

Requesting your and your baby's medical records



This leaflet offers advice about how to obtain medical records to help you understand the treatment you and your baby received in hospital if you have suffered the loss of your baby during pregnancy, labour and birth or in the early neonatal period.

It explains how to ask for these records, what information they will contain and how to get help to understand them. We explain the process from the viewpoint of a fictional couple, Simone and Balla.

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Why might Simone and Balla want to see the medical records?

Simone and Balla lost their baby at 37 weeks following a traumatic birth in hospital. Their baby died shortly after birth. They were not expecting a difficult birth and find it hard to understand how their baby did not survive.

They have been told by the hospital that it will conduct an internal investigation (often called a Structured Judgement Review, a Root Cause Analysis or a Serious Incident Report) into what caused their baby's passing and they want the notes to understand for themselves what happened.

Sometimes hospitals do not do an internal investigation, but when parents suffer an unexpected baby loss and make an informal complaint, there should at least be a debrief meeting with their maternity team.

Because medical records contain important information setting out the circumstances around the treatment provided, they can help parents interpret any reports sent to them and decide what questions to ask at any meetings.

Note that if legal proceedings begin later, medical records are essential evidence in a case.



When should you ask for your records?

It is never too early to ask for your records. Simone and Balla can, for example, request Simone's maternity records and their baby's neonatal records the same day they make a complaint or raise concerns about what happened. It is often easier to request records at the same time as making a complaint. It can take some time to obtain the records so the sooner you ask for them, the sooner you will have them.



What should you ask for?

When we talk about hospital records, we often think of doctor's and nurses' notes written about our medical appointments. In fact, they include a lot of other documents important to explain what happened during your care. Here, we will explain the documents you can expect to see in maternity and neonatal records.

If Simone and Balla want to request records, they should ask for Simone's maternity notes and their baby's neonatal records. Once a woman is pregnant,

she is either given a set of handheld antenatal records to carry around or access to electronic ones.

Once your pregnancy ends, you are expected to hand back your records to the hospital. So Simone's request for her maternity notes will include her antenatal records, any notes if she was admitted to hospital for check-ups during the antenatal period, all her pregnancy scans, labour records once she was admitted for the birth and then her post-partum records.

Her maternity records should include any surgical notes (for example, from a caesarean or instrumental delivery), drug charts, and correspondence. Very importantly, if the hospital used electronic fetal monitoring during labour or to check on the baby during the antenatal period, then the CTG records should be included.

Their baby's neonatal records will include a record of his care from the moment he was born, including all interventions and support, observation and feeding charts, doctors and nurses notes, and correspondence.

How to request the records?

Simone and Balla should speak to the PALS office to check the hospital's local procedure for requesting records and say that they want copies. Usually there is a formal request form to complete, and they will be asked to provide current proof of identity (i.e. a copy of your passport, driving license or birth certificate) and a current proof of address (i.e. a utility bill or bank statement). If they are already in contact with the PALS office, they may be able to reduce some of the paperwork.

Note that there are slightly different processes for requesting records for yourself and for your baby following your loss and for a child still with you.

Other specialist organisations provide a range of support and information, including counselling services. For more detailed information, please scan the QR code.



Simone can request her records under the Data Protection Act 2018. Everyone has the right under this Act to access any information about them held by an organisation. Therefore, any patient has the right to see the information that is held in their health records and Simone does not need to give a reason to access her records.

Simone and Balla, as parents or guardians of their children, can also apply for their children's records under the Data Protection Act, so long as the children are under 16 years of age.

If Simone and Balla ask a family member to make the request for them, they will still need to provide their signatures and ID for the forms and their written permission for someone else to make the request on their behalf.

Once the request has been made, the hospital has 30 days to provide the records. It often takes longer, partly because the records may still be in use if there is an internal investigation ongoing or the mother or baby are receiving ongoing treatment.

Different rules apply if you are asking for your baby's neonatal records following baby loss. If Simone and Balla request the neonatal records of their baby, they will need to do this under the Access to Health Records Act 1990. They will be asked for

documentary proof of their relationship and that they are also the Personal Executives of their Estate. If a grandparent or other family member requests medical records for someone who has died, they will need the person who had family responsibility for the deceased to give consent for them to request the records on their behalf.

If you have a bereavement midwife supporting you, ask them to help you request the records as it can bypass some of the procedures.

If you have problems accessing the records, you can call the helpline in this leaflet for advice.

Understanding the records

Once you have the records, it can help to go through them with someone not connected with your loss and who understands them. Many hospitals offer access to a specialist bereavement midwife or neonatal nurse, and they can explain the notes to you. You can also call the following free helpline: **0800 047 2791** and speak to a specialist lawyer, free of charge, who will explain what the records mean.



How can I get further information and advice?

Fieldfisher is an award winning, leading firm of medical negligence specialists, recognised for going the extra mile for our clients. To get more advice about your own circumstances, or to assist you in supporting a family you are caring for, please contact one of key contacts Caron Heyes or Christina Gardiner, or contact us on our **free helpline 0800 047 2791** or email us on **maternitylaw@fieldfisher.com**.

Simply fantastic in dealing with my medical negligence claim, listened to my thoughts about the situation. Legal knowledge and instinct are amazing, always professional, positive and unbelievably supportive during sad and challenging times.



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Caron Heyes is a Director in the medical negligence team and has worked in the medical negligence sector for many years specialising in bringing claims for adults and children injured during the antenatal, birth and neonatal period.



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