# [GB] New guidelines on restrictions on reporting proceedings in criminal courts

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A new set of guidelines on open justice and reporting restrictions in the criminal courts has been published by the Lord Chief Justice, the News Media Association (NMA), the Society of Editors and the Media Lawyers Association, who were all involved in their preparation. The new guidelines take account of recent changes relating to anonymity for those under 18 and in cases concerned with female genital mutilation.

The basic principle is that of open justice, requiring that proceedings must be held in public, evidence must be communicated publicly and fair, accurate and contemporaneous media reporting of proceedings should not be prevented unless strictly necessary. Thus, the court should not exclude the press or public from proceedings, permit evidence to be given elsewhere than in the public proceedings or order restrictions on the reporting of proceedings.

This principle is subject to a number of exceptions which apply in special circumstances. The first is that proceedings may be held in private where the hearing of the case in public would frustrate or render impractical the administration of justice. Examples would be where evidence would damage the interests of national security or where evidence is being given by witnesses under 18. Youth Court proceedings are not normally public, although there are exceptions for representatives of the press.

There are also a number of automatic restrictions on the freedom to report criminal proceedings. The Contempt of Court Act 1981 prohibits the publication of anything which creates a substantial risk that the course of justice in the proceedings in question will be seriously impeded or prejudiced, even if there is no intent to cause such prejudice. There are defences for fair and accurate reports of proceedings held in public, for discussions in good faith of public affairs or matters of general public interest where the risk is merely incidental to the discussion and for publishers and distributors who did not know nor have reasonable grounds to know of the proceedings or the risk. Other rules include a lifetime ban on the publication of the identity of victims of sexual offences or of female genital mutilation or the identity of those involved in youth court proceedings and reports of some types of preliminary hearings are prohibited.

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Discretionary restrictions require the court to balance the need for the restriction against the importance of freedom of expression and to hear representations from the press before making the restrictions. They include the power to impose restrictions on the publishing of the identity of participants in proceedings who are under 18 and to prevent the publication of the identity of adult witnesses during their lifetime where publication would impede their cooperation or the quality of the evidence due to their fear or distress. Reporting of proceedings may also be postponed to avoid a substantial risk of prejudice to the administration of justice.

***Judicial College: Reporting Restrictions in the Criminal Courts, April 2015***

https://www.judiciary.gov.uk/wp-content/uploads/2015/05/reporting-restrictions-guide-2015-final.pdf

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