

Subject: Request for information relating to a case brought before Glasgow High Court in 1973 (JC26/1973/53).

FOI reference: FOI/18/03365

Date received: 14 November 2018

Date responded: 19 December 2018

Information requested:

Request for information relating to a case brought before Glasgow High Court in 1973 (JC26/1973/53).

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 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. A large extent of the redacted information relates to named individuals called as witnesses, and others who were part of an identification parade.

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. There is a common law duty of confidence to patients and these ethical obligations extend even after the patient'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 JC26/1973/53 is available in digital form at National Records of Scotland. The file 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.