

Recording and Transcription Services

Financial Hardship Fee Waiver Policy

RTS POLICY				
Version	Status	Approver	Effective date	Next review
1.0	Active	Executive Director – Reform and Support Services	9 June 2022	30 June 2023

1. Objective

The Financial Hardship Fee Waiver Policy outlines the Department of Justice and Attorney-General (Department) processes that support access to recordings and transcripts where financial hardship is a consideration.

The legislative framework relating to the provision of copies of transcript/audio to particular persons at no or reduced cost is covered in Division 3 of the [Recording of Evidence Regulation 2018](#) (Regulation).

This Policy specifically relates to when a delegated officer is required to consider an application under section 7 of the Regulation: *Parties to legal proceedings – financial hardship*.

2. Transcript Fees in Queensland Courts and Tribunals

The [Recording of Evidence Act 1962](#) (Act) and the Regulation sets out the process for charging transcript fees, either by the Department or a person who has entered into an arrangement with the Chief Executive to provide recording and transcription services pursuant to s5A(1)(a) and (b) of the Act (Transcription Service Providers (TSPs)).

The Regulation sets out:

- who is liable for the payment of transcript fees;
- under what conditions transcripts must be provided without fees being charged; and
- when fees can be waived.

3. Who must pay the fees?

Unless provided for under legislation, fees are payable on all transcripts or audio recordings requested/ordered.

4. When are fees due?

Fees are payable prior to receipt of the requested transcript/audio recording unless other arrangements have been agreed between the requestor and the Department or TSP.

5. Principles

- The presumption is that all fees should be paid, although some fees may be waived, either partially or fully if the chief executive or their delegate reasonably believes there is a ground of financial hardship.
- The obligation to pay transcript fees is based on the principle that a user of a court or a court service should contribute to the cost of that service.
- A Financial Hardship Fee Waiver application (Application) is limited to proceedings where an audio recording or transcript exists prior to the application being made.
- Applications can be submitted by parties to a matter only. A party may be an individual or an entity such as a non-profit organisation, non-government organisation, business or corporation. A party includes a legal representative for a party.
- An applicant's grounds for financial hardship are determined on the applicant's ability to pay the relevant fee at the time of submitting the application.
- Each application is assessed on its merit without consideration of any previous applications made by an applicant.
- When assessing an application, the delegated officer should:
 - Identify client needs, and respond professionally
 - Treat all clients with courtesy and respect
 - Be open in their decision making, and provide reasons for their decisions
 - Maintain the integrity of the court process at all times
 - Act within their delegated authority
- All applications are to be assessed and a determination communicated to the applicant within three business days of receipt of necessary information by the Department.
- Successful applications are serviced on a default 10-day turnaround. Where a shorter turnaround is requested, applicants must provide detailed reasons (including upcoming Court dates if applicable) to support their request, which will be assessed by the delegate, with the client and the contracted service provider advised as necessary. The Department is unable to approve a fee waiver on a different turnaround than is requested should the delegate not be satisfied with the reasons provided.

- The granting of a Financial Hardship Fee Waiver Application does not authorise the refund of any fees that may have previously been paid by parties for a copy of the transcript or audio.

6. Eligibility

Pursuant to Division 3 of the Regulation, a copy of a transcript or recording can be provided to a party to a legal proceeding at no cost or an amount less than that which would otherwise be payable on the ground of financial hardship of the applicant.

If a party to a proceeding does not have capacity to submit an application, a representative (for example, Guardian or Enduring Legal Power of Attorney) may submit an application of their behalf provided appropriate documentation is supplied with the application confirming the requestor has authority to act on behalf of the applicant. The applicant or their representative must sign the application form.

If the matter is in relation to a Coroners Court proceeding and the applicant is not a party to the proceeding, the applicant must supply evidence of their involvement in the matter and the Department will seek confirmation from the Office of the State Coroner regarding the application.

7. Information required in support of an Application

Financial Hardship Fee Waiver applications can be submitted via an online *Financial Hardship Fee Waiver Application* form available when placing a transcript or audio request via <https://qtranscripts.justice.qld.gov.au> or using a manual form which can be submitted via email or post.

Incarcerated defendants should complete a hard copy application form available at all Correctional Centres, which can then be mailed to the Department.

