

Subject: Access to closed court records held under reference numbers JC34/12/227, JC26/1970/310, SC15/10/1977/3 and CS258/1981/2393.

FOI reference: FOI/19/01744

Date received: 18 July 2019

Date responded: 23 August 2019

Information requested:

Access to closed court records held under reference numbers JC34/12/227, JC26/1970/310, SC15/10/1977/3 and CS258/1981/2393.

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 (blocked out) due to sensitivity issues.

JC34/12/227, an appeal against conviction, contains personal information of a third party. This information has been redacted as an exemption from release under section 38(1)(b) of FOISA applies. Disclosing the personal information 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.

JC26/1970/310, trial papers for the crime of contravention of the Road traffic Act 1960, contains personal information of a third party which has been redacted. The personal information is exempt from release under section 38(1)(b) of FOISA. 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

SC15/10/1977/3 is a Dumfries Sheriff Court record concerning action for custody. This file contains personal information of a third party which has been redacted as this information is exempt under section 38(1)(b) of FOISA.

CS258/1981/2393 is a divorce action. This file also contains personal information of a third party which has been redacted due to an exemption under section 38(1)(b) of FOISA.

The redacted copies of JC34/12/227, JC26/1970/310, SC15/10/1977/3 and CS258/1981/2393 have been made 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.