

Scottish Courts
and Tribunals 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 in criminal cases). The judge may impose reporting restrictions or, on rare occasions, rule that the media should be excluded in a particular case.

The SCTS recognises that accurate reporting of court proceedings helps maintain public confidence in the justice system and wishes to support journalists reporting from our courts. This guide is also published on our website to give the media access to it.

The media have no preferential legal rights to information but it is accepted that we should accord specific facilities to them to help ensure fair, accurate and timely¹ court reporting and staff should assist journalists to achieve this end. **This means that journalists will sometimes have access to more information than members of the general public.** This Guide sets out those circumstances.

We understand that data protection legislation and SCTS guidance on managing sensitive information can challenge court 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 SCTS 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.

¹ From a journalist's point of view, it is essential that a media report is timely. Old news is stale news. A journalist will generally seek to report on a hearing as soon as possible – usually 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 freely available to the public (for example the upcoming cases for that day) 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 an SCTS Media registration card, an NUJ membership card, a UK Press card or other identification which satisfies this purpose, such as a media company's own photo ID. If you have any concerns, refer to a senior colleague for advice or contact SCTS Communications. You can ask for requests to be made in writing if you are unsure as to the identity of the requestor.

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 any particular information you should double check with a senior colleague or contact SCTS Communications.

You should not normally require the journalist to put a request for information in **writing** but if the matter is particularly complicated it may assist you – and may also help establish their identity if they are not familiar to 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. 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 your own views, or to summarise what was said in evidence, or by the judge, during the court hearing.

Do not feel pressurised into giving information or replying immediately if you are unsure. 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

meet it. If you are unable to do so, inform the journalist in time. S/he may be able to get the deadline extended. This is one reason why many journalist queries are not formally considered as [FOI requests](#). However, bear in mind that an FOI request can still be made by anyone (including a journalist), which would apply the 20 working day deadline and the need to justify any withholding or redacting of information.

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

As with any other customer contacting a court or tribunal, 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>Contact Local court</p>
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SCTS Policy

<p>Information or comment about corporate matters such as:</p> <ul style="list-style-type: none">• finance• policy• governance• estates	<p>Contact SCTS Communications</p> <p>Refer the journalist to SCTS 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">• security• the SCTS Board• budget• IT. <p>Questions such as:</p> <ul style="list-style-type: none">• How well a new court procedure is working• Are more people being brought to court as a result of new legislation? <p>Information about local incidents, such as:</p> <ul style="list-style-type: none">• fire in the court house• prisoner escape• member of staff suspended• assault in the court building• suspect package.	
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The Judiciary

<p>Judicial enquiries may include:</p> <ul style="list-style-type: none">• Who was the judge in Court 3 today?• How can I get a copy of a sheriff's judgment?• How can I get more information about a judge involved in a media story?	<p>Contact the Local court 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>Contact Judicial Office Communications</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 (www.scotland-</p>
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	<p>judiciary.org.uk/23/0/Judicial-Office-for-Scotland) shortly afterwards for the media to view.</p> <p>Journalists can also be referred to the SCTS website where judgments, considered by the judiciary to be of significance due to a point of law or particular public interest, are published.</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"> • all petition appearance information • an accused's outstanding cases • information about or access to documentary and label productions • information about a fiscal fine unless it comes to court. 	<p>Contact Crown Office and Procurator Fiscal Service Communications</p> <p>mediarelations@copfs.gsi.gov.uk</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>Contact authority issuing fine</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.

An exemption under freedom of information legislation² applies to all court records for 15 years. Even after 15 years, records may be exempt from disclosure where they contain the personal data of living people.

Disclosure of information is regulated by the court as data controller for the purposes of the legislation. Considerations of [data protection law](#)³ and a person's right to privacy⁴ 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 GDPR.⁵ 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 to journalists is the need to ensure accurate court reporting. Anything that takes place in **open court** is thereby available for press reporting⁶ 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 – even if it would not be appropriate to tell a member of the general public. 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.

² Freedom of Information (Scotland) Act 2002 (asp 13), section 37

³ Data Protection Act 2018 (c.29) "the DPA" and the General Data Protection Regulation ("GDPR")

⁴ Article 8 of the European Convention of Human Rights

⁵ Articles 6 and 10 of the GDPR. Article 9 also applies in relation to special category data (information on race; ethnic origin; politics; religion; trade union membership; genetics; biometrics; health; sex life; or sexual orientation).

