

# Subject Access Request form – Guidance Notes



The Access to Health Records Act (1990) gives the right of access to see the health records of someone who has died.

Only the following people may apply for access to deceased records:

- A personal representative (the executor/ administrator for the estate of the person who has died)
- Someone who has a claim arising from the patient's death and want to access information relevant to the claim

You won't be able to see information that could:

- cause serious harm to your physical or mental health, or anyone else's
- identify another person (except members of NHS clinical staff who have treated the patient), unless that person gives their permission.

If you need any more advice about your rights under the General Data Protection Regulation, please contact NHS Orkney's Data Protection Officer or, you can contact the Information Commissioner's Office:

Data Protection Officer  
NHS Orkney  
The Balfour  
Foreland Road  
Kirkwall  
Orkney  
KW15 1NZ  
Email: [ork.dp@nhs.scot](mailto:ork.dp@nhs.scot)

The Information Commissioner's Office – Scotland  
6<sup>th</sup> floor, Quartermile One  
15 Lauriston Pl  
Edinburgh  
EH3 9EP  
Email: [Scotland@ico.org.uk](mailto:Scotland@ico.org.uk)

If you want to make a subject access request, please fill in the form attached.

## Fee

Data will be provided **free of charge**. There may be a charge of a 'reasonable fee' when a request is manifestly unfounded or excessive, particularly if it is repetitive.

A reasonable fee may occur when complying with requests for further copies of the same information. This does not mean that there will be a charge for all subsequent access requests.

The fee must be based on the administrative cost of providing the information.

## Response time

The statutory timescale set out in the General Data Protection Regulation (GDPR) is one calendar month although we are able to extend the period of compliance by a further two months where a request is complex or numerous. If we have any problems getting your information we will keep you up to date on our progress.

## How long records are kept

The usual rules to do with keeping records are that:

- adult general hospital records are kept for six years after the date of the last entry;
- maternity records are kept for 25 years after the birth of the last child;
- children's and young people's records are kept until the child's or young person's 25th birthday; and
- mental-health records are kept for 20 years after the date of the last contact.

This may help you in considering what types of records you are applying to see.

## Points to consider

Making false or misleading statements to access personal information which you are not entitled to is a criminal offence.

Accessing health records and information is an important matter. Releasing information may in certain circumstances cause distress. You may want to speak to an appropriate health professional before filling in the form.

We ask for proof of ID or a countersignature (see section 6) because we have confidential information and we must get proof of your identity and your right to receive any relevant information.

## Notes to help you fill in the form

### Personal information

Personal information is information we hold about people in medical records, patient administration and information systems, clinical systems, and other databases or files. We may hold personal information on paper or on computer.

### Health professionals

An appropriate health professional may include your hospital doctor, nurse, midwife or health visitor, dentist, optician, pharmacist, clinical psychologist, occupational therapist, dietician, physiotherapist, podiatrist or speech and language therapist.

### Section 2: Personal details

This is the person to whom the data relates. Please ensure that this section is completed as fully and accurately as possible to enable us to trace all the required information.

### Section 3: Information you want to access

Please complete as much of this section as you can. Whether you wish to receive all the information held or only information relating to one or more specific episodes of care or treatment it will help us to find your details with the minimum of delay.

The General Data Protection Regulation covers both manual (paper) and computerised records.

If you wish to view the original record you will be invited to attend the hospital or clinic at a convenient time, along with a health professional or appropriate other person. If you wish to receive photocopies these will be produced within 30 days.

If you have only asked for a copy of the relevant records, the healthcare professional responsible for your care may invite you to see them so that they can explain the information in your record. You do not have to take up this invitation, but it may be in your best interests to do so.

## Section 4: Declaration

You must sign this section and get it countersigned. The counter signatory should be present when you sign. You are declaring that the information you have given in this form is correct and that you are the executor/ administrator of the estate or have a claim against the estate.

## Identification/Countersignature

Everyone must complete this section UNLESS you are providing:

- A certified copy of a Power of Attorney document
- A certified copy of a Guardianship Order

Because of the confidential nature of the information held by the organisation, it is essential for us to obtain proof of your identity and your right to receive any relevant information.

For this purpose it is essential that you provide either proof of your identity or get the application countersigned.

### 1 – Provide one Form of Identification

Examples of these can be found in section 6

### 2 – Countersignature

Anyone who knows the applicant personally can sign this section as long as it's not a family member or relative.

## Section 5: Further information

If the criteria in section 1 of the application do not apply to you and you would still like to access records of a deceased person, please provide details of why you require access in the box below:

<p><b><u>Send your filled-in form to:</u></b></p>	<p>Email: <a href="mailto:ork.dp@nhs.scot">ork.dp@nhs.scot</a> or post: <b>Freedom of Information Officer</b> <b>NHS Orkney</b> <b>The Balfour</b> <b>Foreland Road</b> <b>Kirkwall</b> <b>Orkney</b> <b>KW15 1NZ</b></p>
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