

Subject: Access to closed court record (CS46/1948/2/55)

FOI reference: 202000016003

Date received: 12 February 2020

Date responded: 2 March 2020

Information requested:

Access to court papers for the following case: Mary Helen Young Presumed dead by Declarator granted by Lord Blades. Action brought at the instance of Mrs A Sutherland 179 Rosemount Place Aberdeen (Sole next of kin).

NRS Response:

National Records of Scotland (NRS) holds the following record in relation to the court case:

CS46/1948/2/55 – Court of Session, Decree of declarator, Elizabeth Ann Young or Sutherland v Jean Young or Farquhar and another, date of decree: 30 Jan 1948, February 1948.

A sensitivity review has been undertaken on this file by the Scottish Courts and Tribunals Service. The full file is now open for public inspection.

Note the productions are no longer within the case papers.

In many cases the productions are taken out and are not part of the process. It is the job of the clerk of court to register productions in the inventory along with various other documents pertinent to the case – namely interlocutors (decisions of the judge) and final judgements.

Many productions are returned to the respective lawyer or are destroyed following a final decision, as has happened here. On page 18 of the image it states ‘Edinburgh 30 January 1948 borrowed by the clerk to Messrs J Miller Thomson and Co. Numbers 8-35 of the process and signed James R Hunter.’ This would indicate the clerk returned these productions to the lawyers. They would no longer be with the process of the court. This would be normal procedure for a clerk of court. The productions may still be with the lawyers, but this is doubtful. It may be worth determining if the firm still exists and if they keep productions. Most lawyers do not, but for a case such as this, the productions could have been kept or passed to the surviving kin.

All of the information requested is available in digital form at 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.