

Subject: Request for access to court trial and transcript papers held under reference numbers JC26/1952/55 and JC34/3/290.

FOI reference: FOI/19/02446

Date received: 31/10/2019

Date responded: 11/12/2019

Information requested:

Access to court trial and transcript papers. These records are held under reference numbers JC26/1952/55 (trial papers), JC34/3/290 and JC36/216. Please note that the transcript and appeal papers (NRS ref.: JC36/216 and JC34/3/290) have been merged into one box of papers, and have been imaged together under the reference number JC34/3/290. When applying for copies, or viewing the redacted images in our search room, references JC26/1952/55 and JC34/3/290 are to be used only.

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.

An exemption under section 38(1)(b) of FOISA (personal information) applies to information in JC34/3/290 and JC26/1952/55, which has been redacted because it is personal data of a third party and disclosing it would contravene the General Data Protection Regulation and 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 files JC34/3/290 and JC26/1952/55 also contain 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 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.