
STATUTORY INSTRUMENTS

2012 No. 1726

The Criminal Procedure Rules 2012

PART 16

REPORTING, ETC. RESTRICTIONS

SECTION 2: REPORTING AND ACCESS RESTRICTIONS

Reporting and access restrictions

16.4.—(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;
 - (b) withhold information from the public during a public hearing.
- (2) 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 in respect of a witness under section 46 of the Youth Justice and Criminal Evidence Act 1999, explain—
 - (i) how the witness is eligible for assistance, and
 - (ii) why a reporting direction would be likely to improve the quality of the witness' evidence, or the level of co-operation the witness gives the applicant in connection with the preparation of the applicant's case.

Varying or removing restrictions

16.5.—(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;
 - (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⁽¹⁾ 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 21 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 63.10 (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.]

Trial in private

- 16.6.**—(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,

(1) 2002 c. 32; section 141F is inserted by section 13 of the Education Act 2011 (c. 21), with effect from a date to be appointed.

- (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) will 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 will receive, 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

16.7.—(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;
 - (b) specify any alternative terms proposed.

Order about restriction or trial in private

- 16.8.**—(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.