



SHERIFF APPEAL COURT

**[2026] SAC (Civ) 54
EDI-SG3631-24**

Sheriff Principal N A Ross

OPINION OF THE COURT

delivered by SHERIFF PRINCIPAL N A ROSS

in the appeal in the cause

“PAUL PATON”

Claimant and Appellant

against

THE GENERAL TEACHING COUNCIL FOR SCOTLAND

Respondent

15 July 2026

[1] The appellant (pseudonymised to protect the identity of his daughter) elected to use simple procedure to make this claim, nominally for a sum of money, but based on an alleged infringement of his rights to have his personal data rectified. The appellant is a parent who made a complaint to his child’s school. The school addressed the problem in question. The problem continued. The appellant became convinced that one or more teachers had retrospectively falsified electronic records in order to mislead about actions or omissions for which they might be criticised.

[2] The appellant reported the teachers to the respondent, which has responsibility for regulating the teaching profession. The respondent carried out an investigation. In the meantime, the appellant sought to recover metadata from the school’s IT system to show

retrospective alteration of records. That led to his raising a court action against the school. The respondent's investigation meantime ceased due to passage of time and lack of evidence. The appellant recovered the metadata. He referred the teachers again to the respondent. The respondent considered the matter but deemed the complaint to be frivolous and not for investigation. The appellant challenged that. The respondent did not alter their stance. The appellant raised a claim based on human rights against the respondent but withdrew it upon learning of the respondent commissioning the Professional Standards Authority to conduct a general review of their fitness review process.

[3] The appellant thereafter submitted a Freedom of Information request to the respondent in connection with the decision to commission the PSA. The respondent declined to comply. It issued a statement of reasons for refusal dated 16 July 2024 which included (a) that the request would impose a significant burden on the respondent and was unreasonable and disproportionate; (b) that it represented an ongoing grievance against the respondent and was part of "an extended campaign that could reasonably be described as obsessive . . . and . . . intended to cause disruption and annoyance"; (c) that it was framed so broadly as to have "the effect of prolonging yet further correspondence which had become demonstrably obsessive and disruptive." The terminology used reflected the Scottish Information Commissioner's guidance on Vexatious and Repeated Requests.

[4] The appellant requested a review, but review was declined. The appellant applied to the Scottish Information Commissioner to challenge the refusal to review. The SIC issued a decision on 23 June 2025 confirming that the respondent had been entitled to refuse the FOI request on the grounds set out. The SIC set out its own reasoning for its decision. It found that the nature and volume of the requests and the language of correspondence had the

effect of harassment by the appellant in, amongst other things, threatening court action and alleging conspiracy.

[5] The appellant then raised this simple procedure claim. The appellant, under reference to the foregoing history of events, made a claim for £750 based on the respondents' refusal to rectify his personal data. He was aggrieved that he had been described as obsessive, amongst other descriptions.

[6] The sheriff considered the claim in a careful and thorough judgment. He was able to summarise matters succinctly. The purpose of the data was not to make factual findings about the appellant's motivation. It was instead to explain the respondent's decision to refuse the FOI request. The data in question was accordingly not inaccurate for the purposes of Article 16 of UK GDPR. It accurately recorded the respondent's reasoning. The respondent had considered the application to be obsessive and vexatious. This action was an illicit attempt to use data protection law to challenge reasons given for refusing an FOI request. The sheriff court did not have jurisdiction to interfere in an FOI decision as that was statutorily reserved to the Scottish Information Commissioner and the Court of Session.

The appellant's submissions

[7] The appellant made lengthy submissions but identified a single point under appeal - whether the sheriff erred in holding that disputed evaluative personal data automatically satisfied the statutory accuracy requirement merely because it recorded the respondent's stated opinion and reasons within FOI decision-making. The sheriff correctly identified the issue, namely whether the data was inaccurate under Article 16 UK GDPR. He erred in failing to apply the "statutory inquiry required by section 205(4)" of the Data Protection Act 2018. He had declined to assess whether the underlying evaluation, of the

appellant's motivation and the characteristics of the correspondence, were incorrect or misleading.

