

Death Certification Programme – National Steering Group

Note of meeting held on 26th October 2011
Department of Health, Wellington House, London

Present:

Tessa Ing – Deputy Chairperson, DH Head of End of Life Care & Death Certification Programme

Prof. John Newton - Chair, Regional Director of Public Health - NHS South Central & Lead RDPH on death certification reforms (in part)

Catherine Betley - Cruse Bereavement Care

Lois Cook - Office for National Statistics

Rachel Craine – British Medical Association Secretariat

Geraint Davies – Ministry of Justice

Dr Martin Donnelly – DHSSPS Northern Ireland

Jeremy Field - National Association of Funeral Directors

Dr Alan Fletcher - Death Certification Pilots (medical examiners)

Prof. Peter Furness – Royal College of Pathologists (in part)

John Pollard - HM Coroner South Manchester (Coroners' Society)

Rick Powell – The Federation of Burial and Cremation Authorities

Mark Green – Bereavement Service Association

Geraldine Hughes – Local Government Group

Christine Hurst – Coroners' Officers Association

Debbie Kerlake – Cruse Bereavement Care

John Lee – General Register Office

James Lowell – Association of Anatomical Pathology Technologists

Prof. Sebastian Lucas – Royal College of Pathologists

Daisy Shale – Death Certification Pilots (medical examiner's officers)

Frauke Sinclair – Scottish Government

Glenn Taylor – Local Government Group

Anne Wadey – Bereavement Advice Centre

Dr Michael Wilks – BMA Forensic Medicine Committee

Paul Ader – DH Death Certification Programme Team

Meena Paterson – DH Death Certification Programme Team

1. Welcome and Introductory Remarks

Tessa Ing welcomed members to the meeting on behalf of Professor John Newton who was chairing the Information Intelligence Working Group this morning but would join later.

Apologies were noted from Sally Bye, Alan Starkey, Chris Dorries, Nigel Lymn Rose, Stephen White, Maggie McNally, Robert Crangle, Tim Morris, Peter O'Neill and his deputy Clive Leverton.

2. Minutes of 27th July

The notes of the July meeting were agreed as accurate with an amendment to paragraph 3.1 – the word “been” should read “being”.

2.1 Matters Arising from the Minutes

2.1 Members had been asked to identify three to five issues or risks the new process may create for their individual groups. A summary of issues or risks and the programme team response had been prepared as **paper DCNSG13** on which Tessa invited any comments.

2.2 Michael Wilks acknowledged that a meeting with the Programme team had taken place in the morning to discuss the issues flagged up in paper DCNSG13. He offered to work with the Local Government Group on commissioning models and contractual matters for medical examiners. Glenn Taylor welcomed the opportunity to work with the BMA and offered to set up a small working group which would include Mark Green to represent MEO interest.

ACTION: Glenn Taylor

Duty to examine the deceased prior to certification

2.3 Tessa Ing reported that the Programme team had met with BMA representatives in the morning to discuss a new policy proposal having listened to all the conflicting views on the value of an external examination of the body. The new proposal, discussed and agreed with BMA, is that regulations would not require certifying doctors to carry out an external examination of the body. However, doctors may choose to do so, and record any findings for the medical examine. As this would not be a requirement it would not attract any fee.. All the deceased not subject to the coronial process would be examined by medical examiners (possibly subject to the discretionary element below) and the requirement would be specified in the quality standards for carrying out an independent and proportionate scrutiny. The remaining issue is about proportionately of scrutiny and whether medical examiners would have discretion to decide whether a doctor's examination, where it had been carried out as above, is sufficient safeguard for patients and for 'expected' deaths, for example in hospices.

Section 18 regulations on notifiable deaths to a coroner

2.4 Sebastian Lucas asked about the position on progress with section 18 draft regulations on notifiable deaths to a coroner. Geraint Davies confirmed that MOJ would consult on section 18 regulations and amendments to the Cremation regulations as part of DH's consultation on death certification regulations. The Steering Group had seen a draft of the regulations at the January meeting but Geraint agreed to provide the secretariat with the latest version for circulation to members.

ACTION: Geraint Davies

Public Fee

2.5 Members discussed various points about the public fee. There were concerns expressed that escalating costs could shelve the reforms. This linked to the need to have flexibility about examination of the deceased, to avoid imposing unproductive and costly requirements on the new system. It was suggested that if fees were to vary locally this would amount to “post code lottery” on where one died. A recent LGA report had found increasing numbers of cases where local authorities were burdened with the cost of arranging disposal. Other concerns were that local authorities would push for deaths to be referred to the coronial system because it is a centrally funded service. This risk was discounted because regulations would be framed in a manner to avoid inappropriate referrals to coroners. Tessa Ing thanked members for highlighting many of the issues and said that the Programme team are continuing work on costs and will explore options to put to ministers.

3. Programme Manager’s update

3.1 Tessa Ing reported that the Programme Team had made members aware of the recent ministerial decision to defer consultation by up to six months to allow for more detailed work on costings for the impact assessment. The decision to delay consultation is a result of the Local Government Group writing to Anne Milton expressing their concerns. This delay in consultation would affect the parliamentary timetable for the regulations and result in local authorities having less time for preparation for implementation. With this in mind Minister has agreed to defer implementation by six months to October 2013.

