

**Scottish  
Court Service**

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**Scottish Court Service**

# **Media Guide**

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## The importance of assisting the media

Our courts have a long tradition of dealing with cases in public – sometimes referred to as “**open justice**” or “justice being seen to be done”.

Representatives of the media undertake an important public scrutiny role and reflect this by reporting court cases in their newspapers and websites or on television and radio programmes. Even when a court is closed to members of the public - for example when a vulnerable witness is giving evidence - the media are normally allowed to attend as their representatives (apart from petition hearings). The judge may impose reporting restrictions or, on rare occasions, rule that the media should be excluded in a particular case.

The SCS recognises that accurate reporting of court proceedings helps maintain public confidence in the justice system and wants to support journalists reporting from our courts.

The media have no legal rights to information but it is accepted that we should accord specific facilities to them to help ensure fair, accurate and timely<sup>1</sup> court reporting and staff should assist journalists to achieve this end.

We understand that data protection legislation and SCS guidance on managing sensitive information can challenge staff to balance the need to release information against the need to protect individuals, and this guidance is intended to help walk that sometimes tricky path.

By necessity this will be a living document and we will add to it as issues are raised and resolved in the conduct of our business.

**This publication is aimed at guiding staff in dealing with routine enquiries, but you should always bear in mind that every case must be considered on an individual basis and that the SCS remains in control of court information. If you are in any doubt, or if a situation is unusual, get advice from a senior manager.**

Please send any comments you would like to make about the guidance to [communications@scotcourts.gov.uk](mailto:communications@scotcourts.gov.uk).

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<sup>1</sup> To be ‘timely’ media reports on a hearing should be used in the first publication or broadcast after it has called in court.

## Dealing with media enquiries

### Bona fide journalists

If you are providing factual information heard in open court or available to the public there is no need to be cautious about whether the enquiry is from a bona fide journalist.

If the person is unknown to you and asking for information provided only to the media you will need to be shown some form of identification or accreditation that you can check for authenticity. This may be a NUJ membership card or a UK Press card or other identification which satisfies this purpose. If you have any concerns, refer to a senior colleague for advice or contact SCS Communications.

### Providing information

It is the responsibility of journalists and their editors to ensure published stories are accurate and up to date, but you will want to assist by providing **accurate** information to them. If you are in any doubt about providing information you should double check with a senior colleague or contact SCS communications.

You should not require the journalist to put a request for information in **writing** but if the matter is particularly complicated it may assist you.

It is helpful to make a **brief note** at the time of the enquiry including the journalist's name, the organisation s/he works for, the date, the case and the information you provide. A sample form used by the communications team is available to download if you wish to use it. If a published report in the press is inaccurate, you would be able to produce a record of the information provided.

When providing factual information, it is important that you are **not drawn into conversation** on other matters. You should not be asked to provide views, or to summarise what was said in evidence or by the judge during the court hearing.

Do not feel pressurised into giving information. If you are **uncertain** or feel the journalist's demands exceed what you can provide, then take a name and contact number, a note of what information is requested and explain that someone will get back to him/her.

You can then either properly check what should be provided or refer the enquiry to a senior colleague as soon as possible.

You should ask the journalist if s/he has a **deadline**, which can range from hourly for broadcasting to weekly for local papers, and make every effort to

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meet it. If you are unable to do so, inform the journalist in time. S/he may be able to get the deadline extended.

**Do not charge** the media for information normally supplied.

If you are **unable to provide** the information, explain why briefly. For example:

- I am sorry I cannot give you any information about the civil case Jones and Co. against James Smith, as the case has not yet called in open court.
- I am sorry but information about cases at petition stage can be provided only by the Crown Office. Contact Crown Office communications.

You may be unable to respond immediately, if for example a particular complaint is still in court. Respond as quickly as you can, remembering to enquire about a deadline.

## Who deals with what

A request from a journalist is no different from any other customer contacting the court. Our **customer standards** apply.

- If the media enquiry has come to the right place but you personally cannot deal with it, take a note and pass it to the person who can as soon as possible.
- If the enquiry is for another department or court, ensure that you transfer it to the appropriate person.
- If the information involves more than one court, provide the information that you can and supply contact details for any other court that may have further information.