⁶ See *Richardson v Wilson* (1879) 7 R 237, per Lord President Inglis at 241.

Criminal cases

<p>Petition stage</p>	<p>Don't provide</p> <p>No information about a petition case should be provided. Refer the journalist to the Procurator Fiscal's Office.</p>
<p>Publicly listed cases</p>	<p>Normally you can provide</p> <ul style="list-style-type: none"> • Information from the Court Rolls • names of judges presiding • stage of case • hearing dates • outcomes of cases • confirmation of accused's name • general nature of the charge (i.e. careless driving but not the how, when or where) • a case reference number.
<p>Pre - open court</p>	<p>Currently</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>Portal</p> <p>The SCTS has introduced a Media Portal scheme to give registered journalists certain court information in advance of a case calling – see page 25 for information on the scheme and how journalists can apply.</p>
<p>Open court</p> <p>At this stage you can let a journalist see the charge on the complaint or indictment.</p>	<p>Normally you can provide</p> <ul style="list-style-type: none"> • accused's name, date of birth and address as given on the complaint/indictment • the charge narration (the how, when and where of a charge) including amendments • accused's plea • stage of the case • if and why it's continued • hearing dates • verdict • disposal

	<ul style="list-style-type: none"> • name of the presiding judge • name of the defence lawyer • 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. • confirmation of a witness’s name, as given in open court, once s/he has given evidence (unless the court has allowed the witness’s identity to remain private, or the court has ordered that his/her name should not be published⁷) <p><u>For under 18 year olds see section 47 of the 1995 Act (page 23 below).</u></p> <p>Note: 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>Covid-19 Update</p> <p>Special courts set up to deal with summary criminal proceedings in which a plea of guilty is to be tendered during the Covid emergency. Staff may be asked by journalists attending to provide access to documents additional to those normally provided.</p>	<p>At this stage you can let a journalist see:</p> <ul style="list-style-type: none"> • a letter setting out the terms of a plea of guilty • a summary of evidence provided by the prosecutor • a written plea in mitigation <p>These will all be accessible by journalists unless specifically restricted by the sheriff. This includes documents that may not have been read in open court.</p>
<p>Open court - don’t provide information beyond the factual details of what is recorded by the clerk.</p>	<p>Do not provide information about the proceedings, such as:</p> <ul style="list-style-type: none"> • evidence led • legal arguments put forward • the judge’s reasoning when making a decision. <p>You are not there to replace the journalist’s need to attend the proceedings him/herself.</p>
<p>Previous convictions laid before the court at the time of sentence</p>	<p>Schedule can be shown</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.</p>

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

	<p>Be careful only to 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>
Previous convictions in historical cases	<p>Don't provide</p> <p>Previous convictions cannot be provided for historical cases. Historical cases are defined as those where more than three months has passed since sentence. Do not supply previous convictions which are categorised as special category data under GDPR – formerly sensitive personal data under the old DP regime.</p>
Judges' sentencing statements	<p>Available on Judicial website</p> <p>When a judge issues a sentencing statement it is sent to the Judicial Office and will normally appear on the judicial website (www.scotland-judiciary.org.uk/23/0/Judicial-Office-for-Scotland) shortly afterwards.</p> <p>If you are asked any further questions about a sentencing statement refer the media to Judicial Communications.</p>
Documentation	<p>Don't provide any documentation accompanying the complaint/indictment, for example, a driving licence.</p>
Contempt of Court	<p>The petition & complaint can normally be made available on request to journalists, or provided on a secure platform, from approximately one working day before the case is due to call in open court in order to assist accurate reporting on what is heard in open court (no details should be published in advance of the hearing calling). You may wish to remind journalists of any contempt of court orders in place.</p>
Bill of Advocation (Appeal cases)	<p>This document can normally be made available on request to journalists, or provided on a secure platform, from approximately one working day before the case is due to call in open court in order to assist accurate reporting on what is heard in open court (no details should be published in advance of the hearing calling). You may wish to remind journalists of any contempt of court orders in place.</p>

Reports	Don't provide We don't provide information about or contained in: <ul style="list-style-type: none">• criminal justice social work reports• psychology/psychiatric reports• drugs treatment and testing reports• medical reports
Reports exception	There is one exception when part of a report has been read out in open court to support a submission being made. However, the report should not be handed over to a journalist . Only sight of those parts brought into the public domain by having been read out in court can be revealed. 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, special category data of a third party.

