

## Access to personal data of a Deceased Person

The Data Protection Act 2018 does not apply to information of the deceased. Although you can make a Freedom of Information Act 2000 request for deceased information, where it relates to social care information it is exempt from disclosure. Any disclosure under Freedom of Information Act is to the world at large. Once disclosed the Council can no longer protect that information. The applicable exemption for social care records is Section 41(1) Information Provided in Confidence. This is because the information has an ongoing expectation of confidentiality.

The Department of Health & Social Care state that under common law confidentiality must continue after death. This is because people expect information provided for their care is not shared with others unless they had consented.

The Information Commissioner accepts this expectation of confidence is the cornerstone of the Council's relationships with its clients and is vital for successful service provision. The Commissioner also accepts the threat of onward disclosure of such information could damage the relationship between it and its clients, in that concerns that private information may be open to public scrutiny may cause clients to be unwilling or to refuse to disclose important information.

The Commissioner relied on the [Tribunal decision \(Bluck v Information Commissioner and Epsom and St. Helier University Hospitals NHS Trust EA/2006/0090\)](#) to rule that the duty of confidence survived the death of the deceased and disclosure of the information would be an actionable breach of confidence.

### Executor of the Will

As a local authority we understand there may be occasions where the family of the deceased have concerns about the care of their relative. We will consider an application from the Executor of the Will of the Deceased to access information relevant to their concern. We will not provide full access to the deceased record but will provide information limited to the concern raised.

Please note there is no statutory timeframe for the provision of this information. We will endeavour to provide relevant information to you as soon as possible.

## Making a request

To make a request for information about a deceased person, you'll need to provide:

- your full name and address
- your telephone number and email address
- proof of your identity, (e.g., a valid passport, full or provisional driving license or full birth certificate)
- a copy of the death certificate
- proof of your Executor of the Will status
- the nature of the concern which prompted your access request

You might find it helpful to use our [request form \(DOCX, 45KB\)](#).

Send all this information to the Transparency Team at:

Email: [transparencyteam@essex.gov.uk](mailto:transparencyteam@essex.gov.uk)

Post:

Transparency Team  
PO Box 11  
County Hall  
Chelmsford  
Essex  
CM1 1LX

Telephone: 033301 39853

If you're unhappy with our response you can contact our Data Protection Officer.

Email: [DPO@essex.gov.uk](mailto:DPO@essex.gov.uk)

Telephone: 0345 743 0430 (ask to speak to the Information Governance Team)

You can also speak to the [Information Commissioner's Office \(ICO\)](#) about your complaint. You can also [find out more about access requests](#) on the ICO website.

You can see why and how we use personal information on [Your privacy pages](#).