

## Chief Medical Officer

Dr Gregor Smith, Interim Chief Medical Officer  
Paul Lowe, Registrar General for Scotland and Keeper of the Records of Scotland.  
David Harvie, Crown Agent and Chief Executive of Crown Office and Procurator  
Fiscal Service  
DCC Malcolm Graham, Police Scotland



Dear Colleague

### Re: Updated Guidance to Medical Practitioners for Death Certification during the COVID-19 Pandemic

1. This communication is to update the previous guidance issued on March 24<sup>th</sup> 2020, to doctors, colleagues in Police Scotland, Crown Office and Procurator Fiscal Service and the Scottish Registration Service in relation to the processes for providing the Medical Certificate of Cause of Death (MCCD, or Form 11), during the COVID-19 Pandemic (see link below). I would draw your attention to a change required by the Lord Advocate which is highlighted in bold in section 8.  
[https://www.sehd.scot.nhs.uk/cmo/CMO\(2020\)08.pdf](https://www.sehd.scot.nhs.uk/cmo/CMO(2020)08.pdf)

### Background

2. Scottish Government's new regulations making COVID-19 a Notifiable Disease came into force on 22 February 2020. The CMO letter can be accessed through the link below.  
[https://www.sehd.scot.nhs.uk/cmo/CMO\(2020\)04.pdf](https://www.sehd.scot.nhs.uk/cmo/CMO(2020)04.pdf)

3. Subsequently, the World Health Organisation (WHO) declared COVID-19 to be Pandemic on the 11 March 2020. The severity, spread in the population and duration of the Pandemic is unpredictable at this stage. Recent experience of other countries suggests that there will be an increased number of deaths that will require to be certified.

4. In addition, due to public health reasons, there may be increased pressure for the rapid registration/burial/cremation/other processes of those who have died. The method/s may also be specified, if required for the protection of the public.

### Principles

5. This letter is intended to adopt uniform terminology of the disease and the virus, and support the reduction in time to provide the Medical Certificate of the Cause of Death (MCCD/Form 11) during this challenging time.

From the Interim Chief Medical Officer  
**Dr Gregor Smith**

Date: 20 May 2020

SGHD/CMO(2020)15

#### For action

NHS Board Directors of Public Health  
NHS Board Medical Directors  
NHS Board Primary Care Leads

#### For Information

National Records of Scotland  
Police Scotland Death Certification Review Service  
COPFS  
NHS Board and Special Board Chairs  
NHS Board and Special Board Chief Executives  
NHS Board Directors of Nursing  
Bereavement Co-ordinators of Health Boards  
Chief Officers of Integration Joint Boards  
Local Authority Registration 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  
Police Care Network, NHS National Services Scotland (NSS)  
Care Inspectorate  
National Association of Funeral Directors  
The National Society Of Allied And Independent Funeral Directors  
Independent healthcare  
Regional Resilience Partnerships (RRP)  
Association of Registrars of Scotland

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6. WHO has said that for the purposes of the International Classification of Diseases (ICD), the official name of the Disease is Coronavirus disease (COVID -19) (just as the Disease Acquired Immune Deficiency Syndrome is called AIDS).

The official name of the Virus by the International Committee on Taxonomy of Viruses (ICTV) is Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2) (just as the relevant virus causing AIDS is called HIV).

Therefore, the use of the terms COVID-19 disease or SARS-CoV-2 infection in MCCD/Form 11 is acceptable, and can also be entered into the register in that way.

7. As COVID-19 disease is a notifiable disease, the hazards box on the MCCD/Form 11 (DH1) as always, should be ticked.

8. Medical Practitioners will be familiar with guidance issued by the Crown Office and Procurator Fiscal Service entitled, 3(d) of COPFS guidance - 'Reporting deaths to the Procurator Fiscal - Information and Guidance to Medical Practitioners'. This guidance defines the categories of death reportable to the Procurator Fiscal by medical practitioners. In the CMO letter dated 24 March 2020 mentioned above, medical practitioners were advised that whilst s3(d), requires certifying doctors to report a death to the Procurator Fiscal (PF), where the individual dies of a disease or organism which poses an acute and serious risk to public health due to either a Notifiable Infectious Disease or Organism in terms of Schedule 1 of the Public Health (Scotland) Act 2008, the Lord Advocate had directed that during the pandemic, the exception to this are deaths due to COVID-19 disease or SARS-CoV-2 infection or presumed COVID-19 disease or SARS-CoV-2 infection. This remains the guidance to certifying doctors with the intention that this will help to reduce the demands on the medical profession, whilst maintaining the overall integrity of the system for reporting and investigating deaths.

