

3.8 Deputy M.R. Higgins of the Chief Minister regarding his assessment of the appropriateness of the cost for litigants in person to access transcripts or recordings of court hearings and trials; [1(306)]

Will the Chief Minister provide his assessment of whether the cost for litigants in person to access transcripts or recordings of court hearings and trials, and other limitations on such access, are appropriate and whether justice in Jersey is thereby available to those least able to afford legal representation; and, if his assessment is that they are appropriate, will he explain how?

Senator I.J. Gorst:

I would like to ask Senator Routier to act as rapporteur, please.

Senator P.F. Routier (Assistant Chief Minister - rapporteur):

As I am sure the Deputy will be aware, the rules on access to transcripts or recordings of court hearings and trials follow the U.K. (United Kingdom) practice and have been agreed by the Bailiff as Chief Justice. These rules are set out in the published Court of Appeal Rules for transcripts. I understand that the rules do not provide for any exemption from paying the fees; however, a litigant in person is entitled to an exemption certificate, if he is entitled to a certificate, for stamp duty. He would, in practice, be exempted from paying for a transcript.

3.8.1 Deputy M.R. Higgins:

A supplementary? I find this very interesting because I have been assisting or working with a number of people who are litigants in person who have paid more than the zero that the Assistant Minister is talking about. He is saying that a litigant in person can obtain them but the truth in reality is they cannot; they are paying large sums of money. In other cases, they are being refused access to a transcript because the judge in question, or the Master, or whoever, is refusing the litigant in person to have those tapes or transcripts. What does the Assistant Minister say to that?

Senator P.F. Routier:

The decision, I am aware, is made by the Viscount who makes the decision about whether people are exempt from paying the fees. If the Deputy has any specific cases like this that he wants to refer to the Access to Justice Review Panel which we are carrying out, I would be more than happy to receive that and if necessary we would write to the Chief Justice to look into it.

3.8.2 Deputy R. Labey of St. Helier:

I am pleased that mention was made there of the Access to Justice Review because I wondered if this issue had been covered by it. When can we expect the review's findings to be published?

Senator P.F. Routier:

It is fairly imminent. We have been waiting for the Law Society to come forward with their latest findings on the legal aid system and I believe that is due to be with us very, very soon, so once we have had time to assess that. We do have a public hearing with Members at the end of this week which we will be asking members of the Law Society and Consumer Council and others about the latest position of where we are going to. So once we have had the public meeting this Friday and we have had a chance to review the legal aid submission from the Law Society, we virtually will be able to conclude our work.

3.8.3 Deputy M. Tadier:

The Assistant Minister will be aware that things are moving quite quickly in U.K. courts where the Supreme Court is being livestreamed already and that cameras are being allowed into the Crown Courts. Does the Assistant Minister think that there is mileage in suggesting similar measures for Jersey so that the courts, like our States Assembly, can be completely opened up where appropriate, have livestreaming, automatic transcripts and the equivalent of a Hansard so that anybody with an interest can have that made freely available to them both at cost and otherwise?

Senator P.F. Routier:

Certainly the review which we carried out, we looked at the facilities across all of the courts, as the Deputy, as a member of the panel, will be aware that we have visited the court facilities and there is certainly room for improvements to be made. I think, along with all of these things, it is a discussion to be had with the court itself to decide what is appropriate for going forward. But certainly I think there is room for improvement with regard to making accessible features for the public.

3.8.4 Deputy M.R. Higgins:

Yes, if I can again seek clarification before I ask my question. The Assistant Chief Minister said that litigants in person could obtain the tapes and transcript for nothing, is that correct? So therefore those who cannot afford it will be able to obtain those copies without paying a fee? Could you just clarify that point, please?

Senator P.F. Routier:

The mechanism for receiving free transcripts is if somebody is exempt from stamp duty, so the decision is a judicial decision which is made by the Viscount, so there are times when it may well be refused but there is a mechanism that some people are able to receive free transcripts.

3.8.5 Deputy M.R. Higgins:

Yes, I must admit I will be asking afterwards what those exemptions are. The final question is to do with the refusal of some litigants in person to be able to get hold of transcripts or tapes because the judge in question refuses the tape to be released. Does he think that is right and, if not, what actions will he take to change the system?

Senator P.F. Routier:

There are published guidelines of how the assessment is made with regard to people being able to get transcripts free but I am certainly not going to second-guess the decisions of the court.