

Welsh Government consultation

Reforms to Death Certification in England and Wales and Introduction of Medical Examiners

Questions and Answers for the public and stakeholders

The Welsh Government is consulting on how a proposed new system of death certification and medical examiners will operate in Wales, and on a set of draft regulations. These questions and answers have been prepared to support the consultation.

What happens now when someone dies?

Depending on the way in which the person dies, there are two possible situations.

Usually:

A person's death will be expected and the cause of death will be known. Following the death, the doctor who attended the patient will complete a **medical certificate of cause of death**. The family then takes this to the registrar's office to register the death. If a family chooses to have the body cremated, three additional forms are completed by three doctors, independent of each other, to ensure no further investigation is required before cremation.

Sometimes:

If the cause of death is unknown, violent or unnatural or if the deceased had been in custody or detained under the Mental Health Act, then the death is referred to a coroner for investigation. The coroner may carry out a post-mortem examination or hold an inquest before completing paperwork which will then be sent straight to the registrar stating the cause of death.

What will be changing?

In future, the process will be much simpler. All deaths (except those investigated by a coroner) will be looked at by an **independent medical examiner (ME)**. The ME will discuss the case with the attending doctor and look at the person's medical notes to ensure the proposed cause of death is accurate. The ME will also discuss the cause of death with the relatives of the deceased to find out if they had any concerns about the death. If the family has any concerns, the ME will ensure these are addressed. Otherwise, the ME will confirm the medical certificate of cause of death, allowing the family to register the death. The three cremation forms which are currently completed by three different doctors will no longer be needed because the ME has assured the cause of death.

What law covers medical examiners?

The Coroners and Justice Act 2009 is the law which provides for a system of medical examiners. In addition, regulations applying in England and Wales, England-only and Wales-only will be put in place to support the details of the system.

When will the new medical examiner system start?

The current proposed date for starting the new arrangements in England and Wales is **April 2018**.

Will the medical examiner system just apply to deaths in hospitals?

No – all deaths will be covered by medical examiners, including those in hospital, at home, in the community, in hospices, etc. Only those deaths investigated by the coroner will be outside the medical examiner arrangements.

Why is a system of medical examiners needed?

The **Shipman Inquiry** looked at the actions of Dr Harold Shipman who deliberately killed many patients but was able to conceal this by certifying their deaths himself, with no further checks. As a result his actions remained undetected for a long time. The Inquiry found that the system of death certification was confusing, complicated and needed reform. It also found there were not enough safeguards in the system to prevent wrongdoing. More recently, the **Francis Inquiry** into Mid Staffordshire Foundation NHS Trust made recommendations about independent scrutiny of deaths and the need to involve families. The new system will provide assurance - an effective cross-check on the doctor's certification, and a safeguard against hiding malpractice.

What benefits will the new system of medical examiners bring?

The main benefit will be for bereaved families, who will have the comfort of knowing that an independent person is looking at their relative's death to check everything is as expected. Families will be able to speak to the medical examiner or their officer and draw any concerns to their attention. The new system will also provide better and more accurate information about causes of death. This will help with the registration of deaths, the planning of health and care services and also assist with learning and improvement.

Has this system been tried out already?

Yes, there have been a number of pilots across England and Wales which have shown that it is possible to run a medical examiner service in a timely and cost effective way.

Will the new system delay the registration of deaths or funeral arrangements in any way?

This is unlikely. Families currently have five working days from the date of death to register a death. Under the new arrangements they will have five days from the date the medical examiner confirms the cause of death. The medical examiner will look at deaths very quickly, normally within two working days. Because the medical examiner process will also replace the cremation form process, it may reduce the time in many cases.

How long will it take a medical examiner to review a death and have a discussion with the family?

The medical examiner's office will be notified as soon as possible of a death and will normally look at it the same day or the next day. If the death occurs outside working hours, the medical examiner will look at it the next working day or the day after. Families will be contacted by the medical examiner or their officer during this period. There will be an on-call system which will be able to deal with certificates that have to be issued urgently out of normal hours, for example, for religious reasons or to support organ donation.

What if the medical examiner disagrees with the cause of death the attending doctor has put on the certificate?

The medical examiner might find the cause of death suggested by the attending doctor is not supported by the medical notes, or might consider that the doctor has overlooked information. The medical examiner will have to discuss the issues of concern with the doctor and this might result in the certificate being changed or a referral of the death to the coroner.

Will families have to pay for this service?

Yes, it is likely that there will be a fee for the medical examiner's service. We are consulting specifically on this issue and no decisions have been made as to the exact amount. Currently, there is a cremation fee charged to families (£184) and this will be abolished under the new arrangements. The new fee for the medical examiner service will certainly be less than the current cremation fee and so because the majority of people choose cremation, most people will pay less than they do now.

It does mean that people who choose burial will have to pay a fee where there is currently none, but they will have the peace of mind that the medical examiner has checked the cause of their relative's death.

What will the fees cover?

The fee is payable for the medical examiner's scrutiny and confirmation of the cause of death. The new system will be self funding and no profit can be made from the fees. Some set up costs will be paid by the UK Government. After that, the running costs will be covered by the fees.

Will the cost be the same wherever you die in Wales?

