**Guidance Note**

**Pilot - application for funding for a request for a transcript (March 2024)**

**Purpose**

In response to a number of concerns that have been raised about the financial challenges associated with the access to transcripts for rape and sexual offences complainers, the Scottish Government has decided to launch a fully funded pilot scheme. The scheme aims to better ascertain the basis and level of request for transcripts to help inform any next steps the Scottish Government may take.

**Duration**

The pilot is expected to run for a 12-month period or until the designated fund has been spent.

**What is a transcript?**

The Scottish Courts and Tribunal Service (SCTS) records solemn criminal proceedings using a digital audio recording system. The recorded proceedings are retained by the SCTS, for a set period of time, in line with set retention periods, however they are not routinely transcribed. Where a transcript is required, this is done by an external agency who is contracted by the SCTS.

Legally, transcripts cannot always be provided. Transcripts of evidence in Criminal Trials are governed by [Section 94(2) of the Criminal Procedure (Scotland) Act 1995](https://www.legislation.gov.uk/ukpga/1995/46/section/94) and the Transcripts of Criminal Proceedings (Scotland) Order 1993. Please see [Criminal proceedings transcripts (scotcourts.gov.uk)](https://www.scotcourts.gov.uk/the-courts/supreme-courts/about-the-court-of-session/high-court/criminal-proceedings-transcripts) for more details.

Where a transcript cannot be provided under this legislation, it may be possible to provide an individual with a copy of their own personal data from the transcript instead. Under UKGDPR, individuals have the right to access and receive a copy of their personal data. This route of access is commonly referred to as a subject access request.

If a transcript is provided, in either of these circumstances, it is likely that some of the text will be redacted. This is to ensure compliance with data protection principles.

The SCTS has a contract with Epiq Global to carry out all transcription requests.

**Can I apply for funding?**

You can ask for funding if you are the complainer or the complainer’s representative, and you are applying for a transcript in the following circumstances:

* The transcript is for a case heard in the High Court and it involved a charge(s) of rape and/or sexual assault.
* The trial commenced on or after 31 December 2006. This date is informed by the introduction of digital recording within the SCTS.

If you have applied for a transcript before 1 March 2024 and paid for it yourself, you will not be able to apply to have the payment reimbursed. Compensation is not available to those who would have self-funded a request for a transcript during that period.

**What information is required to take part in the pilot?**

An [application form](https://www.scotcourts.gov.uk/docs/default-source/default-document-library/transcripts/court-transcripts---draft-application-form---pilot-for-sexual-offences-victims).doc) has been developed to support your application for funding. Completion of the application form is a requirement of participating in the pilot. It is fundamental in our ability to assess the reasons why transcripts are being requested, helping us to develop any future policy decisions. If you do not wish to provide these details, you may still be able to access a transcript but please be aware that charges may apply. More detail on that process, along with details of costs etc. can be found on the SCTS website: [Criminal proceedings transcripts (scotcourts.gov.uk)](https://www.scotcourts.gov.uk/the-courts/supreme-courts/about-the-court-of-session/high-court/criminal-proceedings-transcripts)

You will be required to provide identification along with your application. Please provide two official documents, which between them clearly show:

* Your name
* Your date of birth
* Your current address

For example, a driving license, birth/adoption certificate, passport and any other official document that shows your name and address.

If you are making a subject access request on another person’s behalf, please also provide proof of their identity alongside your written authorisation to act upon their behalf.

