

Surrey History Centre: Access To Records Policy

1. Introduction and Background

Surrey History Centre cares for and makes publicly accessible the historic archive and local studies collections relating to the County of Surrey. The Centre was established in 1998 by Surrey County Council to hold and develop the collections formerly housed in Surrey Record Office, Kingston, Guildford Muniment Room and Surrey Local Studies Library. In 2006 it became part of Surrey Heritage.

The Centre is recognised as a place of deposit for public records relating to the County of Surrey and is appointed the diocesan record office for the diocese of Guildford and much of the diocese of Southwark.

2. Scope of this Policy

Surrey History Centre holds for the purpose of research records deemed to be of permanent historic value created by Surrey County Council, district, borough and parish councils and their predecessors, local courts, hospitals and health authorities, schools and colleges and other public bodies, as well as records deposited or donated by private organisations and individuals.

Visitors to the Centre may have free access to original records or, in some cases, copies of records in our public searchroom. However in some instances records are subject to access restrictions for a period. This policy sets out the rationale for the imposition of such restrictions and outlines the procedures in place for responding to access requests. An appendix gives further information relating access restrictions which apply to certain particular classes of record.

3. Legislative and Regulatory Framework

The information contained in most records in our care is freely accessible to visitors to Surrey History Centre and for those unable to visit we offer a paid research service.

However Surrey History Centre is obliged to meet the requirements of current legislation concerning access to certain categories of information, including:

- The Data Protection Act, 2018 (hereafter 'DPA')
- The Freedom of Information Act, 2000 (hereafter 'FOIA')
- The Representation of the People Act, 2002
- Environmental Information Regulations, 2004 (hereafter 'EIR')

In such cases, access to information is provided in accordance with this legislation and related guidance and decisions issued by the Information Commissioner, The National Archives, Surrey County Council Information Governance Officer and other appropriate authorities.

Surrey History Centre is also obliged to honour any agreements made with owners of records applying restrictions on access to their records.

4. Restrictions on Access to Information

Surrey History Centre will make all of the records (or the information they contain) that it holds routinely and freely available for public consultation and research unless access is:

- Prevented by a statutory exemption (particularly those defined in DPA and FOIA)
- Against the wishes of a private depositor
- Likely to risk loss of a depositor's property
- Likely to cause physical damage to an item
- Provided for by a surrogate copy (with the aim of preserving the original)

The restrictions outlined above may be waived:

- For depositors consulting their own records subject to adequate identification and preferably with advance notice
- For researchers authorised (in writing) by the depositor, preferably with advance notice
- For Government security or law enforcement agencies, in line with the provisions of FOIA

Where information is exempt from disclosure because to release it would contravene DPA or FOIA our catalogues will indicate that access restrictions apply and the record is closed. You may still request to see a record that has been closed by submitting a FOI request. We will review the record in consultation with the depositing body which transferred it to us and will provide access to such information which is not covered by any relevant exemption, as far as possible within the timeframe set out in the relevant legislation.

It is advisable to enquire in advance if you are in any doubt about whether restrictions are likely to apply, particularly if you are intending to access records containing personal data of individuals born within the last 100 years.

5. Access to Records containing Personal Information

Many records which contain personal information about living, or potentially living individuals may be exempt from disclosure under DPA.

Individuals are entitled to obtain information about themselves, and should, if they wish to make a Subject Access Request, apply to the Heritage Public Services and Engagement Manager. Please note that we may need to contact the depositing body for its permission to release any data from the records.

We will **respond** to a SAR within one month of receipt of the request unless the request is complex or a number of requests have been made by the same data subject in which we may need to extend this period by up to a further two months.

Requests by third party for information on other individuals should again be addressed to the Heritage Public Services and Engagement Manager. Enquirers should include in their request all relevant details such as the date of death of the person in question. Please note that we may need to contact the depositing body for its permission to release information and that exemptions may continue to apply after the data subject has died.

DPA explicitly permits the archiving in the public interest of personal data for research purposes, provided the data is not used to support decisions with respect to particular individuals. Therefore, permission to access restricted information may still be granted under certain conditions. Generally this will require the researcher to sign 'Form 10: Request for Access to Restricted Documents' by which they agree not to disclose any information relating to identifiable and potentially living persons. It is not usually permitted to copy any records accessed under these conditions.

6. Uncatalogued Collections

Collections which are uncatalogued may be exempt, in that catalogues are intended for publication at a future date as part of Surrey History Centre's cataloguing programme. Anyone requiring access to uncatalogued collections should, in the first instance, contact Surrey History Centre.

