



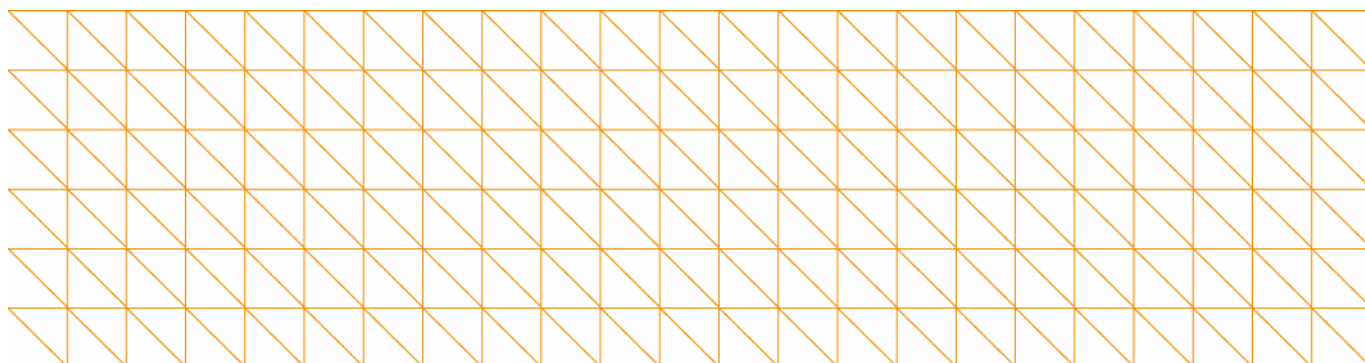
Pandemic Influenza

Draft Guidance on the Operation of the Coroners System in England and Wales

Response to Consultation

CP(R) 18/08

05 December 2008





Ministry of
JUSTICE

Pandemic Influenza

Draft Guidance on the Operation of the Coroners
System in England and Wales

Response to consultation carried out by the Ministry of Justice.

**This information is also available on the Ministry of Justice website:
www.justice.gov.uk**

Contents

Introduction	3
Background	4
Analysis of Respondents	5
Summary of responses	6
Conclusion and next steps	12
Consultation Co-ordinator contact details	13
The consultation criteria	14
Annex A – List of respondents	15

Pandemic Influenza: Draft Guidance on the Operation of the Coroners System in England and Wales - Summary of responses

Introduction

This document is the post-consultation report for the consultation paper, **'Pandemic Influenza: Draft Guidance on the Operation of the Coroners System in England and Wales'**.

It will cover:

- the background to the report
- a summary of the responses to the report
- a response to the specific questions raised in the report
- the next steps following this consultation.

This document has been produced electronically only. Further copies can be obtained from www.justice.gov.uk

Background

1. On 23 July 2007, the Ministry of Justice published the draft guidance '**Pandemic Influenza: Draft Guidance on the Operation of the Coroner System in England and Wales**' for consultation. The paper was prepared by the Ministry of Justice, in consultation with representatives of the Coroners' Society, the Local Government Association, the Coroner's Officers Association and the Association of Chief Police Officers, along with relevant Government Departments. The guidance aims to set out planning advice for coroners and planners in the event of an influenza pandemic.
2. The paper is one of a series of documents produced by Government departments providing guidance for contingency planning. On 22 November 2007, the Cabinet Office and the Department of Health published **Pandemic Flu: A national framework for responding to an influenza pandemic** – the Government's overarching strategic approach to planning for an influenza pandemic, which also contains planning advice for public and private sector organisations. In addition, the Cabinet Office published **Preparing for Pandemic Influenza: Guidance to Local Planners** on 12 December 2007, which offers guidance to local and regional planners on the required content of local level multi-agency plans in the form of a checklist. On May 19th 2008, the Home Office issued **Planning for a Possible Influenza Pandemic: A Framework for Planners Preparing to Manage Deaths**.
3. Although key stakeholders were closely involved in the drafting of the guidance, Ministry of Justice wished to seek views from a wider community of professionals and faith groups. Respondents were invited to comment on the proposals outlined in the guidance for coroners and planners in the event of an influenza pandemic and whether additional or different measures should be considered. Responses were required by 3 September 2008.
4. This document summarises the views of those who responded to the consultation. The summary of responses is grouped by the proposals that were made in the draft Guidance.
5. A total of 24 responses were received. Eight responses came from local authority representatives, six from fire, ambulance and police, three from organisations representing various medical professionals and three responses were received from coroners. Responses were also received from the Roman Catholic Bishops Conference, Hull Trains, INQUEST, the Institute of Bereavement Services Management and Totems Ltd (Emergency Management Services).

