

Implementation of the Certification of Death (Scotland) Act 2011

**Consultation on the Expedited/
“Not Staying Registration” Procedure**

IMPLEMENTATION OF THE CERTIFICATION OF DEATH (SCOTLAND) ACT 2011

CONSULTATION ON THE EXPEDITED / “NOT STAYING REGISTRATION” PROCEDURE

Executive Summary

This consultation seeks views on one aspect of the planned changes to the death certification process in Scotland, which will be implemented from spring 2014. Specifically, it seeks views on the arrangements that should be in place for any rare situations where there is a need and a clear rationale for a funeral to proceed within a specific timescale and where that timescale may not be met if the standard review procedure is followed.

1. Purpose

This consultation seeks views on the proposals for an expedited procedure for the review of Medical Certificates of Cause of Death (MCCD) under the new Scottish death certification system, which will be implemented in Scotland from spring 2014.

2. Consultation Arrangements

Please send your views and comments on the proposals set out in this document to:

Burial, Cremation and Death Certification Team
Scottish Government
St Andrew's House (3EN)
Regent Road
Edinburgh
EH1 3DG

Tel 0131 244 2711

E-mail: certificationofdeath@scotland.gsi.gov.uk

Responses should reach us by 30 August 2013

Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Please complete and return the **Respondent Information Form** attached at **Annex A** along with your **Consultation Response Template Form** at **Annex B** as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

3. Background

3.1 The [Certification of Death \(Scotland\) Act 2011](#) (“the 2011 Act”) was introduced to update the certification of death process in Scotland. The aims of the legislation are to:

- Introduce a single system of independent, effective scrutiny applicable to deaths that do not require a Procurator Fiscal investigation
- Improve the quality and accuracy of Medical Certificates of Cause of Death (MCCDs)
- Provide improved public health information and strengthened clinical governance in relation to deaths

3.2 The 2011 Act establishes the role of Medical Reviewer and Senior Medical Reviewer, supported by Medical Reviewer Assistants, whose primary functions are to conduct reviews of Medical Certificates of Cause of Death (MCCDs) expeditiously but thoroughly. They will also have a role in providing training, guidance and support to doctors who certify the cause of death and they will liaise with other persons and bodies with a view to improving the accuracy of these certificates.

3.3 The date at which the Act comes into force is the same date at which the new system can start, currently projected for spring 2014.

4. The Review Process

4.1 Under the terms of the 2011 Act, the new review process commences when someone (‘the informant’) visits the registrar to register a death. The registrar will take the informant through the registration process and towards the end of that interaction will check and advise if the MCCD - which contains information relating to the death - has been selected for review. Cases for review will be selected randomly. It is expected that around 25% of all cases where there is no referral to the Procurator Fiscal will be reviewed every year.

4.2 Once a certificate is selected for review the registrar will advise the informant of this and that they will be contacted and/or sent the official extract of death once the review has been completed. The review will be undertaken by one of the nationally-appointed Medical Reviewers. It is expected that reviews will normally take between one to three days. Most reviews will be ‘Level 1’ reviews, which will involve a review of the MCCD and a discussion with the certifying doctor. These reviews are expected to be completed within one working day. A smaller number of MCCDs will be subject to ‘Level 2’ reviews, which will involve a more detailed review of the clinical information surrounding the death and the MCCD. Although Level 2 reviews are more detailed the expectation is still that these reviews will be completed quickly, within three working days at most.

4.3 It is anticipated that the system will not affect the vast majority of funeral arrangements, which in Scotland tend to take place 7 days after the death. Additionally, Medical Reviewers will be mindful at all times of the need to minimise disruption to bereaved families and to complete reviews as quickly as possible.

4.4 Nevertheless, it is accepted that arrangements should be in place for any rare situations where there is a need and a clear rationale for a funeral to proceed within

a specific timescale and where that timescale may not be met if the standard review procedure is followed.

4.5 The 2011 Act provides powers to enable an expedited review procedure in Section 6 (*Request for review not to stay registration*) and Section 7 (*Medical reviewer to determine whether review to stay registration*), however neither section sets out the criteria for determining which cases should be eligible for this procedure, except to say that it will be for the Medical Reviewer to ‘determine whether it is appropriate’. Guidance is therefore required to support the work of the Medical Reviewers in those rare instances where an expedited procedure may be appropriate. This consultation seeks views on the proposed key principles of the expedited procedure, to enable registration to proceed (not to stay registration).

5. Not staying registration (Expedited Procedure): Key Principles

5.1 It is expected that in the vast majority of cases the standard review procedure will be appropriate and one to three day extension to the registration procedure will not add any significant delay to the funeral arrangements. The “not staying registration” (expedited) procedure should be available in specific circumstances where there is a clear rationale for a funeral to proceed within a quicker timescale.

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?

5.2 In practice, at the point of registration, and once an MCCD has been selected for review, it will be a matter for the informant to request that the registration not be stayed, if they have any concerns that the review will have an adverse impact due to a delay in the funeral. The registrar will have responsibility to make the informant aware that the procedure not to stay registration exists, but will not be expected to recommend or suggest the procedure.

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?