[8] The correct legal test for the sheriff was to determine whether the disputed personal data conveyed factual implications concerning motive, intention or behaviour, and if so, whether these were incorrect or misleading as to any matter of fact. This submission relied heavily on section 205(4) as setting a requirement for the sheriff which he had not met.

[9] The appellant submitted (paragraph 67B) that these proceedings were brought under the statutory rectification framework established by UK GDPR and the Data Protection Act 2018, particularly sections 167, 168 and 180. Once it was accepted that the statements constituted personal data, that Article 16 was engaged and that accuracy was disputed, the sheriff was required to apply the statutory enquiry under section 205(4).

[10] The appellant also claimed that the absence of the respondent from the hearing made it unfair, that the sheriff improperly declined to assess evidence, and had approached matters without an open mind, although the written submissions did not address these further points.

The respondent's submissions

[11] The respondent's written submissions dealt with some submissions which are no longer relevant. They also relied on the limitations of simple procedure in addressing the dispute raised in the present proceedings. The sheriff did not err in finding that the data was not inaccurate, because it accurately recorded an opinion. It explained reasoning under a statutory regime. The appellant's case amounted to no more than a disagreement with the respondent. The sheriff's decision was fully reasoned. There was in any event no vouching of loss.

Decision

[12] The grounds of appeal raised several points which were not reflected in the eventual submissions, including lack of an open mind, lack of reasons and the absence of the respondent. They are therefore deemed not to be insisted in. In any event, for the reasons set out by the sheriff, there was no merit in them. Both parties lodged written submissions, so the sheriff had full argument. The appellant's contention that the absence of the respondent from the hearing (although they had supplied full written submissions) could be unfair to the appellant is not easy to understand. The course taken by the sheriff was entirely in keeping with the core tenets of simple procedure, namely that the case required to be resolved as quickly as possible, at the least expense, and as informally as appropriate. His decision was fully reasoned and balanced. These initial grounds of appeal can be dismissed.

[13] Simple procedure is "a court process designed to provide a speedy, inexpensive and informal way to resolve disputes" (Simple Procedure Rules 2016 rule 1.1). The types of claim are strictly limited by section 72(3) of the Courts Reform (Scotland) Act 2014. The only head capable of subsuming the present claim is "proceedings for payment of a sum of money not exceeding £5,000". This claim is therefore limited to considering whether a sum of money is payable. The court may not adjudicate on any wider or different claim not within section 72(3).

[14] The sheriff described this simple procedure claim as essentially an attempt to use data protection law to challenge reasons given for refusal of an FOI request. In substance that was correct, and to describe this as simply an action of payment of money created only a tenuous link with simple procedure.

[15] The appellant placed reliance on the statutory rectification framework established by UK GDPR and the Data Protection Act 2018. He based the claim for payment on sections 167, 168 and 180 of the 2018 Act. However, he did so incompletely. The 2018 Act affords remedies to a data subject with respect to the rectification of personal data (at section 43, section 46). If the data controller refuses the request, it must give reasons for the refusal (section 48(1)) and inform the subject of the rights of challenge that then arise. The rights are to make a request of the Commissioner, to make a complaint to the controller, to lodge a complaint with the Commissioner and to apply to a court under section 167.

[16] Section 167, on which the appellant relied, provides for an application to the court, and a determination as to whether there has been an infringement. The court may make an order for the purposes of securing compliance, for example specifying steps which must be taken.

