

PE1799/A

Scottish Government submission of 6 July 2020

Thank you for your e-mail of 1 June 2020 asking for the Scottish Government's view on Petition no. PE1799, by Ms Sarah McHardy, on behalf of *Families Outside*. This is a petition:-

Calling on the Scottish Parliament to urge the Scottish Government to make it illegal for any press or media outlet to publish a defendant's address.

I should observe that there is no requirement in law to publish prosecuted persons' home addresses. Neither the Crown Office nor the Scottish Prison Service publish the address of convicted persons. Scottish courts do not routinely publish the addresses of accused persons either. An address might be referenced (e.g. by the defence or by witnesses) in the course of proceedings or in a judgment, if relevant to a case. A person seeking to object to the publication of any personal information in a court decision on the Scottish Courts & Tribunals Service's website can seek to exercise their 'right to erasure' by emailing dpo@scotcourts.gov.uk. This right is subject to a number of limitations, including where it is considered that the processing remains necessary.

Journalists are also granted access to certain court documentation (as set out in the Scottish Courts & Tribunals Service's Media Guide¹) to assist accurate and contemporaneous court reporting. These papers can include address details. How this information is used is a matter for the publication in question, providing that it does not breach rules on contempt of court etc or the Data Protection Act 2018.

I note that the Petitioner quotes, in her background information, the Independent Press Standards Organisation's (IPSO) as saying that "Normally, newspapers will report a partial address. However, journalists are allowed to publish someone's full address, if this is necessary to identify someone." Nevertheless, the IPSO Editors' Code, available at <https://www.ipso.co.uk/editors-code-of-practice/>, states that "Everyone is entitled to respect for his or her private and family life, home, health and correspondence, including digital communications and editors will be expected to justify intrusions into any individual's private life without consent." It further provides that "Relatives or friends of persons convicted or accused of crime should not generally be identified without their consent, unless they are genuinely relevant to the story." If any person believes that a newspaper's reporting of a criminal trial breaches the Editors' Code, they can make a complaint to the IPSO. Information about how to do this is available on their website at <https://www.ipso.co.uk/complain/>

The Independent Monitor for the Press (IMPRESS), also states that publishers must respect the privacy and family life of individuals.

However, provision does exist to prevent disclosure of such materials as addresses by law. In addition to the provisions of the Contempt of Court Act 1981, the courts have a common law power to restrict the reporting of proceedings where it is in the interests of justice to do so. It is for the court to decide whether to make such an order in any individual case, and the judge may exercise these powers at his or her own discretion, or on an application by the parties.

¹ <http://www.scotcourts.gov.uk/docs/default-source/aboutscs/contact-us/media-guide-13-10-2015-website-version.pdf?sfvrsn=6>

In appropriate cases an interdict may also be available.

Of course, the great majority of court cases will result in such details as the name of the accused, and the location in which a crime is said to be committed, being aired publicly in court. In these circumstances you will understand that, particularly in modern conditions, in very many instances it would not be difficult for anyone sufficiently interested to establish the address of an accused person.

I hope this information is helpful.