



# Youth Justice and Criminal Evidence Act 1999

## 1999 CHAPTER 23

### PART II

#### GIVING OF EVIDENCE OR INFORMATION FOR PURPOSES OF CRIMINAL PROCEEDINGS

#### CHAPTER IV

#### REPORTING RESTRICTIONS

#### *Reports relating to adult witnesses*

#### **46 Power to restrict reports about certain adult witnesses in criminal proceedings.**

(1) This section applies where—

- (a) in any criminal proceedings in any court (other than a service court) in England and Wales or Northern Ireland, or
- (b) in any proceedings (whether in the United Kingdom or elsewhere) in any service court,

a party to the proceedings makes an application for the court to give a reporting direction in relation to a witness in the proceedings (other than the accused) who has attained the age of 18.

In this section “reporting direction” has the meaning given by subsection (6).

(2) If the court determines—

- (a) that the witness is eligible for protection, and
- (b) that giving a reporting direction in relation to the witness is likely to improve—
  - (i) the quality of evidence given by the witness, or

*Status: Point in time view as at 07/10/2004.*

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- (ii) the level of co-operation given by the witness to any party to the proceedings in connection with that party's preparation of its case, the court may give a reporting direction in relation to the witness.
- (3) For the purposes of this section a witness is eligible for protection if the court is satisfied—
- (a) that the quality of evidence given by the witness, or
  - (b) the level of co-operation given by the witness to any party to the proceedings in connection with that party's preparation of its case,
- is likely to be diminished by reason of fear or distress on the part of the witness in connection with being identified by members of the public as a witness in the proceedings.
- (4) In determining whether a witness is eligible for protection the court must take into account, in particular—
- (a) the nature and alleged circumstances of the offence to which the proceedings relate;
  - (b) the age of the witness;
  - (c) such of the following matters as appear to the court to be relevant, namely—
    - (i) the social and cultural background and ethnic origins of the witness,
    - (ii) the domestic and employment circumstances of the witness, and
    - (iii) any religious beliefs or political opinions of the witness;
  - (d) any behaviour towards the witness on the part of—
    - (i) the accused,
    - (ii) members of the family or associates of the accused, or
    - (iii) any other person who is likely to be an accused or a witness in the proceedings.
- (5) In determining that question the court must in addition consider any views expressed by the witness.
- (6) For the purposes of this section a reporting direction in relation to a witness is a direction that no matter relating to the witness shall during the witness's lifetime be included in any publication if it is likely to lead members of the public to identify him as being a witness in the proceedings.
- (7) The matters relating to a witness in relation to which the restrictions imposed by a reporting direction apply (if their inclusion in any publication is likely to have the result mentioned in subsection (6)) include in particular—
- (a) the witness's name,
  - (b) the witness's address,
  - (c) the identity of any educational establishment attended by the witness,
  - (d) the identity of any place of work, and
  - (e) any still or moving picture of the witness.
- (8) In determining whether to give a reporting direction the court shall consider—
- (a) whether it would be in the interests of justice to do so, and
  - (b) the public interest in avoiding the imposition of a substantial and unreasonable restriction on the reporting of the proceedings.

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- (9) The court or an appellate court may by direction (“an excepting direction”) dispense, to any extent specified in the excepting direction, with the restrictions imposed by a reporting direction if—
- (a) it is satisfied that it is necessary in the interests of justice to do so, or
  - (b) it is satisfied—
    - (i) that the effect of those restrictions is to impose a substantial and unreasonable restriction on the reporting of the proceedings, and
    - (ii) that it is in the public interest to remove or relax that restriction;but no excepting direction shall be given under paragraph (b) by reason only of the fact that the proceedings have been determined in any way or have been abandoned.
- (10) A reporting direction may be revoked by the court or an appellate court.
- (11) An excepting direction—
- (a) may be given at the time the reporting direction is given or subsequently; and
  - (b) may be varied or revoked by the court or an appellate court.
- (12) In this section—
- (a) “appellate court”, in relation to any proceedings in a court, means a court dealing with an appeal (including an appeal by way of case stated) arising out of the proceedings or with any further appeal;
  - (b) references to the quality of a witness’s evidence are to its quality in terms of completeness, coherence and accuracy (and for this purpose “coherence” refers to a witness’s ability in giving evidence to give answers which address the questions put to the witness and can be understood both individually and collectively);
  - (c) references to the preparation of the case of a party to any proceedings include, where the party is the prosecution, the carrying out of investigations into any offence at any time charged in the proceedings.

#### Commencement Information

- I1** Pt. II Chs. 1-4 (ss. 16-52) in force for certain purposes at Royal Assent, see s. 68(4)
- I2** S. 46 in force at 7.10.2004 for specified purposes for S. by [S.S.I. 2004/408](#), [art. 3\(a\)](#)
- I3** S. 46 in force at 7.10.2004 for E.W. by [S.I. 2004/2428](#), [art. 2\(a\)](#)

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