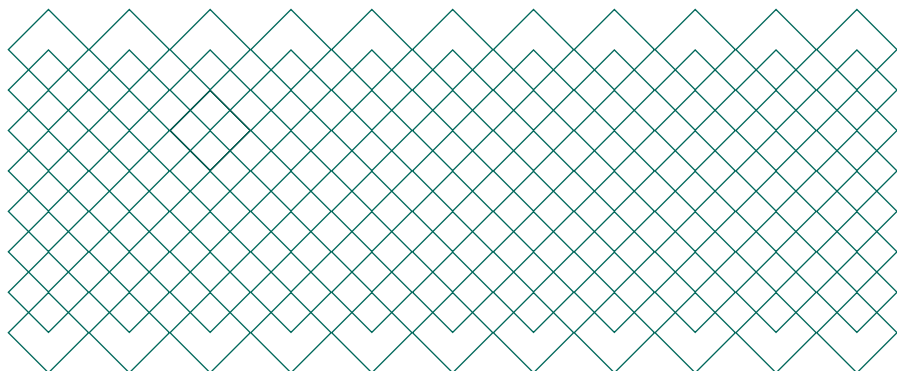




Ministry of
JUSTICE

Guidance for coroners
and Local Safeguarding
Children Boards on the
supply of information
concerning the death of
children



Guidance for coroners and Local Safeguarding Children Boards on the supply of information concerning the death of children

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2 Guidance for coroners and Local Safeguarding Children Boards on the supply of information concerning the death of children

Section 1: Introduction

Summary of the new rule

- 1.1 Rule 57A has been introduced to ensure a supply of information about the deaths of children to Local Safeguarding Children Boards (LSCBs). The statutory instrument that introduces rule 57A is attached at *Annex A*.
- 1.2 The following requirements take effect from 17 July 2008:
 - coroners must notify the LSCBs for their area of a child death if the coroner decides to hold an inquest or to conduct a post mortem; and
 - coroners may share information with LSCBs for use for the purposes of their functions.

LSCB responsibilities

- 1.3 LSCBs were established by the Children Act 2004. Their purpose is to coordinate and ensure the effectiveness of what is done by each person or body represented on the Board for the purposes of safeguarding and promoting the welfare of children in their area.

- 1.4 From 1 April 2008, LSCBs in England have a new responsibility under the Children Act 2004 to conduct child death reviews for all children and young people under 18 who die and who were normally resident in their area. Specifically, under regulation 6(1)(a) of the Local Safeguarding Children Boards Regulations 2006, LSCBs are required to collect and analyse information relating to the deaths in order to identify:
- any cases which may also require a serious case review;
 - any matters affecting the safety and welfare of children in that area; and
 - any wider public health or safety concerns arising from a particular death or patterns of death.

Application of rule 57A in Wales

- 1.5 The statutory responsibility for LSCBs to conduct child death reviews does not extend to Wales, where LSCBs are subject to separate regulations – the Local Safeguarding Children Boards (Wales) Regulations 2006 (SI 2006/1705 (W. 167)).
- 1.6 However, a pilot of child death reviews is taking place in Wales starting in October/November 2008. Statutory guidance will be issued to LSCBs to cover their responsibilities during the period of the pilot in advance of incorporating a statutory requirement into the Wales regulations. Rule 57A therefore applies to Wales as it applies to England.

Why rule 57A has been added

- 1.7 Rule 57 of the Coroners Rules 1984 concerns the disclosure of information. However, it provides only for the disclosure of information at the end of an inquest and only to those people who were, in the opinion of the coroner, a properly interested person. There is no power to enable a coroner to disclose material to a LSCB, unless the coroner considers the LSCB to be an interested person under rule 20(2)(h).
- 1.8 Rule 57A allows coroners to supply information, at an appropriate time, that will enable LSCBs to meet their obligation to conduct child death reviews and to fulfil their statutory obligations more generally. The policy has been agreed with the Department for Children, Schools and Families (DCSF) which is responsible for legislation regarding LSCBs.

