

Proposed questions for Q&A for Death Certification Reforms in England

Questions are identified for each group / organisation affected by the reforms. Some of the questions are interrelated and will need to be read in conjunction with each other. [Cross-references could be included.] It is anticipated that the Welsh Government will create its own version of these Q&A.

The public

1.1 Why is this better for me?

The reforms 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. Families will have the cause of death explained to them, including clarification of medical terms, and be able to ask questions or raise concerns.

1.2 Why are the reforms needed?

The system for death certification in England and Wales has remained largely unchanged for over 50 years.

In its *Third Report*,¹ the Shipman Inquiry examined the process of death certification and the coroner system. The Inquiry concluded that existing arrangements for scrutinising Medical Certificates of Cause of Death (MCCDs) are confusing and provide inadequate safeguards. The then Government accepted the Shipman Inquiry's conclusions, and its action programme in response to the Inquiry's key recommendations² led to the design of a new rigorous and unified system of certification and scrutiny for all deaths in England and Wales that do not require investigation by a coroner (regardless of form of disposal).

No system of safeguards can ever provide us with an absolute guarantee against abuse from a criminal as devious and subtle as a Shipman.

The Robert Francis Inquiry into Mid Staffordshire highlighted that a medical examiner system would address some of the failings in the NHS and putting the bereaved at the heart of death certification would address concerns that families have raised. More recently the Inquiry into Morecambe Bay renewed the call for the introduction of the medical examiner system.

1.3 If a doctor has decided the cause of someone's death, why does this need to be checked?

An adequate system of death certification must provide some effective cross-check of events given by the certifying doctor who has treated the deceased and who claims to identify the cause of death. These cross-checks provided by a medical examiner as part of the scrutiny

¹ Third Report – Death Certification and the Investigation of Deaths by Coroners (TSO, 2003)

² Learning from Tragedy, Keeping Patients Safe (TSO, February 2007)

process will deter any doctor who might be tempted to conceal malpractice. The medical examiner will also check to ensure that the right deaths are notified or referred to a coroner.

A study by the Office of National Statistics (ONS) of MCCDs from medical examiner pilot sites, found that as a result of medical examiners, the contents of MCCDs are improved with more information about the underlying cause of death.

The results of the study can be found at

http://webarchive.nationalarchives.gov.uk/20160105160709/http://www.ons.gov.uk/ons/dc/p171778_288141.pdf

1.4 Why do we need a whole new process rather than better training for doctors in the current process?

See answer for question 1.2. Training on certification has been introduced into doctors' formal undergraduate training for some time now, but has made little difference to the quality of completed MCCDs. An independent scrutiny of a death by a medical examiner and the fact that doctors will have access to general medical advice from a medical examiner, as part of the new process, is expected to improve certification as well as provide better safeguards. With this in mind, the reforms will place a new duty on medical examiners to identify training needs of local doctors on how to complete MCCDs properly and more accurately.

1.5 Will the new system delay funerals?

As now, any delays will be kept to an absolute minimum. With the use of electronic communications, we anticipate that the new process of independent medical scrutiny will take no longer to complete than the process of medical certification that is currently required before a cremation can take place. Feedback from the death certification pilots has demonstrated that the demand for urgent certification is lower than expected and that in areas where it is a significant requirement, it can be met by arranging for medical examiners to be available for extended hours during the week and for specified periods during the weekend and on bank holidays, to allow a burial or cremation to take place as soon as possible after the death.

1.6 Will the time between date of death and date of registration increase to allow time for ME scrutiny?

The medical examiner's scrutiny is expected to be completed within two days of a death or sooner for exceptional urgent cases, as demonstrated by the pilots.

The 5-day rule for registration will remain in place. However, the Coroners and Justice Act 2009 made a consequential amendment to the Births and Death Registration Act 1953 so that the 5 days start from either the date of the medical examiner's confirmation of cause of death and notification to the registrar; or the date of the medical examiner's certificate where s/he has been asked to certify a death by the coroner. As a result families will have the full five days for registration than at present which counts the 5-days from the date of death.

1.7 Will the reforms mean that more deaths require a coroner's post mortem examination or inquest?

It is anticipated that the new process could change the national average caseload of reported deaths and post mortem and inquests. However, these changes are likely to take 2-3 years to settle out, and are based on feedback from the death certification pilots and validated by a detailed study carried out in Sheffield. The changes are a logical outcome of reforms, which are intended to ensure that the right deaths are reported to a coroner and to increase safeguards for the public.

1.8 How is the new system being paid for?

The medical examiners' fee for scrutiny and confirmation of the cause of death is intended to cover the cost of the new service. The fee will be set at a level to reimburse local authorities for the costs of providing the service. Mechanisms for collecting the fee will be a matter for local authorities but we hope the consultation will provide some good, efficient methods as local authorities already collect other fees.

1.9 How much will the fee be?

Costings included in the Impact Assessment suggest a national fee in England of around £80 to £100 for the proposed service, although this is subject to consultation and further validation. This suggests that around 75 per cent of the public who pay cremation form fees of around £184 in the existing system are expected to pay significantly less under the reformed system.

1.10 Is the fee the same for everyone?

There will be a single fee for both burials and cremations. The public opting for burials will see an additional charge to funeral costs for the medical examiner's scrutiny but this will give the bereaved families piece of mind that nothing untoward happened to their loved one, which might require the death to be investigated by the coroner.

1.11 Why does the public have to pay for the new system?

The new system was expected to be funded by a new public fee set at a similar level to that of the fees for completion of cremation forms, which around 75 per cent of the public pay in the current system. However, as the responsibility for the medical examiner service is a new burden on local authorities, the Government will fund the set up costs for the service. Thereafter, the running costs will be met by a public fee to provide for a unified system of scrutiny for both cremations and burials.

1.12 What happens if someone can't pay?

We recognise that some families will not be in a position to pay this fee. For those who qualify for help from the Social Fund, the Funeral Expenses Payments scheme may be able to make a contribution towards the cost. Help may also be available in the form of a loan from the Social Fund Budgeting Loan scheme for qualifying applicants.