Analysis of Respondents

6. The table below indicates the range of responses the Government received to the draft guidance.
7. Two individual coroners responded to the consultation and a response was received from the Coroners' Society. Coroners were also represented on the group which helped to draft the guidance.
8. Most responses were received from local authority representatives and professional bodies. These totalled 40% of responses.
9. No responses were received from members of the public, and only one response from faith groups.

Category of respondent	Number	Percentage
Local Government Bodies	5	20
Professional Bodies	5	20
NHS	3	12
Constabulary	2	8
Fire Services	2	8
Coroners	2	8
Local Resilience Forums	2	8
Faith Groups	1	4
Emergency Management Consultants	1	4
Campaign Groups	1	4
Non-Departmental Public Bodies	1	4
Total	25	100

10. A full list of respondents to the consultation is attached at Annex A.

Summary of responses

11. The guidance was received favourably by the majority of respondents. Three respondents simply noted that they had no comment on the guidance and supported its contents. The majority of others commented on specific parts of the guidance and broadly welcomed it.
12. One response felt that the guidance did not represent an appropriate vehicle on which planning for a pandemic could be based.
13. Specific comments on each of the proposals set out in the draft guidance are summarised below. There then follows a section dealing with the comments made that fall outside the specific proposals within the guidance.

Phase one and two ways of working (potential measures not requiring legislation)

Identifying and appointing additional assistant deputy coroners

14. A wide range of comments were received on this issue. Most were of the view that additional assistant deputy coroners would be a necessity in the event of a pandemic. However one respondent questioned this assumption, as they did not believe that a coroner's workload would significantly increase in a pandemic because pandemic influenza would be categorised as a natural cause of death.
15. Two respondents suggested that some form of compensatory training payment would be necessary, with one suggesting that Government should identify and train a pool of suitably qualified people on a national basis, and guarantee payment in the event of someone being called upon to work. Others commented on the need for some form of training to be provided locally.
16. Two respondents commented on whether local authorities should provide for additional assistant deputy coroners. One suggested that it was unlikely that local authorities would be able to provide additional assistant deputies. The other suggested that local authorities should consider whether they had suitably qualified staff that may, in an emergency, be deployed as assistant deputy coroners. Another suggested that the Law Society may be of some assistance in identifying those who, locally, may be willing to volunteer for such a role.
17. One respondent questioned how additional assistant deputy coroners could be appointed in the event that a coroner was ill.

Redeploying staff from other local authority functions

18. Three respondents suggested that it may be difficult for local authorities to identify suitable staff for redeployment as coroner's officers in the event of an influenza pandemic. This was because of the pressures that they would be under themselves, and because of the difference in background. One respondent suggested that the answer to this was for Government to direct local authorities to identify sufficient individuals to act as coroner's officers and administrative staff. Another suggested that local authority redeployment remained an option, but that in the first instance Coroners should be encouraged to maintain business continuity plans and that retired police staff and coroners' officers should be considered as part of this. One respondent also suggested that it would be unwise for police forces to redeploy coroner's officers in the event of a pandemic, and the guidance acted as a useful reinforcement of this point.
19. Two respondents suggested that redeployment arrangements may be complicated by the differences between Local Resilience Forum boundaries and Coroner jurisdictions. One suggested that this would cause particular difficulties if there were no capacity for remote working.
20. Two respondents touched on the need for training: one suggesting that national standards for coroners' officers would be required to make redeployment realistic, the other that local training would be required on a fairly regular basis to build on the generic induction pack to be provided by Government (working with the Coroners' Officers Association).

Pooling staff with adjoining authorities/jurisdictions

21. Two respondents suggested that Regional Resilience Forums would be the most appropriate bodies to co-ordinate the pooling of staff where this was deemed necessary. One commented that this may be more achievable in some areas than others, and that more emphasis should be placed on the need for agreements to be included in plans.
22. One respondent was unclear as to whether this would be feasible as the pandemic would affect all jurisdictions. Another suggested that there would be no capacity for staff to be released to other jurisdictions.