Section 2: Notifying the appropriate LSCB of the death of a child

When the LSCB is to be notified

- 2.1 The requirement to notify the LSCB of the death of a child applies if an inquest is to be held into the death of a deceased person or a post-mortem examination of the deceased's body is to be made under section 19 of the Coroners Act 1988 and the coroner has reason to believe that the deceased was or may have been under the age of 18 at the time of death (Rule 57(1)).
- 2.2 The coroner must ensure that the LSCB in his or her area is notified within three working days beginning with the date on which the coroner makes a decision to hold an inquest into the death or to request a post-mortem examination. Where there is more than one LSCB in a coroner area, arrangements should be made between the coroner and the LSCBs as to which LSCB should be informed of the coroner's decision.
- 2.3 The details of the child or young person who has died should be conveyed in writing. "In writing" includes through electronic means.
- 2.4 A working day means any day that is not a Saturday, Sunday or public holiday as defined by the Banking and Financial Dealings Act 1971 in England and Wales (Rule 57A(4)).

Deaths that are not within the jurisdiction of the coroner

2.5 Where the death of a child is reported to a coroner, and there are no circumstances that require the coroner to exercise his or her jurisdiction, then the coroner is not required to notify the LSCB of the death. In such situations, where the death occurred in England or Wales, the LSCB will be notified of the death by the local registrar for the area in which that child's death is registered in accordance with provisions in the Children and Young Persons Bill (subject to Royal Assent).

What is the "appropriate LSCB"?

2.6 The coroner must notify the "appropriate LSCB" of the death of a child. The "appropriate LSCB" is defined in the rules as the Board established under section 13(1) of the Children Act 2004 within whose area the body of the deceased is lying (Rule 57A(4)).

2.7 The LSCB with responsibility for reviewing the death is the LSCB within whose area the child normally resided. In some cases, the LSCB within whose area the body of the deceased is lying, and the LSCB within whose area that child normally resided will be different.

2.8 In these cases, the coroner should notify the LSCB within his or her district of the death of the child. As above, where there is more than one LSCB within a coroner's district, the coroner and the LSCB should agree which LSCB should receive the initial report. It will then be the responsibility of the LSCB that receives the notification to identify and pass on the information to the LSCB for the area in which the child normally resided (and, in the event of more than one LSCB in a

coroner's area, which is the relevant LSCB to receive the report) so that the statutory duty to conduct a child death review can be fulfilled and other LSCB functions can be effectively discharged.

- 2.9 If the coroner is aware of where the child normally resided, he or she may choose additionally to inform the LSCB for that area (although there is no statutory duty requiring the coroner to do so).
- 2.10 In some cases, the LSCB for the area in which the child died may have a significant contribution to the child death review, even if it is not the area in which the child normally resided.
- 2.11 On receipt of the initial report of a death, the LSCB, or LSCBs, with an interest should inform the coroner of the address (including email address) to which future information should be supplied.

Deaths which occurred before the rule came into effect

- 2.12 The requirement to notify the appropriate LSCB of the death of a child does not apply where:
- the death occurred before 1 April 2008; or
 - the coroner decided to hold an inquest or direct or request a post-mortem examination under section 19 of the Coroners Act 1988 before 17 July 2008 (Rule 57A(5)).
- 2.13 However, information about the death of a child which falls into these categories may be supplied at the discretion of the coroner.

Section 3: Supplying information to the LSCB

Information that may be supplied

- 3.1 A coroner may supply information to a LSCB for use for the purposes of its functions (Rule 57A(3)). Information is defined as any information that is held by a coroner for the purposes of an inquest or a post-mortem examination under section 19 of the Coroners Act 1988, and relates to the death of a person who was or may have been under the age of 18 at the time of death (Rule 57A(4)).
- 3.2 The rule does not set out specific types of information that coroners may supply. This is entirely at the coroner's discretion.
- 3.3 Information that would be useful to the LSCB for the purposes of its functions is likely to include post-mortem reports, special examination reports, investigative reports and any notes of evidence or documents put in evidence at inquest.

