

Dear Colleague

IMPLEMENTATION OF THE CERTIFICATION OF DEATH (SCOTLAND) ACT 2011

Introduction

1. This letter:

- provides an update on progress towards the implementation of a new independent scrutiny system of medical certificates of cause of death (MCCDs), as provided for in the Certification of Death (Scotland) Act 2011 (paragraphs 2 -7);
- advises recipients of a number of other related developments which will take place over 2014/15 (paragraph 8);
- asks NHS Boards to take forward actions as set out in paragraphs 10 -14.

Background

2. The Certification of Death (Scotland) Act 2011 received Royal Assent on April in 2011. The aims of the Act are:

- to introduce a single system of independent, effective scrutiny applicable to deaths that do not require a Procurator Fiscal investigation;
- to improve the quality and accuracy of MCCDs; and
- to provide improved public health information and strengthened clinical governance in relation to deaths.

3. Since 2011 a number of key organisations, including the NHS, have been working to implement the legislation, which is currently on track for April 2015.

From the Chief Medical Officer
Sir Harry Burns MPH FRCS(Glas)
FRCP(Ed) FFPH

20 March 2014

SGHD/CMO(2014)8

For action

Chief Executives, NHS Boards and Special Health Boards
Medical Directors, NHS Boards to cascade to all doctors, including GPs

For information

Chairs, NHS Boards
Hospices
Independent Hospitals
Community Hospitals
Nursing Directors of Health Boards
Bereavement Co-ordinators of Health Boards
Medical Records Managers
British Medical Association
General Medical Council
Medical and Dental Defence Union of Scotland
Medical Protection Society
Medical Defence Union
Academy of Medical Royal Colleges and Faculties in Scotland
Crown Office Procurator Fiscal Service
Police Scotland

Clinical Enquiries to:

Dr Mini Mishra
Senior Medical Officer
Scottish Government
mini.mishra@scotland.gsi.gov.uk

Policy Enquiries to:

Alison Kerr
Policy Manager
Scottish Government
alison.kerr@scotland.gsi.gov.uk

4. Once fully implemented the Act will bring an end to burial without prior registration and the statutory role of the crematoria medical referees. Instead independent Medical Reviewers will check a random sample of MCCDs for accuracy and quality, regardless of whether the deceased will be buried or cremated. There will be no charge to the bereaved or next of kin for this service. The role of the Procurator Fiscal (PF) will remain unchanged.

5. The implementation of the Act is being overseen by a National Advisory Group (NAG), chaired by Dr Iain Wallace, Medical Director in NHS Lanarkshire. The NAG membership includes representation from all organisations with an interest or a role in this work, including Healthcare Improvement Scotland (HIS); National Records of Scotland (NRS); NHS Education Scotland (NES); Information Services Division (ISD); funeral and cremation industry representatives; the British Medical Association (BMA); bereavement services; pathologists; Crown Office and Procurator Fiscal Service (COPFS); patient groups; other UK Governments; General Medical Council (GMC); Medical Defence Organisations and religious/belief groups.

6. Key national implementation activity already underway includes:

- Healthcare Improvement Scotland (HIS) has statutory responsibility for implementing the new scrutiny system under the 2011 Act. **Dr George Fernie** has been appointed as Senior Medical Reviewer by HIS and has taken up his role. Dr Fernie will support implementation activity over the coming year, working in HIS to develop operational procedures for the new system; to support NHS Boards in raising awareness; and working with Government on key aspects of the new legislation such as cross-border transfer. His contact details are in **Annex A**. HIS will begin recruiting the team of Medical Reviewers and Medical Reviewers' Assistants later this year.
- NHS Education for Scotland is developing online training modules for all medical staff and web based resources for non-certifying staff and the general public.
- NHS Information Services Division (NHS ISD) is linking with HIS and NRS to use the data/information from the review process and other deaths to inform the NHS Boards about mortality issues in their areas e.g. HSMRs.
- The funeral and cremation industry is working to update procedures in light of the new scrutiny system, particularly in relation to crematoria where the statutory role of crematoria medical referees and associated cremation forms B and C will be discontinued.
- NRS is re-prescribing Forms 11 and 14.

7. More information about the details of the scrutiny system, as well other information materials and minutes for the National Advisory Group meetings is available on line at: <http://www.scotland.gov.uk/Topics/Health/Policy/BurialsCremation/Death-Certificate>.

