



Information Governance

Deceased Records

1. The Law. The law relating to the management of deceased records is The Access to Health Records Act (AHRA). Its important to note that this is fundamentally different to the Data Protection Act (which only applies to living persons) and the Freedom of Information Act.

2. Responsibilities. Since August 2022 GP Practices have been responsible for responding to requests from applicants for access to a deceased persons record. Prior to this date it was the responsibility of PCSE who will still hold paper records and Lloyd George envelopes.

3. Who is Authorised to Access. The AHRA is quite specific about who can have the authority to access a deceased persons medical record:

3.1. Personal Representative. The act states that the deceased persons “Personal Representative” can have full record access. The meaning of this phrase is that the person making the application must be either the Executer of the Will or the appointed Administrator of the Estate if there is no will. Documented proof will be required in either case.

3.2. Person with a Claim. This could potentially be anyone (no requirement to be the personal representative) but it’s very important to note that these persons can only have access to relevant information relating to their claim. Therefore, they must set out the justification for the claim so that the Practice can establish if there is any relevant information.

4. Family/Next of Kin. It is important to note that there is no automatic right of access for next of kin/immediate family. This can be a situation that many may find difficult to accept.

5. Experience is showing that many requests for access to a deceased persons medical record are coming from family members and relate to situations where a Will has been changed not too long before a person dies. In these cases requesters are often seeking information about the state of mind of the deceased.

6. Other Access not AHRA. Note that outside the requirements of the AHRA agencies such as the Police, Coroner, Ombudsman etc still have a right of access to a record where they have a statutory duty to perform.

7. Also outside the AHRA is the sharing of general information about a patient’s death, in the time immediately after a person passes away, with those close to the patient where there is no reason to believe that the patient would have objected to such disclosure.

8. Patient’s Wishes. A very important point to note is the wishes of the patient. Where a patient has recorded in the notes a wish that their record should not be shared, either in whole or to specific individuals after their death, this should be respected wherever possible.

9. Duty of Confidentiality. The Duty of Confidentiality owed to a patient extends past the point of death and it must be considered whenever granting access to a deceased persons record. Does a record contain sensitive information that you believe a patient would not want or expect to be disclosed.

10. References:

10.1. The Access to Health Records Act: <https://www.legislation.gov.uk/ukpga/1990/23/contents>

10.2. NHS England Guidance: [Access to the health and care records of deceased people - NHS](#)

10.3. GMC Guidance: Managing and protecting personal information - ethical guidance - [GMC \(gmc-uk.org\)](https://www.gmc-uk.org)