

2015.04.14

3.11 Deputy M. Tadier of H.M. Acting Attorney General regarding transcripts of court hearings:

Will Her Majesty's Acting Attorney General advise whether transcripts of court hearings are made available to individuals involved in litigation and if not will he advise what policies there are in place for dealing with requests for transcripts in a timely manner and detail what alternatives are offered if any and at what cost?

Mr. H. Sharp, Q.C., H.M. Acting Attorney General:

Courts make transcripts of court hearings available on application. There are relevant guidelines published on the Jersey Legal Information website and those guidelines explain how a person who is directly involved in an ongoing case may obtain a transcript and associated costs. The guidelines publish criteria for any such application and, as I say, give details of costs. The costs will vary depending on the nature of the case and the background of the person making the application. To give just 2 examples, a legally-aided person in a criminal case is not charged any fee. On the other hand a litigant in a civil case might pay £7 a page of transcript.

3.11.1 Deputy M. Tadier:

Does the Acting Attorney General believe that it should be a fairly straightforward process for any litigants or their lawyers to be able to obtain either a transcript or an audio recording of proceedings where relevant? If so can he explain what a reasonable timescale would be to respond to such a request?

The Acting Attorney General:

The guidelines publish a number of criteria, as I have said, in relation to an application for a transcript. Those criteria include considerations as to the length of the transcript requested and the current workload of the department doing the transcribing. So the answer will be; it depends on how much work is requested and what work the department already has.

[11:00]

3.11.2 Deputy M.R. Higgins:

Perhaps the Acting Attorney General can explain to us whether a Judge in a particular case or a Master, as the case may be, can refuse a transcript and in what circumstances?

The Acting Attorney General:

The guidelines envisage in the first instance that an application would be made to the Judicial Greffe for a transcript. If there are difficulties as to whether or not it is appropriate to provide a transcript then a Judge may become involved. One can foresee that if there is, for example, to take an extreme case, absolutely no need to obtain a transcript in order to resolve a dispute in a court hearing then one can see how a Judge may rule, ultimately, that the obtaining of a transcript is unnecessary.

3.11.3 Deputy M.R. Higgins:

Supplementary? Can the Acting Attorney General tell Members whether he believes that sufficient grounds would be the embarrassment of the person concerned because I am aware of one instance where a transcript has been requested because of remarks made by the particular person concerned and it appears the only grounds for not supplying it was the fact he would be acutely embarrassed by the comments he made about another Judge?

The Acting Attorney General:

I have absolutely no knowledge of that case. All I can say is that when a Judge is considering whether or not they need to see a transcript in order to determine the issues that are brought before the court by the different parties all the Judge will be interested in is what is in the interests of justice, and if it is relevant and appropriate to get a transcript in order to deliver justice that is what the judge is going to order.

Deputy M.R. Higgins:

Sorry, if I could just clarify the point please?

The Deputy Bailiff:

Perhaps we could ...

Deputy M.R. Higgins:

Well, if I could just ... it will be a very quick one. So in other words, it would not be unreasonable for a Judge to stop a transcript being produced simply because it would cause him embarrassment.

The Deputy Bailiff:

Deputy, I am not sure it becomes any more acceptable because it is a quick one. [Laughter] You have had a supplemental and we will move on Deputy Tadier. Final supplemental, Deputy?

3.11.4 Deputy M. Tadier:

We seem to be flying through the Order Paper. I would have been quite happy to wait a bit longer for Deputy Higgins. Well, first of all can I put it to the Acting Attorney General the words of a very local advocate who said: "It is difficult to get court transcripts for my constituent in this case. Even to get a C.D. (compact disc) it needs leave of the court and a payment of £50. The C.D. is then not compatible with normal I.T. (information technology) systems as we found on another case yesterday. Typed transcripts can take several weeks and are only available if linked with court proceedings." Similarly, I have found out in this case that it has taken 8 weeks from the initial request for a transcript only to be told that you cannot have a transcript, you can have a C.D. after being asked why they wanted it and only after I had sent an email which I am sure is coincidental. Does the Acting Attorney General believe that in the public interest and to access to even-handed justice that there must be a set procedure for obtaining transcripts, C.D.s, whatever is necessary, within a timely manner and that 8 weeks is completely unacceptable?

The Acting Attorney General:

There were an awful lot of points made in that last question. The first one that I noted was there seemed to be some reference to the fact that on occasions parties who are no longer involved in litigation want to obtain a transcript from the court for whatever reason. That is right and nothing remarkable about it but they have to make a formal application to the court, so I do not see anything wrong with that. It is right that one needs to install special software on a computer to access, for example, the court's recordings but there is nothing remarkable about that and I have been doing it for many years. But coming back to what I think is the last point, which is about the 8-week delay; well, that all depends, does not it, on how much transcript you want, what the work demands of the department are and why is that inhibiting justice? Because either you will get your transcript before your next court hearing and thereby be able to show the Judge the transcript and the Judge can reach an informed decision or you will be able to say to your Judge: "I am sorry I need more time because I have not yet got the transcript, we will have to adjourn." Presumably the Judge will agree and then the Judge will only reach a decision once all the relevant material including this transcript is before the court. So while I can see that delays are frustrating I do not detect any great injustice here.