# PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

## Second Delegated Legislation Committee

# DRAFT COURTS (PRESCRIBED RECORDINGS) ORDER 2023

*Monday 18 September 2023*

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**Friday 22 September 2023**

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**The Committee consisted of the following Members:**

*Chair:* Dame Angela Eagle

† Afolami, Bim *(Hitchin and Harpenden)* (Con)
† Antoniazzi, Tonia *(Gower)* (Lab)
† Atherton, Sarah *(Wrexham)* (Con)
† Bell, Aaron *(Newcastle-under-Lyme)* (Con)
† Burgon, Richard *(Leeds East)* (Lab)
† Cadbury, Ruth *(Brentford and Isleworth)* (Lab)
† Chope, Sir Christopher *(Christchurch)* (Con)
† Crosbie, Virginia *(Ynys Môn)* (Con)
† Freer, Mike *(Parliamentary Under-Secretary of State for Justice)*
† Hart, Sally-Ann *(Hastings and Rye)* (Con)
† Mann, Scott *(Lord Commissioner of His Majesty's Treasury)*
Ribeiro-Addy, Bell *(Streatham)* (Lab)
† Robinson, Mary *(Cheadle)* (Con)
† Smith, Greg *(Buckingham)* (Con)
Tarry, Sam *(Ilford South)* (Lab)
† Whitley, Mick *(Birkenhead)* (Lab)
Winter, Beth *(Cynon Valley)* (Lab)

Jonathan Finlay, *Committee Clerk*

**† attended the Committee**

# Second Delegated Legislation Committee

*Monday 18 September 2023*

[Dame Angela Eagle *in the Chair*]

## Draft Courts (Prescribed Recordings) Order 2023

6 pm

**The Parliamentary Under-Secretary of State for Justice (Mike Freer):** I beg to move,

That the Committee has considered the draft Courts (Prescribed Recordings) Order 2023.

It is a pleasure to serve under your chairmanship, Dame Angela—which, I have to say, does have a certain ring to it.

This draft instrument forms part of the Government's ongoing work to increase transparency in the justice system. Generally and for good reason, there is a prohibition on photography and audio recordings in court buildings—specifically of participants taking part in court proceedings. However, there are limited circumstances where such recordings would be beneficial, and in the interests of justice and the safety of court users. This statutory instrument will provide exceptions to the prohibition in specific circumstances, in line with the wider aims and commitments of the Ministry of Justice.

The instrument proposes four changes. First, it contains provisions to help secure the safety of our staff, court users and the public by ensuring that operational staff and court buildings are appropriately equipped through the use of body-worn video and CCTV cameras. I know that some hon. Members have shown support for such a move, so I am pleased to bring forward this legislation.

The order also contains a provision to expand the number of judges sitting in the Crown court whose sentencing remarks may be broadcast. It is vital that justice is not just done, but further seen to be done. The broadcasting of sentencing remarks has proven invaluable in that respect, most notably recently with the broadcasting of the sentencing of Lucy Letby. Expanding the number of judges will only serve to strengthen that and to further increase transparency. Indeed, just last week at the Commonwealth Judges and Magistrates Conference, the Lord Chief Justice, Lord Burnett of Maldon, commented that the broadcasting of sentencing has been successful beyond the judiciary's expectations, improving people's understanding of the justice system and their belief in it.

This SI will also ensure that celebration day proceedings, when a family and judge or magistrate come together to mark the occasion of an adoption order with photographs taken in the court, can continue as part of adoption ceremonies. This is an emotionally significant and valuable part of the adoption process and marks an incredibly important day in a family's life.

At present, two laws dictate that the photography of participants and audio recordings of proceedings is prohibited: section 41 of the Criminal Justice Act 1925 and section 9 of the Contempt of Court Act 1981. However, a more recent measure—section 32 of the Crime and Courts Act 2013—enables these prohibitions to be disapplied for specific recordings. Before I explain in greater detail the four sorts of recordings covered and the provisions being made, I reassure hon. Members that in developing the provisions, the Ministry of Justice has worked closely with partners and stakeholders with relevant interests, including the judiciary, the police and operational partners.

The first provision of the order relates to the use of CCTV in court buildings, which plays an integral part in ensuring the safety and security of all those who work and visit our courts. The instrument will ensure that the continued use of CCTV cameras in court buildings is in line with health and safety regulations to keep court users and staff safe. It is important to me and the Ministry that those entering court and tribunal buildings can continue to work in, and use the services of, our estate with an assured level of safety and security.

The second provision relates to the use of body-worn video for operational staff. This is already common practice outside court buildings, as it increases the safety and accountability of those who regularly have to deal with potentially dangerous and difficult situations, such as police officers and prison escort staff. The issues concerning body-worn video were brought to the attention of the Ministry of Justice by Serco, the company that provides staff and prisoner escort and custody services to transport prisoners to and from court and within court buildings.

A pilot scheme that ran from December 2017 to March 2018 in Thames magistrates court showed that body-worn video increased the safety of security staff, with a 75% reduction in the number of recorded injuries among the escort staff who wore body-worn video compared to those who did not. However, when reviewing the pilot, we considered that the use of body-worn video in this way was at risk of breaching the statutory prohibition on photography of parties. The pilot and all further use of body-worn video in this way was halted to enable consideration of the provisions required.

