

Application for Access to A Deceased Patient's Health Records

(In accordance with the Access to Health Records Act 1990)

Please complete this form and return it with any required paperwork (see form) to:

**Access to RecordsTeam Information
Governance Department Maglona
House, Kingstown Broadway Carlisle
CA3 0HA**

Details of the Deceased Patient/Individual whose records are being requested:			
Title: (Mr/Mrs/Miss/Ms/Other)			
Surname:			
Forename(s):			
Address (including postcode):			
Date of Birth:			
Date of Death:			
NHS Number:			
Applicant details, including applicant's relationship to the Deceased Patient:			
Title: (Mr/Mrs/Miss/Ms/Other)			
Surname:			
Forename(s):			
Address (including postcode):			
Telephone Number:			
If required, can the Trust contact you by telephone to discuss your request?	YES		NO
Relationship to the Deceased, eg spouse:			
The Applicant should include two copies of their own identification as below: to confirm name, date of birth, address and signature			
<input type="checkbox"/>	A copy of Utility Bill	<input type="checkbox"/>	Passport (copy of photograph page)
<input type="checkbox"/>		<input type="checkbox"/>	Driving licence (copy of photograph licence)

Please tick the relevant box below to confirm authority request is being made under:

<input type="checkbox"/>	<p>I am the patient's personal representative. I enclose copies of the following as appropriate authority to request the information:</p> <table border="1" style="width: 100%;"> <tr> <td data-bbox="193 282 331 378" style="text-align: center; vertical-align: top;"> <input type="checkbox"/> </td> <td data-bbox="331 282 1469 378"> <p>A copy of the Grant of Probate (Stamped by the Court of Probate) where I am named as the Executor of the Will.</p> </td> </tr> <tr> <td colspan="2" data-bbox="193 378 1469 439" style="text-align: center;"> <p>or</p> </td> </tr> <tr> <td data-bbox="193 439 331 573" style="text-align: center; vertical-align: top;"> <input type="checkbox"/> </td> <td data-bbox="331 439 1469 573"> <p>A copy of the Grant of Letters of Administration (Stamped by the Court of Probate) to show that I am named as the Administrator of the deceased person's estate.</p> </td> </tr> </table>	<input type="checkbox"/>	<p>A copy of the Grant of Probate (Stamped by the Court of Probate) where I am named as the Executor of the Will.</p>	<p>or</p>		<input type="checkbox"/>	<p>A copy of the Grant of Letters of Administration (Stamped by the Court of Probate) to show that I am named as the Administrator of the deceased person's estate.</p>
<input type="checkbox"/>	<p>A copy of the Grant of Probate (Stamped by the Court of Probate) where I am named as the Executor of the Will.</p>						
<p>or</p>							
<input type="checkbox"/>	<p>A copy of the Grant of Letters of Administration (Stamped by the Court of Probate) to show that I am named as the Administrator of the deceased person's estate.</p>						
<input type="checkbox"/>	<p>I have a legal claim arising out of the death of the deceased patient named on page 1 and have legitimate legal grounding to request access to the health records which I outline below: <i>(You must complete the 'Purpose and Justification' box below if you are stating that you are a person who may have a claim).</i></p> <hr/> <p>I require access to the records stated on page 3 in connection with my legal claim and for the following purpose(s) including justification:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>						
<input type="checkbox"/>	<p>I am requesting that the information below be considered for disclosure outside of Statutory provisions. Please note: in very specific circumstances there may be grounds for considering access to specific parts of a deceased patient's records in line with the current guidance from the Department of Health. (Please see the attached Guidance Notes – 'Other Requests – Outside of Statutory Provisions'.) <i>(You must complete the 'Purpose and Justification' box below if requesting information outside of Statutory provisions.)</i></p> <hr/> <p>I request that the Trust consider disclosure of the records stated on page 3 to me. I am not the patient's legal representative and I am not requesting disclosure as part of a legal claim. My purpose and justification for my request is given below:</p> <p>.....</p> <p>.....</p> <p>.....</p>						

Patient Records Being Requested:

Please provide as much information as possible to help refine your request. Give full details of all the periods of care you are interested in. If you only wish to receive information relating to a specific aspect of one or other of these periods, please specify in the 'Additional Information' Section below. This information will assist the Trust to locate the information you require.

