

Scottish Government Response to not Staying Registration ('The Expedited Procedure') Consultation

Implementation of Certification of Death (Scotland) Act 2011

SCOTTISH GOVERNMENT RESPONSE TO NOT STAYING REGISTRATION („THE EXPEDITED PROCEDURE’) CONSULTATION

1. Scottish Government welcomes the high level of stakeholder support for the proposals within the consultation, which we will take forward both within Scottish Government (SG) Guidance and through discussion with stakeholders. An analysis of responses received is attached as an Annex to this document.

2. In relation to some of the most frequently occurring or significant points raised, we are already or will take the following additional measures:

Standardised Form

3. Scottish Government will include the requirement for a request form within pending SG Guidance. Whilst the form itself will not be statutory, the SG Guidance is produced under Section 22 of the Certification of Death (Scotland) Act 2011. Healthcare Improvement Scotland, in conjunction with National Records of Scotland and the Association of Registrars of Scotland, will have responsibility for developing a standardised form in relation to requests from people who are bereaved for the expedited procedure.

Timescales and Out of Hours Concerns

4. Our key implementing stakeholder, Healthcare Improvement Scotland, is aware and is ensuring that Medical Reviewer availability, including any necessary out of hours availability, aligns with that of registrars. Similarly, they are developing the necessary Key Performance Indicators to set appropriate timescales for the provision of responses and outcomes to registrars and to the bereaved.

Expedited Categories

5. We welcome the consensus agreeing the identified categories, and acknowledge the variation across responses as to how prescriptive or detailed the applicable situations within these categories should be and the level of awareness that will exist about them with the different parties involved.

6. Our view is that, from the perspective of the bereaved, the expedited procedure should generally be explained as available to request if they believe they have a compelling reason for the funeral to take place more quickly than the norm ie less than eg three working days from date of death/date of registration.

7. From the perspective of the registrar, our view is that identifying any such compelling need would arise naturally out of their discussion about the standard review process with the informant, if their case is selected for review. The registrar would then make the informant aware of their option to request the expedited procedure under the three broad categories, would assist the applicant to complete the details on the standardised form, and must then submit the request to the Medical Reviewers’ office.

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8. From the perspective of Medical Reviewers, requests received which clearly fall into the three identified categories and the spirit of the suggested exemplars within each one. Once that is established, the Medical Reviewer will then take a view, informed by any necessary and quick checks, as to whether the request can be approved or not.

9. There are no powers within the Certification of Death (Scotland) Act 2011 that would allow for an appeals process, therefore the Medical Reviewer's decision is final. Even if this were not the case, we would have concerns as to whether it would be beneficial to introduce any additional steps into a process that requires to be completed as quickly as possible.

10. Scottish Government will therefore set out the consulted-upon categories and exemplars in Guidance, in order to ensure there is both consistency of approach across the country combined with sufficient flexibility for any unforeseen circumstances, which was a concern of some respondents.

Consistency of Approach Across the Country

11. We note that a recurring concern of respondents was ensuring that Medical Reviewer decisions were reached consistently (which incorporates the issues of appeals, awareness and the use of specific exemplars, as mentioned above), regardless of from where in the country the request originated. The Guidance will therefore also set out clear expectations on the need for regular peer review and assessment of Medical Reviewer actions and outcomes, specific to the expedited procedure as well as in terms of the general monitoring and quality assurance requirements associated with the Medical Reviewers' role.

Clear Communications

12. Scottish Government acknowledges that the legal term „Not Staying Registration' and the policy term „Expedited Procedure' are unclear in meaning and do not convey, as titles, any helpful information on the intent of the process associated with them. Whilst it is obviously not possible to change the legal terminology, the Scottish Government and relevant stakeholders will ensure that the explanation of either term is clearly conveyed in any formal communications.

13. To assist with this, Scottish Government intends to produce a general information leaflet specifically on the new death certification system, which will be available to download from the Scottish Government website in due course and prior to implementation.

Analysis of “Not Staying Registration” (Expedited) Procedure Consultation Responses.

