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## **Note Taking - The Use of Live Text-based forms of Communication from Court**

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On 2 June 2016 the Lord Chief Justice's Office issued Practice Direction 1 of 2016 which clarifies the approach in Northern Ireland to the taking of notes in Court and the use which may be made of live text-based communications such as email, social media (including twitter) and internet enabled laptops in and from Courts throughout Northern Ireland.

The practice note applies Court proceedings which are open to the public and to those parts of the proceedings which are not subject to reporting restrictions.

The guidance is consistent with the current legislative structure which prohibits the taking photographs in Court (Section 29 of the Criminal Justice Act (Northern Ireland) 1945) and the use of sound recording equipment in Court unless the leave of the Judge has first been obtained (Section 9 of the Content of the Court Act 1991) and requires compliance with the strict prohibition rules created by Sections 1, 2 and 4 of the Contempt of Court Act 1981 in relation to the reporting of Court proceedings.

The practice note recognises that the Judge has an overriding responsibility to ensure that proceedings are conducted consistently with the proper administration of justice, and to avoid any improper interference with its processes. However, it also recognises that a fundamental aspect of the proper administration of justice is the principal of open justice and that accurate reporting of court proceedings forms part of that principal.

It recognises that the statutory prohibition on photography in Court, by any means, is absolute and that there is no judicial discretion to suspend or dispense with it.

The practice note clarifies that note taking by members of the public in Court is permitted unless the Judge considers in an individual case that there is a compelling legal reason not to allow it. Where a Judge decides to do this, he or she should state the reason for this in open Court. The guidance recommends that members of

the public should check with the Court Clerk or the Court security officer whether the Judge has placed any restrictions on note taking in an individual case.

However there is a distinction between members of the public and journalists. For the purposes of the Practice Direction, the term journalist is restricted to journalists registered with the National Union of Journalists or another credited industry body. Whilst members of the public are not permitted to take notes on electronic devices such as laptops or tablets, Journalists are allowed to sit in the press box and to take notes in all cases using electronic devices without notifying the Court. Furthermore, members of the public are not permitted to use live text-based communications from Court and should switch off all electronic devices when entering Court. Journalists who wish to use live text-based communications for Court may do so without making an application to the Court, strictly on the basis that the mobile device should be silent and that there should be no disruption to the proceedings in Court.

Further, journalists are reminded of the dangers to the administration of justice arising from the use of live text based communications which are most acute in the context of criminal trials, for example by creating pressure on witnesses, distracting or annoying them. Where reporting restrictions have been put in place by the Court, those must be observed and any breach of anonymity will be treated as a contempt of Court.

Finally, the practice note clarifies that permission to use live text based communications for Court may be withdrawn by the Court at any time.

Should you have queries about the content of this article, please do not hesitate to contact Fergal Maguire, Associate.

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