

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Second Delegated Legislation Committee

DRAFT CROWN COURT (RECORDING AND
BROADCASTING) ORDER 2020

Monday 16 March 2020

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The Committee consisted of the following Members:

Chair: Ms KAREN BUCK

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| † Anderson, Fleur (<i>Putney</i>) (Lab) | Latham, Mrs Pauline (<i>Mid Derbyshire</i>) (Con) |
| Betts, Mr Clive (<i>Sheffield South East</i>) (Lab) | † Lord, Mr Jonathan (<i>Woking</i>) (Con) |
| † Charalambous, Bambos (<i>Enfield, Southgate</i>) (Lab) | † Menzies, Mark (<i>Fylde</i>) (Con) |
| † Chishti, Rehman (<i>Gillingham and Rainham</i>) (Con) | † O'Brien, Neil (<i>Harborough</i>) (Con) |
| Hendrick, Sir Mark (<i>Preston</i>) (Lab/Co-op) | † Philp, Chris (<i>Parliamentary Under-Secretary of State for the Home Department</i>) |
| † Hinds, Damian (<i>East Hampshire</i>) (Con) | † Pursglove, Tom (<i>Corby</i>) (Con) |
| † Hopkins, Rachel (<i>Luton South</i>) (Lab) | † Qureshi, Yasmin (<i>Bolton South East</i>) (Lab) |
| † Howell, Paul (<i>Sedgefield</i>) (Con) | |
| † Jones, Andrew (<i>Harrogate and Knaresborough</i>) (Con) | Seb Newman, <i>Committee Clerk</i> |
| † Kinnock, Stephen (<i>Aberavon</i>) (Lab) | † attended the Committee |

Second Delegated Legislation Committee

Monday 16 March 2020

[Ms KAREN BUCK *in the Chair*]

Draft Crown Court (Recording and Broadcasting) Order 2020

4.30 pm

The Parliamentary Under-Secretary of State for Justice (Chris Philp): I beg to move,

That the Committee has considered the draft Crown Court (Recording and Broadcasting) Order 2020.

As always, Ms Buck, it is a pleasure to serve under your chairmanship. This order removes the prohibition on recording Crown court proceedings to enable judges' sentencing remarks in the Crown court to be recorded and broadcast. Currently, the recording and broadcasting of court proceedings is prohibited unless, with the consent of the Lord Chief Justice, an order is made specifying the circumstances in which those prohibitions can be lifted. That has already been done to allow live streaming from the Supreme Court since 2009, and in the civil and criminal divisions of the Court of Appeal.

The order before us extends the exemption from the prohibition—the circumstances under which court proceedings can be filmed—to include the sentencing remarks delivered by a High Court judge or senior circuit judge delivering criminal sentences in the Crown court. Recordings will only be made by broadcasters who have been granted permission in writing by the Lord Chancellor. Media parties have been working in the Court of Appeal since 2013, and we will be taking this next step forward with those experienced broadcasters.

Rehman Chishti (Gillingham and Rainham) (Con): For many years before I entered Parliament, I prosecuted and defended cases in the magistrates court, Crown court and Court of Appeal. The public want transparency and accountability. Under the current system, not all the remarks are taken into account when a sentence is passed, so people cannot know the mitigating or aggravating features that the judge has taken into account. It is unfair on the judiciary for them to be labelled in the media as having simply given “x” sentence. The order will ensure that it is possible to make clear to the public the full circumstances considered by the judge, to ensure that there is full confidence in our great judiciary and our legal system.

Chris Philp: My hon. Friend puts it extremely well, based on his many years of experience. By broadcasting the full sentencing remarks, we can make sure that sentences are fully understood by the public. It is very easy for the public to hear just a headline sentence, and not to understand or appreciate the reasons why that sentence has been handed down. By broadcasting the remarks in full—they will be available on the internet, and potentially broadcast live—the understanding that my hon. Friend has described can be better achieved. I

should add that the decision to extend the filming of the sentencing remarks of senior judges to the Crown court is fully supported by the Lord Chief Justice and follows a trial in eight courts, which in turn followed a debate on this topic in Parliament in 2016.

We have, of course, carefully considered concerns about the potential impact of court broadcasting on victims, witnesses and other vulnerable court users. That is why only the judge's sentencing remarks will be broadcast. This order does not permit the filming of anything else that goes on in court, whether it be submissions by barristers on either side, victims, witnesses, staff, defendants, jurors or anybody else. Only the sentencing remarks being delivered by the judge can be filmed and then broadcast. To give the Committee further assurance, I should add that the judge in any particular case has complete discretion, and if they choose to not give permission for their sentencing remarks to be broadcast, that judge can withhold their consent. If any media organisation breaches the terms of this order, or breaches the judge's ruling on the matter, they will of course be in contempt of court.

I mentioned that the filming will be available on the internet. For the largest cases, it may also be broadcast live, but with a time delay to make sure anything unsuitable can be intercepted prior to broadcast. A limited number of specified media companies—the larger ones, such as the BBC, ITV and Sky—will be authorised to do this, and one of them will nominate a film crew to film the sentencing remarks. The cost of doing so will fall entirely on the broadcasters; it will not be borne by Her Majesty's Courts and Tribunals Service.