3.2 Tessa mentioned that there had been a number of articles in the media and on the web that the government plan to impose a “death-tax” at a time of austerity. DH press office had weighed up the risks and felt it was unnecessary to respond. The Programme team would however, draw up robust lines as part of the communications strategy in time for the public consultation.

4. Medical Examiner Service Quality Standards (Draft) Paper DCNSG14

Professor Peter Furness introduced the paper, which he said had been revised following comments received from members representing local authorities. He thanked John Buchan for his work on the document. The standards document is a narrative of what an ideal medical examiner service might look like and would be issued by the National Medical Examiner when he/she is appointed. The document is intended to provide an indication of the standards that will be expected, both for the purposes of consultation and to local authorities the nature of the service that they will be responsible to

deliver. The Programme team had posed questions in the paper and would welcome comments from members by 14th November.

ACTION: Members

5. **Headline news from death certification pilots – paper DCNSG15**

The paper was tabled at the meeting for members information.

6. **Report from devolved Administrations – verbal updates**

6.1 Frauke Sinclair reported on Scotland's implementation work programme until commencement of the Certification of Death (Scotland) Act 2011 expected in 2013-14.

6.2 A National Implementation Group met for the first time in late September to oversee the implementation work. Members to the Group are drawn from the medical profession, funeral industry, Crown Office, registrars and bereavement services. There are also subgroups to support the work programme. First meetings of the registrars and medical ones are due to take place before the end of the year.

6.3 Scotland are working towards getting a couple of small test sites up and running in the next financial year. One will be in Dumfries & Galloway, another in Dundee City. The test sites will essentially test processes, including duration of reviews, as well as stakeholder views, comparing urban and rural perspectives and looking at faith group issues. There will be guidance available for medical reviewers in the test sites, and desk instructions for registrars. The test sites will pilot the draft Medical Reviewer's form and there is a commitment to report on the evaluation findings to Parliament.

6.4 Details about consultation on secondary legislation are set out in the Delegated Powers Memorandum which is available from www.scotland.gov.uk/Topics/Health/bills/certificationofdeath. Alongside that, Scotland will develop non-statutory guidance developed with the input of the National Implementation Group and subgroups. Consultation is planned for summer 2012.

6.5 NHS Education for Scotland - a special NHS Board - will lead on developing e-learning sessions for medical reviewer and host the technology, manage the contents and make it available.

6.6 Scotland are also working with relevant stakeholders on how best to implement the fees collection through local authority registrars.

6.7 Frauke added that the medical reviewers, the senior medical reviewer, and their assistants who will all be employed at Healthcare Improvement Scotland.

6.8 Frauke confirmed for Glenn Taylor that Scotland will set the fee at around £30. She agreed to provide him with an overview paper about the reforms in Scotland.

ACTION: Frauke Sinclair

6.9 Martin Donnelly reported that a submission would be submitted shortly to their new minister on options for the reforms in Ireland and he would be able to provide details by the next steering group meeting. However, he did indicate that there would be no public fee for death certification in Ireland.

6.10 Alan Starkey representing the Wales Government had sent his apologies. Paper DCNSG16 on managing the reforms in Wales had not been received by the secretariat.

7. Any Other Business

7.1 Anne Wadey suggested that as the medical examiners' service is intended ultimately to protect the public from doctors who may pose a risk to public safety, it should be funded through doctors' regulatory bodies via a levy on the profession rather than paid for by a fee levied on the public. Glenn Taylor said he would support Anne Wadey's proposal on the basis that the public do not pay a fee for the coroner's service, which is entirely funded centrally. Tessa Ing replied that Anne Wadey's proposal had been looked into but there are no powers in the Coroners and Justice Act and the proposal would require an amendment to primary legislation.

7.2 Tessa Ing said that the Programme team would put options to ministers about the fee. Acknowledging the strength of the arguments she suggested that one option for Ministers to consider could be using the public fee as a short term measure with a commitment to regular review: when the economic climate improved, the government could fund the medical examiner service from central funds. However this would need to be thoroughly examined and was only an idea at present.

7.3 Mark Green reported the Bereavement Services Association had formed an alliance with the Coroners Officers Association, the Association of Anatomical Pathology Technologists to provide support to medical examiner officers.

7.4 Michael Wilks asked whether he could share the quality standards document with the GMC. He suggested that the GMC should be invited to the Steering Group or the Programme team may want to have a separate meeting to discuss revalidation for medical

examiners. Tessa Ing said the secretariat would check with Peter Furness about engaging the GMC on the standards document and approach the GMC via the DH's policy lead on revalidation.

ACTION: Secretariat

8. Date of next meeting

8.1 Tessa Ing said today's meeting had been the last scheduled in members' diaries and the secretariat would be in touch with dates for 2012.

ACTION: Secretariat

8.2 John Pollard asked whether a further meeting would be called to discuss the outcome of the Health and Social Care Bill and the Public Bodies Bill, in particular with regards to the Chief Coroner post. Tessa Ing and Geraint Davies promised to brief members by email on the outcomes as Bills progressed through the Parliamentary passage.

ACTION: Tessa Ing/Geraint Davies

PART II – Walk-through the death certification process

Paul Ader gave a presentation on the new death certification process. The slides would be circulated with the notes of the meeting.