7.1 Applicants who meet one or more of the following criteria should complete the relevant sections of the *Financial Hardship Fee Waiver Application* form and attach the documentation which applies to their circumstances:

- *For applicants in receipt of a current Commonwealth Health Care or Pensioner Concession Card (including Service Pension) a copy of one of the following must be provided:*
 - Commonwealth Healthcare card
 - Pension card (both sides); or
 - Services Australia Centrelink income statement; or
 - Department of Veterans' Affairs service pension card (both sides).
- *For applicants under 18 years of age, evidence of proof of age must be provided, such as a birth certificate, or a school photo identification card (both sides), or student card (both sides).*
- *For applicants who are a protected person under a current domestic violence order, a copy of the domestic violence order must be provided.*
- *For legally assisted applicants in receipt of a grant of legal aid from Legal Aid Queensland or representation by a Community Legal Service due to financial hardship*
 - LAQ, ATSILS and CLS agencies may submit a letter on behalf of the applicant identifying they have met the organisation's test for financial hardship and the reason the transcript is required.
 - Applicants directly applying must provide a copy of the LAQ, ATSILS or CLS approval letter confirming receipt of legal aid or legal representation on grounds of financial hardship.
- *Currently incarcerated applicants must provide a copy of Prisoner Identification Card, certified by a Corrective Services Officer.*

7.2 For applicants who do not meet the criteria of 7.1 above, the *Financial Hardship Fee Waiver Application* form should be **completed in full**, including financial information current at date of submitting the application including:

- Total of balances of current bank accounts
- Identification and value of current financial funds/assets/investments
- net fortnightly income from all relevant sources, including:
 - salary and wages;
 - investment income such as interest and share dividends;
 - rent from investment properties;
 - payments from trusts;
 - income from an insurance claim such as accident, sickness or disability benefits;
 - and
 - child support and child maintenance payments.
- fortnightly expenses as listed in the *Financial Expense Details* section of the application form

Documents that can be attached to the application form in support of an application of financial hardship include:

- Copies of bank statements for the (minimum) last three months
- Pay slips, payment summaries and income tax assessment notice
- Any fines/debts etc. payments listed as expenses need to be supported with proof of a payment plan and evidence of regular payments to creditor prior to the debts being considered in financial hardship calculations.
- Any other supporting documentation that may assist with the application.

It is the applicant's responsibility to provide all relevant information regarding their financial circumstances when completing the Financial Hardship Fee Waiver Application form.

8. Consideration of an Application

Applicants who fulfil one of the criteria in 7.1 are considered by the Department to be experiencing financial hardship and applications will be assessed accordingly.

Applications who are required to provide full financial information under 7.2 will be assessed according to the information provided on the application form and within attached supporting documentation. The applicant's financial information will be collated and financial hardship determined via the following equations:

- **Total Assessable Amount** - *Applicant's total financial assets at time of application*

(Income – Expenses) + Net Assets = the **total assessable amount**

(TAA) of funds available to the applicant at time of application

- **TAA as a percentage of transcript/audio cost quote**

If quoted transcript/audio cost is equal to or greater than 30% of TAA, the application is **APPROVED** (either as a full or partial waiver of fees depending on the percentage value - see below)

If quoted transcript/audio cost is less than 30% of TAA, the application is **DECLINED**

- **Application approved – full or partial fee waiver**

If quoted transcript/audio cost is between **30% but below 70%** of TAA, **50% of cost will be waived.**

If quoted transcript/audio cost is between **70% but below 100%** of TAA, **80% of the cost will be waived.**

If quoted transcript/audio cost is **100% or greater** of TAA, **100% of the cost will be waived.**

9. Communicating the outcome to the Applicant

Application Approved

- Delegate must record on file the final decision.
- Where the approval is less than 100% a Statement of Reasons will be generated outlining to the applicant why a partial waiver of fees has been approved and the percentage/amount of the quoted cost waived.

Application Refused

- A Statement of Reasons will be completed advising the applicant their application has been refused due to a determination their income and assets at time of application have not demonstrated they will suffer financial hardship from paying the transcript cost.
- The Statement of Reasons will advise the applicant they may apply for an internal review of the decision, detailing the basis on which they are aggrieved by the decision.
- Requests for internal review are to be submitted in writing to:

Director – Recording and Transcription Services
Reform and Support Services
Court Services Queensland
Department of Justice and Attorney-General
PO Box 15167
CITY EAST QLD 4002

10. Identification of possible fraud

The Department is committed to ensuring that its activities are protected from fraud and the Department's Fraud and Corruption Control Model may be applied to financial hardship fee waiver applications.