

Version: 1.2 FOI Status: Public	Derbyshire County Council Adult Care Practice Guidance – Access to Records Relating to the Deceased	Issued: November 2016 Review Due: N o v e m b e r 2 0 1 8
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Derbyshire County Council Adult Care Practice Guidance

Access to Records Relating to the Deceased

Name	Job Title	Date
Authored by: Neil Brailsford	Data & Information Manager	August 2014
Approved by:	Policy and Procedures Group	August 2014

Change History

Version	Date	Name	Reason
V1	July 2014	Neil Brailsford	Development of new practice guidance
V1.2	November 2016	Neil Brailsford	Review no changes

Derbyshire County Council Adult Care publishes a range of Practice Guidance documents to support workers managing individual cases. They are written in plain language and give clear and precise guidance detailing how professionals and other relevant parties should respond when dealing with access to records relating to the deceased.

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Derbyshire County Council 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 are able to 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](#).

In order to supply information relating to a deceased individual, 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 client has died: (one of the following) <ul style="list-style-type: none"> • Grant of probate • Death certificate 	Before we are able to release records about a deceased person, we will need confirmation that the individual is in fact deceased.

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<p>Proof of entitlement: (one of the following)</p> <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 individual's death.</p> <p>The information requested is already known to be in the public domain; Derbyshire County Council will attempt to signpost the requester to the information where possible.</p> <p>There is sufficient evidence to support the assumption that the deceased individual would have given their consent to the release of their personal information if they were still alive.</p>
<p>Identification from applicant: (one of the following)</p> <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 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 a client, 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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Consent to release records to a Third Party

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