Civil cases

Publicly listed cases	<p>Normally you can provide when and where the hearing is due to take place.</p>
Open Record	<p>Normally you can provide</p> <ul style="list-style-type: none"> • 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) • the names and addresses of legal representatives. <p>Don't provide</p> <ul style="list-style-type: none"> • 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.
Open court hearing before Record closed	<p>You can provide limited access</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. This will apply where there has been discussion in open court relating to the specific averments of the case rather than merely orders relating to procedural matters.</p>
Closed Record	<p>Normally you can provide – but with explanation</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. This will apply where evidence has been heard or there has been discussion in open court relating to the specific averments of the case rather than merely orders relating to procedural matters. 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</p>

	<p>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 change. It is courteous to advise parties that the media are being given access to the closed record, but parties would not normally have a right to object.</p>
Calling to settle	<p>You can provide limited information</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>
Interim order in open court	<p>You can provide limited access</p> <p>The most common situation at a hearing in open court might be for an interim order, relating to interdict or in relation to contact with children. At this stage the journalist could be given limited access to the writ to check the names and addresses of parties and the terms of the order made by the court (though not necessarily the full averments). Again, remember the need to consider whether issues of privacy arise.</p>
Proceedings in private	<p>Take advice</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>
Undefended and simplified divorce procedure	<p>Normally you can confirm the outcome</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>

Adoption	<p>Always confidential</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><u>Defended divorce, separation, dissolution/annulment of civil partnerships</u></p>	<p>You can provide limited information</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"> • the names, addresses and occupations of parties and their witnesses • a concise statement of the craves, defences and counterclaim in respect of which evidence has been given • submissions on points of law and the court's decision on them • the judge's summing up and judgment
<p>Summary cause / Simple Procedure</p>	<p>The general disclosure principles apply.</p> <p>The claim and any pleadings lodged by the pursuer or defender may only be provided in order to assist accurate and contemporaneous reporting of the case <u>once evidence has been led in open court</u> and only to that extent.</p> <p>The claim and supporting documents may have been drafted by an individual with no legal training. Where there are concerns over sensitivity and/or the content, a view may be sought from the presiding sheriff.</p> <p>Where a case is undefended and has been dealt with in chambers this is an administrative process. Details of the claim and pleadings may not be released as no proceedings have taken place in open court.</p>

<p>Miscellaneous Summary Applications including Proceeds of Crime proceedings</p>	<p>Consider the statute</p> <p>In Summary Applications 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>In some situations the very existence of the proceedings must remain confidential.</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. Where the statute makes specific provision about the openness of proceedings this will have a bearing on the information which may be provided. This needs to be checked on an individual basis.</p> <p>Notwithstanding the general principle that justice must be seen to be done, there can of course be sensitivities surrounding the orders granted, e.g. in relation to Proceeds of Crime and interim orders of court prior to service of the writ, in relation to which publication of any details may well have an adverse effect on the proceedings. The fact that some hearings are heard in private does not always necessarily infer that the court's intention would be to exclude the media. They may be able to be present but would be subject to any restrictions imposed by the court.</p> <p>If proceedings take place in private, you may be able to provide limited information in relation to the orders granted. There may, however, be good reason why details may not be shared at this stage, as to do so may risk having a detrimental effect on the proceedings.</p> <p>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 from the hearing and enquire as to what extent any information relating to the case might be shared with the media at this stage for the purposes of publication.</p> <p>Subject to this judicial direction, general principles apply and detailed information contained in the averments may only be released at such time as they have been aired in open court, and only to that degree. This is to aid accuracy and contemporaneous reporting of proceedings.</p>
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Civil/Criminal - General

Joint minutes / character references

Joint minutes lodged in court	<p>Normally provided if read out</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 can not 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>
Character references/letters of mitigation	<p>Normally provided if read out</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>
Not read out	<p>Take advice</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>
Productions	<p>Consideration must be taken</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. 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>At the conclusion of proceedings, if the media are interested in access to photographs, audio material or CCTV footage in a criminal case, they should contact the Crown Communications Office. In civil proceedings the presiding sheriff should be consulted prior to affording access to any such productions in the case.</p>

