



## Court of Protection Transparency Pilot Q & A

**Q: Which areas will participate in the Court of Protection transparency pilot?**

**A:** All courts that hear Court of Protection cases in England and Wales.

**Q: How long will the pilot run for?**

**A:** Initially six months from 29 January 2016.

**Q: Will all Court of Protection hearings be held in public now?**

**A:** No. This will depend on whether the court has made an order for a public hearing or the Rules provide for there to be public hearing. Most cases covered by the pilot (and so those in which orders for hearings are made on and after 29 January 2016) will be in public with reporting restrictions.

**Q: Who is able to attend CoP hearings held in public?**

**A:** In addition to the parties, the general public or press will be able to attend hearings held in public. They will be asked to sign a document recording their attendance and confirming that they are aware of the terms of the pilot order. If they refuse to sign, the judge may exclude them from the hearing. In addition, in some cases the judge may change or vary an order that the hearing is to be in public, or exclude certain people from attending, for example, to limit attendance to accredited media.

**Q: Will the media give the court prior notice of their attendance?**

**A:** There will be no requirement for the media to give advance notice of intention to attend proceedings.

**Q: Will members of the press be able to make an application if no pilot order is made on the case to have this overturned?**

**A:** Yes. The media can make an application at any time about attending a private hearing or about what information about the proceedings may be published.

To make an application, the applicant must make an application within proceedings on form COP9 Application notice along with a COP 24 Witness statement.

For more information: Please refer to the Court of Protection Rules, the Pilot Practice Direction and practice direction 13A.

**Q: Will the parties to a case be able to challenge the decision to hold the hearing in public or ask for additional reporting restrictions to be imposed?**

**A:** Yes. The court, either on its own initiative or on an application, may make a further order changing the pilot order. To make an application, the applicant must file forms COP9 and COP24, as above.

In addition, the person who has made the application must give notice of their application to the national media by using the Press Association's Injunctions Alert service (formerly known as CoPyDirect).

Regional hubs will also hold contact details of the local media for the relevant courts within the region and, where appropriate, the local media must be notified too.

If, after deciding to hold a hearing in public and/or to impose reporting restrictions, the court, on its own initiative, decides to make a further order varying the original restrictions, it is also required to consider whether notice should be given to the

Injunctions Alert service. The judge will indicate to staff when to give notice to the media.

**Q: Will the parties be able to ask the court not to make the pilot order?**

**A:** Yes. Any such request supported by the reasons for it should be included in the application, or be made by making an application within the proceedings. If such application is made before any pilot order is made, notice of it does not have to be given to the media unless the court otherwise directs.

**Q: How will staff recognise if a media representative is accredited?**

**A:** It is not only accredited media representatives who can attend. However accredited media representatives can, on request, see certain anonymised documents. Court rules specify that media must be accredited in accordance with any administrative scheme prescribed by the Lord Chancellor. The prescribed scheme is the UK Press Card Scheme.

**Identification and accreditation of media Representatives.**

The passes are valid for 2 years and cards issued from January 2009 include enhanced security by incorporating a hologram. Each card has a unique number and associated PIN number. If in doubt you may telephone the verification hotline to check the card number against the PIN code, during the hotlines operating hours on 0870 837 6477

The core information on a press pass:

- Name of issuing organisation
- Applicant's full name
- Personal ID Number
- Employed as (Reporter, Cameraman, sound engineer, Journalist)

**Q: Are there any type of Court of Protection proceedings excluded from the pilot?**

**A:** Yes. Contempt proceedings and cases relating to serious medical cases are not covered by the pilot. In addition, cases when orders have been made before the pilot commenced are excluded.

When the pilot applies to a case, it will effectively change the default position to one where hearings are held in public, thereby allowing members of the media or public to attend.

When judges make initial case management directions, they will issue an order notifying the parties when a hearing or hearings will take place and whether the hearing is to be in public. That order will include the reporting restrictions that are imposed.

Whether a case is public with reporting restrictions or in private will also be shown on the court lists.

#### **Q: What information should be displayed on the public cause lists?**

**A:** No information should be published that could lead to the publication of any information that the court has ordered should not be published.

The order in each case will define this and they will not all be the same.

