

The transcriber's lot

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Anonymity and precision are key to accurate and safe transcription

There has long been an argument about transparency in family courts, but how many people involved in family law know the very first words that should appear in a transcript of family proceedings? It is now over three years since Sir James Munby P set down these words in a practice direction:

IMPORTANT NOTICE

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the child/children and members of his/her/their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

This rubric must not only appear on the cover page of a family law judgment transcript, but it must also be adhered to absolutely, unless otherwise directed by the judge concerned. The magic words "contempt of court" give a clue as to the view that will be taken should these words be ignored.

When the rubric first came into use, it was troubling to realise how few transcribers knew of it. There was no guidance for transcribers regarding its use, let alone informing transcription companies that they must ensure that it is inserted on the cover page of transcripts of family law judgments. The practice of including it was left to the individual judge when approving a transcript, transcribers only becoming aware of it if they were lucky enough to have proper instruction and feedback. What is troubling is that there are a large number who are still totally unaware of this requirement.

But why have the rubric at all if transparency is now the name of the game?

The jigsaw puzzle

It is quite remarkable how people can piece together bits of information and almost unwittingly come up with the right answer. Curiosity has kept human beings at the top of the food chain for millennia. As part of our basic survival

instinct, it is hardly surprising that this ability to find out has been honed to such a fine art.

Give most people a puzzle and they will pick away at it until the bones are laid bare – and that is precisely what a transcript is: a puzzle just waiting to be solved. That is why anonymisation of Family Court transcripts is so vital for the child concerned, especially so if those transcripts are to be aired to the world on Bailii.

A secret revealed

By their very nature, such transcripts can contain the most intimate details of a person's private life; their thoughts, their feelings, their beliefs – all is revealed in stark relief. In the storm of family life, the Blindfolded Lady does not pour oil on troubled waters. She leaves in her wake an expanse of flotsam and jetsam to be picked over in minute detail. Secrets are exposed for all to see.

How on earth is a child to move on and resolve what has happened during this process, if identities are revealed?

It is ironic that in revealing secrets in the course of justice, a different type of secret is created. But what choice is there? The sins of the fathers and of the mothers too would most certainly be visited upon the child who does not enjoy anonymity.

It is not the identities of those concerned that are important, so much as the transparent way in which the law is applied.

The art of transcription

Some may say that we should transcribe what we hear and just draw a line through the names. But redaction is not the same as anonymisation. The identities are still there, in the computer system: retrievable.

Redaction may have worked perfectly well when paper copies were all that we had, but we live in a very different age now where electronic data never seems to be truly deleted and where hackers abound.

The solution is to anonymise whilst transcribing – and not just the names of the individuals concerned. Names 

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of local authorities, schools, hospitals, contact centres, placements, foster carers, family members, villages, towns, cities... revealing these can lead to spotting who's who in the puzzle of a transcript.

The art of anonymising a transcript is in spotting just such information as you go along and automatically anonymising so that actual names are not even transcribed, and therefore not in the data file at all. It is a finely honed skill that all transcribers should command.

A slip of the keyboard

At the same time, sound grammar and punctuation skills are a must in order to ensure that the end result is a transcript that is easy to read and absolutely accurate. There is no room for doubt and anomaly – someone's future depends on getting it right:

WITNESS: I know, Your Honour.

JUDGE: Right.

This witness knows something, but does not necessarily know the judge, and the comma makes that quite clear.

WITNESS: I know Your Honour.

JUDGE: Right.

Oh dear, this witness knows the judge! Something might turn on that fact during the course of the case, perhaps on appeal, and all for the lack of a comma. A transcriber with poor grammar and punctuation skills cannot be called a transcriber at all. This is not simple audio-typing. A good transcriber is a medium through which what happened in a court room appears accurately and comprehensibly in written form. The reader should not have to worry about whether or not the content of a transcript is correct – their focus should instead be on the words and what flows out of them.

So which transcripts should be anonymised and which should bare all?

Interviews conducted under the Police and Criminal Evidence Act 1994 and Achieving Best Evidence interviews of children and vulnerable people are a completely different kettle of fish. With these interviews, anonymity is the very last thing that is required.

Detail, detail and yet more detail is the order of the day, but overriding everything is accuracy. Just as with court transcripts, it is not the place of the transcriber to “best guess” what someone might have said. It is better practice by far to use “[inaudible]” rather than to have a go at deciphering a mumbled phrase or the incoherent speech of someone “under the influence”.

The role of the transcriber in this scenario is to garner as much accurate information as possible for those involved in the case, warts and all! Every word, every hesitation, every profanity, exactly as uttered – *verbatim*. And, of course, all parties correctly identified with no anonymisation.

Is this then at odds with the rubric above? In all probability, yes, but perhaps that is an argument for minds greater than mine. Until directed otherwise, transcribers will have to live with this anomaly and do their very best for those caught up in family law cases.

Transcripts of PACE and ABE interviews that are used in family cases are classified as ‘Official – Sensitive’ and those producing and using them should understand how vital it is to ensure that computer security systems are robust and meet the highest standards, and that confidentiality is adhered to rigidly.

Which transcriber should you to choose?

Whichever transcription company you choose, top of the list will include:

- the quality of transcripts that you will receive;
- level of service you expect;
- the experience and reputation of the company concerned; and
- the value for money that you will receive.

With the recent changes to the Ministry of Justice's transcription contract, there are now only six companies providing all transcription services for Crown and Civil courts and tribunals throughout England & Wales. In an attempt to drive down costs, quality may very well suffer and so it is more vital than ever to be vigilant and to ensure that accuracy and attention to detail do not deteriorate as a result.

PACE and ABE transcripts do not come under this contract, even though they are used in court hearings. Very often, these transcripts lie at the very heart of a family case. Without the evidence that is to be found therein, a family case can often founder before it ever reaches the courtroom. Expertise in this field is few and far between, so be very careful who you use – as the famous firefighter Red Adair once said: “If you think it's expensive to hire a professional to do the job, wait until you hire an amateur.”

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