



Information contained in court transcripts

The Freedom of Information Act 2000 (FOIA) provides rights of public access to information held by public authorities. This is part of a series of guidance notes to help public authorities understand their obligations and to promote good practice.

This guidance will explain why court transcripts created for the purposes of court proceedings are exempt under FOIA.

Overview

Court transcripts are documents created by members of the administrative staff of the court and information in them is exempt under section 32 of the FOIA.

What does the Act say?

Section 32(1)(c)(ii) FOIA indicates that information is exempt when contained in a document created by a member of the administrative staff of a court for the purposes of proceedings in a particular cause or matter. Section 32 is an exemption that does not require consideration of the public interest test.

Court transcripts

Not all courts and tribunals make a full record of proceedings conducted before them. Where it is done, the record will usually be in the form of an audio recording or shorthand notes. The recording or notes may then be transcribed into longhand form, normally by employees of a firm contracted for this purpose. Rules of court make provision for obtaining a transcript for a fee.

Court transcripts and section 32

In its original form, the record of the proceedings, whether taken on paper, electronically or on audio tape, is a document created for the proceedings in a particular cause or matter. The document produced once the notes or tape have been transcribed is also treated as created for the proceedings.

“Transcripts or copies are not to be regarded as new documents created for a different purpose....”

Information Tribunal decision: The Ministry of Justice and the Information Commissioner, [EA/2007/0120 & 0121](#), 29 July 2008

Information contained in the original document and any transcript or copy is exempt under section 32 if it has been created by a member of the administrative staff of the court.

Who is a member of the administrative staff of the court?

For these purposes, any person engaged to assist the proceedings of a court by carrying out administrative duties is a member of the administrative staff of the court. The individual does not have to be employed by the public authority providing administrative support for the court or tribunal. It extends to anyone employed, contracted or otherwise engaged for these purposes.

“ ‘Administrative’ is a very broad term. His or her status as a member of the court staff cannot be dependent on the terms on which he or she is engaged.”

Information Tribunal decision: The Ministry of Justice and the Information Commissioner, [EA/2007/0120 & 0121](#), 29 July 2008

As the exemption applies to the information contained in the document, it continues to apply if a transcript or copy is held by any public authority.

Personal Information

Court transcripts will contain personal information. Public authorities need to be aware of their responsibilities under the Data Protection Act 1998 (DPA) for personal information contained in a court transcript. They will also need to be aware of the circumstances when a request for a court transcript should be treated as a subject access request under the DPA.

More information

This guidance will be reviewed and considered from time to time in line with new decisions of the Information Commissioner, Tribunal and courts on freedom of information cases. It is a guide to our general recommended approach to this area, although individual cases will always be decided on the basis of their particular circumstances.

If you need any more information about this or any other aspect of freedom of information, please contact us.

Phone: 08456 30 60 60
01625 54 57 45

Email: please use the online [enquiry form](#) on our website

Website: www.ico.gov.uk