



Adult Social Care

Access to Records Relating to the Deceased Practice Guidance

Version 2

Version: 2 FOI Status: Public	Access to Records Relating to the Deceased Practice Guidance Derbyshire County Council - Adult Care	Originally Issued: July 2014 V2 issued: September 2022 Review Due: September 2024 Author: Neil Brailsford
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If you would like to make any comments, amendments, additions etc please email
ASCH.adultcare.policy.derbyshire.gov.uk

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1. Introduction and Procedure

Derbyshire County Council (DCC) receives a number of requests from family members and legal representatives requesting access to records relating to deceased people who had been under the care of the council. Because this information is concerning a person who has died, the subject access provisions of the Data Protection Act do not apply. Therefore the council will deal with requests for these records under the [Freedom of Information Act 2000](#). For more information see the [Freedom of Information Practice Guidance](#), and [Confidentiality Code of Conduct](#).

Ordinarily the information that is being requested would be exempt under Section 41 (information provided in confidence) of the act. However, if individuals can provide the council with some proof of entitlement to the information being requested, this information can be supplied as appropriate.

If the request is for information on a living individual please see our guidance on Access to Personal Information.

To supply information relating to a deceased person, the council will require the following information:

Details of the deceased: <ul style="list-style-type: none"> • name • date of birth • date of death • last known address of deceased 	As much information about the deceased as possible. We need this information to identify if we hold records relating to the deceased. The more information supplied the easier it will be for the council to locate the records.
Confirmation that the individual has died: (one of the following) <ul style="list-style-type: none"> • grant of probate • death certificate 	Before we can release records about a deceased person, we will need confirmation that the individual is in fact deceased, unless this information is already recorded on our systems.

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Proof of entitlement: (one of the following) <ul style="list-style-type: none"> • grant of probate • certified copy of the last will & testament • power of attorney 	<p>The request has been made by the deceased person's 'personal representative' (also known as the executor or administrator of their estate).</p> <p>The request has been made by an individual who held a health & welfare lasting power of attorney for the deceased person when they were alive.</p> <p>The request has been made by an individual who held a financial affairs lasting power of attorney for the deceased person when they were alive (although they would only be entitled to information about paying their bills, collecting their benefits, or selling their home).</p> <p>The request has been made by an individual who was a personal welfare deputy for the deceased person when they were alive, providing the request does not go against any decision made by an attorney acting under a lasting power of attorney.</p> <p>The request has been made by an individual who has proof that they have a claim arising from the deceased person's death (although they would only be entitled to limited information).</p> <p>The information requested is already known to be in the public domain; DCC will attempt to signpost the requester to the information where possible.</p> <p>There is sufficient evidence to support the assumption that the deceased person would have given their consent to the release of their personal information if they were still alive.</p>
Identification from applicant: (one of the following) <ul style="list-style-type: none"> • drivers license • passport • bank statement • utility bill 	<p>We will need to be supplied with at least one form of identification, showing name and current address. This may not be required if the request comes via a solicitor. Acceptable examples of identification are listed on the left.</p>

If someone is requesting information on behalf of someone who has entitlement (as described above) such as a solicitor acting on behalf of an individual, in addition to the above, a signed letter of authority is required from the entitled party. A template letter of authority can be found below.

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<p align="center">2. Consent to release records to a Third Party</p>

I hereby give my consent to allow
Derbyshire County Council to release all / specific* (delete as appropriate)
information held about the late, to
.....

in relation to this information request. I consent to the information being
sent to their address which is
.....

*the specific information I consent to releasing is
.....
.....
.....
.....

Print Name

Signed

Date

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Author History

Approval and Authorisation History

Authored by Neil Brailsford	Data & Information Manager	August 2014
Approved by Policy and Procedures Group		August 2014

Change History

Version 1	July 2014	Neil Brailsford	Development of new practice guidance
Version 1.2	November 2016	Neil Brailsford	Review no changes
Version 1.2a	August 2019	Neil Brailsford	Review no changes
Version 2	September 2022	Neil Brailsford	Review. Changes to confirmation of deceased section and proof of entitlement