

Subject: Access to Aberdeen High Court records, 1968 ((JC26/1968/32 (the trial papers) and JC36/382 (court transcript of the trial)).

FOI reference: FOI/19/01206

Date received: 08 May 2019

Date responded: 12 June 2019

Information requested:

Access to Aberdeen High Court records, 1968 ((JC26/1968/32 (the trial papers) and JC36/382 (court transcript of the trial)).

NRS Response:

A sensitivity review has been undertaken on JC26/1968/32 by the Scottish Courts and Tribunals Service (SCTS). As a result of this, some information in the files has been redacted due to sensitivity issues.

The redacted information largely applies to personal information of witnesses cited in the trial, who are believed to be alive. 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. 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.

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. A common law duty of confidence applies to an individual's 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 court transcript of the trial (NRS ref.: JC36/382) was also reviewed by the SCTS as a result of your FOISA application. The transcript contains many witness statements from individuals who are believed to be still alive. As personal data of third parties is exempt from release under section 38(1)(b) of FOISA, the SCTS have

decided to keep the transcript closed to public access. Disclosing personal data of third parties 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. 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.