You will be asked to provide details about which parts of the proceedings you are asking to be transcribed. To assist with this, the following table breaks down the parts of the process (please note that evidence relating to closed court proceedings can only be made available to applicants to which the evidence relates. You will not be entitled to the evidence of other complainers, if applicable):

|  |  |  |
| --- | --- | --- |
| Stage | What Generally Happens | When does it happen |
| Jury ballot | Preliminary matters.  Jury selected (remotely). | On day 1 of the trial, after the accused has pled not guilty |
| Jury sworn in | Indictment and special defences read to the jury.  Oaths/affirmation of jurors administered.  Judge provides written directions. | After the ballot and usually in the morning of day 2 of the trial, however it can be in the afternoon of day 1 if jurors are balloted that morning. |
| Crown case | Evidence led by the crown in support of the libel.  Objections to evidence.  Points of law at the close of the crown case. | After judges provide written directions. |
| Defence case (Evidence may not have been led) | Evidence led on behalf of the accused.  Objections to evidence. | If this stage happens it happens after the crown case. |
| Closing speeches | Crown and the defence address the Jury.  Possible further legal submissions. | This happens at the conclusion of all the evidence. |
| Judges charge | Judges gives the jury directions.  Jury are then sent out to consider their verdict. | This happens after speeches have concluded. |
| Verdict | Jury return their verdict.    Next steps depending on verdict. | This happens when the jury are ready. |

**The Application Process**

The SCTS will check that the digital recording of the trial is available. If it is, the SCTS will advise you when the recording has been sent to the transcription service. There may be some occasions where the recording is unavailable, for example where the recording has failed. If this happens the SCTS will advise you of this.

Whilst we will endeavour to have your transcript sent to you as soon as possible, this may take longer if demand through the pilot or requests for other transcripts is high.

If you require your transcript within a specific time-period, please ensure this is recorded in your application, outlining the reasons for this request.

It should be noted that whilst all efforts are taken to ensure accuracy of the transcript, it is not possible to guarantee 100% accuracy. This could be for a number of reasons, for example softly spoken witnesses may not be picked up or there may be sound interference picked up by the recording equipment.

It should also be noted that whilst every effort is being made to ensure that participants are able to gain as much from this process as possible, in some instances it may not be possible to include copies of the full court transcripts due to data protection regulations and the privacy of 3rd parties. In such cases, partial transcripts may be provided.

Once the transcript has been prepared, and the SCTS has considered whether any redaction is required, the SCTS will contact you to discuss how the transcript will be sent to you.

The SCTS is committed to ensuring all personal information is collected and processed in accordance with data protection law. For further information, see the [SCTS privacy notice](https://www.scotcourts.gov.uk/docs/default-source/default-document-library/privacy-notice.pdf?sfvrsn=2d25f6fe_10).

**How will my data be handled?**

The information provided through the application process will be collected by the SCTS for the purpose of monitoring the pilot.

Evaluation of the pilot will be undertaken by the Scottish Government. The SCTS will send anonymised information to the Scottish Government.

**What can I do with the transcript?**

The Scottish Government and justice partners are committed to working together to improve victims’ experiences wherever possible, working towards a trauma informed justice system. We know that the issues which lead to the justice journey are very often traumatic and it is important that the processes within the system minimise further trauma or re-traumatisation and help recovery.

The funding for the pilot has been made available to help support complainers to access transcripts as it is understood that some complainers consider a transcript important to assist in their recovery from trauma and/or understanding of process.

It may be the case that the transcript provided includes information which would not normally be in the public domain due to the protection afforded to evidence given in a closed court which is likely to be of a sensitive and personal nature.

With that in mind, we would ask that applicants consider the implications of having access to a transcript and the impact on others (including the ability to cause further trauma to others) should it be shared or become more widely available online. Applicants are therefore requested not to share the transcripts. This will be an area the Scottish Government will look to consider as part of the evaluation process.

**What emotional support is available?**

Whilst it is intended that the transcript will support recovery from trauma, the content of the transcript may in itself have the potential for re-traumatisation. In these circumstances, it is important to know that there are a number of organisations that can offer support. More detail on these organisations can be found at: [Get support as a victim or witness of crime - mygov.scot](https://www.mygov.scot/victim-witness-support)

**How to contact us**

If you have any queries regarding your application, please contact SCTS at [transcriptions@scotcourts.gov.uk](mailto:transcriptions@scotcourts.gov.uk)

If you have a query in relation to policy development for court transcripts, please contact the Scottish Government at [court.transcriptspilot@gov.scot](mailto:court.transcriptspilot@gov.scot)