[17] Section 168 provides for compensation for contravention of the UK GDPR. The appellant relied on contravention of Article 16. Under section 168 compensation is payable where:

- “(a) in accordance with the rules of court, proceedings under Article 82 of the UK GDPR are brought by a representative body on behalf of a person, and
- (b) a court orders the payment of compensation”

[18] Section 170 creates various offences. It does not create a private law remedy in damages or compensation. Section 205(4) is a general interpretation clause, in which the appellant relied on the definition of inaccurate (“means incorrect or misleading as to any matter of fact”).

[19] Against that background, the first question was whether these claims could be prosecuted under simple procedure. A claim under section 167 is for an order securing

compliance with the data protection legislation. It requires an application to the court, and a determination. Simple procedure is not available to make an application seeking a determination under section 167. Such an application is not a claim for payment.

[20] A claim under section 168 requires that a representative body has made a claim on behalf of the appellant under Article 82, and is a request for an order. There has been no such claim or order made. Simple procedure is not available to make an application seeking an order under section 168. Such an application is not a claim for payment.

[21] A claim under section 170 is not available. No monetary claim is provided for by section 170. Simple procedure is not available as it cannot be a claim for payment.

[22] These were the bases of claim argued by the appellant. Accordingly this claim and the appeal were not simply “proceedings for payment of money”, because on the foregoing statutory provisions no sum was due and payable. There can be no claim unless the statutory regime is complied with, according to the requirements of the 2018 Act.

[23] The appellant also placed express reliance on Article 16, which provides:

“The data subject shall have the right to obtain from the controller without undue delay the rectification of inaccurate personal data concerning him or her.”

[24] That article does not by itself, however, create a right to damages. Article 82 of the UK GDPR was not relied upon in submission but would be the source of any right of payment, specifically a right to compensation for material or non-material damage as a result of infringement of the Regulation. Non-material damage includes distress (2018 Act section 168(1)). No claim is made under Article 82.

[25] Even if such a claim had been advanced, there was no basis to find that the sheriff erred in his decision that the disputed data was accurate and not requiring rectification. The data recorded the respondent’s opinion, itself based on rational assessment of material

available. It was immaterial, for these purposes, whether that opinion was correct or not.

The sheriff considered the question of accuracy and had regard to the case of *Nowak v Data Protection Commissioner* [2018] 1 WLR 3505. That was a decision of the ECJ in relation to a claim by an exam candidate who failed an exam and wanted to recover the examiner's comments as "personal data". At paragraph [54] the ECJ stated:

"...it is hard to imagine a right of rectification, erasure or blocking of inaccurate data, under data protection legislation, in relation to corrections made by the examiner. It appears inconceivable that comments made on the script could in fact refer to another script or not reflect the examiner's opinion. It is precisely that opinion that the comments are meant to record. Therefore, in the context of the Data Protection Directive, such comments would not be wrong or in need of correction even if the evaluation recorded in them were not objectively justified.

55. Any objections to the comments would consequently have to be dealt with as part of a challenge to the evaluation of the script".

[26] Whether personal data is accurate or not must be determined in light of the purpose for which that data was recorded. The purpose for which the data was recorded in this case, as it was in *Nowak*, was to explain the basis for an opinion. In the present case it was to explain reliance on section 14 of the 2001 Act in refusing to comply with the request for information. The respondent's records explained why the request was considered vexatious, a value judgment based on facts. The data was an accurate record of reasons. The sheriff did not err in finding that the data was not inaccurate for the purposes of Article 16 of UK GDPR. As *Nowak* described, the appellant would require to find his remedy elsewhere. That may involve challenge to and reduction of the decision, seeking rectification, or other remedy. It is not necessary to consider whether such remedy is available, or what it may be. It is certainly not within the scope of a simple procedure claim.

Disposal

[27] The appellant has no remedy under the simple procedure. Even if he did, the sheriff did not err in finding that the data, being the respondent's recording of their decision that the appellant's application was vexatious, was not inaccurate. It accurately recorded an opinion. The appeal is refused. I will answer questions 1 to 5 in the negative and find the appellant liable to the respondent in the expenses of the appeal process.