1.13 Does the fee need to be paid before the death can be registered, or before a funeral can take place?

No. As it may not always be convenient to deal with the payment immediately – for example, a different family member may be dealing with the financial issues following the death. We propose that the payment should be within three months (from the medical examiner’s confirmation date on the MCCD or when the certifier is a medical examiner, the date of the MCCD). This is to allow family members to agree amongst themselves how they wish to pay the fee. The Local Government Association has suggested that the burden on local authorities would be reduced if the time limit was 28 days rather than three months. We are seeking views in the consultation.

1.14 Will my existing pre-paid funeral plan cover the fee?

We cannot comment on an individual pre-paid funeral plan. However, generally speaking existing plans which make provisions for Cremation Form fees should have sufficient funds to cover the medical examiner fee.

1.15 Why are the reforms in England and Wales different from the reforms that are being implemented in Scotland?

The Coroners and Justice Act 2009 does not allow the selective scrutiny that will be provided under the Certification of Death (Scotland) Act 2011. Further, the proportionate and independent scrutiny of all deaths not investigated by a coroner, as demonstrated successfully in a number of pilot areas, is considered essential to meet the aims of the reforms in England and Wales. (Northern Ireland’s review of death certification has led to an entirely different approach; it will enhance existing assurance arrangements.) Further information can be accessed from

<http://www.dhsspsni.gov.uk/showconsultations?txtid=46432>

1.16 How will the system change and how will the changes affect bereaved people?

The existing process often leaves families uncertain about what caused the death of their loved one, sometimes due to a lack of a proper explanation, and because the MCCD is given to the family in a sealed envelope to be delivered on behalf of the doctor to the registrar. The new open process will be more transparent for the bereaved families who will have a right to discuss the circumstances and cause of death with the medical examiner or with someone on the medical examiner’s behalf.

1.17 When will these changes be introduced?

The planned date for implementation is April 2018.

1.18 Who will be responsible for the payment and when will the payment need to be made?

As it may not always be convenient to deal with the payment immediately – for example, a different family member may be dealing with the financial issues following the death – we propose that the payment should be within three months - or 28 days subject to the outcome

of the consultation (from the medical examiner's confirmation date on the MCCD or when the certifier is a medical examiner, the date of the MCCD). That is designed to allow for family members to agree amongst themselves how they wish to pay the fee.

1.19 What if people refuse to make the payment?

Like any other service provided by the LAs, it is anticipated that the public will be reminded after the three month (or 28 days subject to the outcome of the consultation) grace period that payment is due. Clearly LAs will need to be sensitive in their manner of reminders because of the stress and emotions the bereaved will be under.

Medical examiners

2.1 Who can apply to be a medical examiner?

All medical examiners must have been a registered medical practitioner with at least five years full registration with the General Medical Council and a licence to practise. Medical examiners can come from any medical speciality or from general practice and include doctors who have recently retired from practice.

2.2 Does any specific training need to be completed before someone can apply to be a medical examiner?

Yes. Applicants will need to demonstrate that the core sessions have been completed by printing off a certificate from the e-learning for healthcare website to submit with their application to the recruiting authority. The remaining sessions can be completed in prospective medical examiners own time but they will be expected to complete the online training before starting work as medical examiners.

2.3 Does any specific training need to be completed before someone can take up an appointment as a medical examiner?

Yes. In addition to training required before applying to become a medical examiner, if selected, medical examiners must attend a face-to-face training event before taking up their appointment.

2.4 Will medical examiners need to be employed by a local authority, or can they work under a contract of service or as part of a commissioned service?

Medical examiners may be employed, contracted or commissioned on a part-time or full-time basis depending on service configurations. However, it is envisaged that many medical examiners will provide 2-3 sessions/programme activities (PAs) a week alongside their existing work in senior medical or general practitioner roles in a hospital or community setting in order to maintain up to date knowledge of conditions and causes of death. This means that the configuration of a typical local medical examiner service will require a small team of medical examiners to work on a rotational basis and are unlikely to operate in isolation from each other.

2.5 Are medical examiners expected to be appointed for a fixed or renewable period?

No. Fixed term contracts are not recommended because the need for periodic renewal might constrain medical examiners from making independent decisions that may be uncomfortable for their local authority or for organisations that may seek to influence the local authority. Appointing authorities must ensure that the terms of appointment of medical examiners includes a provision that the appointment must be terminated immediately in the event that the examiner ceases to be a registered medical practitioner.

2.6 Will medical examiners be able to provide advice or scrutiny for deaths at a hospital (or in an area) where they work as a doctor?

Yes. It has been suggested that medical examiners might need to rotate between hospitals / areas to maintain a higher-level of independence; however, this may conflict with the requirement for local knowledge and credibility and the ability of medical examiners to provide advice to doctors in a supportive way that promotes learning.

2.7 Are there any circumstances where a medical examiner would not be able to provide advice / scrutiny?

Yes. Medical examiners will have no role in relation to any death that is clearly unnatural. Furthermore, the Death Certification (Medical Examiners) (England) Regulations XXXX, Regulation 6 sets out provisions on maintaining independence in circumstances where a medical examiner must not provide advice or scrutiny in relation to a death where there is a connection with the deceased person or the relevant attending practitioner at the time of the death.

2.8 Will medical examiners be able to provide advice / scrutiny for deaths that occur outside the area for which they have been appointed?

Only where there is a reciprocal agreement between areas to enable medical examiners when called upon to provide advice/scrutiny for deaths that occur outside their normal area.

2.9 Will medical examiners be able to provide advice to doctors before / without carrying out independent scrutiny of the deceased person's health records?

Yes, medical examiners can provide general medical advice or advice about completing a MCCD without a scrutiny of the deceased person's health records.

