

Subject: Access to divorce and criminal case files((CS46/1942/12/28 (divorce case) and SC36/56/192 (pages 180a,180b,651,697,698) (criminal case)).

FOI reference: FOI/19/00170

Date received: 16 January 2019

Date responded: 15 February 2019

Information requested:

Access to divorce and criminal case files((CS46/1942/12/28 (divorce case) and SC36/56/192 (pages 180a,180b,651,697,698) (criminal case)).

NRS Response:

A sensitivity review has been undertaken on this material by the Scottish Courts and Tribunals Service. 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 from release applies to the 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. Named individuals involved in the divorce and criminal case are thought to be alive, as a death certificate could not be traced in the statutory registers of Scotland. Therefore, this information was redacted. The exemption under section 38(1)(b) of FOISA 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.

In addition, some of the information contained in the file is exempt from release under section 38(1)(a) of FOISA (personal information of which the applicant is the data subject) and has thus also been redacted.

Data subjects have the option of submitting a Subject Access Request directly to the data controller of the information, in this case the Scottish Courts and Tribunals Service (SCTS). This can be done in writing to the Data Protection Team of SCTS at dpo@scotcourts.gov.uk. More information on submitting a Subject Access Request to SCTS can be found by following the link below:

<https://www.scotcourts.gov.uk/about-the-scottish-court-service/contact-us/data-protection>

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.