Death certification reforms: new duty on local authorities

This document provides an overview of the death certification reforms for local authority chief executives. Additional information is provided in supporting notes at the end of the document.

Please also share with your Directors of Public Health.

Background

The Department of Health is working with a wide range of organisations and groups to reform the process of death certification. These reforms, enabled by the Coroners and Justice Act 2009, will introduce a unified system of scrutiny by independent medical examiners of all deaths in England and Wales that do not require investigation by a coroner (i.e. similar for burials and cremations).

The reforms, which are part of the Government’s response to the Shipman Inquiry, will strengthen safeguards for the public, make the process of death certification simpler and more open for the bereaved and improve the quality of mortality data.

Renewed calls for medical examiners were made by the Francis Inquiry into Mid Staffordshire and Bill Kirkup’s Inquiry into Morecambe Bay.

Legislative framework

The Coroners and Justice Act 2009 sets out the legal basis for a new system of death certification in England and Wales. With the abolition of Primary Care Trusts (PCTs) in April 2013, the Health and Social Care Act 2012 transferred responsibility for establishing the medical examiner service from PCTs to Local Authorities (LAs) in England and Local Health Boards (LHBs) in Wales.

Implementation resource sites

Piloting of the local medical examiner process in Sheffield, Gloucestershire, Powys, Mid Essex, Brighton & Hove, Leicester Faith Community, and Inner North London has demonstrated that the local medical examiner service can work well in both urban and rural settings without causing delays to funeral arrangements. Former pilots in Sheffield and Gloucester now act as implementation resource sites with working models of the local medical examiner service to support local authorities with their own implementation. Local authorities can get in touch with the sites to learn about the medical examiner system by contacting either Daisy Shale (Daisy.Shale@sth.nhs.uk) at Sheffield or Kathryn Griffin (Kathryn.Griffin@glos.nhs.uk) at Gloucester.
Feedback from the pilots was used to inform the recent consultation and draft regulations and will be used in guidance to recommend ways that local authorities can address transitional issues in implementing the new process.

**Funding arrangements**

The government is proposing to fund scrutiny by medical examiners on a cost-recovery basis through a statutory fee chargeable for all deaths that are not investigated by a coroner. This statutory fee, collected locally, would replace and make more effective use of the existing fee charged by doctors for the completion of cremation forms which will be removed by the new process. (These fees are around £184 for each cremation where applicable).

**Operational requirements for running the service**

Local authorities will be able to use service models that are appropriate for their area; these models may include direct provision of a standalone function, commissioning the service from a healthcare provider that can assure independence, integration with existing related services and collaboration with neighbouring authorities to provide a combined service.

All medical examiners will be required to have at least 5 years post-qualification experience, a current licence to practice and relevant expertise based on the completion of prescribed e-Learning and face-to-face training. Training for medical examiners has been developed and will be delivered through a ‘blended approach’ of e-learning supported by face-to-face training. In most areas, medical examiners will need to be supported by officers or people providing an officer function.

It is anticipated that most medical examiners will be appointed on a part-time basis so that they can maintain their licence to practice through their other clinical duties and keep up to date more generally with clinical developments.

The cost of providing (or commissioning) the services needed in each area will be recovered from the proposed statutory fee and work is currently being carried out - with input from local authority representatives - to ensure that the level of fee set takes account of the costs of alternative service models and other local considerations.

The consultation draft Impact Assessment reflected our initial assessment, which is currently being refined in light of the consultation, is subject to potentially significant change and therefore will not reflect the final position.
Death Certification Reforms: New Duty for Local Authorities

Recent Progress - Consultation

A 14 week consultation in England on the policy and draft regulations for introducing medical examiners in England ended on 15 June. Respondents widely welcomed introducing medical examiners into the death certification process. Early indications show that the main theme emerging from the consultation concerned the level of the fee and whether it would sufficiently cover the costs of medical examiner service. Some of the responses have helpfully provided local evidence which our analysts can use to update assumptions and re-estimate the fee. We aim to publish a summary of responses to the consultation later in the year.

The death certification draft regulations were published with the consultation; and, subject to Parliamentary passage, will be laid in Parliament around March 2017 with an anticipated commencement date of April 2018. The extended period between introduction and commencement is intended to provide time for local authorities to establish a local medical examiner’s service for their area.

