

Subject: Access to Kilmarnock High Court records, 1991 (JC26/1991/243).

FOI reference: FOI/18/03731

Date received: 27 December 2018

Date responded: 29 January 2019

Information requested:

Access to Kilmarnock High Court records, 1991 (JC26/1991/243).

NRS Response:

A sensitivity review has been undertaken on this material by the Scottish Courts and Tribunals Service. As a result of this, some information in the files has been redacted due to sensitivity issues.

An exemption under section 38(1)(b) of FOISA applies to this information because it is personal data of third parties and disclosing it would contravene the data protection principles in Article 5(1) of the General Data Protection Regulation and in section 34(1) of the Data Protection Act 2018. Some names of the co-defendants and trial witnesses have been redacted as it is not possible to determine whether these individuals are alive or deceased, as a death certificate could not be found in the statutory registers of Scotland.

This file also contains information relating to a deceased person's health record. This information has also been redacted as an exemption under section 38(1)(d) of FOISA applies. The common law duty of confidence applies to health information and these ethical obligations extend even after the individual's death. The exemption under section 38(1)(d) is time limited to 100 years. This exemption is not subject to the 'public interest test', so we are not required to consider if the public interest in disclosing the information outweighs the public interest in applying the exemption.

The redacted copy of the information is available in digital form at the National Records of Scotland.

This can be viewed in the Historical Search Room at General Register House, 2 Princes Street, Edinburgh, EH1 3YY. Further information is available on our website at: <https://www.nrscotland.gov.uk/research/visit-us/historical-search-room>.

Under section 25(1) of FOISA, we do not have to provide information if it is already reasonably accessible by inspection or copying, even if a payment has to be made for it.