

**COURT OF SESSION
PRACTICE NOTE**

No. 2 of 2007

ANONYMISING OPINIONS PUBLISHED ON THE INTERNET

This practice note shall come into force 20th July 2007.

The purpose of this practice note is to advise on the policy of the court on the anonymising of opinions of the Court of Session that are published on the internet.

General

The general principle is that, subject to specific exceptions, judicial proceedings are heard and determined in public; there should accordingly be public access to judicial determinations including the reasons given for them. The circumstance that publication on the internet gives reader access to Opinions to a wider public does not affect that principle.

The purpose of the Court publishing Opinions on the internet is to make legal information more available to practitioners, students and members of the public who may be interested in it. Unlike the media, the Court has no separate interest in publishing information about the parties to any dispute. It follows that, where for some reason information about a named individual cannot be published, steps will be taken to conceal his identity in order to allow legal information to be published.

Contempt of Court Act 1981

Where at any stage of proceedings the Court makes an order in terms of section 4(2) of the Contempt of Court Act 1981, which prohibits publication of a report of the proceedings, the Court may not publish any Opinion which relates to those proceedings, while the section 4(2) order is in force.

Where the Court has allowed a name or other matter to be withheld from the public in court and has given directions under section 11 of the 1981 Act prohibiting publication of the name or other matter, that name or other matter will not be revealed in the Opinion published on the internet.

Children and Young Persons (Scotland) Act 1937

Where the Court has made a direction under section 46 of the Children and Young Persons (Scotland) Act 1937 that no newspaper, picture or broadcast report shall reveal the name, address or school or include any particulars calculated to lead to the identification of a person under the age of 17 concerned in proceedings, the terms of the Opinion published will omit references to the information specified in the direction.

Asylum Proceedings

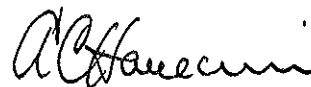
The Court has noted that courts in other European jurisdictions have adopted the practice of anonymising judgments in cases involving asylum seekers. It is satisfied that the publication of the names of asylum seekers may create avoidable risks for them in the countries from which they have come.

An opinion in a case involving an asylum seeker will be anonymised before that opinion is placed on the website unless the court gives a direction to contrary effect.

Other Civil Proceedings

In addition to orders under the Contempt of Court Act 1981, an order may be made under section 57 of the Adoption (Scotland) Act 1978 requiring adoption order proceedings and certain similar proceedings to be heard and determined in private. This may also be applied, with modifications, to proceedings in relation to parental orders made under section 30 of the Human Fertilisation & Embryology Act 1990 and related proceedings. Subject to a dispensing power, there is a prohibition on the publication of matter bearing on the identification of a child concerned in a children's hearing or related proceedings under section 44 of the Children (Scotland) Act 1995 and in all these circumstances, and under any other statutory provisions to similar effect, any Opinion will be suitably amended before publication.

It may be appropriate to extend the protection of anonymity to other circumstances. Where, for example, evidence in proceedings concerning children discloses sexual abuse or other conduct the general publication of which would potentially be damaging to a child, the Court may frame the Opinion in a way which affords anonymity to that child. The Court may do the same in cases relating to adults, for example, persons suffering from a condition of an intimate nature where publication of the details would distress them.



LORD PRESIDENT
Edinburgh
22 June 2007