Journalists are interested in all aspects of the justice system. Most enquiries will be factual and can be answered locally, but some will need to be **redirected**.

This section will help identify when an enquiry should be redirected and who it should be referred to.

### Cases

<p>Information about a civil or criminal case being dealt with by the local court.</p> <p>If you have a question about providing factual information, your first points of contact should be a senior member of staff, the sheriff clerk, head of department or the sheriffdom business manager.</p>	<p><b>Contact Local court</b></p>
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### SCS Policy

<p>Information or comment about corporate matters such as:</p> <ul style="list-style-type: none"><li>• finance</li><li>• policy</li><li>• governance</li><li>• estates</li></ul>	<p><b>Contact SCS Communications</b></p> <p>Refer the journalist to SCS Communications. You should also let your sheriff clerk know about the press enquiry as it may be relevant to other proceedings.</p>
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<ul style="list-style-type: none"> <li>• security</li> <li>• the SCS Board</li> <li>• budget</li> <li>• IT.</li> </ul> <p>Questions such as:</p> <ul style="list-style-type: none"> <li>• How well a new court procedure is working.</li> <li>• Are more people being brought to court as a result of new legislation.</li> </ul> <p>Information about local incidents, such as:</p> <ul style="list-style-type: none"> <li>• fire in the court house</li> <li>• prisoner escape</li> <li>• member of staff suspended</li> <li>• assault in the court building</li> <li>• suspect package.</li> </ul>	
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## The Judiciary

<p>Judicial enquiries may include:</p> <ul style="list-style-type: none"> <li>• Who was the judge in Court 3 today?</li> <li>• How can I get a copy of a sheriff's judgment?</li> <li>• How can I get more information about a judge involved in a media story?</li> </ul>	<p><b>Contact the Local court</b></p> <p>Where the enquiry seeks factual information such as the name of the judge or his/her decision in a case before the court, the local court should deal with it.</p> <p><b>Contact Judicial Office Communications</b></p> <p>For all other enquiries about the judiciary generally or a named member of the judiciary contact judicial communications.</p> <p>You should also let your sheriff clerk know about the press enquiry as it may be relevant to other proceedings.</p> <p>Judges sometimes issue sentencing statements which are sent to the Judicial Office and will normally appear on the judicial website (<a href="http://www.scotland-judicial.org.uk">www.scotland-</a></p>
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	<p><a href="http://judiciary.org.uk/23/0/Judicial-Office-for-Scotland">judiciary.org.uk/23/0/Judicial-Office-for-Scotland</a>) shortly afterwards for the media to view.</p> <p>Journalists can also be referred to the SCS website where <b>judgments</b>, considered by the judiciary to be of significance due to a point of law or particular public interest, are listed.</p> <p>If you are asked any further questions about a sentencing statement or judgment, refer the media to judicial communications.</p>
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## COPFS

<p>Some information must only be provided by the Crown Office including:</p> <ul style="list-style-type: none"> <li>• <b>all</b> petition appearance information</li> <li>• an accused's outstanding cases</li> <li>• information about or access to documentary and label productions</li> <li>• information about a fiscal fine unless it comes to court.</li> </ul>	<p><b>Contact Crown Office and Procurator Fiscal Service Communications</b></p>
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## Fixed Penalty Fines

<p>Media enquiries about fixed penalty fines should be redirected to the authority issuing the fine.</p>	<p><b>Contact authority issuing fine</b></p>
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## What information to provide

You must balance the principles of open justice (see introduction) with data protection and privacy legislation.

Court records are excluded from the freedom of information scheme.<sup>2</sup> Disclosure of information is regulated by the court as data controller for the purposes of the legislation. Considerations of data protection law<sup>3</sup> ([http://myscs/Pages/Support/FOI/Data\\_Protection\\_Act.aspx](http://myscs/Pages/Support/FOI/Data_Protection_Act.aspx)) and a person's right to privacy<sup>4</sup> must be taken into account.

The **data protection** legislation provides that disclosure of information must be lawful and fair; it must be necessary and consistent with one of the conditions in the 1998 Act.<sup>5</sup> Disclosure should be proportionate, in other words, only so much information as is necessary should be released. And considerable care will be required with information about third parties and matters of a personal nature.

