in the interests of open justice, might be able to do so by virtual means at present?

Requests to observe a particular hearing remotely can be made to the relevant court or tribunal. This is set out in our guidance on gov.uk. It is perhaps worth reflecting that physical hearings are still taking place across the justice system in 160 priority courts. The public galleries and press seats for such hearings remain open during the crisis albeit subject to strict social distancing rules.

I hope this provides you with the information you require but please do let me know if there is anything further I can add on these or wider issues relating to our response to COVID-19.

Yours sincerely

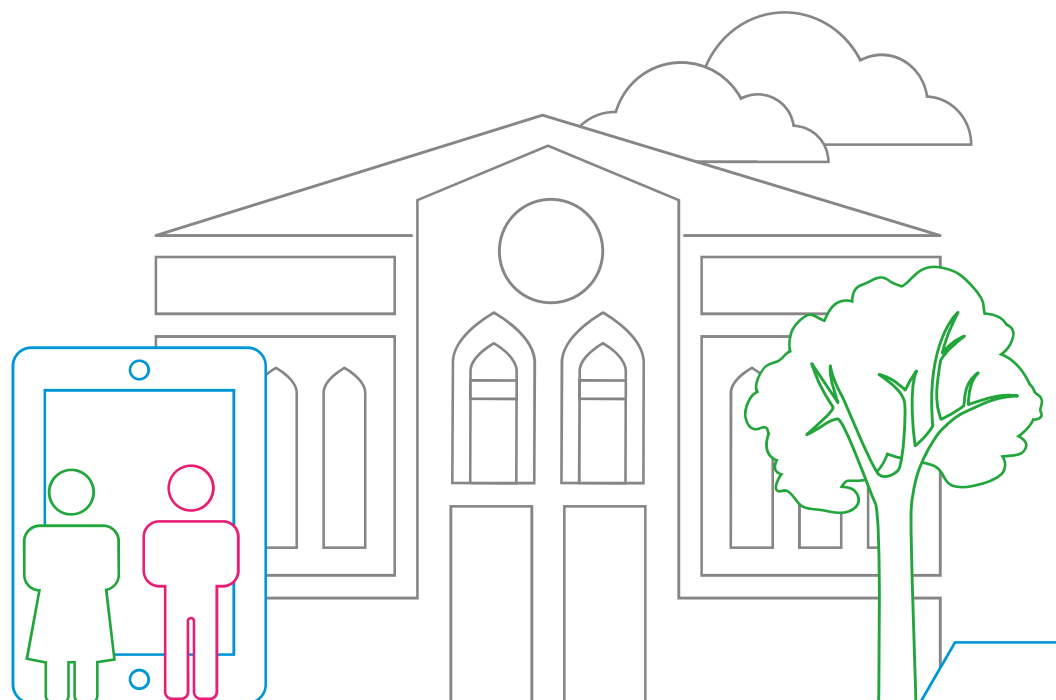


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HM Courts &
Tribunals Service

General guidance to staff on supporting media access to courts and tribunals



Justice matters



Society of Editors
www.societyofeditors.org

Guidance to staff on supporting media access to courts and tribunals

Introduction to this guidance

The principle of open justice is a longstanding feature of our legal system. The public has a right to know what happens in our courts and tribunals, and public confidence in the justice system relies on transparency.

One way this important principle is upheld is the attendance and reporting of proceedings by the media. It is through the media that many people hear about the operation of the justice system and form views on it.

So, we in HM Courts & Tribunals Service (HMCTS), have a clear interest and obligation to encourage and facilitate media access to our courts and tribunals, and this guide is designed to help you do that.

We developed this guide with representatives of the media to ensure that it is best focused to help you provide the best possible service to what is an important professional court and tribunal user group.

No guide can be comprehensive, but we hope this covers most of the typical media-related situations you are likely to encounter. The first edition of this guidance was published in October 2018 and was welcomed by our staff and media representatives. This second edition updates and refreshes its content following an annual review.

We will continue to review and update this guidance, not least because of the changes in the legal and operational rules that relate to this area of work. Your feedback is welcome - please send all comments to changesomethingthatmatters@justice.gov.uk. We hope this guidance provides you with the skills and knowledge needed to work effectively with the media.

Foreword from Tristan Kirk, Courts Correspondent, London Evening Standard

As a specialist courts reporter since 2012, at first for a news agency and then joining the London Evening Standard in 2016, I spend every day in and out of London's civil courts, tribunals, and criminal trials. I have experienced the ups and downs of daily interaction with a wide range of courts, and am acutely aware of different problems that can arise.

