



Our Reference: 202600514706

12 May 2026

REQUEST UNDER THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 (FOISA)

Thank you for your request dated 15 April 2026 under the Freedom of Information (Scotland) Act 2002 (FOISA). This request follows on from your previous Freedom of Information request, case reference 202600510916.

In responding to this request, the Scottish Government has considered recorded information held during the period **1 March 2025 to 1 March 2026**.

This period has been applied because:

- Court fees are regularly reviewed and updated, with policy development and consideration taking place on a cyclical basis.
- The period reflects the relevant timeframe in which consideration of court fee policy and the establishment of the Court Fee Working Group arose, including preparatory and early-stage activity.
- It directly aligns with the subject matter of your request concerning the decision-making and preparatory context for the establishment of the Working Group.

We are satisfied that this timeframe is reasonable and proportionate and captures any preparatory, draft, or pre-establishment information held by the Scottish Government that falls within scope.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot



Your request

You asked for additional information relating to the Court Fees Working Group, specifically:

1. The decision to establish the Working Group
2. Internal discussions, emails, or correspondence leading to its creation
3. Draft terms of reference or scoping documents
4. Early policy papers or briefing materials relating to court fees or transcript access
5. Any preliminary analysis of transcript fees, access to justice, or impacts on criminal defendants

Response to your request

I enclose a copy of some of the information you requested in the format you asked for in relation to points 1 and 2 this can be found at **Annex A**. This includes preparatory material created prior to the establishment of the Court Fee Working Group.

In relation to point 3, the Scottish Government does not hold recorded information relating to draft terms of reference or scoping documents for the Court Fee Working Group.

While Scottish Government officials have engaged in discussion regarding court fee policy, the Scottish Courts and Tribunals Service (SCTS) is responsible for leading the establishment, governance, and operation of the Court Fee Working Group. The Scottish Government does not have an operational role in determining the group's structure or documentation and does not hold information concerning draft terms of reference or scoping documents.

This constitutes formal notice under section 17(1) of FOISA that the Scottish Government does not hold the information requested. You may wish to contact SCTS at foi@scotcourts.gov.uk

Some of the information you have requested in relation to point 4 is already publicly available and is therefore exempt from disclosure under section 25(1) of FOISA (information otherwise accessible).

This includes:

- Policy Notes accompanying the 2026-2027 court fee orders
- Scottish Court Fees 2026–2027 Business and Regulatory Impact Assessment
- Scottish Court Fees 2026-2027 Equality Impact Assessment
- Scottish Court Fees 2026-2027 Child Rights and Wellbeing Impact Assessment
- Scottish Court Fees 2026-2027: consultation analysis and Scottish Government response

If, however, you do not have internet access to obtain this information from the websites listed, then please contact me again and I will send you a paper copy.

The links to the documents referenced above can be found here:

- [The Court of Session etc. Fees Order 2026 - Policy Note](#)
- [The High Court of Justiciary Fees Order 2026 - Policy Note](#)
- [The Sheriff Appeal Court Fees Order 2026 - Policy Note](#)
- [The Sheriff Court Fees Order 2026 - Policy Note](#)
- [The Justice of the Peace Court Fees \(Scotland\) Order 2026 - Policy Note](#)
- [The Adults with Incapacity \(Public Guardian's Fees\) \(Scotland\) Regulations 2026 - Policy Note](#)

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- [Scottish Court Fees 2026-2027 - Business Regulatory Impact Assessment - gov.scot](#)
- [Screening - Scottish Court Fees 2026-2027 - Equality Impact Assessment - gov.scot](#)
- [Scottish Court Fees 2026-2027 - Child Rights and Wellbeing Impact Assessment - gov.scot](#)
- [Scottish Court Fees 2026-2027: consultation analysis and Scottish Government response - gov.scot](#)

We do however hold some information relating to the court fees uplift for 2026-2027 and this can be found at **Annex B**.

Some information within scope has been withheld under the following exemptions:

- Section 38(1)(b) – personal data of third parties
- Section 30(b)(i) and (ii) – free and frank provision of advice and exchange of views

These exemptions reflect the need to protect personal data, as well as the space required for officials and Ministers to consider policy options before a settled position is reached. We recognise that there is a public interest in disclosing information as part of open, transparent and accountable government, and to inform public debate. However, there is a greater public interest in allowing Ministers and officials a private space within which to explore and refine the Government's position until the Government as a whole can adopt a policy that is sound and likely to be effective.

This private thinking space is essential to enable all options to be properly considered, so that good policy decisions can be taken. Premature disclosure is likely to undermine the full and frank discussion of issues between Ministers and officials, which in turn will undermine the quality of the policy making process, which would not be in the public interest.

However, we have provided the relevant ministerial submissions relating to the publication of the consultation response, which can be found at **Annex B**.

In relation to point 5, we are unable to provide the information you have requested because an exemption under section 36(1) - legal advice applies to that information. The Scottish Ministerial Code is clear that Ministers must not divulge either the source or content of legal advice, other than in exceptional circumstances.

However, I can advise that Section 51 of the Victims, Witnesses and Justice Reform (Scotland) Act 2025 makes permanent the pilot scheme allowing survivors of rape and serious sexual assault to apply to receive copies of transcripts from their court cases for free. This applies to cases in the High Court and, when established, the Sexual Offences Court. This section came into force on 1 April 2026. This delivers a seamless transition from the pilot concluding to the new legal right coming into force. By way of background, as of 19 March, there were 157 applications received as part of the court transcript pilot.

This response addresses whether the Scottish Government holds preparatory, draft, or pre-establishment recorded information relating to the Court Fee Working Group within the scoped period. Where such information is held, it has been disclosed except where a relevant FOISA exemption applies. Where information is not held, this has been clearly explained.

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Your right to request a review

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to Catriona Dalrymple, Director of Justice C/O FOI@gov.scot and C/O this postal address: FOI Unit 1E.10, St Andrew's House, Regent Road, EDINBURGH EH1 3DG. Your review request should explain why you are dissatisfied with this response, and should be made within 40 working days from the date when you received this letter. We will complete the review in accordance with FOISA as soon as possible, and not later than 20 working days from the day following the date we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal to the Scottish Information Commissioner. More detailed information on your appeal rights is available on the Commissioner's website at: [Appeal to the Commissioner | Scottish Information Commissioner](#)

Kind regards,



Luisa McCreath
CLLS : Courts and Tribunals

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