2.10 How will medical examiners avoid confirmatory bias in scrutinising and confirming a cause of death?

Medical examiners are able to avoid confirmatory bias in scrutinising and confirming a cause of death because a) they will apply the same level of scrutiny and record keeping for all deaths; and b) the deaths will have been referred by a coroner for certification with information that led a coroner to his/her decision not to investigate a death; and c) medical examiner's will be independent of the deceased.

2.11 What will medical examiners need to do to ensure that external examinations carried out on their behalf are completed properly?

Medical examiners will need to be satisfied that examinations carried out on their behalf, are done by individuals with suitable expertise and who have completed the appropriate session on the e-learning medical examiner module. Observations from the examination are expected to be noted on a body map pro forma (tested by Sheffield pilot) and sent electronically to the medical examiner's office. If the medical examiner has any concerns, s/he can either carry out a further examination or arrange for another practitioner who the medical examiner believes has suitable expertise and is sufficiently independent to undertake a further examination.

2.12 Are there circumstances in which an external examination might not be required?

Yes, medical examiners will have discretion in certain circumstances to not carry out or arrange an external examination of the body. These circumstances include where there is no reason to suspect or believe that a death was unnatural and where the medical examiner is confident about the information relating to hazardous implant, and medical devices.

2.13 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.

2.14 How will the medical examiner service be quality assured?

Provisions in the Medical Examiner Regulations ensure that appointing authorities have the ability to terminate the appointment of a medical examiner, who fails to comply with performance standards that medical examiners are expected to attain.

2.15 Will medical examiners be expected to provide advice / scrutiny outside usual working hours?

It is anticipated that, where an out-of-hours service is necessary, it would involve extended hours during the week and specified hours at weekends and on bank holidays. Medical examiners will not be expected to provide advice to doctors or carry out scrutiny on a 24/7 basis – however, where they work closely with their local coroner's service, they may have a local arrangement to provide advice to coroners outside standard / extended hours.

2.16 Will the ME scrutinise stillbirths?

There is **no** provision in the legislative framework for medical examiners to become involved in the certification of stillborn babies for cremation. This is because the functions of medical examiners as set out in the Coroners and Justice Act 2009 are limited to scrutinising those who have *died*. Stillborn babies are not legally classified as having died because they are not regarded as having been alive or showing signs of independent life after birth. They are therefore outside the scope of a medical examiner's legal duty to scrutinise. As such, medical examiners will **not** certify the cremation of stillborn babies. All stillborn baby cases

are presented at Perinatal Mortality meetings and are reportable to Mothers and Babies: Reducing Risks through Audits and Confidential Enquiries across the UK on the Perinatal Death Notification form. As such, unusual trends are investigated, if necessary, by an independent team.

An application form for cremation (Cremation Form 3) will still be required and informants or doctors/midwives will still be required to register the stillborn baby in line with the Births and Deaths Registration Act 1953. However, there will be no medical referee based at the crematorium and the medical examiner will not authorise cremation. It is proposed that it will still be a requirement for doctors or midwives to fill in a certificate that the baby was stillborn prior to cremation.

However, a view is being sought in the consultation on if there is sufficient level of scrutiny in the NHS for stillbirths without the need for doctors or midwives to complete a cremation form prior to the cremation of stillborn babies in the absence of medical referees after the changes are brought in.

Doctors

3.1 Will the reforms result in doctors losing out on Cremation Form fees?

The bereaved who opt for cremation have to ask doctors to complete cremation forms. These forms will become obsolete and families will no longer have to have the cremation form fees. Instead there will be a single fee for a medical examiner's scrutiny and confirmation of cause of death stated by a certifying doctor.

3.2 Will there be any changes to the Medical Certificate of Cause of Death?

Yes. With the introduction of the role of medical examiner and certain statutory functions, the Coroners and Justice Act 2009, refers to the MCCDs (including neonatal MCCD) as either the attending practitioner's certificates (APC) or the medical examiner's certificates (MEC) depending on who certifies a death. Introducing separate MCCDs will also help the registrars and others involved in the process to easily identify the differences. However, the changes have been kept to a minimum to retain some familiarity for doctors completing the certificates. The new MCCDs will be A4 size to enable faxing, where necessary.

3.3 Will there be new guidance on how to complete a Medical Certificate of Cause of Death?

Yes. The Chief Medical Officer is expected to issue guidance on completing the new MCCDs and medical examiner's forms. The guidance is under development.

3.4 Who will be responsible for training certifying doctors to complete a Medical Certificate of Cause of Death?

Although training in completing MCCDs has been introduced into formal undergraduate training for doctors, medical examiners will also have a role to play in identifying and providing training of local doctors.

3.5 Will there be any need to fill in Box B on the MCCD i.e. that the certifying doctor may be able to give later additional information as to the cause of death for the purpose of more precise statistical classification?

Information relating to Box B will appear on the front of the revised MCCDs and enable certifying doctors to indicate that additional information as to cause of death for the purpose of more precise statistical classification may be available at a later date.

3.6 Will doctors who attended (this means treated and/or assessed and not just saw the deceased) a person during the person's last illness continue to be responsible for certifying the cause of death?

Yes. Attending doctors will continue to certify causes of death where they are able to do so but will need to be 'qualified attending practitioners'. This term formalises the definition of what is meant by 'attended' and replaces the current 14-day rule prescribed in regulation 41 of The Registration of Births and Deaths Regulations 1987 with a 28-day period defined in the Death Certification Regulations. In the absence of the doctor who attended the deceased during a 28 day period, another doctor who is a partner or employee of the same practice and saw the deceased any time during a 12 month period, may also be able to certify the cause of death. This is likely to be the case where the deceased had been seen and treated by his/her GP.

3.7 What will happen in the new process if the deceased person was not attended by a doctor for the illness or condition that led to the death, or if there is no attending doctor available?

In these cases, the death will be notified to a coroner and, if it does not need to be investigated, the coroner may refer it to a medical examiner for scrutiny and certification.

3.8 Will doctors still be required to notify a coroner before certifying the cause of death of a person that they either did not attend in the 14-days prior to the death or have not seen after death?

No. The current 14-day rule will be extended to 28 days.