Journalists up and down the country need timely access to vital pieces of information held by the courts, and they primarily rely on clerks, ushers, and other staff members to give it to them. I know we can be a demanding profession at times and many courts and staff are nothing but helpful and constructive.

But we do get frustrated when unwanted and unnecessary obstacles are put in our path, preventing us from doing our jobs. Conversely, ill-informed enquiries from journalists who are unfamiliar with the courts can make the work of court staff even harder. So, I hope these renewed HMCTS guidelines can lead to a smoother and more symbiotic relationship for journalists and court staff alike.

It is our job in the media to root out the newsworthy cases, and to report on them fairly, accurately, and responsibly. In doing so, I believe we carry out an important public function as important to the good workings of the justice system as judges, barristers and others. But we need good working relationships with court staff to ensure we can do so, I hope these HMCTS guidelines will enable smooth relations between journalists and court staff..

Who are the media?

Journalists roles vary - some work for newspapers, national, regional or local, others work for broadcast media such as radio and TV. Others work for press agencies like the Press Association which provide stories to established media organisations.

An increasing number of journalists now represent fully online news platforms while some are freelance and either publish stories themselves or provide them to others.

Most journalists covering court and tribunal hearings will have had training in media law as part of wider professional qualifications and so should be familiar with legal issues relating to reporting proceedings.

The law sets out clearly what can and cannot be published in respect of criminal and other proceedings and it is newspapers and other media organisations themselves, not HMCTS, that carry the legal obligation to make sure that these are met.

Our job in HMCTS is to facilitate and support the media attending proceedings, and to provide relevant information asked for by journalists (following the guidelines set out in this document). Sometimes these requests are made under the pressure of production deadlines, and we should recognise this.

General dos and do nots

Usually, journalists prefer to deal with local court or tribunal staff who can usually answer their queries about a case of hearing quickly. These enquiries may be made in person before or after a hearing, by telephone or email. Each situation will be different but here are some general tips to help create productive relationships between you and the media:

- Do give journalists details of any reporting restrictions, and all relevant information about a case or hearing they are entitled to.
- The media are entitled to the full name of judges and magistrates (and their Legal Adviser) in all jurisdictions but no further personal details.
- If you are unable to give out information avoid saying "no" or "no comment" without giving a reason. If you are unable to provide the information for whatever reason please tell the journalist. For example, if a journalist asks about a long spent convictions or for a copy of a defendant's complete criminal record or if the court simply does not hold the information.
- You do not have to respond immediately to a media query. But journalists often work within tight deadlines so ask when they need the information by and do your best to get back within this time. If you can't make a deadline, or it is going to take longer than you originally thought, go back and tell them, they may be able to extend the deadline.
- Always go back to the journalist even if you cannot provide the information or need more time. They will appreciate the courtesy.
- Get to know the journalists who regularly attend, call or email your court or tribunal and encourage them to put questions to you.

Handling routine media enquiries

Routine enquiries are most often of a factual nature – for example, confirmation of case listings, court opening times, etc.

Make sure you:

- take full details about the caller – name, number and where they are from
- understand exactly what they are looking for – don't be afraid to ask them to clarify if you are unsure
- find out their deadline
- keep a note of how the query was handled including what you said and when – this will come in useful if there are any queries.

Media access to courtrooms and press seats

Most courts or tribunals will have dedicated press seating and the media should be given priority on those seats during a case or hearing. The media are entitled by law to hear and be present at all open court proceedings (including those with reporting restrictions in place). They should not be forced to cover the trial from the public gallery – individual reporters may be at risk of intimidation from friends or relatives to parties in the case. The media have an important and professional role in the justice system – court reporting is a vital aspect to open justice.

If in some cases there is a high demand for press seats, using some seats in the public gallery for the media is an option you can consider. The media can make notes in the public gallery.

Where press seats are available, they should be reserved for media use only. Where possible, a dedicated press area or room should be made available for use by the media

Note-taking in the public gallery

The general rule is that justice is administered in open court where anyone present may listen to and report what is said. You should not object to note-taking in the public gallery unless you believe it is for an improper purpose (such as briefing a witness who is yet to give evidence but has been kept out of court).

If you see a member of the public taking notes and you do suspect it might be for an improper purpose, you should report it to the clerk of the court (or to the judge, if the clerk is not available) and ask for directions.

Text-based communications from court

Unlike the public, the media do not need to apply to use text-based devices to communicate from court. This includes using live broadcasting on Twitter and other social media networks, texting and emailing and using internet-enabled laptops. Use of devices should however not cause a disturbance or distraction. The judge or magistrate always retains full discretion to prohibit live, text based communications from court, in the interests of justice.

A journalist who uses a device for live court reporting on a court or tribunal case or hearing is subject to the same legal restrictions and obligations as any other form of court reporting.

