



**MINISTRY OF JUSTICE (MoJ)**

**STATUTORY DUTY FOR DOCTORS AND OTHER PUBLIC SERVICE  
PERSONNEL TO REPORT DEATHS TO THE CORONER**

**A RESPONSE BY THE ASSOCIATION OF PERSONAL INJURY LAWYERS**

**August 2007**

The Association of Personal Injury Lawyers (APIL) was formed by claimant lawyers with a view to representing the interests of personal injury victims. APIL currently has around 5,000 members in the UK and abroad. Membership comprises solicitors, barristers, legal executives and academics whose interest in personal injury work is predominantly on behalf of injured claimants.

The aims of the Association of Personal Injury Lawyers (APIL) are:

- To promote full and just compensation for all types of personal injury;
- To promote and develop expertise in the practice of personal injury law;
- To promote wider redress for personal injury in the legal system;
- To campaign for improvements in personal injury law;
- To promote safety and alert the public to hazards wherever they arise;
- To provide a communication network for members.

APIL's executive committee would like to thank Paul Balen for his assistance with this consultation response.

Any enquiries in respect of this response should be addressed, in the first instance, to:

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**Q. 1 Are these the right types of public service personnel who should be given a statutory requirement to report a death to a coroner? If not, who else should be placed under this duty and why? Are there authorities on this list who do not need to be?**

APIL supports the Government's proposal to introduce a statutory duty on public service personnel to report deaths to the coroner. The association also agrees the statutory duty should apply to the public service personnel mentioned in the consultation paper. We look forward to the full list of such personnel being published in the secondary legislation and will make further representations at that juncture if there is a glaring omission.

The consultation paper states that 'if one person reports the death to a coroner it will discharge the duty of all'. This may have implications where a death is reported by a member of the medical profession. Currently, it is the experience of APIL members that a junior doctor will be charged with filling out the report to the coroner. Due to inexperience this means the report is not always completed to the requisite standard or level of detail. APIL submits that, in the case of medical practitioners, the report should be completed by the most senior available medical practitioner. The force and rationale for allowing one person to complete the report and thereby discharge the legal liability of all is undermined if that person does not perform the task adequately.

**Q2. Do you believe the proposed list of reportable deaths to the coroner is workable, effective and proportionate?**

APIL agrees with the proposed list of reportable deaths.

**Q3. Are there any additional circumstances not mentioned in the proposed list where you believe there should be a statutory duty to report a death to the coroner?**

The association would like to raise one particular point regarding numbers 2 and 6. In neither case is there mention of death resulting from delay in medical treatment. This situation could arise, for instance, where there was a delay in the ambulance arriving to treat the person and this resulted in, or was a contributory factor to, that person's death. Reference to an 'unacceptable delay' in these particular category of deaths would therefore render it more comprehensive.

**Q4. Are there any circumstances where deaths are reported to the coroner unnecessarily? If yes, please specify.**

It is the experience of APIL members that deaths are reported unnecessarily to the coroner. This occurs, for instance, where a patient who is believed to have died from natural causes after a lengthy illness, but may not have been seen by a medical practitioner in the previous 14 days. This applies particularly in the cases of elderly people who have suffered from an illness for a considerable period of time. The doctor knows why the person died but is forced to report the death because of the 14 day rule. Unnecessary reports to the coroner, and the subsequent prolongation of the burial process, can cause additional and avoidable distress to the bereaved family.

**Q5. Do you agree that the 14 day rule is arbitrary and unnecessary? If not, what length of time limit would you suggest?**

The association agrees that the 14 day limit is arbitrary but any time limit would be arbitrarily drawn. A report to the coroner should only be required if the relevant medical practitioner did not expect the death of the patient or is unable to issue the death certificate.

**Q6. Do you believe that a deliberate or wilful failure to discharge this duty on the part of a doctor or other public service professional should be dealt with as a criminal offence as described? We would be interested to hear any reasons behind your views.**

APIL submits that there should be a presumption that the worst cases of deliberate or wilful failure to report a death could incur criminal sanctions but only after the relevant regulatory body has investigated the case. APIL submits that the findings of the regulatory body could be referred to the Chief Coroner who would be endowed with the statutory power to review the sanction and, if warranted, refer the case to the courts.

**Q7. Do you agree that the most appropriate sanction is through the employer's code of conduct and the relevant professional regulatory body?**

APIL agrees, subject to the comments outlined in the answer to question 6. There is one particular area of concern though. The statutory duty to report deaths to the coroner will be new and, therefore, may not be covered by the various regulatory bodies and codes of conduct. The new duty could therefore necessitate considerable changes and it is imperative that adequate time is allowed for these changes to be made and for public service employees to be thoroughly trained in the implications to their practices and procedures.

**Q8. Do you believe that these sanctions will fit with the Government's White Paper, "Trust Assurance and Safety – The Regulation of Health Professionals in the 21st Century"? If not, please give your reasons.**

APIL agrees, provided the Chief Coroner is provided with the statutory powers outlined above.

**Q9. Do you foresee any practical difficulties arising from the introduction of a second scrutiny of death certificates and the list of reportable deaths?**

APIL supports the introduction of a second scrutiny of death certificates as long as this does not lead to unjustified delays. It is the experience of APIL members that relatives want two things once the death has occurred: answers and to bury the body. Most relatives will accept delays if they are justified but any procedure which unnecessarily prolongs the painful and traumatic experience of the bereaved is to be avoided.

APIL is also concerned about the role of the independent medical examiner. The consultation paper states that the examiner will be attached to the clinical governance team in a Primary Care Trust (PCT). This means that the bereaved family may have to deal with a representative from a PCT which employed the doctor who they mistrust. This may have a negative impact on public confidence.

APIL submits that the role of the medical examiner needs more flesh on it before representatives of injured and bereaved people can be satisfied he will provide the impartiality and transparency which is required after a breach of trust.

**Q10. Do consultees agree with the principles which will inform a reporting system?**

The association is generally happy with the principles which will inform the new system, especially the desire not to add delay for family members. It must be remembered, though, that there are a significant number of cases which are bound to be more complex than the Government guidelines permit. This is especially true of cases involving medical procedures. It is to be hoped that the

desire for a reduction in bureaucracy does not lead to simplification of these cases and families not receiving the answers to which they are entitled.