



What to do when a reporter attends (or wants to attend) your hearing in a Family Court

*A guidance note for
judges and professionals*

This guide is designed to assist professionals involved in family court cases to think through issues on the attendance of reporters at hearings. Nothing written here should be treated as legal advice on individual cases or circumstances.

The Transparency Project does not give legal advice.

THIS GUIDE APPLIES TO FAMILY COURTS WHERE

1. THE OPEN REPORTING RULES ARE OPERATING IN CHILDREN CASES AND
2. THE REPORTING PILOT IN FINANCIAL REMEDY CASES IS OPERATING.

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WHAT TO DO WHEN A REPORTER ATTENDS (OR WANTS TO ATTEND) YOUR HEARING

Introduction and context

Although Open Reporting Provisions for children cases in family courts came into operation on 27 January 2025, many professionals may still have little experience of dealing with a reporter. This guide aims to highlight the relevant principles and practical steps to be followed.

The Open Reporting Provisions apply in most hearings about children heard by judges in family courts across England and Wales. Most private and public law proceedings heard by magistrates in all courts in England and Wales will be included.

The Financial Remedy Pilot was extended to all family courts in England and Wales on 29 January 2025 and runs until January 2026.

The first step on being notified of possible media attendance in children cases is to check whether the Open Reporting Provisions applies to the type of case and the hearing in question. We explain this further below.

Next, some **key resources** you may want to have to hand:

For **children cases** – The Open Reporting Practice Directions, the Transparency Order template and other relevant materials, including A **guidance leaflet for families and parties** who are involved in cases about children are all available on a dedicated Open Reporting Provisions page (<https://www.judiciary.uk/courts-and-tribunals/family-law-courts/open-reporting-provisions/>).

Updated HMCTS guidance for staff and the public on children cases was published in July 2025 (<https://www.gov.uk/government/publications/guidance-to-staff-on-supporting-media-access-to-courts-and-tribunals/jurisdictional-guidance-to-support-media-access-to-courts-and-tribunals-family-courts-guide-accessible-version>).

Information about the **Financial Remedy Pilot** including the updated **template Transparency Order for the Financial Remedy Pilot** (Dec 24) is available on the Judiciary website (see <https://www.judiciary.uk/guidance-and-resources/financial-remedies-transparency-pilot-notice/> and the original December 2023 pilot guidance (which appends a superseded January 2023 version of this document)

https://www.judiciary.uk/wp-content/uploads/2023/12/Reporting.PilotScheme.Final_.President.pdf).

There is no specific leaflet for families and parties involved in pilot cases in the Financial Remedy Court.

Consider the key principles set out below, and then work through the **practical points**.

Key principles

1. Reporters are generally allowed to attend hearings – they do not need to ‘apply’ or give notice

- a. FPR 27.11 gives a general right of attendance to journalists and legal bloggers to most (but not all) hearings held in private. This has been the case since 2009 and is not specific to recent pilots or the rule change in 2025. Notable exceptions to attendance are FPR Part 14 (adoption etc) and hearings involving judicially assisted conciliation (or at any rate those parts of hearings involving judicially assisted conciliation) typically FDR or FHDRA hearings.
- b. This right of attendance applies to accredited media representatives (journalists with a press card or other accreditation) and duly authorised lawyers (qualified lawyers attending for journalistic, research or public legal educational purposes – colloquially known as ‘legal bloggers’). For convenience, the collective term ‘reporters’ is useful to cover both. You should check the credentials of a reporter unless they are known to the court. A legal blogger should provide form FP301 (this is not required for a journalist).
- c. FPR 27.11(3) defines the limited circumstances in which the court may (of its own motion or on application) exclude a reporter from all or part of a hearing. A reporter does not need to *apply* to attend if FPR 27.11 permits them.
- d. If there is an issue with the attendance of a reporter, the court should hear briefly what the nature of the objection is, and allow the reporter to respond. The court should consider FPR 27.11(3) in deciding whether to exclude the reporter. FPR 27.11(3) requires something more than the fact that the nature of the proceedings is ‘private’ or that one or more parties would prefer them not to attend. Concerns about potential reporting are not a basis for excluding a reporter from attending. In some cases, automatic restraints on publication will

apply, in others it may be appropriate for the court to impose them. But a need to restrict publication of information does not necessarily mean a reporter should be excluded from observing.

- e. Although it is obviously helpful if a reporter does give notice that they intend to attend, it is not a requirement. In reality, and for various reasons, this will not always be possible. A reporter should not be criticised for not giving notice or ‘sufficient’ notice. The guidance encourages notice where that is possible.

