



## Obtaining Medical Records post death

Losing a loved one when you think it may be because they received poor medical care is incredibly painful. Often, people want to see a written record of the final days of their loved one's life to understand what happened to them.

The rules relating to the disclosure of a deceased person's medical records are different to the general rules about release of medical records. The General Data Protection Regulation (GDPR) which came into force by the Data Protection Act 2018 gives automatic access to your own records but does not apply when trying to access the records of someone who has died.

Only certain people have the right to access the medical records of someone who has died, and this is covered by the Access to Health Records Act 1990. This Act allows disclosure of the medical records to:

1. The Personal Representative of the person who has died. If the deceased person has a Will, the Personal Representative is the Executor of the will. If there is no will, the Personal Representative is known as the Administrator.
2. Anyone who may have a claim resulting from the person's death.

You need to provide evidence that you fall under one of these two categories. This is fairly straightforward if you are looking after the estate as per 1 above. The Personal Representative can provide a copy of the Grant of Probate (if you are the Executor of the Will), or a copy of the Grant of Letters of Administration (if you are the Administrator). You do not need to provide any reason for requesting the records.

The situation is more complicated if you are not the Personal Representative but believe you may have a claim resulting from the person's death. In this scenario if the Personal Representative will not request the records for you, you will need to show evidence of your relationship with the deceased. You will also need to say why you want the records. It is



usually not enough to say that you are worried about some aspect of care or that you want to write a letter of complaint and need the records to do so.

You will need to **set out specific concerns** about the healthcare the deceased received that has led you to **considering a claim for medical negligence** or some contravention of the deceased's rights under the Human Rights Act.

In all cases above please note that any negligence or other claims must be brought within certain time limits which a solicitor can advise you on.

To **request GP records**, you should write to the Practice Manager at the deceased's GP surgery. When a person has died, the GP surgery often no longer store the records and the records are sent to Primary Care Support England. The Practice Manager will be able to tell you where they have been stored.

To **request NHS hospital records**, apply to the Access to Medical Records Team at the Hospital which the deceased person attended. The Hospital will have information on their website that provides the precise address details, so it is worth checking because the records may be stored with another hospital within the same Trust. If you cannot find this information, you can call the Hospital's Access to Medical Records Team to ensure that you are writing to the correct department and address.

To request **hospital records where you have paid for private treatment**, write to the private hospital involved, naming the doctor who provided your care and sent it to the Medical Records Manager/Access to Health Records Team. If the records were updated during the 40 days before the date of your application, you should be given access within 21 days. If the records were updated more than 40 days before the date of your application, you should receive the records within 40 days.

Following the implementation of GDPR, the Access to Health Records Act 1990 was also changed so that the records of a deceased person must be provided free of charge.