While mobile phones and other text-based communication devices are permitted to be used in court, they must not be used to take photographs or to film any part of proceedings in any area of the court or tribunal building.

Recordings, photography and filming

Unauthorised tape recording of proceedings in court is a contempt of court (although courts may at their discretion permit journalists to record proceedings in court as an aide memoire). Photography and filming in courts and tribunals is strictly forbidden, as is making a portrait or sketch of any person in court. It is also not permitted to photograph, film or sketch people in the court precincts.

Since July 2013, officially contracted broadcasters are permitted to record and broadcast certain proceedings in the Court of Appeal. In May 2016, this was extended to sentencing remarks in Crown Courts.

Journalists can use their mobile devices to photograph court documents they are entitled to and you should facilitate this when requested.

Identification, accreditation and access to court-rooms

Journalists are trained professionals and should understand the laws relating to what can and cannot be published. They usually work for an accredited news publication, broadcaster or agency and have most likely undergone specific media law training related to court reporting. They will normally have access to the advice of an experienced editor and a trained media lawyer to ensure their published reports of cases and hearings are factual, accurate and legally compliant.

In order to facilitate their important work, journalists have access to press seats in courts and to information not always widely available to the public. It is therefore important that HMCTS staff are confident that individuals seeking such access can identify themselves as professional journalists.

In many courts, those where journalists regularly attend to report on proceedings – court staff will have existing relationships with them and confidence that they are properly accredited. However, if staff are unsure about the bona fides of someone seeking access to press seats or court information (whether in person or by phone/email) they should ask to see appropriate identification.

The recognised accreditation to identify a bona fide journalist is the UK Press Card issued under a scheme operated by the [UK Press Card Authority](#). There are currently 12 organisations that issue press cards including the BBC, the National Union of Journalists, the News Media Association and the Foreign Press Association. These are issued only to professional journalists and have standard, copyrighted characteristics as you can see at <http://www.ccsi.co.uk/Press/UKPressCardAuthorityPoster.pdf>.

For any journalist who is unable or unwilling to show a UK Press Card, and you remain unsure that the individual is an accredited journalist, you should gain further advice from the HMCTS press office <https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about/media-enquiries>.

Members of the public (including non-journalists identifying themselves as bloggers) should not be given access to press seats and should be asked to sit in the public gallery. Unlike professional journalists, members of the public may be unaware of the legal issues relating to court reporting, in particular those that relate to contempt of court if they use social media or any other ways to communicate to more than one person information heard in open court.

Reporting restrictions

The principle of open justice means that, in general, court proceedings should be open to anyone who wants to observe, and journalists may report those proceedings to the wider public. There are certain exceptions to this principle including:

Private hearings and trials – where, in exceptional circumstances, a court has the power to exclude the public and media from all or part of civil, criminal and family proceedings where doing so is necessary to prevent the administration of justice from being frustrated or rendered impractical (e.g. to protect interest of national security);

Automatic reporting restrictions – where, legislation has created exceptions to the open justice principle such as lifelong anonymity for victims of sexual offences, forced marriages and human trafficking offences. These are in addition to the media's own responsibility for compliance with the Contempt of Court Act 1981 (which includes specific defences to enable fair, accurate, contemporaneous court reports and discussion of public affairs or other matters of general public interest).

Discretionary reporting restrictions – where courts are able to impose particular restrictions established by statute or case law such as to protect under 18s in criminal proceedings outside the Youth Court or (under Section 11 of the Contempt of Court Act 1981) to allow the name or other matter to be withheld from the public in court proceedings and prohibit its publication.

The media should be given advance notification of any application for reporting restrictions and an opportunity to make representations about discretionary reporting restrictions. Orders should be put in writing as soon as possible and the media should be put on notice as to the existence and terms of the order.

It's important to remember that even with reporting restrictions, information about a case or hearing can still be given to the media. It is the media's responsibility to ensure that what is published conforms to their legal obligations.

Youth courts

The media can attend and report on youth court cases and hearings, you should facilitate this on request. However, as with other hearings, a journalist wishing to do so must be able to provide the appropriate identification on request (a UK Press Card). There are automatic reporting restrictions that apply to protect the identity of under 18s involved in youth cases or hearings.

If you receive enquiries from the media on youth cases or hearings, the following information can be given out:

- result of the case
- the name and address of the defendant but remind them that the details cannot be published
- the age, including the date of birth recorded on the court file
- details of any order under sections 49 of the Children and Young Persons Act 1933 dispensing with the prohibition under section 49(1)

Court lists and registers

Bona fide media organisations and journalists who request lists and registers should be issued proactively with the full magistrates' court lists routinely and without charge. At a minimum, the lists should contain each defendant's name, age, address and, where known, his profession and the alleged offence. Courts will not breach data protection legislation by providing the media with such information.