2. What a reporter is permitted to report will depend upon the nature of the hearing and proceedings.

Children cases held in private

- a. In children proceedings held in private, s12 Administration of Justice Act 1960 (‘AJA 1960’) will generally significantly curtail what can be published. A reporter may attend but report very little without the permission of the court.
- b. However, following the President’s Reporting Pilot that began in certain courts from 30 January 2023, Family Procedure Rule 12.73A was introduced in January 2025. This rule sets out that Practice Direction 12R (PD12R) deals with the court giving permission to communicate information from proceedings. PD12R sets out a process where the court may make a ‘Transparency Order’, which has the effect of reversing the presumption against publication (see s12 Administration of Justice Act 1960) and permits anonymised reporting of most of the detail of such cases. Types of hearing where a reporter may report under a Transparency Order are set out in PD12R para 1.2:
 - (a) all proceedings for orders in public law proceedings and private law proceedings, and proceedings to discharge, vary or enforce existing orders in such proceedings;
 - (b) all proceedings under the inherent jurisdiction of the High Court, including to authorise the deprivation of a child’s liberty
 - (c) all proceedings to which Chapter 6 of Part 12 FPR applies (proceedings under the 1980 Hague Convention, the European Convention and the 1996 Hague Convention).
- c. S97 Children Act 1989 precludes the identification of a child as the subject of proceedings during the life of the case. Under a Transparency Order, the effect

of s97 will usually be extended until the youngest child is 18 to give extra protection that enables safe reporting.

Financial remedy cases

- a. In Financial Remedy cases, s1 of the Judicial Proceedings (Regulation of Reports) Act 1926 (arguably) applies. There is an apparent divergence of view at High Court level as to whether the implied or collateral undertaking of confidentiality arising from the compelled disclosure requirements / duty of full and frank disclosure or the general ‘private’ nature of hearings precludes the publication of information by reporters (or parties) in circumstances where privacy is attenuated (or destroyed) by the right of attendance by reporters (see *Gallagher (No 1) (Reporting Restrictions)* [2022] EWFC 52). On one view (Mostyn J in *Gallagher*) there is no *de facto* restriction on the reporting of information gathered or heard by a reporter at a Financial Remedy hearing and, if there is to be any such restriction, it must be the subject of an on-notice reporting restriction order application (on notice to the press via Injunctions Alert Service at <https://pa.media/injunction-applications-alert-service/>).
- b. Although this topic remains controversial, this document does not attempt to offer a view. The Financial Remedy Pilot aims to cut through much of this potential controversy by provision of a template Transparency Order, which provides for anonymised reporting.
- c. Where there is controversy or contention, judges may wish to canvas the parties’ and reporters’ positions on such issues at the outset of a hearing attended by the media, in order that a pragmatic and lawful way forward can be found. For example, reporters may not wish to report anything until the conclusion of the hearing, or may be content to agree not to include specific information in their reports, at least for the time being. If necessary and proportionate, the court may make an interim order pending a full *Re S* analysis (*Re S (A Child)* [2004] UKHL 47) at the conclusion of the proceedings or substantive hearing – but whether this is appropriate will depend on the circumstances. *Re S* applies and judges should have regard to paragraph 17, where Lord Steyn said:

‘The interplay between articles 8 and 10 has been illuminated by the opinions in the House of Lords in Campbell v MGN Ltd [2004] 2 WLR 1232. For present purposes the decision of the House on the facts of Campbell and the

differences between the majority and the minority are not material. What does, however, emerge clearly from the opinions are four propositions. First, neither article has as such precedence over the other. Secondly, where the values under the two articles are in conflict, an intense focus on the comparative importance of the specific rights being claimed in the individual case is necessary. Thirdly, the justifications for interfering with or restricting each right must be taken into account. Finally, the proportionality test must be applied to each. For convenience I will call this the ultimate balancing test. This is how I will approach the present case.'

3. Appeals

By PD30B, appeals are presumptively to be heard in public, but may be taken in private. In cases involving children, anonymity orders may be (and usually are) made. Subject to any such anonymity or reporting restriction order, matters referred to in a public appeal (or other) hearing may be reported (s12 AJA will not apply).