Historical criminal cases

Historical criminal cases	<p>Historical cases for the purposes of this Guide are defined as those where more than three months has passed since sentence. This is to accommodate quarterly periodicals reporting contemporaneously.</p>
Acquittal	<p>Provide limited information</p> <p>You need to determine whether the case resulted in an acquittal or a conviction.</p> <p>For an acquittal you can provide the following information if:</p> <ul style="list-style-type: none"> • The case was heard in open court. • No reporting restrictions were imposed. • The journalist can provide sufficient information to unambiguously identify the case. <p><i>If these conditions are met, you can provide:</i></p> <ul style="list-style-type: none"> • the accused's name, date of birth and address area - This should be the city or town (e.g. Perth). If the address is a small village, or you are unsure of its size, then you should provide the council area (e.g. East Lothian). • high level charge - This is the location, date and general description of the charge, e.g. murder or breach of the peace but not specific details of the charge e.g. not how the murder or breach of the peace was carried out, names of victims etc. • You can confirm whether the finding was not guilty, not proven, or acquitted – no case to answer
Absolute Discharge	<p>In summary proceedings the court can impose an absolute discharge by way of sentence without proceeding to conviction. The above criteria for Acquittal would apply.</p>
Conviction	<p>For a conviction, you can provide the following if:</p> <ul style="list-style-type: none"> • The conviction is not rehabilitated (spent).

	<ul style="list-style-type: none"> • The case and evidence were heard in open court • No reporting restrictions were imposed. • The journalist can provide sufficient information to unambiguously identify the case. • It has not been overturned on appeal <p>If these conditions are met, you can provide:</p> <ul style="list-style-type: none"> • the accused’s name, date of birth and address area (same as above) • charge details, but not the identification of a complainer named in the charge. The one exception is if the complainer has died. A journalist would be expected to provide evidence of the death unless the charge is murder.
<p>Information not provided at the time</p>	<p>Don’t provide</p> <p>Do not provide details that would not have been provided at the time, for example information from a Criminal Justice Social Work Report.</p>
<p>Previous convictions</p>	<p>Don’t provide</p> <p>Don’t supply previous convictions as they are sensitive personal data and some may be spent.</p>
<p>Case deserted before evidence led</p>	<p>Provide limited information</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. Because these cases do not become spent, 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>
<p>Sensitive or unusual</p>	<p>Take advice</p> <p>If there is anything sensitive or unusual about the case you may want to take advice from a senior colleague.</p>

Rehabilitated (spent) convictions	<p>If a conviction is spent it should be treated as though it never existed. Queries in respect of historical convictions where the conviction is either spent or did not in fact occur should be answered by saying that: “There is no available conviction information on this matter”. This avoids making it explicit whether or not there is a spent conviction.</p> <p>Further information on spent convictions can be found at: https://www.gov.scot/publications/disclosure-periods-previous-convictions-alternatives-prosecution-scotland-under-rehabilitation-offenders-act-1974/</p>
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Ad hoc enquiries

Ad hoc enquiries	<p>Don't provide</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 personal data 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"> • Can you tell me if James Smith of the High Street has a criminal record? • Are there any other civil actions against Jones and Co.? • There was a case up the other week about a man who assaulted his wife, who was that?
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Reporting restrictions

Delay to reporting	<p>Warn the media</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>
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	<p>In criminal cases, orders are normally concluded on conviction but should be double checked</p> <p>Journalists can apply to have a restriction lifted using form 56.3 which can be found on our website under Rules and Practice/Criminal Procedure Rules/chapter 56.3</p> <p>In civil proceedings, equivalent procedures are provided for in the Court of Session Rules 102.3 and the Sheriff Court – Civil Procedure Rules 48.3 (also on the website)</p>
<p>Interim delay to reporting</p>	<p>For Information</p> <p>Judges can also issue Interim Reporting Restriction Orders. When these are issued, interested parties can make representations within two days. The media will be notified by email of Interim Orders. If representations are made, a hearing will be held. If not, the Interim Order will be put before the Court in chambers. The Order will then either be recalled or made final (with or without changes). The media will again be notified of this outcome and Final Orders will be published on our website. If the media wish to be added to the notification email list they should contact supreme.courts@scotcourts.gov.uk. Journalists wishing to make representations can be directed to the relevant pieces of legislation for criminal proceedings and for civil proceedings.</p>
<p>Information withheld in open court</p>	<p>Don't provide</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>Court closed, journalist not present</p>	<p>Don't provide</p> <p>If a court has been closed and a journalist was not present, you can confirm that a hearing took place but should clarify with the judge what, if any, information may be disclosed.</p>
<p>Contempt of court orders</p>	<p>Provided on website</p> <p>The media can be referred to the SCTS website for a list of contempt of court orders under 'Current Business' http://www.scotcourts.gov.uk/current-business/court-notices/contempt-of-court-orders . If they request details of a contempt of court order refer them to the court concerned.</p>

