



# Cayman Islands Judicial Administration

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## Court Defines and Clarifies Access to Information in Criminal Cases

Following a period of consultation with various interests, a new Practice Direction that aims to bring greater clarity and facilitation to public and press access to criminal court hearings and information has been issued by Chief Justice Sir Anthony Smellie.

Practice Direction No. 6 of 2022 has been published in Supplement No. 3, with Legislation Gazette No. 40 of 13th October 2022, and will be available on [www.judicial.ky](http://www.judicial.ky), under “Guidance” next week. Practice directions are procedural guidelines issued from time-to-time by the judiciary--in Cayman by the Chief Justice. As such, they are designed to complement existing legislation, rules, and regulations.

“The purpose of this Practice Direction is to clarify what is permitted and what is not for all court users and court administrative staff,” said Chief Justice Smellie.

The Practice Direction is accompanied by three application forms to request information not otherwise publicly available: Form 1, for inspection/copies of non-public materials; Form 2, for information/materials about a case requiring written application; Form 3, for “affected persons” who may wish to apply for information/materials.

So, the Practice Direction is designed to explain and facilitate access to information and materials by persons directly affected, such as plaintiffs and defendants and other persons, legal representatives, Court administrative staff who assist the public and the press, and the media themselves.

In doing so, the fundamental reason for the promulgation of Practice Direction 6/2022 is to reinforce the transparency of the legal and judicial process, reflecting the Courts’ commitment to the Open Justice principle, said Sir Anthony.

This includes fair and accurate reporting of proceedings, towards which goal the Practice Direction specifically outlines how representatives of the press can access criminal court proceedings, information, and materials.

In its introduction, the Practice Direction states that “where a representative of the media requests access to material referred to in court proceedings, there is a presumption in favour of providing access, in recognition of the role of the press as ‘public watchdog’ in a democratic society,” adding further that the “purpose of media access is to enable the public to understand and scrutinize the justice system.”

Nevertheless, while the Practice Direction is partial to disclosure in the interest of Open Justice, it also defines when information may be withheld. The Practice direction stipulates that in such cases there should be “compelling reasons” that would be ruled upon by an “Appropriate Judicial Officer.”

The avenues that would enable press and public to fair and just rulings on application for access to otherwise “closed information” is provided in the Practice Direction on a step-by-step basis. Of interest to media, particularly, is greater procedural definition on how to go about challenging restrictions.

To further facilitate press access, the Court is introducing an online registration process that will be a helpful resource to court staff in more identifying media to assist them.

Registration will also enable media to access otherwise unavailable live streaming of court hearings where available, through encrypted passwords on the media portal under development on [www.judicial.ky](http://www.judicial.ky).

The requirement for password access is aimed at ensuring that, while the Open Justice principle is met by allowing the media this facility in appropriate and pre-approved cases, no unauthorised recording and dissemination of the livestream will take place,” said Chief Justice Smellie. “Such abuse of the livestream by potential mischief makers could be detrimental to the proper administration of justice.”

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