4. A reporter should not be asked to reveal their source

a. A reporter may become aware of or interested in attending a hearing for a number of reasons. It is not appropriate for a judge, court staff or legal representative to ask a reporter who told them about the hearing or who invited them to attend. Where a reporter is entitled to attend a hearing, they are not required to justify or explain their attendance, and they will likely decline to respond to such an enquiry. A journalist's duty of confidentiality and professional code of conduct will usually require them to do so, and legal bloggers attending for a journalistic purpose are likely to hold to similar standards. Reporters should not be placed under pressure to reveal sources or criticised for not doing so.

b. Judges and legal professionals should remember that journalists attending a family court hearing are outsiders and such requests may have a 'chilling' or intimidating effect upon reporters. See Henke J in *Louise Tickle v The Father & Ors* [2025] EWFC 160.

5. Editorial control of reporting is no part of the court's function

a. The court should not engage in enquiries that amount to editorial control or approval or disapproval of proposed journalistic material. Providing material is lawfully obtained and lawfully reported, and subject to the terms of the Transparency Order made in the individual case, a reporter or publisher is at

liberty to publish on their own terms. Such reporting may contain material that a party would prefer not to be included, it may exclude material a party considers highly relevant, it may offer comment or opinion that is contrary to the view of the court or of one or more of the parties. Concern that any of these things may happen is neither a proper basis upon which to exclude a reporter from a hearing, nor to restrict reporting which would otherwise be permitted. The court should have regard to *Re S* in considering whether to relax or restrict any existing constraint on reporting in the individual case. This will usually involve close scrutiny of any competing Article 8 or 10 ECHR rights, analysis of the specific facts of the case and any arguments about public interest, privacy, welfare etc and a careful balancing of those factors to reach a conclusion which interferes with each of those rights only insofar as is necessary and proportionate. Remember, welfare is ‘a primary consideration’ but is not paramount.

- b. It is not appropriate for the court or parties to require or request sight of a proposed report prior to publication for approval. Most journalists will refuse this as contrary to their journalistic independence.

6. Communication is key

Reporters may in some respects be the outsiders in the room (though a small number have made attendance at Family Court hearings their speciality), but they are generally skilled at thinking creatively about how the balance between privacy and public interest in the reporting of court proceedings can be lawfully achieved. If lawyers and judges engage reporters in discussions and submissions about these issues, reporters may come up with a pragmatic proposal that will enable matters to move forwards on an agreed basis, or at least to narrow the issues. What a journalist wants and needs to report will depend upon whether they are a news journalist or are carrying out broader investigative or long form journalism work. What a legal blogger wants and needs to report may differ again, for example they may be more interested in explaining law or legal process.

7. A reporter will need to be able to share information with their editorial team

Any reporter (unless self-publishing) will need to be able to share sufficient information with their editorial and any legal team in order to facilitate publication, and to ensure that publication is in compliance with the law and any court orders. Most reporters will assume this is permitted. It is now specifically included in para 20 of the Transparency Order template.

Practical steps:

1. Before the hearing (if it is known a reporter is attending) –

a. Court to let the parties and their legal representatives know that a reporter is intending to attend. This enables lawyers to forewarn their clients and counsel and to take preliminary instructions.

b. Court to make arrangements for the reporter to be provided with a link (see Practice Guidance Issued by the LCJ in June 2022 ‘Open Justice – Remote Observation of Hearings – New Powers’, which sets out that ‘Remote observation should be allowed if and to the extent it is in the interests of justice; it should not be allowed to jeopardise the administration of justice in the case before the court’, and makes clear that this may include remote attendance by a reporter of an otherwise fully attended hearing). See: <https://www.judiciary.uk/guidance-and-resources/practice-guidance-on-remote-observation-of-hearings-new-powers/> Note that there is somewhat more muted emphasis on the potential for remote observation in the Financial Remedy Pilot guidance.

c. Check reporter’s credentials – for journalists this is a UK press card although other evidence may be sufficient; for legal bloggers a practising certificate or letter from their academic institution or Registered Educational Charity such as The Transparency Project, and form FP301.

d. Check the hearing is one which reporters are permitted to attend (FPR 27.11) and one which can potentially be reported on under the rules (PD12R paras 1.2 -1.3).

e. The Transparency Order templates provide for certain key documents to be provided as of right, once the order is made. But consider whether a reporter should be provided with any additional key documents to aid understanding (on terms), and if so on what terms (see for e.g. *President's Guidance: Attendance of the Media* [2009] 2 FLR 167 “Where a representative of the media in attendance at the proceedings applies to be shown court documents, the court should seek the consent of the parties to such representative being permitted (subject to appropriate conditions as to anonymity and restrictions upon onward disclosure) to see such summaries, position statements and other documents as appear reasonably necessary to a broad understanding of the issues in the case”, and *Newman v Southampton City Council & Ors* [2021] EWCA Civ 437 in which it was confirmed that the *Re S* exercise should be utilised in connection with issues relating to reporters’ access to documents).