Overview

1. The consultation on the “not staying registration” (expedited) procedure ran from 15 July 2013 until 30 August 2013. In total 23 responses were received and offered perspectives from across the industries affected including registrars, faith groups and the NHS.
 - 9 responses were from local authorities
 - 2 responses specifically offered views from the perspective of registrars
 - 6 responses offered views from a medical perspective including responses submitted from a GP practice, a consultant and from the pathology community.
 - 1 response was received from an NHS Health Board
 - 2 responses were received from faith / belief groups
 - 1 response offered a legal perspective
 - 2 responses were received from organisations/ bodies who have a role in implementing the Certification of Death (Scotland) Act 2011.
 - Of the 23 responses 2 respondents chose to provide a statement instead of answering the questions asked by the consultation
2. The overwhelming majority of respondents agreed with the proposals made in the consultation, with question 3 receiving a unanimously positive response. Question 4 received the highest negative response rate, with 5 respondents disagreeing with the proposal, although it is important to note that the vast majority of respondents agreed with this proposal.
3. The majority of respondents chose to provide comments to support their answers to the proposals however the comments provided did not always relate directly to the question asked. Respondents tended to offer views on other areas of the consultation, most notably question 6 which examines the categories under which the expedited procedure would apply.
4. The key concerns raised by respondents were:
 - **Awareness** - informants should be made aware of the availability of the procedure prior to arrival at the registry office.
 - **Clarity** - Any required forms must be clear, easy to understand and quick to complete.
 - **Timescales** - particularly any effect of weekends and bank holidays.
 - **Consistency** – possible variation in decision making across Medical Reviewers (MRs).
 - **Lack of appeals process** - some respondents felt informants should have a way to appeal the decision of the MR.

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Question 1: Do you agree that the “not staying registration” (expedited) procedure should only apply in situations where there is a clear rationale for a funeral to proceed within a specific timescale?

5. The majority of respondents agreed with this proposal however additional comments were made by some respondents that the expedited procedure should only be used in exceptional circumstances.
6. Many respondents noted that guidance for MRs would be necessary in ensuring consistency, with some also noting that an appeals process should be available.
7. Only one negative response was received to this question which raised concerns that the proposed examples of where the expedited procedure would be used were not based on clinical practice.

Question 2: Do you agree that the role of the registrar is to make informants aware, in response to a request, of the “not staying registration” (expedited) procedure?

8. The significant majority of respondents agreed that it is the role of the register to make informants aware, in response to a request, of the expedited procedure. The majority also suggested the registrar was best placed to discuss the details of the expedited procedure with the informant. Many respondents felt that the bereaved should also be informed of the process in advance of attending the registrars, perhaps at the point the Medical Certificate of Cause of Death (MCCD) is issued, through literature such as „what to do after a death’ and „when someone has died’. However it was acknowledged that at times of distress written information is often not sufficient.
9. Some respondents felt that if informants were aware of the procedure they may automatically request it and there may be an unnecessary increase in workload for both the registrar and the MR if cases were not accepted for the expedited procedure.
10. Respondents were clear that consistency of approach and clear advice is essential and that a clear set of categories that would qualify for expedited review would be helpful. Many respondents felt it was important to be clear that the registrar cannot indicate if the expedited procedure will be granted or not and that the decision is solely that of the MR.
11. Three negative responses were received to this question, these suggested that either the undertaker or MR as the decision maker would be better placed to make informants aware of the expedited procedure. Concerns were also raised that decisions are made by the MR in isolation from those affected.

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Question 3: Do you agree that there would be value in having a form for informants to complete in circumstances where the “not staying registration” (expedited) procedure is requested?

12. Respondents unanimously agreed with this proposal on the basis that it would maintain consistency and make clear that the registrar was not involved in the decision making process.
13. The vast majority of respondents highlighted that any form should explain the process in simple terms as well as being easy to complete. Some respondents emphasised that this should be to ensure that any additional time required would not impact adversely on the work of the registrars whilst others wished the form to be simple and easy to complete in order that those for whom English is not their first language or who have literacy issues would not be disadvantaged.
14. There were conflicting views as to whether a set of clear categories for the expedited procedure would be advantageous as some respondents felt that applicants should not be limited to a narrow set of criteria.
15. One respondent suggested that the point of registration should not be the only opportunity the informant has to make the application, as the informant may wish to make an application following reflection and discussion with other family members.