3.9 In the new system, who will confirm the person's identity, check for any physical indications of a potentially unnatural death and carry out a physical check for implants or medical devices that need to be removed before a cremation?

The medical examiner will scrutinise the deceased person's medical records and may choose to carry out a thorough (non-forensic) external examination of the body (or arrange for this to be carried out by someone else) to determine whether or not he or she agrees with the cause of death certified by the attending doctor. The scrutiny and examination will also identify any implants or medical devices that would need to be removed before cremation.

3.10 How will the new process accommodate organ transplantation or urgent release of a deceased person from a hospital outside usual working hours?

Our pilot sites have indicated that the new process can meet faith communities' requirements as well as the needs of any individual for urgent release of the body, as long as the wishes are made known to appropriate healthcare staff. Establishing a local protocol that enables medical examiners to carry out their functions in an effective manner could minimise delays in organ retrieval where wishes of the deceased for donation are known.

3.11 Will doctors be required to talk with a medical examiner before preparing a medical certificate of cause of death (MCCD) or before notifying / referring a death to a coroner?

Yes, but only in exceptional cases where a doctor has referred a death to the coroner and the coroner has decided not to conduct an investigation; the doctor must obtain the advice of the medical examiner and then prepare a MCCD. In all other cases, a doctor can request advice from a medical examiner to discuss his/her preliminary view of cause of death but obtaining advice will not be a requirement. Where a doctor decides that the death needs to be notified to a coroner or where the doctor is unable to establish the cause of death, he or she will call the coroner's office or provide written notification without delay.

3.12 Why must doctors have a written record of their preliminary view of a cause of death before they request advice from a medical examiner?

This procedure is essential to maintain the integrity of the system because it mitigates the risk that qualified attending practitioners will adopt a default practice of using a cause of death suggested by a medical examiner rather than certifying it for themselves. Where advice is provided over the phone the medical examiner or the MEO etc. must make a note of the preliminary view (or reason why no such view has been formed) before providing advice. This requirement only applies for advice requested before certification.

3.13 Will doctors or their staff need to copy existing information on to new forms?

Information that has already been documented will not need to be copied out onto new forms if it has been validated by the certifying doctor (rather than accepted without question) and if it is provided in a format that is acceptable to the (lead) medical examiner.

3.14 Is the statutory information required by a medical examiner the same as that required by a coroner?

We believe it would be helpful for doctors if we were to introduce some consistency in the information they must provide to medical examiners or coroners. Our consultation exercise seeks wider views on whether the statutory information required for the Death Certification Regulations is also appropriate for deaths reported to coroners.

3.15 In what circumstances might a doctor, or staff working on behalf of the doctor, be asked to provide information to a medical examiner before the doctor has prepared a MCCD?

The circumstances where this might happen is known as consented 'preparatory scrutiny', - a process established by use of a local protocol that would enable medical examiners to carry out their functions in an effective manner and minimise delays in organ retrieval where wishes of the deceased for donation are known.

3.16 What happens if a medical examiner and certifying doctor cannot agree on a cause of death?

Where, following certification, a medical examiner is unable to confirm the certified cause and is unable to establish or agree an alternative cause that the certifying doctor is willing and able to use to prepare a fresh certificate these deaths will be referred to a coroner.

3.17 Can a doctor wait for the results of a hospital post-mortem examination before certifying a cause of death?

A doctor can only wait for the results of a (consented) hospital post mortem examination if it is providing more specific information about a known cause of a natural death and has discussed the death with a medical examiner. If the cause is not known with sufficient confidence to allow it to be certified before the hospital post-mortem, then any post-mortem would need to be carried out as part of a coroner's investigation.

Bereavement service officers in hospitals and hospices

4.1 How will the medical examiner service impact on a hospital's bereavement service?

The medical examiners service will generally only have an impact on centralised bereavement services at hospitals where a medical examiner's office is based and where a LA has decided to combine resources to support the medical examiner.

4.2 Can bereavement service officers be employed as part-time medical examiner's officers?

The medical examiner's officer function must be provided by people who have suitable expertise and sufficient independence to enable medical examiners to confidently delegate responsibility for the activities outlined below. These people may be employed or contracted in substantive posts as an MEO or provide the MEO function alongside, or as an integrated part of, work for another (probably related) service. An Outline Specification for Provision of the MEO Function drafted in collaboration with the Bereavement Services Association (BSA), Coroners Officers and Staff Association (COASA) and Association of Anatomical Pathology Technicians (AAPT) is available from the BSA, COASA or AAPT and will be provided with guidance.

Anatomical Pathology Technicians / Mortuary Staff

5.1 Will the reforms increase the length of time that deceased people need to be held in a mortuary or equivalent facility following an apparently natural death of known cause?

In many cases confirmation can be provided within the existing timescales and where additional time is required, it is not expected to cause unnecessary distress provided that appropriate expectations are set and that local procedures are in place to expedite cases for which there is a known individual need for urgent certification.

5.2 Can anatomical pathology technicians or other mortuary staff be employed as part-time medical examiner's officers?

In some areas or settings, the medical examiners' officer function may also be provided by other services such as mortuary services and pathology services. However, any related service that offers, or is asked to provide the function must be able to demonstrate that:

- It can provide people with the required expertise and attributes who understand the scope and responsibility of the medical examiner's service and are able to maintain independence even where there may be pressure to overlook or play down the importance of any concerns;
- It has prepared an update to its standard operating procedures to cover the new activities;
- It has sufficient capacity to carry out the additional work without creating any undue delay;
- It has strong and effective leadership both operationally and at a senior-level and established working arrangements and clear lines of communication with (other) related services; and
- It has board-level approval within its organisation for providing the MEO function and a demonstrable commitment to quality and independence.

5.3 Can anatomical pathology technicians carry out an external examination of a deceased person on behalf of a medical examiner?