Local government advisors’ checklist

Local government advisers have been working on a checklist to support local authorities to develop a local plan to establish their local medical examiner services.

Please send us any comments about the draft checklist particularly if there are any gaps that need to be addressed using the online survey form by 31 October 2016.

Department of Health
Death Certification Programme
October 2016
Mailbox: deathcertification@dh.gsi.gov.uk
Phone: 0113 254 5813 or 0113 2545174
Supporting Notes

The following notes are referenced in the summary provided above. If you have any questions, comments or would like to discuss any aspect of the Death Certification Programme please contact the Programme Team at deathcertification@dh.gsi.gov.uk.

1. Deaths that are “investigated” are those where a coroner’s post-mortem examination is carried out and / or inquest is held because a coroner has reason to suspect that the deceased died a violent or unnatural death, the cause of death is unknown, or the deceased died while in custody or otherwise in state detention. Approximately 20% of deaths in England and Wales currently require investigation.

2. It is generally accepted that the causes of death certified by a significant proportion of doctors are not sufficiently precise for epidemiological purposes and that many medical certificates of cause of death (MCCDs) are not completed fully and legibly. This view is based on published audits of medical certificates of causes of death (MCCDs) or of their counterfoils and feedback from local registration services and it is supported by analyses carried out on data collected by the areas piloting the death certification reforms. Whilst improved training for doctors in certification of death has some impact on the quality of causes of deaths and certificates, it is not sufficient and is too far removed from the specifics of each case to achieve the aims of the reforms.

3. The Death Certification Programme acknowledges that concerns have been raised about the requirement for the proposed statutory fee. These concerns, outlined below, will be kept under review. However, at the current time, the fee needs to remain as the preferred option for funding the new service; the key reasons for this being that it replaces (and extends) an existing fee that is largely ineffective and that in the current economic climate there is unlikely to be any viable alternative.

<table>
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<tr>
<th>Concern</th>
<th>Response / Action</th>
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<tr>
<td>Risk that a single standard fee will not enable cost-recovery in areas with different requirements and cost-structures.</td>
<td>Consideration of alternative options for structuring the fee to allow some local flexibility and / or recovery over a multiple year period.</td>
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<tr>
<td>Reputational risk to local authorities – particularly if the fee needs to include a variable local element.</td>
<td>Further discussion of concern and clear communication of purpose and benefits of reforms.</td>
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<tr>
<td>Local collection of the fee will create procedural difficulties and incur costs.</td>
<td>Alternative options identified and assessed for use by local authorities in making arrangements and estimating costs appropriate for their service model.</td>
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<tr>
<td>It is unclear what action needs to be taken if the fee is not paid.</td>
<td>Further discussion of concern – particularly in relation to timing / arrangements for payment of fee where it is expected to be covered by a Funeral Grant from the Social Fund.</td>
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4. The reforms to the process of death certification will include removal of cremation forms 4, 5 and 10. Procedures to ensure that crematoria are advised about the removal of any implants are currently being clarified and are currently expected to be included in guidance on the release of the deceased.
5 The Royal College of Pathologists has been nominated by the Academy of Medical Royal Colleges to act as 'lead college' for eLearning and face-to-face training of medical examiners; however, medical examiners do not need to be pathologists and are likely to come from a wide range of speciality areas. The eLearning has been developed in collaboration with eLearning for Healthcare and current materials are available at www.e-lfh.org.uk/medical_examiner for use by doctors and others that are interested in the role of medical examiner or role / function of the medical examiner’s officer; introductory materials may also be of interest to others who want to learn more about the new process. Access to the materials requires enrolment.

6 The Death Certification Programme has worked with the Bereavement Services Association (BSA), Coroner’s Officers Association (COA) and Association of Anatomical Pathology Technicians (AAPT) to prepare an Outline Specification for the Provision of the Medical Examiner’s Officer Function. This outline specification will be provided to local authorities as guidance for the selection / recruitment of medical examiner’s officers or people in a related service that provide this function.

7 It is anticipated that each area / service would have a lead medical examiner and that one lead examiner in each region would represent colleagues in discussions at a national level.

8 The Death Certification Programme is working on service models and associated costs and issues with the Local Government Association and senior managers from local registration services in Cambridgeshire, Gloucestershire, Hampshire, Kent, Lancashire, Southwark, Lincolnshire, Oxfordshire and Solihull that represent their regions on the Local Registration Services National Panel.