The underlying principle for providing information is that anything that takes place in **open court** is thereby made public<sup>6</sup> and may be reported unless it is prohibited or restricted by order of the court or by law. So, if a journalist is asking for information about a matter that could be heard and seen by the public in the courtroom, it is likely that this information can be provided. If proceedings take place in private it is likely information cannot be provided. **But each case must be considered on its particular circumstances.**

Court staff are expected to deal with media enquiries of a local and factual nature. Journalists can be given all the information available on our website or which you would provide to a member of the public. In addition, in order to facilitate accurate and timely reporting, they are also supplied with access to additional information.

The **table** below is a general reference of what details can **usually** be provided or not provided to the media. You should always consider the nature of the individual case and what information was made available in open court. You may need to modify what can be provided in some circumstances. Check with senior staff if in any doubt.

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<sup>2</sup> Freedom of Information (Scotland) Act 2002 (asp 13), section 37

<sup>3</sup> Data Protection Act 1998 (c.29) "the 1998 Act"

<sup>4</sup> Article 8 of the European Convention of Human Rights

<sup>5</sup> Schedule 2 or Schedule 3 to the 1998 Act. The most likely situations are expected to fall within paragraphs 5(a), 5(b), 5(d) or 6 of Schedule 2

<sup>6</sup> See Richardson v Wilson (1879) 7 R 237, per Lord President Inglis at 241.

## Criminal cases

<p><b>Petition stage</b></p>	<p><b>Don't provide</b></p> <p>No information about a petition case should be provided. Refer the journalist to the procurator fiscal's office. No information should be given about <b>bail</b> or a <b>treatment order</b> following full committal.</p>
<p><b>Publicly listed cases</b></p>	<p><b>Normally you can provide</b></p> <ul style="list-style-type: none"> <li>• court listings</li> <li>• names of judges presiding</li> <li>• stage of case</li> <li>• hearing dates</li> <li>• outcomes of cases</li> <li>• confirmation of accused's name</li> <li>• general nature of the charge (i.e. careless driving but not the how, when or where)</li> <li>• a case reference number.</li> </ul>
<p><b>Pre - open court</b></p>	<p><b>Currently</b></p> <p>To assist reporting, journalists can normally be shown the charge roughly one working day before the case is due to call in open court or at a mutually convenient time as soon as possible after it has called.</p> <p><b>Future</b></p> <p>However, the Lord Justice General has issued a Notice on advance access of the media to court documents (see page 21) which will update this process in due course.</p>
<p><b>Open court</b></p> <p>At this stage you can let a journalist see the charge on the complaint or indictment.</p>	<p><b>Normally you can provide</b></p> <ul style="list-style-type: none"> <li>• accused's name, date of birth and address as given on the complaint/indictment</li> <li>• the charge narration (the how, when and where of a charge) including amendments</li> <li>• accused's plea</li> <li>• stage of the case</li> <li>• if and why it's continued</li> <li>• hearing dates</li> <li>• verdict</li> <li>• disposal</li> </ul>

	<ul style="list-style-type: none"> <li>• name of the presiding judge</li> <li>• name of the defence lawyer</li> <li>• bail status, but be careful with conditions. Those read out in open court can be provided but you would not, for example, want to identify the victim of a sex assault or a vulnerable person.</li> <li>• confirmation of a witness’s name, as given in open court, once s/he has given evidence (<b>unless</b> (a) the witness is under 16 and a victim in the proceedings, (b) both s/he and any of the accused are under 16 (c) the court has allowed the witness’s identity to remain private, or (d) the court has ordered that his/her name should not be published<sup>7</sup>)</li> </ul> <p><b>Note:</b> it is good practice to remind the journalist that charges may be amended or withdrawn and that s/he should attend future hearings or check for accuracy before publication.</p>
<p><b>Open court - don’t provide</b> information beyond the factual details of what is recorded by the clerk.</p>	<p><b>Do not provide information</b> about the proceedings, such as:</p> <ul style="list-style-type: none"> <li>• evidence led</li> <li>• legal arguments put forward</li> <li>• the judge’s reasoning when making a decision.</li> </ul> <p>You are not there to replace the journalist’s need to attend the proceedings him/herself.</p>
<p><b>Previous convictions</b> laid before the court at the time of sentence</p>	<p><b>Schedule can be shown</b></p> <p>If the prosecutor lays the schedule of previous convictions before the court, and the accused has admitted those convictions, the schedule can be shown to a journalist. No copy should be provided. Be careful to only answer questions relating to previous convictions referred to in court proceedings.</p> <p>It is also good practice to advise the journalist if any convictions have been spent, however it is for the journalist to be satisfied that s/he can publish this information.</p>
<p><b>Previous convictions in historic cases</b></p>	<p><b>Don’t provide</b></p> <p>Previous convictions can not be provided for historic cases. Do not supply previous convictions which is categorised as sensitive personal data. Also, it will not be known if the previous convictions</p>

