

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT CROWN COURT (RECORDING)
ORDER 2016

Wednesday 27 April 2016

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The Committee consisted of the following Members:

Chair: SIR DAVID AMESS

† Allen, Heidi (*South Cambridgeshire*) (Con)
 † Doyle-Price, Jackie (*Thurrock*) (Con)
 † Haselhurst, Sir Alan (*Saffron Walden*) (Con)
 † Henderson, Gordon (*Sittingbourne and Sheppey*)
 (Con)
 Hepburn, Mr Stephen (*Jarrow*) (Lab)
 † Hollinrake, Kevin (*Thirsk and Malton*) (Con)
 † Huq, Dr Rupa (*Ealing Central and Acton*) (Lab)
 † Jenrick, Robert (*Newark*) (Con)
 † Matheson, Christian (*City of Chester*) (Lab)
 † Mills, Nigel (*Amber Valley*) (Con)

Norman, Jesse (*Hereford and South Herefordshire*)
 (Con)
 Reed, Mr Jamie (*Copeland*) (Lab)
 † Rees, Christina (*Neath*) (Lab)
 † Smith, Jeff (*Manchester, Withington*) (Lab)
 † Solloway, Amanda (*Derby North*) (Con)
 † Vara, Mr Shailesh (*Parliamentary Under-Secretary
 of State for Justice*)

Gail Bartlett, *Committee Clerk*

† **attended the Committee**

Third Delegated Legislation Committee

Wednesday 27 April 2016

[SIR DAVID AMESS *in the Chair*]

Draft Crown Court (Recording) Order 2016

2.30 pm

The Parliamentary Under-Secretary of State for Justice (Mr Shailesh Vara): I beg to move,

That the Committee has considered the draft Crown Court (Recording) Order 2016.

It is a pleasure to serve under your chairmanship, Sir David. The order removes the prohibition on recording court proceedings to the extent necessary to enable a judge's sentencing remarks in the Crown court to be recorded, on a not-for-broadcast basis, for the purposes of a test.

The present position is that the recording and broadcast of proceedings in courts other than the Supreme Court and the Court of Appeal is prohibited by section 41 of the Criminal Justice Act 1925 and section 9 of the Contempt of Court Act 1981. Section 32 of the Crime and Courts Act 2013, which received Royal Assent in April 2013, enables the Lord Chancellor, with the agreement of the Lord Chief Justice, to make an order specifying circumstances in which the prohibitions on recording and broadcasting may be lifted. The order before us is the second order to be made under that power.

There is evidence to suggest that the more informed people are about the justice system, the more confidence they will have in it. Few people have direct experience of court proceedings, and public understanding of how the justice system works is very limited. In principle, our courts are open to all members of the public who wish to attend, but in practice very few people have the time or opportunity to attend and see what happens in person. We believe that we should make our courts more accessible and make it easier for the public to understand court proceedings.

Increasingly, people rely on television and the internet for access to news and current affairs. It is therefore right to respond to changes in technology and society and allow cameras into our courts. However, although it is important for justice to be seen to be done, that cannot be at the expense of the proper administration of justice, the integrity of the trial process or the reputation of the courts. The courts deal with very serious matters that can affect the liberty, livelihood and reputation of all the parties involved. The proposed test period provides an opportunity to examine how we can film in our courts in a way that protects the individuals involved and preserves the dignity of the courts and the trial process.

I am conscious that there will be concerns about the welfare of victims and witnesses and the potential for court broadcasting to have a detrimental effect on their experiences in court. In the event that a victim or witness is present in court during the recording of a

judge's sentencing remarks, there are in place a number of safeguards designed to minimise any potential impact that recording might have.

I emphasise that the order does not permit the filming of victims or witnesses, or indeed any other court user, including staff, members of the public, defendants and advocates. It will be for the judge to decide whether filming of a particular case should not be allowed, and they will take into account the interests of victims and witnesses when considering that. In addition, existing reporting restrictions will continue to apply, and section 32(3) of the Crime and Courts Act 2013 provides that the court may stop or suspend filming in the interests of justice or to prevent prejudice to any person. Any breach of the terms of the order may amount to a contempt of court. None of the cases recorded during the test will be available for broadcast to the public. Recorded material will be used only by the judiciary, Her Majesty's Courts and Tribunals Service and the Ministry of Justice for the purposes of the test, including assessing whether it has been successful.

The Government are committed to increasing transparency and providing the public with information on the operation of public services, and the justice system is no exception. To many people, the law remains mysterious. Public understanding of how the courts work, and sentencing in particular, is critical to maintaining confidence in the system and ensuring that justice is seen to be done. We believe that the order before us today is an appropriate step forward in testing how we can allow for greater visibility of what goes on in our courts without undermining the quality and reputation of our justice system.

At the end of the test period, the lessons learned will be considered by the Lord Chancellor and the Lord Chief Justice to help inform their decision on whether broadcasting of judges' sentencing remarks in the Crown court should be permitted in future. If they agree, we will return to the House with a third order to allow broadcasting of recorded material to commence. I commend the draft order to the Committee.