Other Developments

8. In addition to the introduction of the new independent scrutiny system in spring 2015, there are a number of other related developments which will take place over the coming year, which recipients should be aware of. These are:

- National Records of Scotland expect to introduce a new version of the current (paper) MCCD form in August 2014, around 6 months before the introduction of the new scrutiny system. Some training materials relating to the revised MCCD will be provided by NES beforehand and should be completed by all certifying doctors prior to August 2014. The new MCCD will run in parallel to the existing cremation forms B and C for a short time, until the Cremation Regulations are repealed around April 2015, at which point these cremation forms will no longer be required. Crematoria referees will also continue their functions until the Cremation Regulations are repealed as above.
- Additionally, with the aim of reducing the workload on certifying doctors, and minimising avoidable errors in the content of MCCDs, NHS National Service Scotland Information Technology (NSS IT) is working towards providing doctors with the ability to complete MCCD forms electronically via NHS IT systems. The intention is that this will be available within most GP practices around the time the new scrutiny system is introduced in April 2015, with availability in hospitals rolling out incrementally thereafter.
- Separately COPFS will be introducing changes to the forms, including electronic reporting, used for reporting a death to the PF. The new forms and the required IT infrastructure are currently in development.

9. **Annex B** to this letter provides an overview of the key changes medical staff will need to be aware of over the next year. A high level flow chart diagram of the new process is also included.

Action Required

10. NHS Boards are now required to begin planning for the implementation of the new scrutiny system and the other related developments. While much of the necessary activity is being taken forward nationally and under the oversight of the NAG, it is important that local systems and operations are geared up in anticipation of the coming changes.

11. In order to ensure a smooth transition to the new death certification system, each NHS Health Board is asked to appoint an **Implementation Lead**, to take overall responsibility for implementation within that Board area. Implementation Leads should be at Director level. I would be grateful if you could advise us of who your Implementation Lead is by Friday 11 April 2014. Please email their name and contact details to the Scottish Government at: sarah.dillon@scotland.gsi.gov.uk .

12. Each NHS Board should also establish a **Local Implementation Group**, chaired by the Implementation Lead, involving key people such as:

- those who deliver bereavement services;
- those involved in records management;
- those responsible for organising or overseeing training of staff; and
- others such as local authority partners and the funeral industry.

13. These panels should be established as soon as possible to begin work. **Annex A** provides a summary of the actions NHS Board and Local Implementation Groups are expected to take forward over the next year.

14. As also set out in **Annex A**, a new section of the Scottish Government website will be established specifically for Implementation Leads, and this will be updated as required with further information or advice as and when it becomes available.

Conclusion

15. I would be grateful if you could ensure that the necessary actions set out above are taken forward as a priority, and that details of your Implementation Leads are returned to us by **11 April 2014**. Your co-operation and assistance in ensuring a smooth transition to the new system of scrutiny of death certification is very much appreciated.

Yours sincerely

Harry Burns

HARRY BURNS

IMPLEMENTATION OF CERTIFICATION OF DEATH (SCOTLAND) ACT 2011 – ACTION PLAN FOR NHS BOARDS

This Annex seeks to summarise the Actions which NHS Boards/local Implementation Groups are required to take forward over the coming year, ahead of the implementation of the new scrutiny system in spring 2015.

Action	Summary	Description	Timing
Action 1	Appoint Implementation Lead and establish an Implementation Group	<p>Each NHS Health Board is expected to appoint an Implementation Lead, who will be responsible for ensuring local readiness for the new scrutiny system. A local implementation group should also be established to provide a forum for all local interests to collaborate. Local implementation groups should, at a minimum, include:</p> <ul style="list-style-type: none"> • local NHS Board and hospice bereavement services • health records managers – independent medical reviewers will require access to medical records in certain circumstances, and health records managers will have a key role in supporting this • staff involved in training • both primary and secondary care doctors • LMCs • local authority/local funeral industry staff/crematoria and burial group • Faith communities <p>The group should work to ensure every certifying doctor and other relevant staff are made aware of all the changes, and receive the necessary training on time. It should also develop co-ordinated processes to interact with the bereaved family and friends.</p> <p>The group will also ensure the practical implications of operating the new system within the NHS Board are met by the date of implementation, and that they will continue to be met after the system is implemented.</p> <p>At an early date, all Implementation Leads will be encouraged to meet individually or collectively with the Senior Medical Reviewer, Dr George Fernie, to assist with consistency of approach across the Boards, and for help and support in raising awareness amongst staff. Although he will be writing to Boards, Implementation Leads can contact Dr Fernie directly at: georgefernie@nhs.net.</p> <p>Local awareness raising activity should make use of the information and materials available on the relevant sections of the Scottish Government website: http://www.scotland.gov.uk/Topics/Health/Policy/BurialsCremation/Death-Certificate</p>	Immediate