<sup>7</sup> See section 47 of the Criminal Procedure (Scotland) Act 1995 (c.46)

	were put before the court at the time of the case.
<b>Judges' sentencing statements</b>	<p><b>Available on Judicial website</b></p> <p>When a judge issues a sentencing statement it is sent to the Judicial Office and will normally appear on the judicial website (<a href="http://www.scotland-judiciary.org.uk/23/0/Judicial-Office-for-Scotland">www.scotland-judiciary.org.uk/23/0/Judicial-Office-for-Scotland</a>) shortly afterwards.</p> <p>If you are asked any further questions about a sentencing statement refer the media to Judicial Communications.</p>
<b>Documentation</b>	<b>Don't provide</b> any documentation accompanying the charge sheet, for example, a driving licence.
<p><b>Reports</b></p> <p>The reports contain sensitive personal information about the accused, and possibly about other people.</p>	<p><b>Don't provide</b></p> <p>We don't provide information about:</p> <ul style="list-style-type: none"> <li>• criminal justice social work reports</li> <li>• psychology/psychiatric reports</li> <li>• drugs treatment and testing reports</li> <li>• medical reports.</li> </ul>
<b>Reports exception</b>	<p>There is <b>one exception</b> when part of a report has been read out in open court to support a submission being made. However, <b>the report should not be handed over to a journalist</b>. Only sight of those parts brought into the public domain by having been read out in court can be revealed.</p> <p>You have two options. You can dictate the part of the report referred to in court - making sure that you do not release a third person's sensitive data. Or you can copy the section referred to in court, redacting any sensitive, personal data of a third party.</p>

## Civil cases

<p><b>Publicly listed cases</b></p>	<p><b>Normally you can provide</b> when and where the hearing is due to take place.</p>
<p><b>Open Record</b></p>	<p><b>Normally you can provide</b></p> <ul style="list-style-type: none"> <li>• the names of the parties and sometimes the addresses (in some cases the particular circumstances and right to privacy may mean that an address should not be provided)</li> <li>• the names and addresses of legal representatives.</li> </ul> <p><b>Don't provide</b></p> <ul style="list-style-type: none"> <li>• the content of the initial writ or summons - unless the case has been considered in open court. Then, only details of what was discussed in open court can be provided to assist a journalist (who was in court at the time) to produce an accurate and contemporaneous report of that discussion. But the journalist should not be given copies of the process.</li> </ul>
<p><b>Open court hearing before Record closed</b></p>	<p><b>You can provide limited access</b></p> <p>If the case comes into open court for a hearing at an early stage in proceedings, limited access may be given to papers to allow a journalist to check the detail of what took place in open court.</p>
<p><b>Closed Record</b></p>	<p><b>Normally you can provide – but with explanation</b></p> <p>Before a case calls in open court, the media should not be given access to the closed record. Once the case is in court for debate, proof or the hearing of incidental motions, journalists can usually be permitted access to the closed record. It is the journalists' responsibility to be aware of what they can legally print or broadcast, but you can assist by reminding them that only evidence heard in open court should be published. Access to the closed record is to assist the media to report on what happens in court accurately. Journalists should be informed not to publish details from the closed record that have not been brought out in evidence in open court. The pleadings in the closed record merely give notice of each side's case and can</p>