Clinical Service or Team	Dates		Ward, Department or Out-Patient Clinic/Community Team	Health Professional(s) Name
	From	To		

Additional Information:
(If Applicable)

Declaration by Applicant:

1. The information I have provided on the form is accurate and truthful.

Applicant's Signature:		Date Signed:	
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Guidance Notes For Applicants – Access to Deceased Patient Records

Requesting Access to Records Relating to the Deceased

The General Data Protection Regulations does not apply when a patient is deceased and thus an application under that Act will not be valid. The legislation that currently applies is one remaining section of the Access to Health Records Act 1990. The Access to Health Records Act 1990 gives rights to certain individuals to access what has been written about a deceased patient in their health records.

There are two main categories of such people:

	Applicant	Rights
1	Personal Representatives.	Who have a statutory right.
2	Persons who may have a claim arising from the death of the patient.	Rights that need to be established and access is limited to the Information relevant to the claim.

1. Personal Representatives

Access to a deceased patient’s health records is a right for a person or persons defined as the deceased patient’s “personal representative”. The personal representative has a statutory right and does not have to provide a reason for access. However, giving as much detail as possible is always helpful to locate and provide the necessary part of any health record.

The “personal representative” is defined in the Access to Health Records Act 1990 as:

- The Executor of the deceased patient’s Will which can be proved by providing the Trust with a copy of the **Grant of Probate document**. This is a Court document that is stamped by the relevant Court of Probate and shows that the Will has been accepted and the Executor has been duly appointed to act.
- Alternatively if the patient did not make a Will and therefore died without a Will (called having died Intestate) the “personal representative” will be a person with a copy of a **Grant of Letters of Administration** – also provided by the Court of Probate. Usually this is applied for by a relative where there is an Estate over the value of £5,000 to be administered following the patient’s death.

2. Person or person(s) who may have a claim arising from the death of the patient

The Trust will not deal with an application for accessing a deceased patient’s health records without a reason where the applicant is not the “personal representative” as defined above.

Please complete the ‘Patient Records Being Requested’ and ‘Additional Information’ Sections on the application form to give the Trust as much information about the records or parts of the records to which you require access.

Please also fully complete the Section confirming the authority the request is being made under, particularly the section in regard to purpose and justification for the access request. For example it may be that a claim of clinical negligence is being contemplated in regard to the immediate care and treatment prior to the patient’s death.

Alternatively it may be in connection with contesting the Will. Do include dates, location, name of health professional involved and parts of the records you require ie written diagnosis, assessments and/or reports

Please note: Under the Access to Health Records Act 1990, **you have to provide a reason** for accessing health records of a deceased person if you are not the patient's personal representative.

The Trust must always consider the confidentiality of the patient and other persons when disclosing health records.

Thus access may not be permitted if:

- The patient expressed a preference prior to their death about disclosure or non-disclosure of all or parts of their records and this was recorded in the records
- If access would lead to the identification of someone else not involved in the patient's care – such as other family members
- If access would cause serious mental or physical harm to someone else not involved in the patient's care.

Other Requests – Outside of Statutory Provisions

In very specific circumstances there may be grounds for considering access to specific parts of a deceased patient's records in line with the current guidance from the Department of Health in their document entitled, "Guidance for Access to Health Records Requests" (February 2010).

As much detail as possible would need to be provided to the Trust for an application outside of the legal requirements and any disclosure would be limited and decided on a case by case basis, including consideration of who the applicant is and their relationship to the deceased, the purpose and justification provided for disclosure and the length of time since the patient's death. There is no legal requirement for the Trust to provide access in such circumstances and the Trust would be guided by current Department of Health guidance.

Fees Payable for Access Requests to a Deceased Patient's Records

The Trust will not charge for providing copy of the records, however, the Trust may charge a fee for any subsequent copies of the same information that you might request from us (we will base the fee on the administrative costs for providing the information).

Further Information

If you require any help to complete this form or any further explanation of the Access to Health Records Act 1990 requirements and provisions please contact:

The Information Rights Team
Information Governance
Maglona House
Kingstown Broadway
Carlisle
CA3 0HA

Telephone: 01228 608998