

FORMAL MEMORANDUM

COURT TRANSCRIPTS

Background

1. The Commission obtains transcripts of court proceedings from a number of sources including the Crown Court, the Court of Appeal, original court reporters, applicants and their representatives.
2. The Commission is sometimes asked if it can supply copies of these transcripts to other bodies. The most common requests are from the Court of Appeal when it is collecting papers for the hearing of a case referred to it by the Commission, but a wide range of bodies may approach the Commission, from both inside and outside the criminal justice system.
3. The original material (the shorthand notes, tape recordings, etc.) of any Crown Court trial belong to Ministry of Justice (MOJ). It is created and held by one of several Court Transcribing firms who are contracted by the MOJ. Anyone is entitled to apply to the reporting firm for a transcript (for which the reporting firm makes a commercial charge) provided they have obtained permission from the court concerned. The copyright in all transcripts remains with the Crown. The Crown gives blanket permission for copying and distribution of transcripts for any legitimate criminal justice function.

Policy

4. The Commission provides copies of transcripts it has obtained to courts, to other agencies in the criminal justice system and to the parties to the relevant proceedings, upon request and generally without charge.
5. Otherwise the Commission does not generally provide copy transcripts, or access to copy transcripts, upon request. Any person or organisation may apply to the relevant court for permission to have a copy transcript, and if permission is given then they will generally obtain the transcript from the relevant reporting firm at the commercial rate.
6. Exceptionally, where the Commission has the only remaining copy of the transcript (e.g. in some very old cases), the Commission will supply a copy of it upon request if the person seeking the copy transcript has obtained the consent of the court. The Commission reserves the right to charge a reasonable cost for provision of the copy transcript.

7. The Commission does not provide transcripts, or access to transcripts, in relation to proceedings that took place in chambers or while the public were otherwise excluded from the courtroom. Transcripts of such proceedings cannot be disclosed without the permission of the court concerned, and the Commission therefore directs inquiries to the relevant Court and transcribing firm, if known.
8. Some transcripts may contain sexually explicit information, and the Commission gives effect to the spirit of the Sexual Offences (Protected Material) Act 1997, in appropriate cases. Where legitimate requests for such transcripts are received from legal representatives or criminal justice agencies, the Commission will provide copies.
9. Where requests for transcripts which may contain sexually explicit information are received from applicants in custody, the material must be reviewed for content by the case reviewer with an Assigned Commissioner (AC) or Legal Adviser. If it is determined that there is material which would fall under the Sexual Offences (Protected Material) Act 1997 permission should be sought from the applicant to send this particular material ONLY via the governor of the prison concerned (see Records Management Manual Section 6.4.9.2). If permission is given then the governor should be consulted before despatch. If the applicant refuses permission it will be necessary to agree a means of access with them.

Procedure

10. Requests for copy transcripts or access to copy transcripts of a sensitive nature should be referred to the Commission's Records Manager or in her absence the Director of Casework.
11. The Records Manager will confirm that a check has been carried out to see that the transcript does not include any material disclosure which requires the Court's permission or material falling within the provisions of the Sexual Offences (Protected Materials) Act 1997.
12. The Records Manager will check that the request relates to a legitimate function of the criminal justice system. If it does, the Records Manager will normally arrange the supply of the copy requested, subject to the retention of any document that requires the Court's permission to be disclosed and any material falling within the provisions of the Sexual Offences (Protected Materials) Act 1997.
13. The Commission will not normally make a charge to other bodies within the criminal justice system.
14. If the request does not relate to a legitimate function of the criminal justice system – e.g. a request from a researcher, or journalist – then the Records Manager will liaise with the case reviewer where the case is allocated (or the Director of Casework, in relation to Stage 1 cases) and will seek the

advice of the Commission's legal advisers, to determine whether or not any alternative source of transcript is available to the person requesting the copy transcript. If an alternative source exists, then the request will be refused. If it appears that no alternative source exists, then the Records Manager will normally supply the copy requested, subject to the retention of any document that requires the Court's permission to be disclosed and any material falling within the provisions of the Sexual Offences (Protected Materials) Act 1997. A charge to other persons or bodies may be made to cover copying and delivery costs (to be determined by the Records Manager).