	change. It is courteous to advise parties that the media is being given access to the closed record, but parties would not normally have a right to object.
<b>Calling to settle</b>	<p><b>You can provide limited information</b></p> <p>If the case is calling merely to settle, the journalist may have access only to information to check what happens, and is said, in open court that day.</p>
<b>Interim order</b>	<p><b>You can provide limited access</b></p> <p>The most common situation at a hearing in open court would be for an interim order, such as an interdict. At this stage the journalist could be given limited access to the summons to check the names and addresses of parties and the terms of the order made by the court. Again, remember the need to consider whether issues of privacy arise.</p>
<b>Proceedings in private</b>	<p><b>Take advice</b></p> <p>If proceedings take place in private, you may be able to provide limited information. Explain to the judge that there is media interest and ask whether it was the judge's intention to exclude the public and the media.</p>
<b>Undefended and simplified divorce procedure</b>	<p><b>Normally you can confirm the outcome</b></p> <p>Undefended divorce actions and those proceeding under the simplified procedure are dealt with in chambers. The pleadings are confidential as no proceedings have taken place in open court. But the fact that the court grants decree of divorce can be made known. The media would be entitled only to the names of parties and solicitors and the date on which decree was granted.</p>
<b>Adoption</b>	<p><b>Always confidential</b></p> <p>Always assume that these proceedings are entirely confidential. Section 109 of the Adoption and Children (Scotland) Act 2007 provides that any proceedings relating to adoption are to be heard and determined in private unless the court otherwise directs. If there is a proof, the court may issue a judgment, but that would usually be published in anonymised form so that parties cannot be identified.</p>

<p><b>Defended divorce, separation, dissolution/annulment of civil partnerships</b></p>	<p><b>You can provide limited information</b></p> <p>The Judicial Proceedings (Regulation of Reports) Act 1926 restricts the publication of particulars about these forms of civil cases. Only the following particulars may be published:</p> <ul style="list-style-type: none"> <li>• the names, addresses and occupations of parties and their witnesses</li> <li>• a concise statement of the craves, defences and counterclaim in respect of which evidence has been given</li> <li>• submissions on points of law and the court’s decision on them</li> <li>• the judge’s summing up and judgment</li> <li>• the findings of the jury if there was one.</li> </ul>
<p><b>Proceedings under statute</b></p>	<p><b>Consider the statute</b></p> <p>In matters proceeding under statute, the terms of the particular statute should be considered as to whether there is a restriction on the information that can be provided.</p> <p><b>In some situations the very existence of the proceedings must remain confidential.</b></p> <p>A number of statutes require proceedings to take place in private. For example an application for a restraint order under section 28 of the Proceeds of Crime (Scotland) Act 1995, must be heard in a closed court. In situations where the statute makes specific provision about the openness of proceedings no information can be provided. This needs to be checked on an individual basis.</p>

## Joint minutes / character references

<p><b>Joint minutes lodged in court</b></p>	<p><b>Normally provided if read out</b></p> <p>If the joint minute has been read out in full in open court it can be shown to the media. If it has not been read out in open court, it cannot be shown. If the minute has been referred to in open court but not read out it is best to check with the judge as to what information can or can not be provided.</p>
<p><b>Character references/letters of mitigation</b></p>	<p><b>Normally provided if read out</b></p> <p>If the letter has been read out in open court it can be provided to the media to assist accuracy but data protection considerations mean that personal details can not be released such as the name and address of third parties. If only part of the letter has been read out then only provide that part to the journalist.</p>
<p><b>Not read out</b></p>	<p><b>Take advice</b></p> <p>If the letter has not been read out (even if it has been referred to) then the position is less straight forward. The clerk should clarify with the judge what information can be released.</p>
<p><b>Productions</b></p>	<p><b>Consideration must be taken</b></p> <p>If the content of a written production was brought out in evidence in open court, it may be permissible to allow access to check details to ensure accurate reporting at the end of proceedings.</p> <p>However, care must be taken if only a part of a production was referred to in open court. You will need to confirm with the presiding judge what can be made available to the media.</p> <p>If a request is made to see a production before a trial or hearing has finished, you should place the request before the presiding judge.</p> <p>If the media are interested in access to photographs, audio material or CCTV footage, they should contact the Crown communications desk.</p>

