

Criminal Justice Committee

17th Meeting, 2023 (Session 6), Wednesday 31 May 2023

Correspondence relating to accessing court transcripts

Background

1. Members will recall that the Committee has been scrutinising the case for improving access for survivors of rape and sexual offences to the transcripts of their court cases. Specifically, the Committee has been looking at the current costing regime associated with requests to the Scottish Courts and Tribunals Service. This issue was first raised with the Committee in December 2021 by one of the survivors that Members met informally to hear about their experience of the criminal justice system. The Committee would like to thank her for raising this important issue.
2. Details of the Committee's work and previous correspondence is available [online](#) on the Committee's website.
3. The Committee has now received additional correspondence from (see **Annex**):
 - The Cabinet Secretary for Justice and Home Affairs.
 - Rape Crisis Scotland (RCS) on behalf of several survivors who took part in a survey about their experiences.
4. This correspondence relates to the pilot proposed by the Scottish Government to enable survivors of rape and sexual offences to have access to the transcripts of their court cases.
5. Members may wish to note that the Cabinet Secretary for Justice and Home Affairs has confirmed her support for the Committee's proposal for a pilot scheme in her recent letter, stating she is "committed to exploring a pilot to support access to transcripts for complainers in sexual offences cases, initially".
6. Additionally, the First Minister gave a commitment to a pilot focused initially in relation to complainers in sexual offence cases, when he answered a question on this issue from the Convener of the Criminal Justice Committee at the meeting of the Conveners' Group on Wednesday, 24 May 2023.
7. Members may wish to note some of the comments made by the survivors of rape and sexual offences in the survey undertaken by RCS, namely:

“My trial experience was incredibly traumatic and I continue to find it difficult to rationalise much of what occurred on the day. I struggle to remember much of this experience despite having lived through it. Having access to the transcript would help me to better understand my own lived experience and would further aid in my complaints process against the defence.”

“I would [have] liked to have put pieces of the complex puzzle of my case together, however on initial research, it seemed cost prohibitive, so I have not attempted to access them.”

“Even though there was a guilty verdict, I feel more bruised than the sexual assault. My voice was lost in the trial. There was the butterfly effect of my abuser planting seeds of doubt in the juries minds which resulted in a lot of deletions to the charge. I feel like a part of me is still seeking justice which obtaining the transcript will provide.”

“So frustrated at the process of complaints procedures through PCFS which doesn’t say immediately there will be no transcript access, lead you down a merry dance knowing that they will not be giving any access to transcripts even to look at the complaint. Makes no sense at all, if there is a complaint about what happened in court and the transcript can show exactly what is said and can’t be used.”

“I was told it would cost £2000+ which I couldn’t afford.”

Decisions

8. Members are asked to note the correspondence set out in the Annex.

**Clerks to the Committee
May 2023**

Scottish Government (22 May)

Dear Convener

Thank you for your correspondence dated 20 April 2023 regarding court transcripts.

At the outset, I wish to express my thanks to the Justice Committee for their continued efforts to improve the experience of the criminal justice system for victims of sexual offences. This is a priority outcome which is shared with the Scottish Government. To that end, I look forward to working with the Committee both on the issue of court transcripts but also as we progress the Victims, Witnesses, and Justice Reform (Scotland) Bill through Parliament.

In respect of the specific issue around access to court transcripts, I share the views of my predecessor that any solution on access to court transcripts should be advanced alongside our wider efforts for a person centred, trauma informed justice system.

Against that background, consideration of action in response to the particular concerns of rape and sexual assault complainers around access to transcripts should be viewed as complementary to the action being taken through the aforementioned Bill to improve the experience of women, in particular. As you are aware, the Bill has a particular focus on how sexual offence cases are managed, informed by Lady Dorrian's cross-sector Review to ensure that women are supported to have trust and confidence that our justice system will serve their needs, allow them to give their best evidence and support them in their recovery.

I would like to assure the Committee that I am committed to exploring a pilot to support access to transcripts for complainers in sexual offences cases, initially. However, consideration of the detail of any pilot is still at the very early stages and initial discussions with the SCTS are taking place to inform this consideration.

The Scottish Government welcomes the Committee's continued interest in this matter and as has been indicated in previous correspondence, we will, of course, keep the Committee updated when our consideration is at a more advanced stage.

Yours sincerely

Angela Constance

Rape Crisis Scotland (RCS)

Correspondence received from Rape Crisis Scotland and details of a survey they carried out of survivors of these crimes. RCS has indicated that all the survivors have agreed to them sharing their responses anonymously and are happy for this to be provided to the Committee and included in the public papers from the Committee, if appropriate.