Managing the number of coroner post-mortems

23. Almost all respondents who commented on post-mortems agreed that there was a need to exercise greater caution in ordering post-mortems during a pandemic. This was primarily because of the effect this would have on body storage (as well as the ability of pathologists to cope with workload) and the impact this would have on allowing burials and cremations to take place. One respondent suggested that this caution was unnecessary on the basis that post-mortems are only ever ordered now when necessary.
24. One response suggested that there was a need for greater clarity on when a post-mortem was and wasn't required, and also on what could legitimately count as documentary evidence negating the need for a post-mortem.
25. In particular, concerns were expressed about Annex B of the draft guidance, which set out a simple checklist to help determine whether a post-mortem was necessary. It was felt that this checklist needed further work.

Prioritising disposal certificates over inquests

26. The majority of those who commented felt that the efficient processing of disposal certificates was particularly important. One felt that this would not make a significant difference as the pinch-point in the system was likely to be the disposal of the body itself rather than the issuing of a certificate.
27. One correspondent said that the efficient processing of certificates would be of paramount importance to burial authorities during a pandemic. One commented that whilst disposal certificates were important, it should be recognised that some delays to funeral services was inevitable. Another commented that there would need to be support for burial authorities if 'mass burial' plans were instigated.

Phase three ways of working (measures requiring legislation)

Jury inquests to be held at the discretion of the coroner

28. Four correspondents commented specifically on this proposal. Three were in favour of inquests with a jury being held at the discretion of the coroner, without offering further comment. One was against, suggesting that jury inquests could be delayed until capacity in the coroner system allowed for inquests to be heard.

Simplifying arrangements for the appointment of deputy and assistant deputy coroners

29. No comments were received on this proposal.

Greater flexibility for coroners to order post-mortems outside of their jurisdiction

30. One respondent believed that this proposal should be available at an earlier stage to ensure that it was fully ready for use at the point at which Phase Three is implemented.
31. Another felt that there needed to be a greater national or regional overview, in terms of the storage of bodies. This was because some areas were 'double counting' – as in looking at the same facilities for storage – and that this would impact on the actual resource available in the event of a pandemic.

Greater flexibility on where an inquest can be held and which coroner can hold an inquest

32. Two respondents commented specifically on this proposal. Both suggested that the Regional Resilience Forum would be the most effective body to co-ordinate co-operation between jurisdictions, or to monitor cases regionally and ensure (as far as possible) an even distribution between coroners in that region. Both felt that such arrangements may help to provide an effective response.

Relaxing the requirements for investigating deaths abroad

33. Two responses commented specifically on this proposal. One respondent was concerned that the standard of investigation in some foreign states was below the UK standard and suggested that there should be specific reference to a coroner being required to continue to hold an inquest in cases of terrorism, or suspected terrorism abroad.
34. The other respondent welcomed the proposal, without commenting in detail.

Increasing a coroner's ability to hold inquests based on documentary evidence

35. Only one comment was received on this proposal. The respondent felt that there may be a need for suitable safeguards to be in place to ensure that allegations of a miscarriage of justice are not directed toward coroners at a later date.

Communications

36. One respondent suggested that a national public information campaign, and not simply a local one, with clear messages that all coroners can refer to, was required.

General

37. There was some comment on language and content needing to be more explicitly linked with the Home Office National Framework, and for greater clarity to be provided as to what was meant by the term 'local planners'.
38. One respondent suggested that if the pandemic is as close as can be predicted, then the clauses in the draft Coroners' Bill that will remove the possibility of the appointment of a coroner who was only qualified medically should be removed. Another respondent thought that the guidance did not properly take account of the upcoming Coroners Bill.
39. In general terms, respondents were of the view that the funeral industry had not been appropriately consulted on general pandemic planning. In particular, information communicated from central Government, and from regional and local resilience forums, to the funeral associations, was not reaching local funeral directors to inform their contingency planning.
40. Concern was expressed about the ability of pathology and mortuary services to cope in the event of a pandemic.
41. The suggestion was made that medical referees and cemetery managers should accept electronic or faxed transfer of Coroner's Orders for Burial, or Certificates of Cremation (these are needed if burial or cremation is to proceed).
42. General comments were made on the need for additional resources in the event of a pandemic.

Government Response

43. The Phase One and Two ways of working are all measures open to coroners to implement without the need for any legislative change. The revised guidance will take account of the responses received to this consultation. The decision on whether to implement these measures will be entirely for coroners, working with other local emergency planners.

Phase Three Ways of Working (Measures Requiring Emergency Legislation)

Jury inquests to be held at the discretion of the coroner

44. The Government will proceed with this measure. Of those who commented, the majority were in favour. As the draft guidance makes clear, where a jury remains necessary the coroner will have the power to call one, and it is not intended that non-pandemic deaths in custody would not have a jury.