As the media lists provide more information about cases than available from the public courts lists, media organisations and journalists that request them will need to provide identification (UK Press Card) and accept the obligations about the length of time they can retain them.

This arrangement is governed by the HMCTS Media Protocol agreed with the Society of Editors and News Media Association. The full protocol has been updated and is included in the detailed criminal court jurisdictional guide <https://www.gov.uk/government/publications/guidance-to-staff-on-supporting-media-access-to-courts-and-tribunals>.

Crown, Civil and Family Court lists may be accessed at www.courtserve.net/homepage.htm.

Student journalists

Student journalists will often attend court cases or hearings as part of their training. We should support this as one way to encourage greater court reporting. They are not entitled to sit in press seats but should sit in the public gallery where they are entitled to take notes without permission from the court or judge/magistrate. However, in sensitive cases (such as organised crime), it will help the judge and staff to avoid any misunderstanding if they identify themselves in advance to explain that they plan to do so.

Student journalists do need to make an application to the court if they want to use text-based devices to communicate from court. If you receive a request from a student journalist, please speak to the judge presiding over the case or trial.

If a lecturer wants to attend court with a group of students to observe a case or hearing, it is good practice (but not mandatory) to let the court know in advance.

Foreign media

Foreign journalists should be provided with the same service, access and benefits as UK journalists. They are subject to the same rules and regulations and there are parallel accreditation arrangements in place. The [Foreign Press Association](#) issue UK Press Cards to journalists working for overseas and these should be available on request in the same way as UK journalists, when requesting access to press seats and other media enquiries.

When foreign journalists do not have a UK Press Card and are requesting access to hearing details they should be asked to sit in the public gallery or asked to contact the HMCTS press office to seek alternative identification verification.

When to contact the Press Office

The HMCTS Press Office function is undertaken on our behalf by the MoJ press office. You should refer journalists to the press office if you receive a media enquiry not related to your court's cases or hearings or if there is a dispute or query about appropriate accreditation.

Our press office does not give out factual information on individual cases so, if you need guidance on a particular media enquiry refer it to your manager not to the press office.

If there is an incident or issue in court unrelated to a particular case that results in media enquiries, please notify the press office as soon as possible.

Incidents will not always take place during working hours. The media can and will react 24 hours a day to serious incidents, and may well reach the court before you do. Get Press Office advice at an early stage. MoJ Press Office operates an out-of-hours service for HMCTS.

During office hours, contact MoJ press office on 020 3334 4872 or for all out of hours activity use 020 3334 3536

Judicial Press Office

The Judicial Press Office helps judges and magistrates with media advice such as interview bids, the correct representation of cases and issuing judgments to the media. Where the judge or magistrate is the focus of media interest rather than a case or a court, then the media should be referred to Judicial Press Office. The Judicial Press Office is part of the Judicial Office and is independent of HMCTS and the MoJ.

The Judicial Press Office 24-hour contact is 020 7073 4852

High profile trials and hearings

Some hearings in our courts and tribunals can receive a high-level of media interest and so have significant implications on how they are managed. A court may, for example, have fewer press seats that required for journalists wanting to attend.

For cases in the High Court, Crown and County Courts and Court of Appeal there is normally enough time to plan arrangements and to consider any special arrangements such as whether this is a need to allocate tickets for press seats to media organisations or journalists on a fair basis. Courts may need to arrange a media annex to ensure more journalists can be accommodated.

For some hearings, particularly in magistrates' courts, where there is little time to prepare and organise special arrangements, you should have contingency plans in place. You should always seek advice from HMCTS press office if you required guidance and support.

Further detailed guidance on handling high profile cases or hearings is available at <https://www.gov.uk/government/publications/guidance-to-staff-on-supporting-media-access-to-courts-and-tribunals>

Managing the media outside the court

The local police are responsible for issues of security and safety of public space outside the court 'precinct'. This, however, is often where camera crews and photographers will be positioned in high profile cases. You may need to liaise with local police to plan and manage media presence outside the court building.

Photos of judges

Requests from journalists for photographs of judges should be made to Photoshot (photo agency) on 020 7421 6000. Further information can be found on the Photoshot website www.photoshot.com. Please be aware that there is cost (to the requestor, not HMCTS) for this service.

Judgments or sentencing remarks

If journalists ask for copies, this information may already be available from www.judiciary.gov.uk or www.bailii.org.

If judges want copies of their judgments or sentencing remarks to be sent to the media, they should contact the Judicial Press Office (020 7073 4852).



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