2.35 pm

Christina Rees (Neath) (Lab): It is a pleasure to serve under your chairmanship, Sir David. I thank the Minister for his explanation of the statutory instrument. I understand that there are now seven Crown courts where the test recording will take place, one of which is in Cardiff. As a Welsh MP, that is of particular interest to me.

We on the Opposition side are wary of bringing cameras into the court system, but we welcome more openness and transparency in the courts. With that in mind, we are willing to offer support for the test, but it would be good to put some of our concerns and questions to the Minister. These concerns centre on protecting the integrity of the courts, provisions put in place to protect vulnerable witnesses in court proceedings, and how the test will be assessed, along with who is running and evaluating it.

Article 7 sets out that:

"Recording is by a person who—

(a) is permitted in writing by the Lord Chancellor to make recordings in the Crown Court; and

(b) assigns any copyright in the recording of the sentencing remarks to the Lord Chancellor, for and on behalf of the Crown."

This provision is key in ensuring that the test recording achieves the goal laid out by the Government: striking the right balance between protecting the dignity of the court and the integrity of the trial process and allowing the public to see what happens in court and hear statements in the judge's own words. We would like assurances that the provision will remain in place if the test is to become a permanent addition to Crown court procedure.

Additionally, paragraph 7.4 of the explanatory memorandum states:

"The recording may only take place with the permission of the relevant judge."

Will the Minister tell us how those judges are chosen, and offer clarification on what will happen if the judge refuses permission?

My next query is on protecting other participants in court proceedings. The overarching concern is that there is nothing in the Crime and Courts Act 2013 to prevent an order from being made in future that authorises the filming and broadcasting of witnesses, parties, victims, jurors or defendants. I understand that this statutory instrument makes it clear that only the judge sitting in the case will be filmed and that normal reporting restrictions will continue to apply to protect the interests of victims or witnesses involved in the case. We wish to make sure that this is the extent of what the Government wish to do, and that those restrictions will continue to be protected following the test.

Linked to that, the Lord Chief Justice has warned that filming some court proceedings could end up with sentencing remarks only being used in high-profile cases that involve salacious details or celebrities. He also expressed concern that media attention could soon create pressure for the faces of the defendant or the victim's family to be shown at the point of sentence. Will the Minister assure us that that will not be the case?

Furthermore, the Joint Committee on Human Rights report on the 2013 Act expresses concerns that introducing cameras in court could discourage certain vulnerable witnesses and victims from testifying in criminal cases, and strip certain vulnerable defendants of necessary protection. Will the Minister explain the checks that he has put in place to ensure that will not be the case?

Paragraph 7.4 of the explanatory memorandum states:

"We anticipate the test running for no more than four months."

When is the test due to start? Paragraph 9.2 states:

"HMCTS will provide signage and a small number of leaflets to advise court users and members of the public that filming will be taking place",

but that it will not be broadcast. Owing to the potential threat of vulnerable people in court seeing cameras and fearing that they are being filmed, which could upset them, surely a larger information drive would be more suitable.

Finally, and perhaps most importantly, I would like to know what procedure is in place to determine whether this test will be considered successful. As I am sure we

can all agree, a test is important, but it is only relevant if it is measured against pre-determined criteria. What are those criteria? Will the Minister give a timescale for how long the review will take?

I would be grateful if the Minister could deal with the concerns I have raised. We support the statutory instrument and the test but have real concerns about the rolling out of anything that is less restrictive. I thank the Minister and his team for presenting the order so clearly to the Committee.

2.40 pm

Mr Vara: I welcome the hon. Lady's support for the measure and am happy to give her the assurances she seeks. Let me make it absolutely clear to the Committee that we are legislating for a test. The idea is that the test will last for some three months. The intention is that filming will commence around June. At the end of that three-month period, the Lord Chancellor and the Lord Chief Justice will consider whether we should put the filming into practice, effectively moving on from the test period. Before that happens, much consideration will be given.

I emphasise that we are simply talking about filming the sentencing remarks of a Crown court judge. There is no intention of filming victims, witnesses, counsel, solicitors, lawyers, court staff, audience members, members of the public or anyone else. It is confined to the judge and only to the sentencing remarks that she or he makes. Were there to be a debate in future on whether victims, witnesses and others should be filmed, that decision would clearly need to come before a Committee.

As far as the criteria that the hon. Lady seeks are concerned, this is just a test, so we have not yet decided on what the full criteria will be because we have not decided whether filming will progress beyond the test. We are doing the test to see whether this is feasible, and then decisions will be taken and criteria will be set. Filming processes have existed in the Supreme Court since 2009 and in the Court of Appeal since 2013. The Court of Appeal allows for the filming of the concluding comments of counsel and judges, but nothing else.

The hon. Lady raised a concern that allowing cameras in court would discourage victims and witnesses from giving evidence. As I say, victims and witnesses will not be filmed. Hopefully, that gives her the assurance she seeks. I emphasise that there is no intention of moving the filming beyond the judges. We would need to come back to Committee for parliamentary approval for that.

I trust that hon. Members will agree that this is a proportionate and sensible approach that will enable us to develop further the safeguards introduced in the Court of Appeal and ensure that any future footage recorded in the Crown court will be presented in a fair and accurate way.

Question put and agreed to.

2.43 pm

Committee rose.