Otherwise, there remain situations when certifying doctors do still require to report a death to the PF where a person has COVID-19 disease or presumed COVID-19 disease. In particular where the death falls under another category defined by section 3 of the guidance to medical practitioners.

The Lord Advocate has now directed that with effect from 9 am 21 May 2020, in light of significant public anxiety around deaths in care homes and deaths of those who may have contracted COVID in their place of work, any such deaths must be reported to the Procurator Fiscal by medical practitioners in terms of section 3(g) of the aforementioned guidance. For the avoidance of doubt this includes any death due to COVID-19 or presumed COVID-19 in the following situations:

- (a) where the deceased was resident in a care home (this includes residential homes for adults, the elderly and children) when the virus was contracted or
- (b) where to the best of the certifying doctor's knowledge, there are reasonable grounds to suspect that the deceased may have contracted the virus in the course of their employment or occupation. Whilst not exhaustive, this may include deaths of care home workers, frontline NHS staff, emergency services personnel and public transport workers.

Any such deaths must be reported to the Procurator Fiscal by medical practitioners in terms of s3(g) of the aforementioned guidance.

These steps will ensure that all deaths within these categories will be registered within the COPFS system of death investigation, and that each of these deaths can be investigated. The nature and extent of that investigation will depend on the particular circumstances of each case. The purpose is to understand the circumstances of the deaths, to prevent future deaths in similar circumstances and to take any necessary action.

The system of investigations of death in Scotland includes FAIs, but does not require an FAI in every death that is reported to the PF. FAIs are held only where they are required by law and mandatory, or where the Lord Advocate decides that one should be called in the public interest. In most cases, the investigation can be closed in a relatively short period of time and no further action is required.

The Lord Advocate's decision also applies retrospectively to deaths within these 2 categories which have already occurred. However, arrangements are being made so that COPFS can obtain the information which it requires to identify those deaths, without imposing a burden of retrospective reporting on medical practitioners. It is anticipated that this will be provided by information already within the knowledge of Police Scotland and the Health and Safety Executive.

In addition, others e.g. employers, registrars and others can report a death to the PF if they fall under the two 2 categories described above. However, this does not absolve the certifying medical practitioner of the responsibility to report any death in either of these 2 categories.

**For assistance, a summary of the categories of deaths now reportable to the Procurator Fiscal can be found at Annex B.**

The PF box in the MCCD/Form 11 **should not be ticked** where the death has not been reported to the PF.

This guidance from the COPFS will be reviewed at the end of July 2020 and a decision will be taken at that time to either revert to the status quo or extend the requirements as appropriate.

9. The new guidance in Annex A 'fast-tracks' the completion of the MCCD to indicate where the cause of death is 'pandemic COVID-19 disease' or 'presumed COVID-19 disease', gives examples of situations, and outlines the circumstances that can be legitimately considered for certification. It is hoped that this combination will enable doctors to provide an MCCD/Form 11 and reduce delays in the registration of deaths from diagnosed COVID-19 disease. As above, a summary of the categories of deaths now reportable to the Procurator Fiscal can be found at Annex B.

10. NRS have taken powers via the Coronavirus Act 2020 to allow for remote registration without face-to-face contact with the informant (usually the next of kin, but now potentially including funeral directors with a family's permission) which have been in operation since March 26. Certifying doctors will also need to stop face-to-face contact and the handing over a paper MCCD/Form 11 (or the Certificate of Stillbirth/Form 6) to whoever usually collects the MCCD/Form 11 (usually the next of kin/informant). Instead the copy of the printed/paper MCCD/Form 11 (or the Certificate of Stillbirth/Form 6) produced and signed at the conclusion of the process by the certifying doctor should be scanned and e-mailed to the registration office where the next of kin/informant says they would like to register the death, as well as to the informant themselves.

