

### Consultation response form

Please use this form to respond to the consultation questions. Please return form to

[HQDMailbox@wales.gsi.gov.uk](mailto:HQDMailbox@wales.gsi.gov.uk)

or by post to:

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**Your name:** Mr David Michael – Head of Legal Services

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**Responding as (please tick one):**

- Individual
- ✓ Local Government body
- University/academic body
- Political party/union
- Health professional representative body/advisory group/association
- NHS body
- Government department/agency
- Citizen voice/third sector organisation
- Social enterprise/business
- Legal or other professional

**Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:**

## **Consultation response form**

**Question 1:** Are there any issues in relation to the use of the Welsh Language which you feel should be considered as we take forward the implementation of the scheme with the NHS in Wales?

### **Your response to Question 1:**

Language preference is often a sensitive issue particularly at a time of personal stress. The general implementation of statutory Welsh Language Standards will increase expectations of the availability of services through the Welsh Language

**Question 2:** Can you think of any other measures which could be taken to safeguard the independence of medical examiners, other than those described above?

### **Your response to Question 2:**

Since the decision has already been made to make the LHBs responsible for appointing Medical Examiners in Wales organizational methods must be used to establish and maintain independence and avoid conflicts of interest. Will there be the capacity to transfer cases where the Medical Examiner has an interest of some kind such as a close relationship with the doctor who has treated the deceased? Will there be a Code of Practice covering conflicts of interests?

**Question 3:** Do you foresee any particular issues with setting up a joint committee of the health boards to manage the medical examiner service in Wales?

### **Your response to Question 3:**

I cannot comment on the legal method by which joint committees of LHBs can be set up. If it is not possible to set up and run their joint committees easily they might become bureaucratic and expensive to run.

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**Question 4:** Do you have any comments on workforce issues, or any areas of concern you would wish to bring to our attention?

### Your response to Question 4:

The possibility of Medical Examiners combining that role with clinical practice may be a cause for concern. It may increase the likelihood of conflicts of interest. Who will examine cases where the Medical Examiner has been involved in treatment? In clinical practice the Medical Examiner would continue to work with other doctors whose cases she or he would have to examine in their statutory role. The draft regulations (at regulation 3 (3)) provide that the Medical Examiner must have completed training before appointment. I would have thought that the onus should be on the LHB to ensure that the training has been completed before appointment. Is there a need for a statutory reference in the regulations defining National Medical Examiner?

If clinical practice is permitted, LHBs should ensure that the Medical Examiner role is given appropriate priority. Bereaved families already encounter delays in arranging funeral whilst awaiting post mortems and greater delays would not be acceptable.

**Question 5:** Can you think of any other terms of appointment which should be included in the regulations?

### Your response to Question 5:

No comments

**Question 6:** Do you have any comments about the remuneration of medical examiners?

### Your response to Question 6:

Administrative arrangements should avoid any appearance of double remuneration for the same time.

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**Question 7:** Are there any other functions or areas we should consider adding in to the draft appointment regulations?

### Your response to Question 7:

#### 1, Authorisation for Cremation of Stillborn Babies.

The functions of the Medical Examiner are limited to those who have died. Stillborn Babies are not legally classified as having died because they are not regarded as showing signs of independent life after birth. Under the current regulations the Medical Referee authorises the cremation of Stillborn Babies after the scrutiny of Cremation Forms 3 (Application for cremation of a stillborn baby) and 9 (Certificate of Stillbirth completed by the doctor or mid-wife). We understand that there is no provision for Medical Examiners to be involved in the certification of stillborn babies for cremation purposes. Is that the case?

It is proposed that it will still be a requirement for doctors or mid-wives to fill in a certificate that the baby was stillborn but it is unclear as to who will actually authorise the cremation.

The issue does not arise with non-viable foetal remains cremations as they are not subject to the provisions of the Cremation Act 1902 or Cremation Regulations 2008.

#### 2, Hazardous Implants.

There is a need to ascertain the presence in the body of any hazardous implants or medical devices such as pacemakers or anything that is pressurized etc. The presence of anything of this nature can have disastrous results, if placed in the cremator. The presence of these device is currently shown on both the Application for Cremation form completed by the deceased family (although there have been instances where even the closest relative has not been aware of a pacemaker) and on the Medical Certificate. The doctor will usually confirm if the device has been removed. We think there needs to be some sort of assurance from the Medical Examiner that these devices have been removed.

**Question 8:** Do you have any comments in relation to the charging and collection of a fee which you feel we should take into account?

**Your response to Question 8:**

The current cremation form fees are charged by the Medical Practitioners. My understanding is that there are two fees of £82 each making a total of £164

From the death registration point of view local authorities would want to avoid anything which would dissuade anyone coming forward to register a death. The regulations impose the fee on the informant. In some cases the informant is neither the nearest relative nor the person responsible for distributing the estate.

The system which is being set up will create a large number of debts to be collected after death registration. If the debts are not "collected" by the funeral directors there would have to be mechanisms in place to recover these. The only alternative would be to require payment on release of the Medical Cause of Death.

The costs of the Coroner are not funded by Central Government as suggested by paragraph 45; they are funded at considerable expense by Local Government.

**Please use the box below for any other comments you wish to make:**

**Thank you for taking the time to respond to the consultation.**