



## CHIEF CORONER

### GUIDANCE No. 43

## DISCONTINUING AN INVESTIGATION

### INTRODUCTION

1. On 28 June 2022, section 4 Coroners and Justice Act 2009 ('CJA') was amended to enable coroners to discontinue an investigation when a death from natural causes becomes clear before inquest, even where there has been no post-mortem examination ('PM').
2. Corresponding amendments were also made to The Coroners (Investigations) Regulations 2013, The Cremation (England and Wales) Regulations 2008 and Form Cremation 6.
3. The purpose of this note is to help coroners understand the legislative amendments and to provide guidance on the practical processes and forms.

### DISCONTINUING AN INVESTIGATION

4. Before the amendment to section 4 CJA took effect, coroners could not discontinue an investigation unless a PM revealed a natural cause of death. That meant that if a natural cause of death became clear after an investigation had commenced, the coroner either had to order an unnecessary PM, or proceed with an inquest.
5. The amendment to section 4 CJA has widened the circumstances in which discontinuance can occur. Except where there is reason to suspect that the death occurred in custody or state detention, a coroner must discontinue an investigation if (i) a natural cause of death becomes clear before inquest and (ii) the coroner thinks that it is not necessary to continue the investigation. This means that investigations can now be discontinued either:
  - a) where there has been a PM; or
  - b) where there has been no PM, but the cause of death has become clear by other means.
6. If a coroner decides to discontinue an investigation, regulation 17 of The Coroners (Investigations) Regulations 2013 provides that the coroner must record the cause of death and notify the next of kin or personal representative of the deceased using Form 2 (i.e. a Notice of Discontinuance).

7. This is the same process that existed when investigations could only be discontinued after a PM. The wording of regulation 17 has just been updated to reflect the wider circumstances in which investigations can now be discontinued.

## **FORMS FOR REGISTRATION**

8. As a result of the wider discontinuance provisions in s4 CJA, there are now 4 situations in which coroners will need to issue a form to enable a death to be registered without an inquest. The process coroners should follow in each of these situations (as agreed by the Chief Coroner with the General Register Office) is as follows:

- a) **The Coroner is notified of a death, but does not consider it necessary to conduct a PM, commence an investigation or hold an inquest**

The coroner should complete Form 100A. The cause of death used for registration is the one provided on the Medical Certificate of Cause of Death ('MCCD'). If there is no MCCD, the death will be registered, but will be classed as uncertified.

- b) **The Coroner is notified of a death, conducts a preliminary PM and decides there is no need for an investigation or inquest**

The coroner should complete Form 100B. The cause of death used for registration is the one certified by the coroner as having come from the report by the pathologist.

- c) **The Coroner commences an investigation into a death, conducts a PM and then discontinues the investigation**

The coroner should complete Form 100B. The cause of death used for registration is the one certified by the coroner as having come from the report by the pathologist.

- d) **The Coroner commences an investigation into a death, does not conduct a PM, but discontinues the investigation because the cause of death becomes clear by other means**

The coroner should complete Form 100A. The cause of death arrived at by the coroner is the one that takes precedence. However, until the legislation on death registration is amended, when an investigation is discontinued without a PM and there is an MCCD, registrars can only register the cause of death recorded on the MCCD.

This means that if the cause of death found by the coroner is the same as the one on the MCCD, the death will be registered as a certified death. However, if there is no MCCD, or the coroner finds a different cause of death from the one stated on the MCCD, the death will be registered, but will be classed as uncertified. This should not make a practical difference to the deceased's family.

The Chief Coroner understands that amendments will be made to the legislation in due course to allow the cause of death to be certified by the

coroner when an investigation is discontinued without a PM, in the same way as it is where a PM has taken place.

An amended version of Form 100A will be published by the General Register Office shortly. In the meantime, it would be helpful if coroners completing a Form 100A after discontinuing an investigation could indicate through manuscript amendments to the form that their investigation has been discontinued and the cause of death they have provided either matches, or does not match, the MCCD.

The General Register Office has advised registration officials that coroners may amend Form 100A to confirm that they do not need to investigate further and that this should enable the registration to take place.

## **CREMATION**

9. Amendments to regulation 18 of The Cremation (England and Wales) Regulations 2008 came into effect on 28 June 2022 to align the regulations with the amendment to s4 CJA.
10. Regulation 18(a) used to require a coroner's certificate to be given before cremation where a PM had taken place under s14 CJA. This meant it covered PMs undertaken as part of a coroner's preliminary inquiries and PMs undertaken after an investigation had begun.
11. Regulation 18 now deals with PMs and discontinued investigations as follows:
  - a) Regulation 18(a) applies where a PM has been carried out under section 14(1)(b) CJA. This means a coroner's certificate will be required where a PM is undertaken as part of the coroner's preliminary inquiries.
  - b) Regulation 18(b) applies where the cause of death has become clear in the course of an investigation. This means a coroner's certificate will be required where the coroner has discontinued an investigation following a PM or where the cause of death has become clear by other means.
12. In all other respects, Regulation 18 remains unchanged.
13. Form Cremation 6 has also been updated so that the tick boxes in Part 2 correspond with the situations in which a coroner's certificate can be given. Here is a link to the updated form: [Form Cremation 6](#).
14. The tick boxes on the form are intended to be used as follows:
  - a) The first box should be ticked where there has been a PM, whether it was undertaken during the coroner's preliminary inquiries or after an investigation had been commenced.
  - b) The second box should be ticked where during an investigation the cause of death has become clear, but there has not been a PM.
  - c) The final two boxes remain the same as they were prior to 28 June 2022, so their use will remain unchanged. Coroners may notice, however, that the third box has been amended slightly on the version of the form

published by the Government, as an update from 2013 was previously overlooked. This amendment does not change the use of the form, but reflects the change in terminology that came about when inquests were separated into investigations and inquest hearings.

15. The changes to regulation 18 and Form Cremation 6 are not intended to change coroners' practice. They have simply been made to align cremation processes with the wider discontinuance provisions in s4 CJA.

**HHJ THOMAS TEAGUE QC  
CHIEF CORONER**

**28 June 2022**