Which LSCB the information should be supplied to

- 3.4** The rule only specifies the LSCB which is to be notified of the death of a child (see sections 2.6 – 2.11). It does not specify the LSCB to be supplied with information. If the LSCB which requires the information is different to the one to which the initial report was made, it is the responsibility of the LSCB to make known its interest to the coroner. Subsequently, the coroner should supply information directly to that LSCB.

LSCBs providing information to coroners

- 3.5** If any information comes to the attention of LSCBs which they believe should be drawn to the attention of the relevant coroner, then the LSCB should consider supplying it to the coroner as a matter of urgency.

Annex A: The Coroners (Amendment) Rules 2008

Note: separate guidance has been produced for coroners on the changes to rule 43 regarding the prevention of future deaths (rule 2).

STATUTORY INSTRUMENTS

2008 No. 1652

CORONERS, ENGLAND AND WALES

The Coroners (Amendment) Rules 2008

Made - - - 16th June 2008

Laid before Parliament 26th June 2008

Coming into force - 17th July 2008

The Lord Chief Justice, with the agreement of the Lord Chancellor, makes the following Rules in exercise of the powers conferred by section 32 of the Coroners Act 1988¹.

These Rules may be cited as the Coroners (Amendment) Rules 2008.

¹ 1988 c.13. Section 32 was amended by paragraph 19 of Schedule 1 to the Constitutional Reform Act 2005 (c.4).

1. The Coroners Rules 1984² are amended in accordance with rules 2 and 3.
2. For rule 43 substitute—

“Prevention of future deaths

43.—(1) Where—

- (a) a coroner is holding an inquest into a person’s death;
- (b) the evidence gives rise to a concern that circumstances creating a risk of other deaths will occur, or will continue to exist, in the future; and
- (c) in the coroner’s opinion, action should be taken to prevent the occurrence or continuation of such circumstances, or to eliminate or reduce the risk of death created by such circumstances,

the coroner may report the circumstances to a person who the coroner believes may have power to take such action.

(2) A report under paragraph (1) may not be made until all the evidence has been heard except where a coroner, having adjourned an inquest under section 16 or 17A of the 1988 Act, does not resume it.

(3) A coroner who intends to make a report under paragraph (1) must announce this intention before the end of the inquest, but failure to do so will not prevent a report being made.

² S.I. 1984/552, to which there are amendments not relevant to these Rules.

- (4) The coroner making the report under paragraph (1)—
- (a) must send a copy of the report to—
 - (i) the Lord Chancellor; and
 - (ii) any person who has been served with a notice under rule 19; and
 - (b) may send a copy of the report to any person who the coroner believes may find it useful or of interest.
- (5) On receipt of a report under paragraph (4)(a)(i), the Lord Chancellor may—
- (a) publish a copy of the report, or a summary of it, in such manner as the Lord Chancellor thinks fit; and
 - (b) send a copy of the report to any person who the Lord Chancellor believes may find it useful or of interest (other than a person who has been sent a copy of the report under paragraph (4)(b)).

Response to report under rule 43

43A.—(1) A person to whom a coroner sends a report under rule 43(1) must give the coroner a written response to the report containing—

- (a) details of any action that has been taken or which it is proposed will be taken whether in response to the report or otherwise; or
- (b) an explanation as to why no action is proposed within the period of 56 days beginning with the day on which the report is sent.

(2) On receipt of a response under paragraph (1), the coroner—

- (a) must send a copy of the response to—
 - (i) the Lord Chancellor; and
 - (ii) except where paragraph (6) applies, any person who has been served with a notice under rule 19; and
- (b) except where paragraph (6) applies, may send a copy of the response to any person who the coroner believes may find it useful or of interest.

(3) Except where paragraph (6) applies, on receipt of a response under paragraph (2)(a)(i), the Lord Chancellor may—

- (a) publish a copy of the response, or a summary of it, in such manner as the Lord Chancellor thinks fit; and
- (b) send a copy of the response to any person who the Lord Chancellor believes may find it useful or of interest (other than a person who has been sent a copy of the report under paragraph (2)(b)).

