

Medical Examiner Access to Patient Records Data Sharing Statement

The medical examiner office at our Trust has been commissioned by NHS England to appoint medical examiners to carry out independent scrutiny of the causes of death for non-coronial deaths of patients previously registered under your care.

Our medical examiner office will require access to information relating to relevant patients, their next of kin and the medical practitioner (known as the attending practitioner) completing the Attending Practitioner's Medical Certificate of Cause of Death (AP MCCD).

This statement describes the information governance arrangements in place to facilitate this.

What are the responsibilities of attending practitioners and medical examiners?

The statutory duties of medical examiners, their appointing Trusts and attending practitioners are set out the regulations.

Attending practitioners are under a statutory duty to:

- review the deceased's confidential patient information, namely relevant health records, the results of any physical examination of the deceased and any other information they consider relevant
- certify the death and share the AP MCCD and health data referred to above with the medical examiner
- respond to subsequent enquiries made by the medical examiner

Medical examiners, upon receiving the AP MCCD from the attending practitioner, are under a statutory duty to:

- scrutinise the cause of death
- consider the health data provided by the medical practitioner
- make whatever enquiries they consider necessary
- confirm the cause of death by signing off the AP MCCD, where appropriate

Both attending practitioners and medical examiners are under a statutory duty to refer the death to the coroner, if they are unable to establish or confirm the cause of death.

What information does the medical examiner office require and why?

For both attending practitioners and our medical examiner to undertake their statutory duties, our medical examiner office will require access to:

- health records associated with deceased patients, which will be independently reviewed by our medical examiner
- contact details for relevant patients' next of kin, so our medical examiner and medical examiner officers can contact them to ask if they have questions about the causes of death, and about any concerns they may have regarding the care before death
- contact details for the medical practitioner completing the AP MCCD, so our medical examiner and medical examiner officers can make enquiries regarding the proposed cause of death.

Do medical examiners have a statutory right to access health records?

Yes.

The Access to Health Records Act 1990 (AHRA) has been amended to establish the statutory right of medical examiners to access health records. Under the Coroners and Justice Act 2009 (Commencement No. 22) Order 2024 ([paragraph 3n](#)), from 9 September 2024 medical examiners were added to the list of people who can apply for access to a health record ([schedule 21 paragraph 29](#)).

A “health record” means a record that:

- consists of information relating to the physical or mental health of an individual who can be identified from that information, or from that and other information in the possession of the holder of the record
- has been made by or on behalf of a health professional in connection with the care of that individual

Where a medical examiner (via the medical examiner office) applies for access to health records, you are obliged to give them access to the record. In most cases you will be required to provide a copy of the records, but the medical examiner may also require you to allow inspection of the records.

The usual timescales for compliance with requests under AHRA have not changed, however you are expected to respond promptly to ensure that both attending practitioners and medical examiners can fulfil their statutory duties without delay.

The usual exemptions from access under AHRA (for example, where the record includes a note, made at the patient's request, that they did not wish access to be given on such an application) have also not changed. However, such exemptions are highly unlikely to apply in respect of an application by a medical examiner. In the rare event that you consider an exemption may apply, you should contact the medical examiner office immediately. If a medical examiner cannot access relevant information to complete scrutiny, they will have to refer the case to a coroner. Notifications to the coroner caused by such cases should be avoided wherever possible, and all parties should work cooperatively to avoid unnecessary distress and delay to bereaved people.

What is the lawful basis for sharing personal data with medical examiners?

The UK General Data Protection Regulation (UK GDPR) and Data Protection Act 2018 (DPA) only apply to information relating to living individuals.

Information relating to deceased patients does not constitute personal data and therefore is not subject to data protection law.

Information relating to living next of kin and healthcare professionals is personal data and is subject to data protection law.

The main lawful basis for sharing such personal data is “public task” (Article 6.1(e) UK GDPR). This says you may process personal data where this is necessary for the performance of a task carried out in the public interest or in the exercise of official authority. This includes the exercise of a function conferred on a person by an enactment or rule of law. In this case, the processing of personal data is necessary for both the attending practitioner and medical examiner to undertake their statutory duties (see above).

For personal data held within health records, the lawful basis is also “legal obligation” (Article 6.1(c) UK GDPR). This says you may process personal data where this is necessary for compliance with a legal obligation to which you are subject. In this case the relevant legal obligation is to provide access under the AHRA.

Typically, we do not require access to special categories of personal data.

What is the lawful basis for sharing confidential information with medical examiners?

The common law duty of confidentiality continues beyond a patient’s death.

You may share confidential information where disclosure is required by law. In this case, disclosure of the deceased patient’s health records, including confidential information within them, is required by law under the legislation referred to above, including the AHRA.

What happens if the information is not provided to the medical examiner?

Delays in scrutinising and certifying deaths can contribute to the distress of bereaved people.

If for any reason the medical examiner is unable to obtain sufficient information to confirm or establish the cause of death, they must refer the death to a coroner, who has statutory powers to compel people to produce documents and give evidence.

If a record holder fails to respond to a request by a medical examiner under AHRA, or an attending practitioner fails to co-operate with a medical examiner’s enquiries, this may be in breach of AHRA or the attending practitioners’ statutory duties.

Will the information be kept secure?

Yes.

NHS trusts in England must comply with the NHS Data Security and Protection Toolkit. The toolkit is an online self-assessment tool that allows organisations to measure their performance against the National Data Guardian's 10 data security standards and provide assurance that they are practising good data security and that personal information is handled correctly. You can look up the status of our most recent Data Security and Protection Toolkit self-assessment via the [NHS Data Security and Protection Toolkit organisation search](#).

Access is limited to medical examiners and medical examiner officers for the purpose of completing the review. Access to electronic health records will be on a read only basis.