Yes, it is the intention to have a single fee rate for Wales.

How will the fee be collected?

We would like the payment to be as easy as possible and so ideally it would be collected at the same time as paying for the funeral costs. We are exploring the different options for paying the fee and this will be publicised widely.

Could funeral directors collect the fee?

This is something we would like to explore with funeral directors as part of the implementation of the new arrangements in Wales.

Why can't the Government absorb the cost of the medical examiner service, rather than imposing a fee on the public - wouldn't this be cheaper in the long run?

The UK Government is providing the set up costs but it is not possible for the running costs to be covered centrally. Because the new service will benefit everyone, then it is more equitable if everyone contributes to the costs of the service through a fee. There will be no profit from the fee, and administration costs will be kept to an absolute minimum.

What if my relative's death is referred to the coroner and therefore not covered by the medical examiner – will I still have to pay a fee?

There are no fees for deaths where the coroner issues the death certificate. The activities of the coroner can involve extensive investigation, additional time and often lead to an inquest, and this is funded by central government. The law does not permit the coroner to charge a fee for this service.

Will a pre-paid funeral plan cover the costs of the fee?

It is hard to comment as funeral plans can be different. Generally speaking, funeral plans which cover the current cremation fee should have sufficient funds to cover the medical examiner fee.

Who will be responsible for appointing medical examiners?

Local health boards in Wales will be responsible for the appointment of medical examiners and medical examiner officers. We are suggesting in the consultation that the local health boards should do this by coming together in a single committee to run one service for Wales.

Who will carry out the role of medical examiner?

Medical examiners must be senior registered medical practitioners with at least five years' experience. They must have sufficient medical knowledge and seniority to give them the authority to scrutinise the suggested cause of death and to come to a decision. They must complete some training before being eligible to apply, and further training once appointed.

Many clinical staff in Wales have already become involved in scrutinising causes of death in hospitals as part of a system called Mortality Review. Some of these doctors might be interested in applying for medical examiner positions. GPs and other doctors may also want to apply.

I have heard there is a shortage of doctors in Wales – will introducing medical examiners place further pressure on the system?

We are not expecting there to be many problems but the introduction of medical examiners will need to be carefully managed so as not to have an adverse impact on the health service workforce. We expect most medical examiners will work part time, and doctors should be able to fit the role in with other work.

If a medical examiner also works for the health board as a doctor, how will they be independent?

The medical examiner role is completely independent within the health board and no-one can interfere with the decisions taken by the medical examiner. If the medical examiner is asked to look at a death for someone he or she knows, or if he or she is related to or has a close association with the doctor involved then the medical examiner cannot deal with the case. This is set out in the regulations. Doctors are also subject to their own professional codes of conduct. The pilot sites have shown that it is possible to operate an independent medical examiner service within the NHS.

What if I am unhappy with the decision of the medical examiner – could I ask for the coroner to look at the death instead?

The medical examiner will discuss the circumstances and cause of death with the family of the deceased to ensure the family understand what has happened and that they have no concerns. Where unresolved concerns regarding a death remain, the medical examiner must notify the coroner who will determine whether those concerns merit investigation. Any person may notify a coroner of a death where the person feels the death was of unknown cause, or was violent or unnatural, or occurred in custody or state detention, by telephoning the relevant coroner's office.

If you think a medical examiner has acted inappropriately, there will be a system for reporting formal complaints as there is with any doctor.

How will medical examiners be held to account for the quality of their service?

Medical examiners will need to comply with performance standards, which will be set out in guidance published by the National Medical Examiner.

Who will carry out the role of medical examiner officers?

Medical examiner officers are likely to be health service staff with some clinical experience or familiarity with bereavement services, who are also used to dealing with medical records and speaking to families.

Will the new system have any impact on the workload of coroners?

The experience of the pilot sites suggests that fewer deaths overall will be referred to the coroner, but the number of coroner investigations into complex cases will increase. This expected outcome of the reforms ensures the right deaths are reported to and investigated by the coroner.

How will medical examiners receive and send information about the person and the cause of death?

Medical examiners will need to see the person's medical records and will also need to be able to receive and send other information relating to their scrutiny role to other agencies. As part of the implementation, we will ensure that we work within the systems already in place in NHS Wales to provide the medical examiner service with the support they need. As far as possible we want the service to be electronic and to keep paper to a minimum.

In the event that the deceased family/next of kin is not in the UK who is responsible for communicating with them about the cause of death?

Responsibilities around informing relatives of a death have not changed. Medical examiners are not expected to be responsible for breaking the bad news of a death.

As part of the process of scrutiny, the medical examiner will attempt to have a conversation with a member of the family who had recent contact with the deceased, who is already aware of the death. If that means someone who is abroad, then an attempt will be made to speak to that person.

What if a relative dies in England...or abroad...but is to be cremated in Wales? Will a death in England/abroad mean it is dealt with in a different way?

If someone dies in England the same system of medical examiner scrutiny will apply. If they die outside of England or Wales the local processes will apply. If they die outside of the UK the coroner will investigate the death on repatriation of the body to Wales, if the death was of unknown cause, or was violent or unnatural, or occurred in custody or detention in that other country.