In conclusion, this order, which follows a trial and has received the agreement of the Lord Chief Justice, will open up our judicial system a little more. It will give the public a better understanding of sentencing remarks and why particular sentences are being handed down, and it is a welcome move to demonstrate openness and transparency in our judicial proceedings. I commend the order to the House.

4.35 pm

Yasmin Qureshi (Bolton South East) (Lab): It is a pleasure to serve under your chairmanship, Ms Buck. I am grateful to the Minister for introducing the order, which my party and I support in principle. Transparency of proceedings is an important element of our legal system. In *R v. Sussex Justices, ex parte McCarthy*, of 1924, Lord Chief Justice Hewart stated:

“justice should not only be done, but should manifestly and undoubtedly be seen to be done.”

Although our courts are public spaces, in reality the average person would not be able to walk to the nearest Crown court halfway through the working day to watch the proceedings.

The move might also serve to better inform the public about how the courts work. Increasing public understanding of the court system allows for transparency in one of the most important institutions of the state. Evidence suggests that the more informed people are about the justice system, the more confidence they have in it. We also accept that we live in times when people increasingly rely on the television and the internet for access to news

and current affairs. It is vital to respond to changes in technology and society, and therefore to allow the cameras into our Crown courts.

Rehman Chishti: Like me, the shadow Minister was a barrister. We appeared in courts at the same time, and it was always a pleasure to do so. Public accountability is crucial, and it links to the point that the Minister made earlier about judicial discretion. This is about letting the public know how the system works and why decisions have been made. It is also crucial to ensure that judges can decide, for whatever reason, that filming should not happen. Our great legal system works on the acceptance of judicial discretion across the board so that there is no straitjacket involved, and the order allows for that.

Yasmin Qureshi: I entirely agree with the hon. Gentleman. It was a great pleasure appearing in court with him, sometimes against him and sometimes on his side. Although it is important that justice is 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 parties involved.

Has the Minister considered that if only the judge's sentencing remarks are broadcast, the public will have only a snapshot view of the case? Although sentencing remarks include summaries, and a recapping of the salient points of the Crown's case and the defendant's mitigation, it is impossible for a judge to set out everything that they consider in their decision. Does the Minister agree that there is scope for misunderstanding about why and how a sentence has been reached? Will he clarify what guidance and training will be made available for court staff, and where the budget for it will come from?

We are pleased that the order will protect victims, court staff and legal professionals from exposure. However, it will no doubt open judges up to intense scrutiny. Televising the sentencing remarks will not prevent certain sentences from being unpopular with the public, and it will not stop declarations about "enemies of the people". Will the Minister tell us what will be done to protect judges from any increase in attention that results from the change?

Our justice system has always been associated with dignity, and it is far removed from the sensationalist aspects of the justice systems in other countries where proceedings are broadcast. Although we welcome the order, we should not underestimate or disregard its potential impact. I would be grateful if the Minister dealt with the concerns I have raised.

4.39 pm

Chris Philp: I would be delighted to answer the three questions that the shadow Minister posed. First, I will deal with the matter of broadcasting only the sentencing

remarks. It is true that sentencing remarks cannot adequately cover every detail of a case that might have lasted for several days or even weeks. However, most judges' sentencing remarks in the more serious cases provide a good summary of the most important facts and, critically, they give a good rationale for why a particular sentence has been handed down. Sometimes I, as the Minister responsible for courts and sentencing, get correspondence from victims or their families asking why a particular sentence was given, because it was, in their view, too lenient. Having the full sentencing remarks available will give the rationale to victims, their families and the wider public, so that they understand why a particular sentence has been handed down. They may, of course, still not agree with the sentence, but at least there will be a fuller explanation than there is now.

I say to hon. Members that if any of their constituents have concerns about sentences being too lenient, there is of course the unduly lenient sentence scheme, whereby, within 28 days of a sentence for a serious offence being handed down, the victim can apply to the Attorney General, who can then refer the case to the Court of Appeal. I think that the sentences in more than 100 cases were increased through that mechanism in the calendar year 2018.

The shadow Minister's second question related to guidance. There are 103 High Court judges and senior circuit judges whose sentencing remarks might be filmed in the way that I have described, and they will receive full training from the Judicial Office.

The third question was more general: will judges be exposed to public opprobrium if their sentences are considered to be unduly lenient or are unpopular? I will say first that we certainly do not intend to create the kind of media circus that we see surrounding some cases in, for example, the USA. We all remember the famous O. J. Simpson case back in the mid-1990s. I think that by filming just the sentencing remarks, we will avoid the wider media circus that can develop.

In relation to protecting judges' independence, the Lord Chancellor has of course sworn an oath of office to protect our judicial independence in this country. In fact, last September when a Supreme Court judgment was handed down—the judgment was televised—that was not universally popular in every quarter, the Lord Chancellor did discharge his duty. Whatever he may have thought about the judgment, and whatever we all may have thought about the judgment, he stood up and defended the independent judiciary and the right of those judges to make that judgment independently. The Lord Chancellor and, I am sure, all of us in Parliament will ensure that we defend judicial independence.

I hope that I have answered the questions that have been asked. Once again, I commend the order to the Committee.

Question put and agreed to.

4.42 pm

Committee rose.