Medical examiners will be able to delegate the external examination and enquiries and discussions, subject to certain conditions. Anatomical pathology technicians can only be asked to carry out an examination if they have suitable expertise (as determined by the lead medical examiner for the area) and sufficient independence (as prescribed by regulations). A local decision might be taken to limit this activity to anatomical pathology technicians who are registered with an independent regulatory body.

Medical examiner's officers

6.1 Do all medical examiner's officers need to be employed in substantive posts?

See answer to question 3.2

6.2 Will medical examiner's officers (or people providing this function)³ need to be clinically trained?

Whilst larger medical examiner's offices may warrant a separate 'Administrative MEO' (or equivalent person) in most offices the number of cases and pattern of work will require all MEOs to have the clinical knowledge and other attributes required to carry out activities delegated by a medical examiner. A recommended job-description and person specification for the MEO (or person providing the MEO function) will be provided in guidance.

6.3 Who will decide whether MEOs have suitable expertise?

Medical Examiners will be responsible for the day to day supervision of their staff and be best placed to decide whether their MEOs have suitable expertise for tasks that they are allowed to delegate.

6.4 Which aspects of the medical examiner's function can be delegated to an MEO /support staff?

Medical examiners may ask an MEO to make enquiries to obtain additional information and provide advice to, or talk with, qualified attending practitioners about their preliminary view of a cause of death or certified cause of death. They may also ask the MEO to discuss a death with relatives or other appropriate people to offer them an opportunity to ask questions about the certified cause of death or to raise concerns that might require a fresh certificate to be prepared or the death notified or referred to a coroner. In addition, the medical examiner could ask the MEO to notify or refer a death to a coroner where it is necessary to do so.

Coroners and their officers and staff

7.1 Will doctors continue to 'report' deaths directly to a coroner?

Doctors will have a new statutory duty to notify deaths to a coroner in prescribed cases and circumstances; this duty will formalise and clarify current practice.

7.2 Will coroners still be able to use local reporting criteria?

We believe the coroner's local reporting criteria will no longer be required because their purpose is served by the scrutiny carried out by a medical examiner.

7.3 What impact will the reforms have on the number of cases reported to and investigated by a coroner and on the workload of coroners and their officers and staff?

It is anticipated that the new process will change the national average caseload of reported deaths and investigations (i.e. post-mortem examinations and inquests) as shown below. These changes, which are likely to take 2-3 years to settle out, are based on feedback from the death certification pilots and validated by a detailed study carried out in Sheffield. The changes are a logical outcome of reforms which are intended to ensure that the right deaths are reported to a coroner and to increase safeguards for the public.

³ The phrase "medical examiner's officers (or people providing this function)" is abbreviated to "MEOs etc."

- 20 – 25% **decrease** in deaths reported to a coroner
- 15 – 20% **increase** in deaths investigated by a coroner

The changes in caseload noted above are national averages and are likely to differ in each area depending on its current baselines and local factors.

7.4 How much direct contact will there be between coroners and medical examiners and between their officers?

It is anticipated that the medical examiner's statutory duty to notify or refer deaths to a coroner will be underpinned by guidance published by the National Medical Examiner that medical examiners are expected to talk with coroners (directly or via their officers) about any death where there is an unusual interplay of circumstance and medical factors. Coroners will be able to ask medical examiners for general medical advice and medical examiners should talk frequently with coroners; it is essential that their services work in close collaboration.

7.5 Will medical examiners be contactable outside their scheduled / usual working hours?

See reply to question 2.15

7.6 Can medical examiners and their officers be based at a coroner's office?

The location of medical examiner's offices is a matter for each (lead) local authority / local health board.

7.7 Can coroners' officers be employed as part-time medical examiner's officers?

The medical examiner's officer function must be provided by people who have **suitable expertise and sufficient independence** to enable medical examiners to confidently delegate responsibility for the activities outlined below. These people may be employed or contracted in substantive posts as an MEO or provide the MEO function alongside, or as an integrated part of, work for another (probably related) service. An Outline Specification for Provision of the MEO Function drafted in collaboration with the Bereavement Services Association (BSA), Coroners Officers and Staff Association (COASA) and Association of Anatomical Pathology Technicians (AAPT) is available from the BSA, COASA or AAPT and will be provided with guidance.

7.8 Will coroners' officers continue to notify doctors of deaths that have been reported by the police?

Yes. We believe that coroners' officers will continue to perform this task.

7.9 Will the reforms change the interaction between coroner's officers and bereavement service officers at hospitals and hospices?

No, we expect coroner's officers, medical examiner's officers/support staff and bereavement service officers to work together as the need arises to ensure the bereaved are kept informed and treated with due care.

7.10 Should coroner's officers provide advice to doctors on cause of death?

Ideally, doctors should obtain advice from a medical examiner's office.

7.11 When coroners or their officers 'agree' a cause of death with an attending doctor, does this cause need to be accepted by a medical examiner?

Coroners will not be able to instruct or direct that a medical examiner certifies or confirms a particular cause of death. Likewise, a medical examiner will not be able to require a coroner to conduct an investigation of a death.

7.12 Is it part of the medical examiner's role to provide advice to coroners?

The medical examiner's advisory role is extended to providing general medical advice to coroners on a case by case basis, which may mean, for example, that there is no need for coroners to commission post-mortems in respect of some deaths. However, any advice to coroners is expected to be 'general medical advice' that can be provided without scrutiny of records or with only the proportionate scrutiny of these usually required to confirm/establish a cause of death or refer the death to a coroner. This limitation is intended to safeguard the resources of medical examiner services for their primary purpose of scrutiny and confirmation of cause of death stated on certificates.

7.13 What happens if a medical examiner and a coroner disagree about a cause of death?

In practice, it would be extremely unusual for coroners and medical examiners to have an intractable disagreement in which the coroner decided that s/he did not have sufficient grounds to conduct an investigation and a medical examiner did not have sufficient confidence in a cause to confirm or certify it. If this disagreement does occur and cannot be resolved through additional local enquiries / discussion / mediation, guidance will [probably] suggest that the coroner and medical examiner provide a joint summary of the issue to the Chief Coroner who will discuss the matter with the National Medical Examiner and decide what action needs to be taken.

