

Subject: Request for access to a closed court records held under reference numbers JC68/18, JC26/1990/96 and JC34/53/193.

FOI reference: FOI/19/01906

Date received: 9 August 2019

Date responded: 12 September 2019

Information requested:

Request for access to the court judgement in respect of a 1989 case. Records held under reference numbers JC68/18, pages 29-44 (Court Minute Book, entry giving court decision and punishment of the accused), JC26/1990/96 (Edinburgh High Court trial papers) and JC34/53/193 (Appeal against conviction by the accused).

NRS Response:

A sensitivity review has been undertaken on this material 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 Court Minute Book entry (NRS ref. no.: JC68/18, pages 29-44), the High Court trial papers (NRS ref. no.:JC26/1990/96) and the Appeal record (NRS ref. no.: JC34/53/193) all contain information which is exempt under section 38(1)(b) of FOISA. This exemption 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 information has been redacted (blocked out), but the remaining information is accessible.

The appeal record 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. Again, 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 copies of JC68/18, pages 29-44, JC26/1990/96 and JC34/53/193 have been made available in digital form at the National Records of Scotland.

These 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.