Certifying doctors should also put a hard copy in the post to the registration office designated by the informant.

**Action**

11. We would be grateful if you could bring this guidance to the attention of relevant colleagues in your organisations and enable the dissemination of this information to all doctors in the area as soon as possible.

12. Thank you very much for your help in this matter.

Yours sincerely

**DR GREGOR SMITH**  
Interim Chief Medical Officer

**PAUL LOWE**  
Registrar General and Keeper of the  
Records of Scotland

**DAVID HARVIE**  
Crown Agent and Chief Executive of COPFS

**DCC Malcolm Graham**  
Police Scotland

## **Guidance to Medical Practitioners for Death Certification during the COVID-19 Pandemic**

This guidance is intended to assist medical practitioners with their clinical responsibility for the appropriate certification of deaths during the COVID-19 Pandemic. Whilst the guidance is not all inclusive, it is intended to give medical practitioners assistance and support with their clinical responsibility for the appropriate certification of death and provision of the MCCD/Form 11.

The aim is to provide information that will assist in the certification process and to give medical practitioners the confidence to act appropriately when operating in an environment altered and pressurised by the COVID-19 Pandemic. This approach to deaths during the COVID-19 Pandemic has been produced with the approval of the Directorate of the Chief Medical Officer, the Crown Office and Procurator Fiscal Service (COPFS), Police Scotland, and National Records of Scotland (NRS), with the view to assisting medical practitioners in the process of certification of death during the COVID-19 Pandemic.

During the COVID-19 Pandemic, there will be an increased number of deaths that will require to be certified. This increase may be so significant that that it will put pressure on medical practitioners and wider services as a whole. It is likely that some medical practitioners and colleagues from other services such as Police Scotland, Crown Office and Procurator Fiscal Service, forensic pathologists, funeral directors, burial and cremation authorities, local authority registrars and others, will themselves be incapacitated by COVID-19 for periods of time and this will put an even greater strain on capacity within current systems.

In addition, due to public health reasons there may be increased pressure for the rapid disposal of those who have died, as well as requirements about the type of disposal procedures that need to be followed.

### **Reporting to the Procurator Fiscal**

Any deaths due to COVID-19 disease are reportable to COPFS under the current 'Information and Guidance for Medical Practitioners'. [See link](#)

This is on the basis of section 3(d) of the guidance given that COVID-19 is an infectious disease that poses an acute and serious risk to public health due to it being a Notifiable Disease or Organism in terms of Schedule 1 of the Public Health (Scotland) Act 2008.

Now that a pandemic has been declared by the World Health Organisation (as of 11 March 2020), the Lord Advocate has instructed that medical practitioners do not report deaths as a result of COVID-19 disease or presumed COVID-19 disease to the Procurator Fiscal where they would otherwise require to be reported in terms of section 3(d) only – unless in the circumstances described in Annex B.

This suspension will be reviewed at the end of July 2020 and a decision will be taken at that time to either revert to the status quo or extend the suspension as appropriate.

It is important to note that where a person has COVID-19 disease or presumed COVID-19 disease but the death falls under another category defined by section 3 of the aforementioned guidance to medical practitioners, then the death must be reported to the Procurator Fiscal (Annex B). This will include the following deaths:

- suspicious deaths
- drugs related deaths
- accidental deaths
- deaths as a result of an accident in the course of employment
- deaths of children from overlaying or suffocation
- deaths where the circumstances indicate the possibility of suicide
- deaths as a result of neglect/fault
- death of a child (other than where COVID-19 disease or presumed COVID-19 disease is the cause of death)
- deaths from other notifiable/infectious diseases
- deaths under medical or dental care in the circumstances defined in section 3(e)
- deaths while subject to compulsory treatment under the mental health legislation
- deaths in legal custody.