Question 4: Do you agree that these proposed timescales will ensure the system will meet the needs of informants in those circumstances where there is a clear rationale for the funeral to proceed within a specific timescale?

16. The majority of respondents did agree with this proposal however the question did receive five negative responses, the highest negative response rate of all the questions. Although answering yes to the question many respondents also raised some areas of concern.
17. The most commonly raised concern was regarding out of hours provision to accommodate bank holidays, the festive season, weekends and appointments at the end of the day. One respondent highlighted the variation in out of hours registration services currently available across the country and suggested this could be an opportunity to improve consistency in the services provided.
18. Another respondent noted that use of IT equipment varies across registry offices and will need to be considered when refining processes.
19. Respondents noted that many registry offices now run a pre-booked appointment system, any issue in contacting the MR or a delay in response from the MR could impact significantly on the work of registrars. Some respondents suggested that a more definite and measurable timescale for response was needed.

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20. One respondent noted that if the MR chose to reject a request for the expedited procedure, the time taken to reach this decision would actually add to the overall review duration, creating the opposite outcome to the one intended.

Question 5: Do you agree that it would be useful to set down in Guidance, and on the proposed form, the sort of categories where it may be appropriate to request that registration is not stayed (expedited procedure)?

21. The significant majority of respondents were in agreement with the proposal, however there was some conflict in opinion amongst respondents as some felt the categories should be definitive whilst others felt the categories should not be exhaustive and be open enough to allow for circumstances not perceived.

22. It was suggested that the opportunity to provide long narrative information would not be appropriate and could cause delays to the decision making process.

23. The majority of respondents highlighted the need for detailed, guidance for registrars, as well as MRs. It was also suggested that clear guidance would be needed for those cases where the deceased is donating tissue or their body to medical research where time is critical.

Question 6: Do you agree with these categories, and is there anything additional that should be added?

24. Additional comments and suggestions from respondents included a proposed flexibility to extend categories following the introduction of the new process, as situations currently unexpected may arise through practice and that the process be reviewed after 1 -2 years.

25. Again it was proposed that the categories remain flexible or that an „other’ category be included.

26. The need for clear and consistent guidance for MRs was highlighted once more as a key issue with the additional suggestion that decisions be monitored to maintain consistency and ensure there is no prejudice on the part of any MR.

27. One respondent suggested that applications should always be approved unless there is a significant reason not to do so, it was proposed MRs should be required to put these reasons in writing and the decision should be open to appeal to the Senior Medical Reviewer (SMR).

28. One respondent noted that the death of a child should not be considered an automatic reason to stay registration as scrutiny of childhood deaths should be no less thorough even if the intention is well meaning.

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29. A single respondent suggested that informants requesting this service should be charged a fee.

Question 7: Do you agree that these approaches are sensible? Is there anything else that should be considered in relation to guidance around the procedure not to stay registration (expedited procedure)?

30. Only one respondent replied negatively to this question. The majority of respondents were in agreement with the proposals, even where they highlighted additional issues for consideration,

31. The most recurring comments in response to this question were around ensuring consistency across the country, with peer review considered essential. Additionally some respondents felt the process should be subject to an annual review.

32. Other respondents raised concerns regarding potential financial implications for local authorities and the potential additional workload for registrars. The dependency on the transfer of information electronically, which is not possible across every registration office, was raised as an issue which may cause delay.

33. Some respondents chose to reiterate their concerns regarding access to MRs during public holidays and weekends, detailed training and guidance for MRs and Registrars, effective and timely communications to stakeholder groups and the public, the clear definition of any proposed categories and the use of plain English on any required form.

Conclusion

34. Many of the points and concerns raised by respondents, particularly relating to the consistency of approach, timescales, appeals process and clarity, are ones that have or are already being addressed by various stakeholder organisations, including via the overseeing Death Certification National Advisory Group. Overall, the proposals set out within the consultation received a positive response from respondents.



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