As well as escort staff, the consideration revealed a need for police officers and courts and tribunals security staff to be included in this legislation. Moreover, police officers have recently been mandated to wear body-worn video if they carry a Taser, which they may have as part of their equipment when attending court on routine business. This instrument will therefore enable them to lawfully carry a Taser in court buildings, as required in their uniform codes. Allowing all three groups to use body-worn video in specified circumstances in areas including courtrooms will improve the safety not only of operational security staff but of everyone in the court building, while increasing the transparency and accountability of security staff.

The third provision of the order relates specifically to the family court, where there is an established practice of organising a celebration day following the making of an adoption order. During this day, the adopters, their family and the adopted child or children attend the court, and, with the judge's or magistrate's permission, meet them to celebrate the adoption. The judge or the magistrate will robe up and take photographs in the court with the family. It is a significant and valuable part of the process for all those involved, and marks an incredibly important day in the life of the child in their

new family. The instrument specifies the circumstances where the prohibition on photography will not apply to an adoption photo, so that the practice of taking adoption photos will be explicitly allowed in statute.

The final provision relates to the broadcasting of sentencing remarks. The Crown Court (Recording and Broadcasting) Order 2020 was passed to allow certain judges in the Crown court to have their sentencing remarks filmed and broadcast in order to give the public a better understanding of how sentencing decisions are reached. We have recently passed the first anniversary of the first such broadcast, which took place on the 28 July 2022. Since then, the public have been able to watch sentencing remarks in a number of high-profile cases, such as the sentencing of Lucy Letby, former police officer David Carrick, and Thomas Cashman, who murdered nine-year-old Olivia Pratt-Korbel.

Currently, the filming of sentencing remarks can only take place if the judge in question is a High Court judge, a senior circuit judge who is also a resident judge, or a senior circuit judge whose base court is the Central Criminal Court, known as the Old Bailey. However, the most serious criminal trials and sentencing hearings may be presided over by Court of Appeal judges sitting in the Crown court, who are not included in the 2020 order's provisions, which means that sentencing remarks in such cases may not presently be recorded and broadcast regardless of the public interest. The instrument accordingly amends the 2020 order to include Court of Appeal judges sitting in the Crown court among the judges whose sentencing remarks may be recorded and broadcast from the Crown court. This provision to allow for Court of Appeal judges arrives a little after a year since the original legislation came into force, and I am sure colleagues will agree that the broadcasting of sentencing remarks has been a very positive development.

In conclusion, this instrument will support the safe and secure running of our courts and tribunals, which is fundamental to delivering justice. It will increase the security of our operational staff, court users and members of the public, and increase transparency and accountability in the courts. Finally, it will regularise the taking of adoption photos in family courts so that new families can capture the celebration together in the place that changed their lives.

6.9 pm

**Ruth Cadbury** (Brentford and Isleworth) (Lab): It is a pleasure to serve under your chairship, Dame Angela.

I thank the Minister for outlining the provisions contained in the order and the reasons behind them. As he explained, the SI disapplies section 41 of the Criminal Justice Act 1925, which prohibits filming in court, and section 9 of the Contempt of Court Act 1981, which prohibits audio recording for some specific purposes. The Opposition are pleased to support the instrument.

We completely recognise the need for CCTV in court precincts to ensure the safety and security of all those who work in and attend our courts. Indeed, when this order was being debated in the other place, my noble Friend Lord Ponsonby shared an anecdote of a case that came before him as a magistrate in which a tribunal judge had been assaulted, and explained how vital the CCTV evidence from the precinct outside the courtroom had been in securing a conviction. I also once had a constituent who was assaulted at his workplace in a court building, and I believe that, had this order been in place and body-worn cameras been permitted, he might have been better served. We wholly support the continued presence of the CCTV; although as such CCTV recording is already considered lawful, I am not sure what is gained by including it in the SI—but if it is helpful to put the matter utterly beyond doubt, then so be it.

The matter of body-worn video by operational court staff is less settled currently, so we strongly welcome the clarification of the lawfulness of wearing body-worn video in court precincts. Body-worn video evidence can be hugely helpful in building cases, and we agree that it will assist in keeping all those working and attending court safe and secure. However, I do appreciate that the scope for the use of body-worn video is limited to when there has been a security alert or escape. There is good reason why we limit recordings in our courts—in part to protect the privacy of court users—so I welcome proportionate limits being placed on such filming.

The Opposition wholly welcome the provision relating to adoption cases. It is right that those who wish to commemorate such a happy occasion with a photo alongside the judge or magistrates—should that judge or magistrate be prepared to do so—in court will now be free to do so.

The final provision, which corrects the omission in the Crown Court (Recording and Broadcasting) Order 2020 on sentencing remarks, is straightforward, and of course we support it.

In conclusion, the changes in this SI are all relatively narrow and straightforward and we are happy to support them.

*Question put and agreed to.*

6.12 pm

*Committee rose.*