It should be borne in mind by medical practitioners that their clinical responsibility for appropriate certification of death requires that they be satisfied, ***on the balance of***

**probabilities**, as to the likely cause of death. This complies with the concept of certification provided **to the best of one's knowledge and belief** as required by the Registrar General for Scotland and written into the MCCD/Form 11.

There are a number of situations where medical practitioners may need to consider whether a cause of death of COVID-19 disease can be certified. It is anticipated that the majority of deaths during the COVID-19 Pandemic will be readily identified as such. There may, however, be certain categories where identification of the cause of death is not straightforward:

1. There may well be deaths where there has been recent medical intervention but the medical practitioner still has some doubt as to the cause of death. In these circumstances, the medical practitioner should consider the symptoms to see whether, **on the balance of probabilities and to the best of their knowledge and belief**, "COVID-19 Disease" is the likely cause of death. These symptoms should include a persistent cough, high temperature and shortness of breathing in adults, and in children (who may have milder symptoms).

2. There may be cases where there has been little or no recent medical intervention and the medical practitioner is short of information as to the deceased's recent state of health. In these circumstances, the medical practitioner should consider the symptoms outlined above from relatives or friends, if available, as well as looking at the wider facts and circumstances.

These wider facts and circumstances can include the fact that there is a COVID-19 Pandemic, that the COVID-19 Pandemic has struck in the locality, whether there was any evidence of medication suitable for treating the symptoms of a COVID-19 Pandemic found in or near the deceased's possessions e.g. analgesics, cough medicine, medicines to reduce the fever, etc.

3. There may also be cases where the medical practitioner finds some evidence of symptoms and/or surrounding circumstances that are compatible with, but perhaps not exclusive to, COVID-19 disease as being the cause of death. In such a case, and where there are no other indications as to the cause of death, and where there are no suspicious circumstances, it would be considered clinically responsible to certify the

death as “presumed COVID-19 disease”. This will be accepted as a cause of death by the local authority registrar and recorded in that format in the register.

4. If the practitioner is not able to satisfy him or herself on the balance of probabilities of the likely cause of death, then the appropriate action would be to discuss the issue with the Procurator Fiscal. The Procurator Fiscal may:

- advise that a certificate can be issued with “presumed COVID-19 Disease”,
- accept the reporting of the death to them in some instances, and take over the investigation of the case with the help of Police Scotland, which may or may not involve a post mortem examination (autopsy).

The first responders at the death in the community are expected to follow the Management of Death in the Community (in hours and out of hours) implemented on the 29 February 2016. See Link below.

[www.sehd.scot.nhs.uk/cmo/CMO\(2016\)02.pdf](http://www.sehd.scot.nhs.uk/cmo/CMO(2016)02.pdf)

In Scotland, Confirmation of Death (Verification of Death/Pronouncing Life Extinct) can be undertaken by any registered healthcare professionals, trained and competent to do so.

### **The Death Certification Review Service (DCRS)**

In parallel, it was realised changes would be required to amend/suspend routine, random review of MCCDs by DCRS, when there was a possible adverse impact on the workload, such as a rapid increase in additional deaths due to COVID-19.

From 24 March 2020, and as an interim measure, the percentage of MCCDs selected for review by DCRS were decreased from the current 14% to 4% (3.5% for level 1 reviews and 0.5% for level 2 reviews). The random review of MCCDs was then suspended on 26 March 2020 but reinstated at 4% level 1 reviews on 11 May 2020 and will remain under review throughout the Pandemic period.

Requests for Interested Person Reviews were also temporarily suspended during this period, but have now resumed, and eligible applicants can apply directly to DCRS. More information can be found [here](#).



In addition, DCRS have throughout this time continued to provide advice via their enquiry line on 03001231898 or [dcrs@nhs24.scot.nhs.uk](mailto:dcrs@nhs24.scot.nhs.uk) and authorise disposal of repatriations to Scotland. The Death Certification Review Service and normal guidance for death certification will recommence when the Pandemic is declared to be over following any transition period which may be required.

