



Attorney
General's
Office

Reporting in Criminal Proceedings

Guidance for journalists



Contents

Introduction	3
Automatic reporting restrictions	3
Complainants and victims	3
Other offences	3
Hearings and court proceedings	4
Youth court proceedings	4
Discretionary reporting restrictions	5
Youths	5
Adults	5
Postponement orders	5



Introduction

Open justice is a core principle in law, and the fair and accurate reporting of legal proceedings protects and promotes this principle. However, there are circumstances in which the reporting of proceedings or specific information must be restricted in order to protect the integrity of proceedings and ensure that trials are fair. This guide provides a summary of the most common restrictions. It is not intended to be an exhaustive guide to the law. Rather, it is intended to alert journalists to key legal provisions that they should always consider when reporting on criminal proceedings.

Automatic reporting restrictions

The [Contempt of Court Act 1981](#) automatically prohibits the publication of anything that creates a substantial risk that the course of justice in live proceedings will be seriously impeded or prejudiced. In addition, there are a number of other common types of automatic reporting restrictions, which tend to arise based on the offence or the court hearing.

Complainants and victims

Section 1 of the [Sexual Offences \(Amendment\) Act 1992](#) affords lifelong anonymity to complainants and victims of sexual offences. Section 122A of the [Anti-Social Behaviour, Crime and Policing Act 2014](#) and section 4A of the [Female Genital Mutilation Act 2003](#) afford lifelong anonymity to victims and complainants of forced marriage and female genital mutilation. This means that information that is likely to lead to the identification of a complainant or victim cannot be published from the point that an allegation is made. This includes publishing information that, when taken with other information already in the public domain, is likely to lead to their identification (jigsaw identification). Publishing this information is a criminal offence and can also amount to contempt of court.

The court can lift the restrictions relating to victims or complainants of sexual assaults if it concludes that the provisions set out in section 3 of the Sexual Offences (Amendment) Act 1992 are met. A similar power exists in the Female Genital Mutilation Act 2003 and the Anti-Social Behaviour Crime and Policing Act 2014. Each act contains statutory defences, including the defence that the publisher did not know, suspect, nor had reason to suspect an allegation had been made.

Other offences

[Section 13 of the Education Act 2011](#) amended the Education Act 2002 to provide anonymity when an allegation is made by any pupil (or someone on a pupil's behalf) against a teacher at their school stating that the teacher has committed a criminal offence. In those circumstances, the teacher is protected by an automatic reporting restriction. It prevents the teacher's identification until proceedings against the teacher are initiated. The restriction may be varied or lifted on the application of any person. Breach of the restriction is a criminal offence and could amount to contempt of court.



Hearings and court proceedings

There are a number of restrictions relating to the reporting of interim and pre-trial hearings in criminal trials, including:

- Under section 41 of the Criminal Procedure and Investigations Act 1996 and section 8C of the Magistrates' Court Act 1980, decisions about the admissibility of evidence or legal issues cannot be reported until the end of the trial.
- Automatic reporting restrictions apply to the preparatory hearings that commonly occur in terrorism cases or other long or complex cases. However, section 37(9) of the Criminal Procedure and Investigations Act 1996 states that certain specified facts can be reported, such as the name of the judge or the offences.
- Unsuccessful dismissal proceedings made in the Crown Court cannot be reported until conclusion of the trial.
- When a suspect appears in the magistrates court and the court decides the case should or must be heard in the Crown court, section 52A of the Crime and Disorder Act 1998 states that there is an automatic reporting restriction preventing the reporting of that decision, except for certain specified facts such as the name of the accused and court and the charges they face.
- Under section 71 of the Criminal Justice Act 2003, reporting of prosecution appeals against rulings that terminate proceedings is prohibited from the point where the prosecution informs the court of its intention to appeal.
- The reporting of special measures directions, directions relating to the use of 'live link' for an accused, and directions prohibiting an accused from cross-examining a witness in person is prohibited until the conclusion of proceedings.

Breaches of these restrictions amount to a criminal offence and potentially contempt of court. You can ask the court to lift the automatic reporting restriction, but the court will only lift it after hearing from the parties and concluding that it is in the interests of justice to do so.

Youth court proceedings

Proceedings held in the youth court are not open to the public. Whilst the media is permitted to attend hearings, section 49 of the Children and Young Persons Act 1933 states that they cannot publish any information likely to lead to the identification of a victim, witness or defendant under 18 years old. It extends to appeals of cases originally heard in the youth court and hearings in the magistrates' court involving breaches, revocation and amendment of youth rehabilitation orders. There are limited circumstances in which the court may lift the reporting restriction. Breaches of a restriction amount to a criminal offence and can amount to contempt of court.



Discretionary reporting restrictions

In addition to automatic reporting restrictions, the courts have the power to impose discretionary reporting restrictions. Some orders can last for the lifetime of the beneficiary whilst others expire after a specific event or period.

Youths

While youth victims, witnesses and defendants benefit from automatic anonymity in the youth court, they do not benefit from automatic anonymity in criminal proceedings held in in adult magistrates' courts (except for in the limited circumstances set out above) or the Crown Court. However, under section 45 of the [Youth Justice and Criminal Evidence Act 1999](#), the court can impose a discretionary reporting restriction to prevent their identification. That restriction expires when the party turns 18 unless a further order is made. Under section 45A, a court can impose lifelong anonymity on a youth victim or witness involved in criminal proceedings. Breaches of orders made pursuant to section 45 and 45A amount to a criminal offence and can amount to contempt of court.

Section 45A does not extend to defendants. However, a defendant may apply for a *contra mundum* injunction that prevents the publication of information purporting to identify them. The breach of an injunction amounts to contempt of court.

Adults

Under section 46 of the [Youth Justice and Criminal Evidence Act 1999](#), a court can impose lifetime anonymity on an adult witness, including a victim. It may also forbid the identification of children if the identification of children would lead to the identification of an adult witness. Breach of the order is a criminal offence and can amount to contempt of court.

In addition, the court has a common law power to withhold material from the public, such as the name of a witness, if they conclude that the publication of such information would frustrate or render impractical the administration of justice and that the order is necessary, taking into account the public interest in open justice. Where the court exercises this power, they make an order under section 11 of the [Contempt of Court Act 1981](#), setting out the terms of their order. Breach of an order made pursuant to section 11 can amount to contempt of court.

Postponement orders

Under section 4(2) of the [Contempt of Court Act 1981](#), a court can postpone the reporting of information if it is necessary to avoid a substantial risk of prejudice to the administration of justice in those, or other, proceedings. Such orders are often used when there is a later trial that could be prejudiced by the fair, accurate and contemporaneous reporting of an ongoing trial. An order can only be made if the court is satisfied that publication would create a substantial risk of prejudice. Breach of the order is contempt of court.

Under section 82 of the [Criminal Justice Act 2003](#) the Court of Appeal has a similar power to postpone the reporting of information that could give rise to a substantial risk of prejudice to the administration of justice in a retrial. They can specify the postponement period and the



order normally expires following the conclusion of the trial. Breach of this order amounts to a criminal offence and could amount to contempt of court.