

Subject: Penrose Inquiry Warning Letters records at NRS

FOI reference: FOI/18/01633

Date received: 07 June 2018

Date responded: 27 June 2018

Information requested:

Penrose Inquiry Warning Letters records at NRS, meaning the warning letters themselves, any replies, and supporting documents. Specifically,:

- whether any of these records are available to the public;
- if available, how to access them;
- if not, the reason why they are closed and the date they will be opened to public access.

NRS Response:

Answers to specific questions will be provided first before explaining the background in a little more detail.

- The Penrose Inquiry Warning Letters records at NRS are not currently open to the public.
- The Freedom of Information (Scotland) Act (FOISA) states that requests for access to Warning Letters records can be made. Following a request, any information which does not fall under a FOISA exemption would need to be released. Requests would be handled by NRS under the terms of Section 22 of FOISA. This means that the decision on whether information can be released or not would be taken by the transferring authority rather than NRS. In this case the transferring authority is the Scottish Government, which was the sponsor department for the Penrose Inquiry. The Scottish Government is also Data Controller for these records. Under the terms of Section 10 of FOISA we are allowed 30 working days to respond to a request, rather than the usual 20 days. This is to allow us time to make arrangements for the Scottish Government to review the records.
- These records are closed because they contain some sensitive personal information which is likely to be exempt from release under FOISA Section 38(1)(b). This information cannot be released while the information remains sensitive and release could cause harm to living individuals. It is not possible to give a precise date for release of this material as it can depend on the lifespan of the individuals involved.

Background

Under the terms of the Inquiries (Scotland) Rules 2007 the record of the Penrose Inquiry was transferred to NRS for permanent preservation following publication of the Inquiry's official report. The table below gives further information about exactly what is contained within the Inquiry record. The table also contains a column showing whether each category of material is available to the public ('open') or not ('closed').

Type of record	Description & notes	Access status
Preliminary Report	Paper copy of published report. Also available at: http://www.penroseinquiry.org.uk/preliminary-report/ .	Open
Final Report	Paper copy of published report. Also available at: http://www.penroseinquiry.org.uk/finalreport/	Open
Inquiry website	An archived copy is available at the NRS web archive: http://webarchive.nrscotland.gov.uk/*/http://www.penroseinquiry.org.uk/	Open
Administrative record	Selected folders from the Inquiry's electronic Record and Document Management system (known as Objective).	3 folders open, 13 closed
'Courtbook' evidence	The Inquiry's Courtbook evidence database contained all documents considered relevant by the Inquiry. The full contents of Courtbook were transferred to NRS for permanent preservation. All documents on Courtbook have been redacted for personal information. Many of these documents are also available at the Inquiry website.	Open
Index to 'Signature' evidence database	The Signature database was used to store all documents submitted to the Inquiry, most of which were found not to be relevant to the Terms of Reference. As all relevant evidence has been preserved at NRS in the Courtbook record, the full contents of Signature were not transferred to NRS. However, the Index to Signature, which contains brief details of each document, was transferred to NRS for permanent preservation as a record of the scope of material considered by the Inquiry.	Open

The main records of the Warning Letters process are found within two folders from the Inquiry's administrative record (Objective). The Objective folders have the following titles:

Penrose Inquiry: Hepatitis C and HIV: Criticisms and Warning Letters file part 1: 2014

Penrose Inquiry: Hepatitis C and HIV: Criticisms and Warning Letters file part 2: 2014-2019

These folders contain just over 1,000 documents – this may be a link to the Inquiry Report’s reference to ‘over 1000 pages of material’ relating to Warning Letters.

Further c.30 documents were indentified with ‘warning letters’ in the title in the following Objective folders:

Penrose Inquiry: Hepatitis C and HIV: Correspondence and Working Papers file part 5: 2012-

Penrose Inquiry: Hepatitis C and HIV: Final Report: 2011-

Penrose Inquiry: Hepatitis C and HIV Inquiry: Guidance, Procedures and Background Material: 2008-

All of these folders are closed to public access. The closures were the outcome of a sensitivity review by the Inquiry prior to transfer which found that some documents in these folders contain sensitive personal information about living individuals.

As described above, request to access these records can be made under FOISA.