7.14 Will coroners request medical examiners to provide reports for use at an inquest hearing and / or summon medical examiners to attend the hearing as an expert witness?

There is no requirement on medical examiners to provide reports for use at an inquest hearing or to act as expert witness. However, medical examiners as doctors can provide both, but outside of their statutory role of medical examiner.

7.15 Will medical examiners investigate deaths? What is the difference between investigation and scrutiny?

Medical examiners will not investigate any death because 'investigation' is and remains the function and prerogative of the coroner. Scrutiny by a medical examiner involves five key activities including a review of relevant health records, scrutiny of a copy of the MCCD and statutory information provided by a certifying doctor, any enquiries made, and consideration

of all the information that supports his/her decision to confirm the cause of death to the satisfaction of the bereaved family.

7.16 How can coroners be confident that the right deaths will be notified or referred in the new system?

Guidance from the MOJ to accompany s.18 regulations will help registered medical practitioners to ensure that appropriate deaths are notified to coroners. Similarly, DH guidance to accompany the Death Certification Regulations and access to advice from medical examiners, will go some way to ensure that doctors are confident when a death needs to be referred to the coroner.

7.17 What information will coroners provide to medical examiners for deaths that are reported but not investigated?

Where a coroner decides that a death referred under the Death Certification Regulations does not need to be investigated, a copy of the information used to make this decision will be provided electronically to the medical examiner's office. This information is referred to in the new process as the Coroners Form (non-statutory) and replaces the coroner's Form A (non-statutory form) that is sent to the registrar in the current process. The Coroners Form will include more information than the Form A.

7.18 When can a coroner refer a death to a medical examiner for certification?

Where a natural death of known cause is notified to a coroner because there is no attending doctor (or none is available in a reasonable period to prepare a MCCD) the coroner may use the Coroners Form to refer it to a medical examiner for scrutiny or certification. This will provide an alternative to the current arrangement in which in these cases a coroner needs to request an autopsy or hold an inquest to provide a cause of death for registration

Registrars

8.1 Will the time between date of death and date of registration increase to allow time for ME scrutiny?

The medical examiner's scrutiny is expected to be completed within two days of a death or sooner for exceptional urgent cases, as demonstrated by the pilots.

The 5-day rule for registration will remain in place. However, the Coroners and Justice Act 2009 made a consequential amendment to the Births and Death Registration Act 1953 so that the 5 days start from either the date of the medical examiner's confirmation of cause of death and notification to the registrar; or the date of the medical examiner's certificate where s/he has been asked to certify a death by the coroner. As a result families will have the full five days for registration than at present which counts the 5-days from the date of death.

8.2 Will registrars need to receive a copy of a medical examiner's statutory notification in all cases before using a MCCD to register a death and / or issue a certificate for burial or cremation?

In the new process, registrars will need to wait until they receive a statutory notification from a medical examiner and ensure that it is fully completed and matches a medical certificate of cause of death (MCCD) delivered by an informant before they are able to register a death and / or issue a Green Form certificate for burial or cremation.

8.3 In registration districts with more than one register office, where will the medical examiner send the statutory notification

Medical examiners will need to discuss with local registrars the arrangements for sending the statutory notification as these may vary from district to district. The arrangements could include the medical examiner's office establishing which registration office the family intend to attend to register the death and sending the notification there or routinely sending the notification to a central point within a district.

8.4 What happens if the MCCD is not legible or if the certified cause differs from the cause confirmed by a medical examiner?

As every certificate will need a medical examiner's scrutiny and confirmation before the certificate is accepted for registration purposes, registrars will no longer spend time querying poorly completed certificates or illegible writing. Any discrepancy or problem with the MCCD would indicate that the medical examiner is failing to meet expected quality and performance standards, that the attending practitioner has not issued the confirmed certificate or that the informant has altered or defaced the certificate. Registrars will need to alert the medical examiner's office in these circumstances.

8.5 Will a registrar taking particulars by declaration need to obtain a copy of the statutory notification before doing so?

Yes. An officer at the registration service taking particulars to register a death by declaration will need to request a copy of the medical examiner's statutory notification from the Registrar where the person died, particularly if the informant has not collected the confirmed MCCD, and the MCCD is taken to a local Registrar. The ME-2 notification can be transmitted electronically between registration services for this purpose to avoid undue delays and to obtain the informant's signature in Part B as confirmation that the medical examiner's office discussed the cause of death with a prospective informant.

8.6 Will registrars need to receive the statutory notification directly from a medical examiner's office?

Where local arrangements can be made, the medical examiner will be able to provide the notification by secure email to facilitate access by registrars in different offices within a registration district.

8.7 Why can't Part B of the statutory notification be signed before it is sent to a registrar?

Our pilots report that in the majority of cases, the offer of raising any matters concerning the death, is done over the telephone between the medical examiner's office and the bereaved family. This approach is acceptable and welcomed by families. However, where it is possible to have the conversation in person, Part B will be signed by the person who spoke with the medical examiner's office, before the statutory notification is sent to a registrar.

8.8 How will the new system assist the informant to complete Part B of the statutory notification?

The prospective informant can either sign the form in person at the medical examiner's or bereavement services' office or confirm to another prospective informant, who might be going to register the death, that the medical examiner's office had offered an opportunity to raise any matter concerning the death.

8.9 Will registrars be able to discuss a death with an informant on behalf of the medical examiner?

No, the duty to discuss a death with an informant is the responsibility of the medical examiner to make arrangements for the discussion.

8.10 How will registrars know if a death has been 'reported' to a coroner who has decided not to conduct an investigation?

The statutory ME-2(A) form '*Medical examiner's notification of confirmed cause of death*' or the ME-2(B) form '*Medical examiner's notification of certified cause of death*', sent to the registrars will indicate where an HMC-1 report had been issued by the coroner for a death that s/he had decided not to conduct an investigation.

8.11 Will the new process introduce any changes to the Registration On Line (RON) system?

Yes, there will be changes necessary to the Registration On-Line system.

