



CHIEF CORONER

GUIDANCE No 8

PRE-SIGNED FORMS

1. The use of pre-signed forms should be avoided. It is unlawful both under the old and the new law and could put the coroner at risk of an investigation by the Office for Judicial Complaints. It is wrong in principle and it is open to misuse, abuse and inadvertent error. In coroner areas where the practice takes place, it should stop immediately.
2. The signing of a blank form by a coroner is a misuse of the coroner's judicial functions. The signature is an acknowledgment that the form is complete and accurate for its legal purposes, which it is not. If somebody else, such as a coroner's officer, then completes the details on the signed form, that becomes a purported judicial act which is not permitted. Only coroners can carry out judicial functions. The person (not a coroner) who completes the pre-signed form for despatch is in effect purporting to carry out a judicial function when that person is only entitled to carry out an administrative function.
3. This was the case under the old law: see, for example, section 19(3) of the Coroners Act 1988 and the use of the words 'the coroner ... shall send to the registrar of deaths a certificate *under his hand* stating the cause of death ...' [emphasis added]. It is also recognised in the new law as shown in regulation 7 of the Coroners (Investigations) Regulations 2013 which states that 'A coroner may delegate administrative, but not judicial functions, to coroner's officers and other support staff.'
4. This is a legal process of considerable importance and should be strictly adhered to. Forms 100A and 100B (although many years back they were part of one form) have long been recognised by the Registrar General for England and Wales (General Register Office) as the lawful way for coroners to give and for registrars to receive information for the purposes of the Births and Deaths Registration Act 1953.
5. Most coroners who use pre-signed forms have acknowledged that they do not make the local registrar aware that they are using pre-signed forms, whether routinely or in an 'emergency'. That speaks for itself and suggests that some coroners, at least, are aware that registrars would not condone such practice.

6. The Registrar General has confirmed that in her view the use of pre-signed forms by coroners is not acceptable. It causes a risk that deaths are registered inaccurately or without proper investigation.
7. In particular the Registrar General has stated that local registrars should not accept the following:
 - (1) Pre-signed forms of any kind which are signed by the coroner before the factual detail on the form is completed.
 - (2) Such pre-signed forms even in 'emergency' or urgent or out-of-hours circumstances.
8. The signature of the coroner is the formal acknowledgment by the coroner of the validity of the document for the purposes of registration. It must come last in the process. The signature on Form 100A and particularly on Form 100B is recognition that the legal process of investigation is complete and no further investigation, no inquest, is required. The coroner has a duty to comply with the law and protect the public.
9. This applies to all forms, statutory or otherwise, urgent or not, where the coroner is by signature signifying or recording a judicial decision. This encompasses not just As and Bs but other forms too. For example, it includes current Form 103 Out-of-England orders, Form 10 direction to a medical practitioner to make a post-mortem examination, Form 14 interim certificate of fact of death, Forms 15 and 16 on adjourning and resuming inquests, Crem Form 6 authorising cremation and burial Form 21. It also includes forms under the 2009 Act, such as paragraph 1, Schedule 5, notice to require evidence to be given or produced and section 4(4) notice of discontinuance.
10. There is a slight difference with a request to a pathologist to carry out a post-mortem examination under section 14 of the 2009 Act (Form 10). This is of course a statutory judicial decision and must therefore be made by the coroner and not delegated (regulation 7). But the process can be expedited so as to comply with the requirement to make the request 'as soon as reasonably practicable' (regulation 11). This can be done by the coroner:
 - (a) making the decision to request the examination,
 - (b) informing others of that decision with a view to their putting the arrangements quickly in place, by making the request orally, either directly to the pathologist or the pathologist's office or indirectly through a coroner's officer or the police, *so long as*
 - (c) the request is subsequently and at the first available opportunity put into writing, signed by the coroner and despatched to the pathologist. In this way the coroner has made the judicial decision but delegated the administrative action.

But at all times in this process it must be made clear that the decision is the coroner's and nobody else's. In the same way out-of-hours decisions about organ and tissue donation may be made and communicated by telephone, without the need for instant recording in writing.
11. The findings of the Office and Case Management workshops at the MOJ Coroners Training Group training in 2011/2012 on the subject of pre-signed forms were reported in this way: 'This practice, however well-intentioned, had gone wrong and prompted delegates to reflect upon the appropriateness of indulging in it any longer, no matter what difficulties may be caused. So other solutions had to be explored.'

12. Those 'other solutions' have to bear in mind that forms should only be signed when completed. Best practice is signature 'by the hand' of the coroner in the office, at the first available opportunity. A document may be faxed to a coroner who is distant from the coroner's officer and faxed back after the coroner has signed it, so long as the original is kept and later used. Otherwise, coroners should explore the possibility of using a secure electronic signature in a procedure agreed, where appropriate, with the local registrar.
13. Many coroners never use pre-signed forms at all. This is achieved by the practical arrangements in the jurisdiction, working arrangements with deputies and assistants and with coroners' officers. Forms are best signed in the coroner's office. It is appreciated that it is not always easy in rural jurisdictions to sign forms promptly but it is the duty of the local authority under section 24 of the 2009 Act to 'provide ... the provision of accommodation that is appropriate to the needs of ... coroners in carrying out their functions'. Coroners need to work with local authorities to achieve the goal of full compliance with their statutory duties and to work towards satisfactory arrangements. Where he can the Chief Coroner will assist in this respect (as he has done already).
14. The Ministry of Justice fully endorses the position set out in this guidance.

1 August 2013