Media excluded	<p>Take advice</p> <p>You should clarify with the judge if any information can be provided.</p>
Vulnerable person	<p>Take advice</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>
Children under 18	<p>Prohibited</p> <p>Subject to any directions of the court (which are provided for in this section of the Act), 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 18 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.</p> <p>Where a person under the age of 18 years is concerned in the proceedings as a witness only, and no one against whom the proceedings are taken is under the age of 18 years, the requirements shall not apply unless the court so directs.</p> <p>Formerly the Act covered children under the age of 16. This change applies only to cases reported to the PF on or after 1 September 2015.</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 at, or in connection with, a children’s hearing.</p>

<p>Medical information</p>	<p>Prohibited</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>Jury</p>	<p>Warn the media</p> <p>It is helpful to point out that any information heard outwith the presence of the jury should not be reported until the conclusion of the proceedings against the accused.</p>
<p>Witness Anonymity Orders</p>	<p>Make a note</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>

Media Portal Registration Scheme

ADVANCE ACCESS OF THE MEDIA TO COURT DOCUMENTS

In October 2018 a new Media Registration scheme was introduced whereby journalists who register with the SCTS are able to access certain criminal case information in advance of a case calling via an online media portal. They are also able to use the SCTS Guest Wi-Fi system and tweet from court within Judicial Office guidelines.

The media portal provides information on criminal cases up to a week in advance of them calling. The information provided is accused's name; date of birth; address area; general charge and status of the case.

There is no change to procedure for journalists who are not registered – information will continue to be provided after a case has called. If a journalist is not known to court officials, they may be asked for photo ID.

If a journalist is interested in joining the scheme, please refer them to SCTS Communications, email communications@scotcourts.gov.uk

Live media communications

Photography within a court building or its precincts is not permitted without judicial approval following application to the Lord President (for Parliament House) or the relevant sheriff principal (for any sheriff or justice of the peace court). 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. Members of the public may not do so.

Journalists registered with the SCTS may use text-based communications such as Twitter from within courtrooms without prior permission under certain conditions - unless prohibited to do so by the presiding or chairing judge in a particular case in the interest of justice.

The conditions are available under section 6 of the [Broadcast Protocol](#) published on the Judiciary of Scotland website.

The conditions include:

- The content of the communication is a fair and accurate report of

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the proceedings, and in compliance with the Contempt of Court Act 1981.

- Nothing said in court outwith the presence of a jury is communicated.
- Conversations that are not addressed to the court are not communicated.
- Only an unobtrusive device is operated on silent mode to communicate live text-based messages and is not used for recording or photography.

Journalists should ensure that their SCTS registration card is clearly visible to court and other staff. If live text-based communication is prohibited by the presiding or chairing judge, it is anticipated that this will be made known to any members of the media in attendance, at the start of the proceedings. Journalists who attend court after the start of the proceedings should check the position.

A journalist who is not registered with SCTS may apply to the presiding or chairing judge, through [Judicial Communications](#), for permission to use live text-based communication in the courtroom for a specific case.

The [Broadcast Protocol](#) also enables journalists to apply to record and broadcast certain types of cases in the Supreme Courts, including sentencing statements, appeal hearings, legal debates and trials. Applications to record and broadcast in the sheriff courts should be submitted to judicialcomms@scotcourts.gov.uk .

Tribunals

You should not provide a statement or information to the media, but refer journalists to SCTS Communications by emailing communications@scotcourtribunals.gov.uk .

Where to get help

Most enquiries can be resolved locally by staff, your sheriff clerk or sheriffdom business manager, who can seek advice from our Operations Delivery Business Unit at HQ. However, there will be instances when high profile, unusual or difficult cases will need to be passed on to SCTS Communications, or Judicial Communications.

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SCTS Communications

Communications@scotcourts.gov.uk

0131 444 3310

Judicial Communications

Judicialcomms@scotcourts.gov.uk

0131 240 6679

Crown Office Communications

Mediarelations@copfs.gov.uk

0131 243 3289

Further reading

The standard text book is *Scots Law for Journalists*, W Green & Son.

Macphail's *Sheriff Court Practice*, 3rd Edition, from page 197.

For information concerning spent convictions, visit:

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

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