8.12 Will registrars continue to have a duty to report a death to a coroner?

It would not be fitting for registrars to have a statutory duty to refer any deaths to the coroner in the new system. Where an informant raises any concerns about the cause of death at the time of registration the registrar should refer back to the medical examiner.

8.13 What should registrars do if an informant provides what appears to be new information that suggests the death may be unnatural or raises concerns about the accuracy of the confirmed cause of death?

They will have a new provision that allows them to discuss a case with the medical examiner that scrutinised the death (or, in practice, with the medical examiner's office) to clarify any

residual questions about the cause of death and, if necessary, to invite the medical examiner to arrange or provide for a fresh certificate to be issued.

Funeral Directors

9.1 Will funeral directors still be able to collect a deceased person from a private residence or from a communal establishment that does not have its own mortuary or equivalent facility directly after a death occurs?

Collection of deceased people from other communal establishments or from private residences will continue as in the current process; however, funeral directors (or equivalent) will need to ensure the deceased person's body is kept in a condition that would allow a coroner's autopsy until a confirmed MCCD has been issued.

9.2 How quickly will funeral directors be able to collect a deceased person from a hospital or hospice with its own mortuary or equivalent facility?

In the current process, hospitals with a mortuary or equivalent facility would normally wait for an MCCD to be prepared and signed before the deceased person's body is released to be assured that the death would not need to be referred to the coroner. However, a number of hospitals have been requiring sight of the registrar's Certificate for Burial and Cremation (also known as the 'Green Form') before authorising release of a body. There is no legal basis for this, and it can lead to substantial delays and unnecessary distress for the bereaved. In January 2015, we consulted on a non-statutory form for the collection of a body of the person who has died from a hospital mortuary. The body collection form has been revised in light of responses to the consultation for use in the existing death certification process. In future, a slightly revised form will be made available to support collection of the body of the person who has died as part of the medical examiner process.

9.3 Will funeral directors (or other people) be able to prepare a deceased person for burial, cremation or repatriation before a confirmed MCCD has been issued?

No, the deceased must not be prepared for a funeral until the MCCD has been confirmed by a medical examiner. We understand from our pilots that where the need for urgency is made known, the medical examiner's office is able to meet the requirements and documentation can be transmitted electronically without undue delay.

9.4 How will funeral directors (or other people) be notified if the deceased person had any communicable infection at the time of death?

The Ministry of Justice intends to amend the Cremation (England and Wales) Regulations 2008 to replace the gap in information left by the expected removal of the Cremation Forms. This may include requiring such health and safety information to be included on a standard form '*Information for funeral directors, cemeteries and crematoria to protect health and safety following a death*' and given to the family to pass on to the relevant service. Further details about the proposed amendments and the requirements for providing health and

safety information for cremations will be set out in a separate consultation exercise undertaken by the Ministry of Justice.

9.5 How will funeral directors be advised of any implants or medical devices that need to be removed before a deceased person is cremated?

Information about implants and medical devices that is currently provided on the Cremation 4 form will be given in new proposed *Health and Safety form* to the person who collects the MCCD and will be available to the funeral director when the funeral applicant completes a Cremation 1 Application for Cremation.

9.6 Will funeral directors need to take deceased people to a central location for an external examination to be carried out by or on behalf of a medical examiner?

No, subject to responses to our consultation, we are proposing that Funeral Parlours with facilities on site to carry out an external examination of the body, are ideally placed to carry out this check on behalf of the medical examiner.

9.7 Will a funeral director be able to carry out an external examination of a deceased person on behalf of a medical examiner?

Yes, but subject to responses to consultation, if in the opinion of a medical examiner a funeral director has suitable expertise and independence (not involved in the funeral arrangements), funeral directors might be able to carry out the examination on behalf of a medical examiner.

9.8 Might funeral directors collect the fee for the medical examiner's service on behalf of their local authority?

Any arrangements between funeral directors and local authorities to collect the medical examiner fee is a local matter. From the point of view of the bereaved, they are accustomed to paying a fee for the completion of cremation forms, which is itemised in the funeral director's bill. A similar arrangement would be beneficial to the bereaved and the local authority.

Managers responsible for cemeteries / burial grounds and crematoria

10.1 How will crematoria be advised that any hazardous implants or medical devices have been removed?

The Ministry of Justice intends to amend the Cremation (England and Wales) Regulations 2008 to replace the gap in information left by the expected removal of the Cremation Forms. This may include requiring such health and safety information to be included on a standard form '*Information for funeral directors, cemeteries and crematoria to protect health and safety following a death*' and given to the family to pass on to the relevant service. Further details about the proposed amendments and the requirements for providing health and safety information for cremations will be set out in a separate consultation exercise undertaken by the Ministry of Justice.

10.2 How will cemeteries / burial ground and crematoria be advised if the deceased person had a communicable infection at the time of death?

See 10.1

10.3 Who will provide the final authorisation for a cremation if there are no medical referees?

The role of medical referee will cease when medical examiners are appointed. The medical examiners statutory notification to the registrar confirming the cause of death, will affectively allow the final authorisation for a cremation or burial and the registrar will be able to issue the “Green Form” to the person arranging the funeral.

10.4 How will cemeteries and crematoria deal with the authorisation of disposal of organs, body parts and blocks and slides etc? Will the same forms of disposal be used in these cases for burial and cremation?

The death certification reforms do not affect existing procedures. The Ministry of Justice’s Coroners Regulations will continue to apply.

10.5 Can we assume that repatriation will continue to be dealt with through the Coroner’s offices?

The death certification reforms do not affect existing procedures. Repatriation will continue to be dealt with through the coroner services.

10.6 How quickly can a funeral take place where cultural needs dictate short notice arrangements?

Where the need for urgent funeral is made known to the certifying doctor and the medical examiner’s office, priority can be given to meet the individual needs. The process enables electronic transmission of prescribed forms to support urgent arrangements.