f. 'Transparency Order' is now an option for judges to select in the dropdown menu on the portal in public law cases, meaning that these orders can be automatically generated relatively easily by a judge (and adjusted as appropriate to meet the particular needs of the case).

g. The Transparency Order will protect the identity of children involved in the proceedings. Once a Transparency Order has been drawn, the reporters will be entitled to see certain core documents (case outlines, skeleton arguments, summaries, position statements, threshold documents and chronologies) without application and these should be provided promptly by legal representatives.

h. If the reporter has been able to give sufficient notice of their intention to attend the hearing, and if the matters are agreed (for instance at the advocates' meeting) the court may be able to issue a Transparency Order in advance of the hearing, which has the advantage of enabling the parties to give the reporter access to basic documents in advance of the hearing.

i. However, where reporters may not have been in a position to give advance notice, the making of a Transparency Order will have to be considered at the outset of the hearing (see below).

2. At the outset of the hearing –

- a. Typically, even when a reporter has alerted the court to their intention to attend, the message does not reach the lawyers and parties until their arrival at court. Judges and lawyers may need to explain the Reporting Provisions (or Pilot) and what they do and do not permit to the parties, and in particular reassure them as to the emphasis on anonymity. Many judges will introduce the reporters and invite the lawyers to identify those present in court and their roles before embarking on the business of the hearing.
- Deal with any objections to attendance in the presence of the reporter (brief submissions from parties with reference to FPR 27.11(3), with an opportunity to the reporter to respond).
- Deal with the question of whether you should make a Transparency Order (having dealt with any representations about the particular terms of the order – in most cases this will be a relatively straightforward exercise). If possible, deal with the

terms of the Transparency Order i.e. will you make an order in the terms suggested by the template or is some adjustment in this particular case needed. Sometimes it is better to deal with this at the end of the hearing. The court can make clear that no reporting is permitted before the detail of the Transparency Order has been resolved at the end of the hearing.

- We have found that an efficient way to proceed is to agree to make the order in principle at the start of the hearing, invite the advocates to email the documents provided for under the template order to the reporter to read immediately (on the understanding use of the material will be as set out in the Transparency Order once confirmed, and on any basis anonymised) and come back to the detail of the Transparency Order at the conclusion of the hearing. The reporter is likely to be in a better position at the end of the hearing to make constructive and uncontentious submissions or suggestions about the framing of the order, and therefore the terms of a Transparency Order are often uncontroversial or largely uncontroversial when dealt with in this way.
- If not already done, consider whether a reporter should be provided with key documents to aid understanding– e.g. case outline, ES1, skeleton argument, etc. Documents can be provided on terms, such as no further distribution or publication pending further order, no reporting of identifying details etc as appropriate, subject to the terms of the Transparency Order.
- Consider setting time aside at the end of the hearing in the event that the reporter or any party needs to raise a new issue regarding the scope of the Transparency Order, when a reporter may understand more about the case and can make more informed representations as to the terms of the transparency order.
- Remember to deal with any issues, set ground rules about live reporting if requested and permitted, or reporting of an ongoing hearing.

3. At the end of the hearing -

- a. Ensure that any order regarding reporting, including the Transparency Order, has been drawn clearly and provided to the reporter (or that there is sufficient clarity to enable prompt finalisation of the order). The reporter should be copied into the draft order before approval to ensure that all are in agreement that the drafting corresponds with what was ordered by the court / conceded by the reporter.

- b. The date on which the reporter may publish information about the case should be clearly stated in para 24 of the Transparency Order. The default position is from the end of the hearing attended (in order to ensure that if any issue arises during the hearing it can be catered for prior to reporting), but the court may consider it necessary to postpone publication until the end of a future hearing.
- c. Make arrangements for the reporter to be able to communicate with a point of contact about the next hearing or hand down of any judgment (whether the court or a legal representative).
- d. If you are directing that additional documents should be shared with a reporter, ensure this is contained in your order and a date for compliance by the party is provided. Make sure there is clarity about how the reporter is to access any documents to be provided.
- e. If a question arises about publication of a judgment, see the President of the Family Division's Practice Guidance issued in June 2024 (<https://www.judiciary.uk/wp-content/uploads/2024/07/Publication-of-Judgments-Practice-Guidance-JUNE-2024-1.docx>).

This document is regularly updated. This version is current as at 29 September 2025. We welcome feedback. If you have further practical suggestions that might improve this guidance please let us know by emailing info@transparencyproject.org.uk.