Action 2	Awareness raising amongst all relevant staff on the introduction of the new independent scrutiny system in April 2015	Staff should be made aware, from now on, of the main changes arising from the Certification of Death (Scotland) Act 2011. All NHS Board staff should be made aware of their new statutory responsibilities under the Act, including a duty to co-operate with information and training requests from Medical Reviewers.	Complete by April 2015
Action 3	Awareness raising amongst all relevant staff on the introduction of the new MCCD form in August 2014	<p>Whilst the changes to the new version of the MCCD are relatively minor, certifying doctors and other staff will require to be ready for the changeover to the new form when it is introduced by NRS in August 2014. NES will develop education and awareness raising materials that will be distributed for use by NHS Boards in July 2014. The “old” MCCD forms/books will need to be returned to NRS for destruction.</p> <p>The new MCCD is being introduced in August 2014 to allow certifying doctors to become familiar with the form prior to the introduction of the new scrutiny system in April 2015. During this transitional period between August 2014 and April 2015 the MCCD will duplicate some of the information required on cremation forms B and C such as “hazards” for cremation – however cremation forms B and C <u>must</u> continue to be fully completed during this period and enquires from crematoria referees must be responded to. The associated fees with the cremation forms B and C should be claimed in the usual way until the Cremation regulations are repealed, which is scheduled for April 2015.</p>	Complete by August 2014.
Action 4	Training for all certifying doctors and relevant staff, prior to new scrutiny system implementation in April 2015	Online materials will be available from NES in early 2015. These will include short online modules as well as written information aimed at all medical staff grades and roles. Information will also be available for other organisations and the public about the new scrutiny process. These will be available via web based resources.	Complete by February/ March 2015

Action 5	Monitoring updates/ information from Government	<p>Implementation Leads should continue to check the Scottish Government website, where a specific section for Implementation Leads is being created:</p> <p>http://www.scotland.gov.uk/Topics/Health/Policy/Burials/Cremation/Death-Certificate</p> <p>Updates and any other information required by Implementation Leads will appear in this section of the website over the coming year, as they become available.</p>	Ongoing
----------	--	---	---------

IMPLEMENTATION OF CERTIFICATION OF DEATH (SCOTLAND) ACT 2011 – KEY CHANGES FOR MEDICAL STAFF

Medical staff should be made aware of the main changes which will directly affect them as a result of the changes to death certification and associated scrutiny. The main changes are:

- From August 2014: A new version of the Medical Certificate of Cause of Death (MCCD or Form 11) will be rolled out by National Records of Scotland. The MCCD will be provided in paper format, as is currently the case. National Records of Scotland will provide more information about this closer to the time. NES will provide education and general awareness raising materials for use by NHS Boards by July 2014. It is the responsibility of the Board Implementation Leads to ensure use of these materials.
- From April 2015 onwards (implementation date of the new scrutiny system): Cremation certificates B and C, with their associated payments for doctors, will no longer exist under the new system. All cremations and burials will be subject to the same random sampling scrutiny system via the new independent Medical Reviewers. There will, therefore, be no requirement for doctors to complete these forms in the future. In addition, burials cannot proceed without first registering the death.
- From April 2015 onwards: Certifying doctors will increasingly be able to complete the new MCCD electronically via NHS systems. This will be provided in the first instance to GP practices and, thereafter, will be rolled out across the wider NHS. Electronic completion should reduce the workload for certifying doctors as the intention is that as much of the patient information as possible will be automatically populated. Importantly, although the MCCD will be completed electronically, a paper copy of the MCCD will still require to be printed off and provided to the next of kin. This will continue to be the case until National Records of Scotland update the relevant legislation such that a paper copy is not required.
- From April 2015 onwards: Any doctor who certifies a death (or an informed member of that doctor's team) which is then subject to independent review by Medical Reviewers, will be required to make themselves available to discuss the case with the Medical Reviewer if contacted. This is a legal requirement under the 2011 Act and so the certifying doctor, or an informed member of the same clinical team, must respond to such requests. A timely response to an approach from the Medical Reviewer will minimise delays to the funeral and distress to the bereaved.

Procurator Fiscal reporting criteria (and processes) remain unchanged. However, if professional staff have general uncertainties about reporting deaths to the PF, then a Medical Reviewer, in their supportive and education role, can provide advice and guidance. In specific cases, they should continue to seek advice from the PF via the Scottish Fatalities Investigation Unit (SFIU). A link to a list of contact details provided by Healthcare Improvement Scotland is provided below.

http://www.sudiscotland.org.uk/regionalmaps/procurator_fiscal_offices.aspx

NES online training modules on new scrutiny process will be available in early 2015. NHS Board Implementation Leads should ensure that all doctors are aware of the requirement to complete the relevant modules.

A flow chart setting out the new scrutiny system of death certification and review is attached below. It is anticipated that a basic Level 1 Review will take 30 minutes (completed in one working day), a comprehensive Level 2 Review upto 3 hours (completed in 3 working days) and an expedited procedure decision made in half a day.

Further information on the implementation of the Certification of Death (Scotland) Act 2011, including a standard presentation on how the changes to legislation will affect core groups is available on the Scottish Government website at the following link:
<http://www.scotland.gov.uk/Topics/Health/Policy/BurialsCremation/Death-Certificate>