10.7 Could a burial take place prior to the completion of the ME’s documentation to facilitate an early burial?

No - disposal of the body is only permissible once the ME-2 form has been received by the registrar. However, funerals can take place without the need to register the death.

10.8 Are there any implications for public health burials or cremations?

No - the medical examiner process will be the same under these circumstances and local authorities will continue to have responsibility for the funeral under the Public Health (Control of Disease) Act 1984. LAs will continue to recover death expenses incurred under the powers of s.46

10.9 Will any confirmation be needed to the ME to establish that burial or cremation has taken place or will this remain with the Registrar of Births, Deaths and Marriages?

The medical examiner's responsibility ends with the confirmation of cause of death certified by an attending practitioner followed by notification to Registrar. Similarly, in cases referred by the Coroner to the medical examiner for certification, the medical examiner's responsibility ends with the notification of certified cause of death to the Registrar.

Local authorities

11.1 How will local authorities fund the new service?

The public fee is expected to recover all relevant costs of the local medical examiner service. The impact assessment will demonstrate that based on a combination of local and national assumptions, the fee set at a national level, meets the costs of a local service.

11.2 How might local authorities collect the fee required to fund the medical examiner's service?

Local Authorities will need to consider which method of collection is the most efficient for them. For example, they might use existing mechanisms including payment online. Other mechanisms made known to the Programme Team include payment via funeral directors, through other invoicing arrangements with the local authority, and payment as part of charges made by crematoria and cemeteries.

11.3 Will local authorities be able to waive the fee in some or all cases or charge a fee that is lower than the cost of the service?

Subject to consultation responses, the fee is expected to be collected in all cases where a medical examiner has provided scrutiny.

11.4 How will the public find out about the new system?

Much of the information following a death is provided by the bereavement services. We expect to raise awareness through the bereavement service literature.

11.5 Who will be responsible for leading work to set up the new service? When will local authorities need to configure the new service and start planning for implementation?

Subject to further discussions, it is anticipated that DH will work with stakeholders/partners including the Local Government Association, to plan implementation support for local authorities.

11.6 How will the cost of setting up the new service be covered?

DH is expected to allocate additional burdens funding to local authorities to meet the costs of setting up a medical examiner's office.

11.7 Will there be support to help local authorities implement establish the new service?

The Death Certification Reforms Programme Team will be working with the Health and Transformation Task Group (HTTG), the Society of Local Authority Chief Executives (SOLACE) and the Local Government Association (LGA) to identify how best to support LAs with implementation.

11.8 How will the initial recruitment of medical examiners be managed?

Local authorities have responsibility to appointment medical examiners but it is anticipated that Medical Colleges and other networks will support dissemination of information about the new role to encourage a good calibre of candidates.

11.9 How large an area can a single medical examiner's service cover?

The Medical Examiner Regulations has provisions for local authorities to work together to set up joint medical examiner's services and the expectation is that they would do so particularly in areas with comparatively low numbers of deaths.

11.10 Where are medical examiner's offices likely to be based?

The location of the medical examiner's offices can be in a number of places including in large hospitals, or in a community setting. The prescribed certificates, forms and national exemplar forms are suitable for electronic transmission, by email or fax. As the bereavement services provide support for families, the medical examiner's offices could be ideally situated nearby.

11.11 Can a local authority commission the new service from a healthcare provider?

Yes, a local authority will be able to commission the new service from a healthcare provider but must ensure that entering into any contractual arrangements, requires that the terms of medical examiners employment contract with that organisation, includes compliance with any standards issued by the NME and the Medical Examiner Regulations, in particular the terms for termination of appointment.

11.12 What legal and financial liability will local authorities have for the decisions made by medical examiners and their officers?

We do not expect local authorities to have any legal or financial liability for the decisions made by medical examiners and their officers as long as local authorities as the appointing bodies ensure compliance with the statutory requirements set out in The Death Certification (Medical Examiners) (England) Regulations XXXX, including monitoring of medical examiners against the standards and performance levels they are expected to attain.

11.13 What arrangements are local authorities / health boards expected to make to monitor compliance with quality and (service) performance standards published by the National Medical Examiner?

Local authorities/health boards already monitor other local services but will need standards and performance levels which medical examiners expected to attain.

11.14 Will local authorities / health boards be able to terminate a doctor's appointment as a medical examiner?

Local authorities/health boards must ensure that the terms of appointment of medical examiners include two clauses in order to terminate an appointment; the medical examiner fails to a) remain a registered medical practitioner and b) where it is of the opinion that the examiner is not fit and proper person to be a medical examiner taking into account any standards and levels of performance published by the National Medical Examiner.

Local directors of public health

12.1 What role might local directors of public health have in setting-up and managing local medical examiners' services?

There is no statutory requirement on local directors of public health to play a role in either setting-up or managing local medical examiners' services. However, as members of the medical profession, a local authority might ask, for example, a director to be a member of the appointing panel for medical examiners.

We anticipate considerable benefits for DsPH to work with their local medical examiners. The Death Certification (Medical Examiners) (England) Regulations XXXX, require medical examiners to meet any reasonable request from DsPH to provide local reports for public health surveillance and other purposes of the director's statutory functions.

Users of mortality statistics

13.1 Will more information be available from mortality statistics?

We anticipate more information on conditions relating to the cause of death will be available from MCCDs. A study of MCCDs from the death certification pilots suggests that where medical examiners and certifying doctors discuss a death before certification, the certifying doctor provides more information on the certificate.

13.2 What impact are the reforms expected to have on the mortality statistics? How will any discontinuities be identified?

ONS believe that it is likely that the introduction of Medical Examiners and the scrutiny they provide will improve the quality (the precision and completeness) of the cause of death recorded on the MCCD. For example, if the conditions and sequence are recorded more

fully, this may lead to a change in the underlying cause of death and is likely to affect trends in causes of death reported in mortality statistics.

ONS have undertaken a very small, but not statistically representative, study of pilot data which has provided an indicative assessment of the extent of the discontinuity, with a view to doing a study on a larger scale in the future.