



Directorate of Chief Medical Officer
Crown Agent and Chief Executive of Crown
Office
and Procurator Fiscal Service



Dear Colleague

REPORTING DEATHS TO THE PROCURATOR FISCAL GUIDANCE

1. This letter brings to your attention a recent addition to the categories of deaths which must be reported to the Procurator Fiscal (PF) by medical practitioners.

Background

2. Currently, many deaths of people who are subject to mental health supervision, whether in the hospital or the community, at the time of death are not currently reported to the PF as they are assessed as straight forward “natural” deaths. There may however be a small number of cases where some further investigation is required into the circumstances of the death. This will enable discretionary Fatal Accident Inquiries (FAI) as appropriate, as in any reported death.

3. The Lord Advocate has directed that the medical profession working in Scotland should be made aware that the guidance has been expanded to include a new section in relation to those who die while subject to compulsory treatment under the mental health legislation - **see paragraph 7.**

4. The change relates to the death of any person who was subject to compulsory treatment under mental health legislation at the time of their death. This includes anyone who was detained or liable to be detained under the Mental Health (Care and Treatment) (Scotland) Act 2003 or part IV of the Criminal Procedure (Scotland) Act 1995.

<http://www.legislation.gov.uk/asp/2003/13/contents>

5. The change has been introduced to ensure that these deaths are given the appropriate level of scrutiny in accordance with Article 2 of the European Convention on Human Rights.

**From: Chief Medical Officer
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**Crown Agent and Chief
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Enquiries to:

Crown Office and Procurator Fiscal
Service issues

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Addresses

For action

NHS Board Medical Directors – to cascade to all doctors, including GPs
NHS Board and Special Board Chief Executives

For information

NHS Board Directors of Public Health
NHS Board and Special Board Chairs
NHS Board Primary Care Leads
Chief Executives of Local Authorities
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
COPFS – to cascade to Forensic Pathologists
Community Hospitals
Hospices
Independent hospitals
Police Scotland

Further Enquiries

For clinical issues

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6. Suicidal or accidental death of anyone under such care should continue to be reported to the PF as usual. Therefore, it is not anticipated that this will significantly increase the numbers of deaths reported to the PF.

7. The new section of the guidance is as follows:

Categories of Death to be Reported

(f) Deaths while subject to compulsory treatment under mental health legislation

Any death of a person who was, at the time of death:

- ***detained or liable to be detained under the Mental Health (Care and Treatment) (Scotland) Act 2003 or Part VI of the Criminal Procedure (Scotland) Act 1995; or***
- ***subject to a community based compulsory treatment order or compulsion order under the above provisions.***

The full guidance is available on the COPFS website:

<http://www.copfs.gov.uk/publications/deaths>

8. This form of wording has been discussed with the Chief Executive of the Mental Welfare Commission for Scotland, who advised that this would cover all relevant situations, including:

- those who are detained in a hospital;
- those who are subject to a community-based compulsory treatment order, which may include a range of restrictions on their liberty and provisions to have them compulsorily admitted to hospital if they don't comply with the terms of the order; and
- those who are subject to a hospital-based compulsory treatment order, but whose detention has been suspended for a period of time to assess if the patient can manage in the community.

Action

9. When anyone dies in the above circumstances, the medical practitioner should report the death to the PF in the usual manner. The CMO/COPFS guidance about electronic reporting to the PF is available through the link below.

[Electronic reporting of deaths to the Procurator Fiscal](#)

10. We would be grateful that this information is passed on to all doctors and relevant staff in your area, as soon as possible.

Many thanks for your assistance in this matter.

Yours sincerely

Catherine Calderwood

Catherine Dyer