

3.8 Deputy J.A. Hilton of St. Helier of the Minister for Health and Social Services regarding the timescale for medical records of the deceased to be released to the next of kin: [1(448)]

Would the Minister advise whether medical records of the deceased are released to their next of kin within 40 days following a request, and if not what is the usual timescale?

Senator A.K.F. Green (The Minister for Health and Social Services):

When medical records of the deceased patient are to be released to the next of kin my department aims to do this as soon as possible and ideally within 40 days. The department usually meets this timescale but sometimes it takes longer to process the records and it can vary very much on the individual cases.

3.8.1 Deputy J.A. Hilton:

Can the Minister tell the Assembly whether there are any circumstances in which the department will not release medical records to next of kin?

Senator A.K.F. Green:

Even after death we have a duty of confidentiality to the patient and if it is known or believed that the patient would not have wanted their information shared we have a duty to protect that information. The department has no legal obligation to disclose the records of deceased people.

3.8.2 Deputy J.A. Hilton:

The Minister has just responded that if the department believes that the deceased would not want their records released to their next of kin then they would not do so. Can the Minister tell me who has the authority to adjudicate on a request and is there a right of an appeal?

Senator A.K.F. Green:

I am not sure that this is absolutely covered by the Data Protection Law because I have been advised that the Data Protection Law applies only to those patients that are still living. I think the best thing I can say to the Deputy, if she has a particular case in mind if she would like to come and discuss it with me I will look into the circumstances and try and help.

3.8.3 Deputy J.A. Hilton:

Obviously I do have a particular case in mind, and the Minister will be aware of that particular case and it has been extremely difficult for the next of kin to get the information that they require. So the question I would like to ask is: how can a next of kin hold accountable a government department whose actions it is believed to have contributed to a premature death when they refuse to release medical records. It is wrong, it is unacceptable and it is grossly unfair on the family members concerned. So how does an individual hold government departments accountable?

Senator A.K.F. Green:

As I said, it depends on the complexity of the case, it depends on the records and what is in there regarding sharing it after the person is deceased, and a whole host of different matters. It is not appropriate for me to try and second guess the case but my offer is there, if the Deputy would like to come and talk to the department we will see what we can do to help.