Simplifying arrangements for the appointment of deputy and assistant deputy coroners

45. In the absence of any concerns expressed about this proposal, the Government will proceed with this measure.

Greater flexibility for coroners to order post-mortems outside of their jurisdiction

46. The Government will proceed with the measure, and the revised guidance will take account of the comments about the need to ensure the Regional Resilience Forums are part of the planning process.

Relaxing the requirements for investigating deaths abroad

47. The Government will proceed with this measure. The Government takes into account the comment expressed about standards of investigation abroad. However, a coroner will maintain the power to investigate a death abroad if they believe that this is necessary.

Increasing a coroner's ability to hold inquests based on documentary evidence

48. The Government will proceed with this measure and does not believe that there is a significant risk of challenge against a coroner's decision in the extreme circumstances of a pandemic.

Conclusion and next steps

49. The Government values the contribution that has been made by respondents to the consultation. We were pleased with the positive response to the proposals and the suggestions that were received to improve the guidance.
50. The Government will take account of the comments received and where appropriate reflect them in the finalised guidance.
51. The Government has also noted the general concern with Annex B to the guidance which set out what was intended as a simple checklist to assist coroners in deciding whether a post-mortem was necessary. We are therefore working with relevant stakeholders to produce a form that will be of greater assistance.
52. The finalised guidance will be published as soon as possible once Annex B has been agreed with the relevant stakeholders. The Government is clear that all the legislative changes that were proposed in the consultation will be taken forward to the final guidance, and coroners and others should develop plans based on this assumption.

Consultation Co-ordinator contact details

If you have any complaints or comments about the **consultation process** rather than about the topic covered by this paper, you should contact Gabrielle Kann, Ministry of Justice Consultation Co-ordinator, on 020 7210 1326, or email her at consultation@justice.gsi.gov.uk.

Alternatively, you may wish to write to the address below:

**Gabrielle Kann
Consultation Co-ordinator
Ministry of Justice
5th Floor Selborne House
54-60 Victoria Street
London
SW1E 6QW**

If your complaints or comments refer to the topic covered by this paper rather than the consultation process please direct your enquiries to:

**Andrew Tucker
Coroners and Burials Division
Ministry of Justice
2.38
2nd Floor
102 Petty France
London
SW1H 9AJ**

The consultation criteria

The seven consultation criteria are as follows:

1. **When to consult** – Formal consultations should take place at a stage where there is scope to influence the policy outcome.
2. **Duration of consultation exercises** – Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
3. **Clarity of scope and impact** – Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
4. **Accessibility of consultation exercises** – Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. **The burden of consultation** – Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
6. **Responsiveness of consultation exercises** – Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
7. **Capacity to consult** – Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

These criteria must be reproduced within all consultation documents.

Annex A – List of respondents

Respondent	Organisation/Position
Steve Lewis	London Borough of Bromley
Michael Burgess	HM Coroner for Surrey, Coroner of the Queen's Household, the Coroners' Society of England and Wales
Kevin Toal	London Borough of Bexley
Ian Wright	Hull Trains
Phil Bain	North East Ambulance Service
Chief Inspector Rod Mackay	Cumbria Constabulary
John Harthman	South Yorkshire Fire and Rescue
Cliff Cox	Emergency Planning Officer, Norfolk County Council
Steve Grundell	Emergency Planning Officer, Norfolk County Council
Michael Singleton	HM Coroner for Blackburn, Hyndburn and Ribble Valley
Monsignor John Devine	Catholic Bishops' Conference of England and Wales
Nicola Heppenstall	West Yorkshire Police
Sue Guest	West Yorkshire Local Authorities
Anthony Thompson	Director, Totems Ltd (Emergency Management Services)
Yasmin Khan	INQUEST
Owen Richards	East of England Primary Care Trust Network
Professor Sebastian Lucas / Dr Emyr Benbow	Professor of Pathology, St Thomas' Hospital Dept. of Pathology, University of Manchester
John Rotherham	Institute of Bereavement Services Management
Dr Andrew Reid / Quentin Given	HM Coroner for Inner North London London Borough of Camden
Bernard Kershaw	Lancashire Resilience Forum – Pandemic Influenza Co-ordination Group
Denis Hampson	Cleveland Local Resilience Forum
Michael Ellis	London Fire Brigade
Alison Anderson	Association of Anatomical Pathology Technology
Professor Nick Phin	Health Protection Agency
Professor Vivienne Nathanson	British Medical Association