## Historic criminal cases

<b>Historic criminal cases</b>	<p><b>Provide limited information</b></p> <p>When dealing with historic criminal cases you can provide the media with the usual factual information (apart from previous convictions) that a journalist could have obtained at the time the case was dealt with, if:</p> <ul style="list-style-type: none"> <li>• The conviction is not rehabilitated (spent).</li> <li>• The case was heard in open court.</li> <li>• No reporting restrictions were imposed.</li> <li>• Proceedings were not deserted by the Crown before evidence was led.</li> <li>• The journalist can provide sufficient information to unambiguously identify the case.</li> </ul>
<b>Information not provided at the time</b>	<p><b>Don't provide</b></p> <p>Do not provide details that would not have been provided at the time, for example information from a social inquiry report.</p>
<b>Previous convictions</b>	<p><b>Don't provide</b></p> <p>Don't supply previous convictions which are sensitive personal data. Also, it will not be known if the previous convictions were put before the court at the time of the case.</p>
<b>Case deserted before evidence led</b>	<p><b>Provide limited information</b></p> <p>You can confirm a case was called and deserted but should not give details of the charge, accused's address or date of birth. There is no time period when such a case is spent and to keep it in the public domain indefinitely would be unfair to the accused who must be treated as innocent and whose privacy must be respected.</p>
<b>Sensitive or unusual</b>	<p><b>Take advice</b></p> <p>If there is anything sensitive or unusual about the case you may want to take advice from a senior colleague.</p>

<b>Rehabilitated (spent) convictions</b>	If a conviction is spent it should be treated as though it never existed and reported that no conviction was found.
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## Ad hoc enquiries

<b>Ad hoc enquiries</b>	<p><b>Don't provide</b></p> <p>Our aim is to support contemporaneous reporting from court so vague or unspecific questions should not be answered. Data protection legislation also provides that disclosure of information should be proportionate, in other words, only so much information as is necessary should be released.</p> <p>Do not answer questions such as:</p> <ul style="list-style-type: none"> <li>• Can you tell me if James Smith of the High Street has a criminal record?</li> <li>• Are there any other civil actions against Jones and Co.?</li> <li>• There was a case up the other week about a man who assaulted his wife, who was that?</li> </ul>
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## Reporting restrictions

<b>Delay to reporting</b>	<p><b>Warn the media</b></p> <p>Section 4(2) of the Contempt of Court Act 1981 allows the court to order that any reporting of proceedings be delayed for such time as the court considers necessary to avoid prejudicing the administration of justice. The provision applies to both criminal and civil cases.</p> <p>The media are not often excluded from a court when it is closed to the public, but they are expected to respect the court's wishes by restricting what they publish and it is their responsibility to ensure they stay within the law. However, you may wish to remind a journalist of any imposed restrictions.</p> <p>Orders are normally concluded on conviction, but should be double checked.</p>
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	<p>Journalists can apply to have a restriction lifted using form 56.3 which can be found on our <a href="#">website</a> under Rules and Regulations/Criminal Procedure Rules/chapter 56.</p>
<p><b>Information withheld in open court</b></p>	<p><b>Don't provide</b></p> <p>Section 11 of the Contempt of Court Act 1981 allows information, such as a witness's name, to be withheld from the public and prohibited from publication. In such circumstance it is common for the court to allow a witness to write down his or her address rather than reveal it in evidence.</p>
<p><b>Court closed, journalist not present</b></p>	<p><b>Don't provide</b></p> <p>If a court has been closed and a journalist was not present, you can confirm that a hearing took place but would not provide further details as the hearing wasn't heard in open court.</p>
<p><b>Contempt of court orders</b></p>	<p><b>Provided on website</b></p> <p>The media can be referred to the SCS website for a list of <a href="#">contempt of court orders</a> under 'Current Business' <a href="http://www.scotcourts.gov.uk/current-business/court-notice/contempt-of-court-orders">http://www.scotcourts.gov.uk/current-business/court-notice/contempt-of-court-orders</a>. If they request details of a contempt of court order refer them to the court concerned.</p>
<p><b>Media excluded</b></p>	<p><b>Take advice</b></p> <p>You should clarify with the judge if any information can be provided.</p>
<p><b>Vulnerable person</b></p>	<p><b>Take advice</b></p> <p>Cases may call behind closed doors if the accused or appellant is a vulnerable person. Check with the presiding judge as to whether the hearing was in open court and what information can be provided.</p>