7. Reclosure Policy

Occasionally it is necessary to reclose records that have hitherto been open to public access. This may be for a number of reasons, such as:

- Because of changed circumstances, information in records previously opened in good faith is considered to require closure because exemptions in FOIA or EIR are now considered to apply.
- Because the records are found to contain sensitive personal information about a living person and continued public access would be unlawful to them or unfair under DPA or would breach their own or their family's right to a private and family life under the Human Rights Act 1998.
- Because the records were opened in error.

If it is considered that open records should be closed, the County Archivist will take the advice of the Modern Records Office and the corporate information governance team and the new closure period will be added to the catalogue.

8. Date of Publication and Review

First published March 2017.

Reviewed July 2020

Next review 2023.

Appendix: Exemptions In Place Relating To Certain Classes Of Records

DPA: Data Protection Act 2018

FOIA: Freedom of Information Act 2000

Court Records (Quarter Sessions, Magistrates Courts, County Courts)

FOIA s.32, Sexual Offences Act 2003.

Court records less than 30 years old (both adult courts and juvenile courts) are subject to an absolute exemption under section 32 of FOIA; no access to court records less than 30 years old will be given without permission from Her Majesty's Courts and Tribunal Service.

Access remains restricted for an additional 70 years (100 years in total) and any request for access will be processed in accordance with FOIA and Data Protection legislation.

Any person seeking his/her own court records (ie. the data subject under DPA) may apply for access subject to provision of two forms of proof of identity and completion of a form requesting access to restricted documents. If the requested information is found we will, if necessary, review any relevant access restrictions in liaison with the depositor of the records and release as much information as we can.

If the information is located in a court record less than 30 years old then permission from the court will need to be obtained in the first instance.

Coroner's Records

FOIA s. 32

Exempt for 30 years. Coroners' records are treated as Court records under FOIA and are covered by an absolute exemption if they are **under 30 years old**.

Inquest papers and coroner records less than 75 years may continue to be subject to access restrictions although requests for access can be made. As the coroner is not a public authority within the meaning of FOIA and therefore not obliged to provide any information requested under the Act and Surrey History Centre holds information on behalf of the coroner we are unable to release information from inquest papers or coroners' records between 30 and 75 years old without the coroner's permission.

A search fee the equivalent of one hour's research is charged to tell you whether or not we hold specific information. Only after receipt of the fee along with a completed form requesting access to restricted documents can a search be undertaken. If the requested papers are found permission from the current coroner for Surrey is sought and, if granted, access is allowed. Requesters should be aware that the above fee is chargeable even if the subsequent search is unsuccessful.

For access to information in coroners' records **between 30 and 75 years old**, please apply in the first instance to:

Modern Records Officer
Surrey History Centre
130 Goldsworth Road

Woking
Surrey
GU21 6ND

You should be advised that the coroner rarely grants access to enquirers who are not considered a 'properly interested person' under section 47 of The Coroner's and Justice Act 2009. Such a person would include: a parent, spouse, child, civil partner, partner, grandparent, grandchild, child of a brother or sister, stepfather, stepmother and half-brother or half-sister; any personal representative; and any beneficiary under a policy on the life of the deceased.

All coroner records, including inquest papers, **over 75 years old** are open and can be viewed in our searchroom.

Medical records

FOIA s.38, s.40, s.41, s.44, DPA and SI 2000 No.413

Information recorded in hospital records relating to living or potentially living individuals is personal data and should be processed in accordance with DPA. As such, and in view of the nature of these records and the sensitive, sometimes distressing personal information that they may contain, it is necessary to place strict access restrictions on records that name patients for 100 years after the last date in the record.

Records relating to hospital staff are similarly restricted for 75 years.

People seeking access to their own hospital records/information (Subject Access Requests)

Under DPA, individuals are entitled to apply for access to health information about themselves, and should, in the first instance, submit a Subject Access Request to the Modern Records Officer at the above address (Please note that the timescale for responses, under DPA, is 40 calendar days). A decision with regard to access will then be made jointly by Surrey History Centre and the relevant NHS Trust.

People seeking their own records (ie. the data subject under DPA) will need to provide two forms of proof of identity and complete a form requesting access to restricted documents.

If the requested information is found we will review any relevant access restrictions in liaison with the depositor of the records and release as much information as we can.

