# Article information:

Draft judgments: navigating the embargo | Dispute Resolution blog
<http://disputeresolutionblog.practicallaw.com/draft-judgments-navigating-the-embargo/>

# Article summary:

1. Parties and their legal representatives are given a sneak preview of reserved judgments on confidential terms, usually a couple of days beforehand.

2. Breaching the embargo may be treated as a contempt of court and can draw judicial ire and public castigation.

3. Practical steps to avoid breaching the embargo include providing the draft judgment only to those who need to see it for a proper purpose, clarifying with the judge who may receive it, taking proper steps to ensure confidentiality, and investigating suspected breaches fully, carefully, and urgently.

# Article rating:

May be slightly imbalanced: The article presents the information in a generally reliable way, but there are minor points of consideration that could be explored further or claims that are not fully backed by appropriate evidence. Some perspectives may also be omitted, and you are encouraged to use the research topics section to explore the topic further.

# Article analysis:

The article "Draft judgments: navigating the embargo" provides guidance on how parties and their legal representatives can avoid breaching the embargo when receiving a sneak preview of a reserved judgment. The article highlights that a breach of the embargo may be treated as contempt of court, and recent examples have shown that it can draw judicial ire and public castigation. The article discusses Practice Direction (PD) 40E, which sets out the terms of the embargo, and recent Court of Appeal guidance in R (Counsel General for Wales v BEIS) and a High Court decision in Optis Cellular Technology Inc v Apple Retail UK Ltd.

The article provides practical steps to avoid breaching the embargo, such as providing a draft judgment only to those who need to see it for a proper purpose, clarifying with the judge who may receive it under embargo if there is any doubt, ensuring confidentiality, avoiding communication likely to be focused on the result, investigating suspected breaches fully and urgently, and reporting all relevant information to the judge and opponent as soon as possible.

Overall, the article appears to provide balanced guidance on how parties can navigate the embargo when receiving a sneak preview of a reserved judgment. However, some potential biases or missing points of consideration could include:

- The article does not explore counterarguments or potential risks associated with following its suggested practical steps. For example, what if legal representatives accidentally disclose confidential information despite taking proper steps to ensure confidentiality? What are the consequences for parties if they fail to investigate suspected breaches fully or report all relevant information promptly?

- The article does not provide evidence for its claim that violations of the embargo are becoming more frequent anecdotally. It would be helpful to know whether there is any data or research supporting this claim.

- The article does not discuss potential biases or conflicts of interest that legal representatives may have when preparing themselves for publication by assisting clients with press releases immediately on hand-down. For example, could legal representatives be tempted to spin the judgment in a way that benefits their clients or themselves?

- The article does not provide examples of cases where parties have successfully navigated the embargo without breaching it. It would be helpful to know what best practices or strategies parties have used to avoid breaching the embargo in different contexts or jurisdictions.

- The article does not discuss potential biases or conflicts of interest that judges may have when enforcing the embargo. For example, could judges be tempted to use contempt proceedings as a way to assert their authority or punish parties they dislike?

# Topics for further research:

* Risks of breaching court embargoes
* Statistics on violations of court embargoes
* Ethics of legal representatives assisting with press releases
* Best practices for navigating court embargoes
* Judicial biases in enforcing court embargoes
* Consequences of failing to investigate suspected breaches of court embargoes

# Report location:

<https://www.fullpicture.app/item/77ad4202bffc1676aeeed878e13fcddd>