Participant 1

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Q1

No

Have you tried to access the transcript from your trial?

Q2

Respondent skipped this question

If yes - what happened when you did attempt this?

Q3

What were your reasons for seeking access to the transcript?

I have not been able to attempt to access my transcript at this time due to the financial burden which this would involve.

My trial experience was incredibly traumatic and I continue to find it difficult to rationalise much of what occurred on the day. I struggle to remember much of this experience despite having lived through it. Having access to the transcript would help me to better understand my own lived experience, and would further aid in my complaints process against the defence.

Q4

Is there anything else you would like to say on this issue?

I feel that lack of access to my transcript has hindered my ability to submit an accurate and complete complaint against the defence for my case.

Q5

Yes

Do you give consent for Rape Crisis Scotland to share your comments anonymously?

Participant 2

Q1

No

Have you tried to access the transcript from your trial?

Q2

Respondent skipped this question

If yes - what happened when you did attempt this?

Q3

What were your reasons for seeking access to the transcript?

I would liked to have put pieces of the complex puzzle of my case together, however on initial research, it seemed cost prohibitive, so I have not attempted to access them.

Q4

Is there anything else you would like to say on this issue?

If transcripts were freely available to victims, I would have requested it.

Q5

Yes

Do you give consent for Rape Crisis Scotland to share your comments anonymously?

Participant 3

Q1

No

Have you tried to access the transcript from your trial?

Q2

Respondent skipped this question

If yes - what happened when you did attempt this?

Q3

What were your reasons for seeking access to the transcript?

I don't remember much of what happened on the day or why things came to be. Closure.

Q4

Is there anything else you would like to say on this issue?

I didn't apply as I heard that there was no point as I wouldn't be able to get them. I didn't want to fight for something I had already been fighting for for over three years.

Q5

Yes

Do you give consent for Rape Crisis Scotland to share your comments anonymously?

Participant 4

Q1

Yes

Have you tried to access the transcript from your trial?

Q2

If yes - what happened when you did attempt this?

I only just contacted RCS to access the transcripts- so far received sentence transcript and waiting on pilot to receive them for free.

Q3

What were your reasons for seeking access to the transcript?

I am writing a book and need to be accurate, also I feel my trial was unfair due to defence lying and trying to undermine my evidence.

Q4

Is there anything else you would like to say on this issue?

Even though there was a guilty verdict, I feel more bruised than the sexual assault. My voice was lost in the trial. There was the butterfly effect of my abuser planting seeds of doubt in the juries minds which resulted in a lot of deletions to the charge. I feel like a part of me is still seeking justice which obtaining the transcript will provide.

Q5

Yes

Do you give consent for Rape Crisis Scotland to share your comments anonymously?

Participant 5

Q1 **Yes**

Have you tried to access the transcript from your trial?

Q2

If yes - what happened when you did attempt this?

Told no access, access only for an appeal in defence of the accused

Q3

What were your reasons for seeking access to the transcript?

Poor trial with unprepared prosecutor

Q4

Is there anything else you would like to say on this issue?

So much. So frustrated at the process of complaints procedures through PCFS which doesn't say immediately there will be no transcript access, lead you down a merry dance knowing that they will not be giving any access to transcripts even to look at the complaint. Makes no sense at all, if there is a complaint about what happened in court and the transcript can show exactly what is said and can't be used.

Q5 **Yes**

Do you give consent for Rape Crisis Scotland to share your comments anonymously?

Participant 6

Q1

No

Have you tried to access the transcript from your trial?

Q2

Respondent skipped this question

If yes - what happened when you did attempt this?

Q3

Respondent skipped this question

What were your reasons for seeking access to the transcript?

Q4

Is there anything else you would like to say on this issue?

I had no idea I was allowed to have access to them

Q5

Yes

Do you give consent for Rape Crisis Scotland to share your comments anonymously?

Participant 7

Q1

Yes

Have you tried to access the transcript from your trial?

Q2

If yes - what happened when you did attempt this?

I was told it would cost £2000+ which I couldn't afford

Q3

What were your reasons for seeking access to the transcript?

The trial did not result in conviction despite strong case and evidence.

I wanted to know what happened in the trial. Very limited information from court services.

I wanted to know (for my safety) what other witnesses were called, and what they said, so I could know who was willing to lie and therefore who I could trust going forward.

I also wanted to assess how well the prosecution used evidence to disprove claims made by the defence.

Q4

Is there anything else you would like to say on this issue?

I was the victim of a very serious crime and I thought I would get to know what happened in the trial. Especially given the consequences I now have to deal with as a result of the acquittal.

Q5

Yes

Do you give consent for Rape Crisis Scotland to share your comments anonymously?