<p><b>Children under 16</b></p>	<p><b>Prohibited</b></p> <p>Section 47 of the Criminal Procedure (Scotland) Act 1995 prohibits the publication of the name, address, school or any particulars calculated to lead to the identification of any person under the age of 16 who is an accused, victim or witness in criminal proceedings. This applies even when such details are revealed in open court. The media may apply to have this restriction lifted through a court motion or by lodging a formal minute. The prohibition does not apply (unless the court directs otherwise) to a witness under the age of 16 when the witness is not a named victim and the accused in the case is over the age of 16.</p> <p>Section 46 of the Children and Young Persons (Scotland) Act 1937 applies to civil proceedings and allows the court to make an order prohibiting publication of details calculated to lead to the identification of a person under 17 years of age concerned in the proceedings. Section 44 of the Children (Scotland) Act 1995 prohibits the publication of information that identifies or is likely to identify a child concerned in proceedings before a <b>children’s hearing</b>.</p>
<p><b>Medical information</b></p>	<p><b>Prohibited</b></p> <p>The Judicial Proceedings (Regulation of Reports) Act 1926 prohibits the publication of indecent matters or matters medical, surgical or psychological arising in judicial proceedings.</p>
<p><b>Jury</b></p>	<p><b>Warn the media</b></p> <p>It is helpful to point out that any information heard out with the presence of the jury should not be reported until the conclusion of the proceedings against the accused.</p>
<p><b>Witness Anonymity Orders</b></p>	<p><b>Make a note</b></p> <p>These orders, which call for the identity of a witness to remain anonymous, are published like a ‘note of order’ rather than like a ‘contempt of court order’. What measures have been authorised should be highlighted in the court papers. You need to be careful not to reveal the witness’s identity unintentionally.</p>

## **Live media communications**

Photography (whether still or in moving format) within a court building or its precincts is not permitted without judicial approval following application to the Lord President or relevant sheriff principal. Precincts normally include the immediate area around a court building including its car park, but you will need to check your court specifically.

Lawyers can use electronic devices for the purposes of the proceedings. This does not include the media or the public.

The current policy on televising court proceedings, set out in the Lord President's Notice of 6 August 1992 and supplemented by a notice issued by the then Lord President Lord Hamilton in January 2012, is currently under review. Until this review is completed no further applications to film in court will be considered by the Judicial Office for Scotland.

The policy on live text based communication from the courtroom is currently under consideration by the Lord President. The guidance on the matter issued by the Lord Chief Justice of England and Wales has no application in Scotland, and this may need to be pointed out to journalists based in that jurisdiction.

## **Notice of the Lord Justice General**

### **ADVANCE ACCESS OF THE MEDIA TO COURT DOCUMENTS**

For some time the court has been reviewing the practice of allowing journalists an opportunity to see complaints and indictments for note-taking purposes before cases call in court. The review was necessary because of significant concerns arising from the Data Protection Act 1998 in relation to the disclosure of personal data and sensitive personal data in these documents.

The current practice gives journalists an opportunity to attend and report on noteworthy cases, but it is now clear that the information being disclosed is excessive for this purpose.

In due course the courts will move to an electronic, portal-based system that will enable the media to access securely information about forthcoming cases and, in time, other information such as reporting restrictions. This will provide sufficient information for reporting purposes but will ensure that the court will comply with the requirements of the DPA.

In the interim the current practice will continue, but on the strict understanding that no information obtained from a complaint or indictment is to be published before a case calls in court. In the light of recent breaches of that understanding, the media are reminded of their responsibilities in the matter.

## Further reading

The standard text book is *Scots Law for Journalists*, 8<sup>th</sup> Edition, W Green & Son.

Macphail's *Sheriff Court Practice*, 3<sup>rd</sup> Edition, from page 197.

For information concerning spent convictions, visit:

<http://www.scotland.gov.uk/Topics/Justice/public-safety/offender-management/publications/law/RehabofOffenders>.