### **Categories of death to be reported**

In terms of s3 of the 'Information and Guidance for Medical Practitioners', the following deaths must be reported to the Procurator Fiscal;

#### **Unnatural cause of death:**

Any death which cannot be entirely attributed to natural causes (whether the primary cause or a contributing factor) including:

- Suspicious deaths – i.e. where homicide cannot be ruled out
- Drug related deaths - including deaths due to adverse drug reactions reportable under the Medicines and Healthcare Products Regulatory Agency (MHRA) (Yellow Card Scheme)
- Accidental deaths (including those resulting from falls)
- Deaths resulting from an accident in the course of employment
- Deaths of children from overlaying or suffocation
- Deaths where the circumstances indicate the possibility of suicide

#### **Natural cause of death:**

Deaths which may be due in whole or part to natural causes but occur in the following circumstances:

(a) Any death due to natural causes where the cause of death cannot be identified by a medical practitioner to the best of his or her knowledge and belief

(b) Deaths as a result of neglect/fault

Any death:

- which may be related to a suggestion of neglect (including self- neglect) or exposure
- where there is an allegation or possibility of fault on the part of another person, body or organisation

(c) Deaths of children

Any death of a child:

- which is a sudden, unexpected and unexplained perinatal death
- where the body of a newborn is found
- where the death may be categorised as a Sudden Unexpected Death in Infancy (SUDI)

- which arises following a concealed pregnancy

Any death of a child or young person under the age of eighteen years who is 'looked after' by a local authority, including:

- a child whose name is on the Child Protection Register
- a child who is subject to a supervision requirement made by a Children's Hearing
- a child who is subject to an order, authorisation or warrant made by a Court or Children's Hearing (e.g. a child being accommodated by a local authority in foster care, kinship care, residential accommodation or secure accommodation)
- a child who is otherwise being accommodated by a local authority

(d) Deaths from notifiable industrial/infectious diseases

Any death:

- due to a notifiable industrial disease or disease acquired as a consequence of the deceased's occupation in terms of column 1 of Part 1 of Schedule 3 to the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (see Section 10 of this guidance)
- which poses an acute and serious risk to public health due to either a Notifiable Infectious Disease or Organism in terms of Schedule 1 of the Public Health (Scotland) Act 2008 or any other infectious disease or syndrome. **In terms of CMO letter dated 24 March 2020, the Lord Advocate has suspended the requirement to report deaths due to COVID-19 disease or presumed COVID-19 disease under this category. Certifying doctors do continue to require to report a death to the Procurator Fiscal where a person had COVID-19 disease or presumed COVID-19 disease and the death falls under another category defined under section 3.**

(e) Deaths under medical or dental care (see Section 9 below)

Any death:

- the circumstances of which are the subject of concern to, or complaint by, the nearest relatives of the deceased about the medical treatment given to the deceased with a suggestion that the medical treatment may have contributed to the death of the patient.
- the circumstances of which might indicate fault or neglect on the part of medical staff or where medical staff have concerns regarding the circumstances of death
- the circumstances of which indicate that the failure of a piece of equipment may have caused or contributed to the death

- the circumstances of which are likely to be subject to an Adverse Event Review (as defined by Healthcare Improvement Scotland)
- where, at any time, a death certificate has been issued and a complaint is later received by a doctor or by the Health Board, which suggests that an act or omission by medical staff caused or contributed to the death
- caused by the withdrawal of life sustaining treatment or other medical treatment to a patient in a permanent vegetative state (whether with or without the authority of the Court of Session). (See Section 13 below)
- which occurs in circumstances raising issues of public safety.

(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.

(g) Any death not falling into any of the foregoing categories where the circumstances surrounding the death may cause public anxiety. **In terms of the guidance detailed in this letter, the Lord Advocate has now directed that this includes any death due to COVID-19 or presumed COVID-19 (a) where the deceased was resident in a care home (this includes residential homes for adults, the elderly and children) when the virus was contracted or (b) where to the best of the certifying doctor's knowledge, there are reasonable grounds to suspect that the deceased may have contracted the virus in the course of their employment or occupation. Whilst not exhaustive, this may include deaths of care home workers, frontline NHS staff and emergency services personnel.**