(4) A person giving a response under paragraph (1) may make written representations to the coroner about—

- (a) the release, under paragraphs (2)(a)(ii) or (b) or (3)(b), of a copy of the response; or
- (b) the publication, under paragraph (3)(a), of the response.

(5) Representations under paragraph (4) must be made to the coroner no later than the time when the response is given under paragraph (1).

- (6) On receipt of representations under paragraph (4), the coroner may decide that the response should not—
 - (a) be released in full under paragraphs (2)(a)(ii) or (b) or (3)(b); or
 - (b) be published in full under paragraph (3)(a).
- (7) If paragraph (6) applies—
 - (a) the coroner must prepare a summary of the response; and
 - (b) paragraphs (2) and (3) apply to the summary of the response prepared by the coroner as they apply to the response received under paragraph (1).

Extension of time

43B. A coroner may extend the period of 56 days mentioned in rule 43A(1) (even if an application for extension is made after the time for compliance has expired).”

- 3. After rule 57 insert—

“Supply of information concerning the death of children to Local Safeguarding Children Boards

57A.—(1) Paragraph (2) applies if an inquest is to be held into the death of a deceased person or a post-mortem examination of the deceased’s body is to be made under section 19 of the 1988 Act and the coroner has reason to believe that the deceased was or may have been under the age of 18 at the time of death.

(2) The coroner must, within 3 working days beginning with the date on which the coroner makes a decision to hold an inquest into the death of the deceased or to direct or request a post-mortem examination of the body under section 19 of the 1988 Act, secure that the appropriate Local Safeguarding Children Board is notified of the death.

(3) A coroner may supply information to a Local Safeguarding Children Board for use for the purposes of its functions.

(4) In this rule—

“the appropriate Local Safeguarding Children Board” means the Board established under section 13(1) of the Children Act 2004³ within whose area the body of the deceased is lying;

“information” means any information that is—

(a) held by a coroner for the purposes of an inquest or a post-mortem examination under section 19 of the 1988 Act; and

(b) relates to the death of a person who was or may have been under the age of 18 at the time of death;

“working day” means any day other than a Saturday, Sunday, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971⁴, in England and Wales.

³ 2004 c. 31.

⁴ 1971 c. 80.

- (5) The requirements of paragraph (2) do not apply to a death—
- (a) which occurred before 1 April 2008; or
 - (b) in relation to which a coroner decides to hold an inquest or direct or request a post-mortem examination under section 19 of the 1988 Act before 17th July 2008.”
4. The provisions of rule 2 do not apply, and rule 43 of the Coroners Rules 1984 shall continue to apply, to a report under that rule made before 17th July 2008 as if it had not been amended by rule 2.

10th June 2008

Phillips of Worth Matravers, CJ

I agree these Rules, which shall come into force on 17th July 2008

16th June 2008

Bridget Prentice
Parliamentary Under-Secretary of State,
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Coroners Rules 1984 (S.I. 1984/552).

Rule 2 amends rule 43 of the 1984 Rules to clarify when a coroner may report the circumstances of a death to a person who the coroner believes will have power to take action in relation to future deaths. The coroner will have power to give a copy of the report to the Lord Chancellor (who may publish it) and to interested persons and to any other person who may have an interest. The person to whom the report is made is required to give the coroner a written response to it. Provision is also made for a copy of the report, or a summary of it, to be given to the Lord Chancellor, interested persons and any other person who may have an interest.

Rule 3 inserts new rule 57A which requires a coroner to ensure that the appropriate Local Safeguarding Children Board (as defined in rule 57A(4)) is notified of a death if the coroner believes that the deceased was or may have been under 18 at the time of death. By rule 57A(3), a coroner may supply information to a Local Safeguarding Children Board for use for the purposes of its functions.

An impact assessment has not been produced for this instrument as no impact on business, the private or voluntary sectors is foreseen.

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