People seeking access to another person's hospital records/information

Because of the enduring sensitivity of much of the information contained in hospital records and because the duty of confidentiality with regard to information given in confidence persists after death, information relating to living or deceased individuals within records less than 100 years old will only be released under FOIA if no valid exemption applies which would prevent disclosure.

If you are seeking information about a person other than yourself, please note that a search fee the equivalent of one hour's research will be charged to tell you whether or not we hold the specific information you are seeking. Only after receipt of the fee

along with a completed form requesting access to restricted documents can a search be undertaken.

If the requested information is found we will review any access restrictions in liaison with the depositor of the records and release as much information as is not deemed to be exempt under FOIA. Requesters should be aware that the above fee is chargeable even if the subsequent search is unsuccessful.

If a personal file is held relating to the data subject, and permission for access is given, we may need to charge a further fee, at our normal copying rates, for supplying a photocopy or digital copy if the applicant is unable to visit us in person to consult the record.

School records

A recent decision notice by the Information Commissioner has confirmed that school admission registers and log books contain personal data under the terms of DPA, where it relates to living or potentially living individuals. As most of this data is not sensitive, access restrictions apply to all school admission registers, log books and punishment books less than 30 years old. Requests for access to these types of school record will therefore be processed in accordance with DPA and FOIA.

Permission will normally be granted to persons wishing to access any such records which are between 50 and 100 years old on condition that they sign an undertaking that any information they extract will be processed in accordance with DPA.

People seeking access to their own school records/information (Subject Access Requests)

Any person seeking his/her own records (ie. the data subject under DPA) may apply for access subject to provision of two forms of proof of identity and completion of a form requesting access to restricted documents. If the requested information is found we will, if necessary, review any relevant access restrictions in liaison with the depositor of the records and release as much information as we can.

People seeking access to another person's school records/information

Enquiries from third parties requesting access to admission registers, log books and punishment books under 30 years old to obtain information relating to people other than themselves or their children will be treated as requests under FOIA and any personal information found within the records relating to persons who may still be living will be processed in accordance with DPA. Please note that other exemptions may still apply even if all persons named in the record are deceased.

It may be necessary to charge a fee equivalent to 1 hour's research to tell you whether or not we hold the specific information you are seeking. The searcher should understand that such a fee is payable even if the requested information is not found.

Access to admission registers, log books and punishment books between 50 and 100 years old, will generally be granted on condition that the reader sign an undertaking that any information extracted will be processed in accordance with DPA.

In cases where files relating to individual students and their attainments are held by Surrey History Centre, access restrictions will apply for a longer period and any request to access such records will be treated in accordance with FOIA.

Local Authority records (including Borough, District and Parish Councils)

Rural and Urban District Councils, Civil Parishes and Townships) come under the jurisdiction of FOIA and will generally be presumed to be open except for:

Records relating to legal actions or investigations which are exempt for 30 years (s.30 (1)).

Records containing personal data relating to living or potentially living individuals (eg. minutes giving case details of children in care) which may be exempt for up to 100 years.

Records relating to Council or Committee meetings held in camera which may be subject to access restrictions for 30 years.

Poor Law and Public Assistance Institutions

FOIA s.40 and DPA

Records containing personal data relating to living or potentially living individuals, including medical records and creed registers: exempt for 100 years

Police records

In most cases, police records over 100 years old are open but permission from Surrey Police in relation to their own personnel and procedural records, even if over 100 years old, will need to be obtained in the first instance.

Access to more recent records is restricted: personal data relating to living or potentially living individuals is subject to access restrictions for up to 100 years; records relating to policing issues and procedures may be subject to access restrictions and permission to access any of the above information must be obtained, in writing, from Surrey History Centre who will liaise with Surrey Police regarding access.

Privately Deposited Records

Deposited records of organisations and individuals that fall outside the scope of FOIA may be subject to closure periods agreed between Surrey History Centre and the depositing body.

In all cases, a judgement will be made as to the continuing sensitivity of information contained within such records with particular regard to the provisions of DPA.

The following restrictions have been agreed at national level.

Methodist records

The following guidelines were issued by the Archives and History Committee, The Methodist Church

Minutes and records which are not in the public domain: closed for 30 years

Records containing sensitive or confidential information (e.g. complaints, disciplinary records, assessment files): closed for 75 years

Roman Catholic records

Closed for 50 years

Requests for access within the 50 year period should be referred to the relevant church or, for diocesan material, to the diocese.