

PRACTICE NOTE No.1 of 2016

NOTE TAKING AND THE USE OF LIVE TEXT-BASED FORMS OF COMMUNICATION (INCLUDING *TWITTER*) FROM COURT FOR THE PURPOSES OF FAIR AND ACCURATE REPORTING

This Practice Note applies to court proceedings which are open to the public and to those parts of the proceedings which are not subject to reporting restrictions. It follows a public consultation issued by the Lord Chief Justice's Office relating to note taking and the use of live-text based communications. This guidance clarifies the approach in this jurisdiction to the taking of notes in court and the use which may be made of live text-based communications, such as email, social media (including Twitter) and internet enabled laptops in and from courts throughout Northern Ireland. For the purposes of this guidance these means of communications are referred to collectively as live, text-based communications or "LTBC".

2. The guidance is consistent with the legislative structure which:
 - Prohibits the taking of photographs in court (section 29 of the Criminal Justice Act (Northern Ireland) 1945) and the use of sound recording equipment in court unless the leave of the judge has first been obtained (section 9 of the Contempt of Court Act 1981); and
 - Requires compliance with the strict prohibition rules created by sections 1, 2 and 4 of the Contempt of Court Act 1981 in relation to the reporting of court proceedings.

General Principles

3. The judge has an overriding responsibility to ensure that proceedings are conducted consistently with the proper administration of justice, and to avoid any improper interference with its processes.

4. A fundamental aspect of the proper administration of justice is the principle of open justice. Fair and accurate reporting of court proceedings forms part of that principle. The principle is however subject to well-known statutory and discretionary exceptions. Two such exceptions are the prohibitions set out in paragraph 2 above on photography in court and on making sound recordings of court proceedings.

5. The statutory prohibition on photography in court, by any means, is absolute. There is no judicial discretion to suspend or dispense with it. Sound recordings are also prohibited unless, in the exercise of its discretion, the court permits such equipment to be used.

Note Taking

6. Note taking by members of the public in court is permitted unless the judge considers in an individual case that there is a compelling legal reason to derogate from this aspect of open justice and deny permission. Where the judge decides to do this he/she should state the reason for this in open court.
7. Members of the public should check with the court clerk or a court security officer whether the judge has placed any restrictions on note taking in an individual case.
8. Members of the public are not permitted to take notes on electronic devices such as laptops or tablets and all mobile phones should be switched off when entering the court.
9. Journalists¹ sitting in the press box are permitted to take notes in all cases and to use electronic devices without notifying the court.

Live Text Based Communications

10. Members of the public are not permitted to use LTBC from court and should switch off all electronic devices when entering the court.
11. Journalists who wish to use LTBC from court may do so without making an application to the court. This is to assist with the production of fair and accurate reports of proceedings. The mobile device must be silent and there should be no disruption to the proceedings in court.
12. Journalists should, however, be aware of the danger to the administration of justice arising from the use of LTBC. This is likely to be at its most acute in the context of criminal trials, for example where witnesses who are out of court may be informed of what has already happened in court and so coached or briefed before they then give evidence, or where information posted on social media about inadmissible evidence may influence members of the jury. Journalists should also be aware that the use of LTBC may also pose a danger in all proceedings by creating pressure on witnesses, distracting or worrying them. Where reporting restrictions have been put in place by the court, those must be observed and any breach of anonymity will be treated as a contempt of court.
13. Permission to use LTBC from court may be withdrawn by the court at any time.

Lord Chief Justice's Office

¹ For the purposes of this guidance, the term "journalist" is restricted to journalists registered with the National Union of Journalists or another equivalent industry accredited.

2 June 2016