This means that the cause lists that are printed for display must not show any such information and will state that the hearing is 'Public – with reporting restrictions'.

In addition, where proceedings are in private, the cause lists should be edited to clearly show that the hearings are "not open to the public".

Normally the order will prohibit the publication of any information that identifies P or members of P's family, where they live or are being cared for.

Restrictions on the publication of any other information will vary from case to case.

#### **Q: In what circumstances might the public or certain people be excluded from Court of Protection proceedings?**

**A:** In deciding this under the pilot the court will have regard in particular to:

- (a) the need to protect P or another person involved in the proceedings;
- (b) the nature of the evidence in the proceedings;
- (c) whether earlier hearings in the proceedings have taken place in private;

- (d) whether the court location where the hearing will be held has facilities appropriate to allowing general public access to the hearing, and whether it would be practicable or proportionate to move to another location or hearing room;
- (e) whether there is any risk of disruption to the hearing if there is general public access to it;
- (f) whether, if there is good reason for not allowing general public access, it would be appropriate or practicable to allow access to accredited media representatives.

For more information: Please refer to the Pilot Practice Direction.

**Q: Will members of the media have access to case papers?**

**A:** Yes. Unless the court otherwise orders, on request, accredited members of the media who attend the hearing will be provided with anonymised position statements, statements of issues, chronologies and skeleton arguments. If court staff are asked to provide copies, it will be subject to the media paying the standard fee of £5.00 per copy document.

**Q: Can the media or general public obtain copies of judgments or orders made at a hearing in public?**

**A:** Yes. Under rule 17(1) of the CoP Rules 2007 anyone can obtain a copy of any judgment or order made in public.  
If there is a copy on the court file, this may be provided subject to the standard fee. When providing a copy of an order or a transcript of a judgment in a pilot case, you should check that they contain a statement that they are subject to the reporting restrictions order.

**Q: Can the media or general public obtain the other documents used in a hearing in public?**

**A:**

Accredited media who attend the hearing will usually be given copies of anonymised position statements, statements of issues, chronologies and skeleton arguments on request (see above).

The Court may direct that copies of documents be provided to anyone else who attends the hearing.

If anyone else who is not a party to the proceedings, and did not attend the hearing, wishes to obtain documents used in the proceedings, they must apply on form COP9 and COP24 and set out the reasons why they require copies (see rule 17(2) CoP Rules 2007).

**Q: Can the media or general public obtain copies of orders or other documents used in a hearing in private?**

**A:** No. If the hearing is in private, and the court makes no order about publishing information, anyone who is not a party to the proceedings wishing to obtain copies of any documents must apply on form COP9 and COP24 and set out the reasons why they require copies (see rule 17(2) CoP Rules 2007).

**Q: What information can we tell the media/public about the hearing?**

**A:** You can provide the information contained in the reporting restrictions order and the cause list.

**Q: What must be done in preparation for the hearing?**

**A:**

- A sign must be put on the court room door to indicate whether the hearing is in private, public or open to accredited media only;
- A copy of the daily cause list must be placed on the court room door;
- A transparency pilot attendance sheet will be prepared with the case number, date, etc.
- A copy of the pilot order will be available, so this can easily be photocopied and provided to those attending the hearing.

**Q: What if there is not enough seating available?**

**A:** Dual purpose courtrooms are already designed to have specified seating for the media and the public.

It is clear to all that some court rooms are small with limited seating available. The seating plan will be considered to identify any seating that is available. These seats are usually at the back of the court rooms (behind the parties) or on the side. Exits must not be blocked. If there are more members of the public than seats available then, subject to any direction by the judge, seats should be allocated on a first come first served basis.

A ticketing system may need to be considered for high profile cases and courts that have a high media interest. Also consider moving the case to a more suitable venue (with permission of the judge). Video link with another court room may be an option if facilities are available in your court building.

**Q: Will extra measures be put in place for High profile Cases?**

**A:**

- Where possible a large court room with sufficient seating for media reps should be allocated
- Arrangements will be made for a named person or press office to deal with phone calls from media.
- Extra ushers or security staff may be provided for that court room.

**Q: Will the media be also expected to follow court room protocol?**

**A:** Yes.