5.3 If the informant wishes to request the registration not to be stayed, they will make the request to the registrar. The 2011 Act requires the registrar to include in the referral to the Medical Reviewer a statement by the informant which they believe justifies registering the death before the review is complete (not staying registration). In order to streamline this process and to ensure consistency in requests to the Medical Reviewer it would seem appropriate that a standard form is in place for an informant to easily set out the reason for requesting the “not staying registration” (expedited) procedure.

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?

5.4 Once a request has been made and the proposed form (Question 3 above) has been completed, the registrar will pass the request to the Medical Reviewer. The Medical Reviewer will make a decision as to whether or not to allow registration to continue based on the information available in the form, from the MCCD and from any other sources he/she considers appropriate.

5.6 The registrar must pass on any request they receive to the Medical Reviewer, and, as set down in legislation, it is for the Medical Reviewer alone to determine whether or not to allow a registration to go ahead before the review is complete. The expectation is that contact will be made with the Medical Reviewer directly, by telephone, followed by sending a scanned copy of the MCCD and the proposed form (Question 3 above), to seek a decision on whether or not the registration can proceed before the review is complete.

5.7 The 2011 Act allows the MR to require further information and allows them to make any enquiries they consider appropriate. It is expected that the decision as to whether or not to stay registration should be made within a few hours and within that same working day.

5.8 If the Medical Reviewer agrees to allow the registration to proceed before the review is complete, this will mean that the body can be released and the funeral can proceed while the review takes place in the background. In practice this means that the registrar will complete the registration and issue the formal extract of death (Form 14), which is the legal form required before any funeral can take place. As stated elsewhere, it is expected that the option of not staying registration will be used rarely, and will be the exception.

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?

6. Determining whether it is appropriate to grant the expedited procedure

6.1 An informant can request an expedited procedure in any case randomly selected for review, and every such request must be passed, by the registrar, to the Medical Reviewer for a decision. It is entirely a matter for the Medical Reviewer to determine whether or not to agree to the request.

6.2 There is a need to provide clear and consistent guidance to Medical Reviewers, to registrars and to the public as to the sort of circumstances where expedited procedure might be appropriate. This will ensure, as far as possible, that granting or refusing expedited procedure requests is consistent across Scotland, and that all parties involved have a shared understanding of what is applicable.

6.3 As detailed in Question 4 above, we would propose that a form be developed which will be the mechanism for the informant to set out the justification for not

staying registration. It is proposed that such a form would detail a set of categories which are intended to highlight the sort of circumstances where not staying registration (expedited procedure) may be appropriate. Although it is not for registrars to grant or refuse expedited procedure a list of pre-defined categories within Guidance, and included on the proposed form, would helpfully set out the sort of circumstances where not staying registration (expedited procedure) may be appropriate, and where a request is most likely to succeed.

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)?

6.4 It is not intended that such a list of categories in itself defines when expedited procedure should be granted. That remains a matter for Medical Reviewers to determine and decide if it is appropriate to do so. The expedited procedure can be granted or refused by the Medical Reviewer in any case.

6.5 It is suggested that the following list of categories sets out the key circumstances where not staying registration might be appropriate:

- i. Not staying registration for **religious or cultural reasons** - for example, some religious traditions require burial within 24 hours and some communities have a tradition of burial within three days.
- ii. Not staying registration for **compassionate reasons** – for example, in the death of a child under 16 years or a stillbirth where a delay may cause significant additional distress.
- iii. Not staying registration for **administrative or practical reasons** – for example, where the family does not reside in Scotland and the deceased will be in transit to another part of the UK or international destinations for a funeral; or where the body is being donated to medical research and has to be preserved quickly.

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

7. Guidance, Training and Communications

7.1 The Scottish Government will produce Guidance informed by the views provided in response to this consultation. This Guidance will set out the procedures that registrars and Medical Reviewers will follow. It is expected that the Guidance will be reviewed regularly, to ensure the expedited procedure is fit for purpose. It is also expected that requests to not stay registration will be peer reviewed regularly by other Medical Reviewers to improve consistency of decision-making process and to reduce variation.

7.2 The outcome of the consultation, and the Guidance which is produced as a result, will also inform educational and training materials to be produced by NHS Education Scotland, which will be in place prior to the launch of the new process.

7.3 Ahead of the launch of the new death certification process a range of communications will be undertaken with the public and professionals to make them aware of the new system. It is expected that the information materials available to bereaved families will include detailed information on the procedure for not staying registration (expedited procedure) and when it might apply.

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)?

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RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Title Mr Ms Mrs Miss Dr Please tick as appropriate

Surname

Forename

2. Postal Address

Postcode

Phone

Email

3. Permissions - I am responding as...

Individual

Group/Organisation

Please tick as appropriate

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

Yes No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick **ONE** of the following boxes

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate

Yes No

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

Yes

No

ANNEX B

CONSULTATION RESPONSE TEMPLATE FORM

Please remember to return your response along with the Respondent Information Form at **Annex A**

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?

Please tick as appropriate Yes No

Additional Comments:

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?

Please tick as appropriate Yes No

Additional Comments:

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?

Please tick as appropriate Yes No

Additional Comments:

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?

Please tick as appropriate Yes No

Additional Comments:

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)?

Please tick as appropriate Yes No

Additional Comments:

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

Please tick as appropriate Yes No

Additional Comments:

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)?

Please tick as appropriate Yes No

Additional Comments:



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