
STATUTORY INSTRUMENTS

2020 No. 759

The Criminal Procedure Rules 2020

PART 6

REPORTING, ETC. RESTRICTIONS

REPORTING AND ACCESS RESTRICTIONS

Reporting and access restrictions

- 6.4.**—(1) This rule applies where the court can—
- (a) impose a restriction on—
 - (i) reporting what takes place at a public hearing, or
 - (ii) public access to what otherwise would be a public hearing; or
 - (b) withhold information from the public during a public hearing.
- (2) Unless other legislation otherwise provides, the court may do so—
- (a) on application by a party; or
 - (b) on its own initiative.
- (3) A party who wants the court to do so must—
- (a) apply as soon as reasonably practicable;
 - (b) notify—
 - (i) each other party, and
 - (ii) such other person (if any) as the court directs;
 - (c) specify the proposed terms of the order, and for how long it should last;
 - (d) explain—
 - (i) what power the court has to make the order, and
 - (ii) why an order in the terms proposed is necessary;
 - (e) where the application is for a reporting direction under section 45A of the Youth Justice and Criminal Evidence Act 1999⁽¹⁾ (Power to restrict reporting of criminal proceedings for lifetime of witnesses and victims under 18), explain—
 - (i) how the circumstances of the person whose identity is concerned meet the conditions prescribed by that section, having regard to the factors which that section lists; and
 - (ii) why such a reporting direction would be likely to improve the quality of any evidence given by that person, or the level of co-operation given by that person to any party in connection with the preparation of that party's case, taking into account the factors listed in that section; and

⁽¹⁾ 1999 c. 23; section 45A was inserted by section 78 of the Criminal Justice and Courts Act 2015 (c. 2).

- (f) where the application is for a reporting direction under section 46 of the Youth Justice and Criminal Evidence Act 1999⁽²⁾ (Power to restrict reports about certain adult witnesses in criminal proceedings), explain—
- (i) how the witness is eligible for assistance, having regard to the factors listed in that section, and
 - (ii) why such a reporting direction would be likely to improve the quality of the witness' evidence, or the level of co-operation given by the witness to the applicant in connection with the preparation of the applicant's case, taking into account the factors which that section lists.

[Note. Under section 45A(10) or section 46(9) of the Youth Justice and Criminal Evidence Act 1999, if the conditions prescribed by those sections are met the court may make an excepting direction dispensing, to any extent specified, with the restrictions imposed by a reporting direction made under those sections.]

Varying or removing restrictions

- 6.5.**—(1) This rule applies where the court can vary or remove a reporting or access restriction.
- (2) Unless other legislation otherwise provides, the court may do so—
- (a) on application by a party or person directly affected; or
 - (b) on its own initiative.
- (3) A party or person who wants the court to do so must—
- (a) apply as soon as reasonably practicable;
 - (b) notify—
 - (i) each other party, and
 - (ii) such other person (if any) as the court directs;
 - (c) specify the restriction; and
 - (d) explain, as appropriate, why it should be varied or removed.
- (4) A person who wants to appeal to the Crown Court under section 141F of the Education Act 2002⁽³⁾ must—
- (a) serve an appeal notice on—
 - (i) the Crown Court officer, and
 - (ii) each other party;
 - (b) serve on the Crown Court officer, with the appeal notice, a copy of the application to the magistrates' court;
 - (c) serve the appeal notice not more than 15 business days after the magistrates' court's decision against which the appellant wants to appeal; and
 - (d) in the appeal notice, explain, as appropriate, why the restriction should be maintained, varied or removed.
- (5) Rule 34.11 (Constitution of the Crown Court) applies on such an appeal.

[Note. Under section 141F(7) of the Education Act 2002, a party to an application to a magistrates' court to remove the statutory restriction on reporting an alleged offence by a teacher may appeal to the Crown Court against the decision of the magistrates' court. With the Crown Court's permission, any other person may appeal against such a decision.]

(2) 1999 c. 23.

(3) 2002 c. 32; section 141F was inserted by section 13 of the Education Act 2011 (c. 21).

Trial in private

- 6.6.**—(1) This rule applies where the court can order a trial in private.
- (2) A party who wants the court to do so must—
- (a) apply in writing not less than 5 business days before the trial is due to begin; and
 - (b) serve the application on—
 - (i) the court officer, and
 - (ii) each other party.
- (3) The applicant must explain—
- (a) the reasons for the application;
 - (b) how much of the trial the applicant proposes should be in private; and
 - (c) why no measures other than trial in private will suffice, such as—
 - (i) reporting restrictions,
 - (ii) an admission of facts,
 - (iii) the introduction of hearsay evidence,
 - (iv) a direction for a special measure under section 19 of the Youth Justice and Criminal Evidence Act 1999,
 - (v) a witness anonymity order under section 86 of the Coroners and Justice Act 2009, or
 - (vi) arrangements for the protection of a witness.
- (4) Where the application includes information that the applicant thinks ought not be revealed to another party, the applicant must—
- (a) omit that information from the part of the application that is served on that other party;
 - (b) mark the other part to show that, unless the court otherwise directs, it is only for the court; and
 - (c) in that other part, explain why the applicant has withheld that information from that other party.
- (5) The court officer must at once—
- (a) display notice of the application somewhere prominent in the vicinity of the courtroom; and
 - (b) give notice of the application to reporters by such other arrangements as the Lord Chancellor directs.
- (6) The application must be determined at a hearing which—
- (a) must be in private, unless the court otherwise directs;
 - (b) if the court so directs, may be, wholly or in part, in the absence of a party from whom information has been withheld; and
 - (c) in the Crown Court, must be after the defendant is arraigned but before the jury is sworn.
- (7) At the hearing of the application—
- (a) the general rule is that the court must consider, in the following sequence—
 - (i) representations first by the applicant and then by each other party, in all the parties' presence, and then
 - (ii) further representations by the applicant, in the absence of a party from whom information has been withheld; but
 - (b) the court may direct other arrangements for the hearing.

- (8) The court must not hear a trial in private until—
 - (a) the business day after the day on which it orders such a trial, or
 - (b) the disposal of any appeal against, or review of, any such order, if later.

Representations in response

6.7.—(1) This rule applies where a party, or person directly affected, wants to make representations about an application or appeal.

- (2) Such a party or person must—
 - (a) serve the representations on—
 - (i) the court officer,
 - (ii) the applicant,
 - (iii) each other party, and
 - (iv) such other person (if any) as the court directs;
 - (b) do so as soon as reasonably practicable after notice of the application; and
 - (c) ask for a hearing, if that party or person wants one, and explain why it is needed.
- (3) Representations must—
 - (a) explain the reasons for any objection; and
 - (b) specify any alternative terms proposed.

Order about restriction or trial in private

- 6.8.**—(1) This rule applies where the court—
- (a) orders, varies or removes a reporting or access restriction; or
 - (b) orders a trial in private.
- (2) The court officer must—
- (a) record the court’s reasons for the decision; and
 - (b) as soon as reasonably practicable, arrange for notice of the decision to be—
 - (i) displayed somewhere prominent in the vicinity of the courtroom, and
 - (ii) communicated to reporters by such other arrangements as the Lord Chancellor directs.