



## **PRACTICE ADVICE FOR FLO DEPLOYMENT – IDENTIFICATION, VISITING, INQUESTS, ORGAN AND TISSUE DONATION**

Early advice and guidance from HM Coroner should be sought in all cases of death being suspicious or non-suspicious when a Family Liaison Officer (FLO) has been deployed. The FLO should liaise with HM Coroner's officers regarding identification, visiting and release of the body in order to liaise and inform the family. This should always be conducted with the agreement and direction of the Senior Investigating Officer.

*(Note: In this practice advice, Senior Investigating Officer (SIO), includes references to Lead Investigators, Investigating Officer or Officer In the Case)*

There is a large amount of legislation and Authorised Professional Practice (APP) as well as other documents to support investigations into deaths. This advice is not intended to replace any legislation nor APP, neither is it intended to replace any of the Practice Advice around Family Liaison. The legislation, reports and APP can be found at the College of Policing Authorised Professional Practice, Major Investigation and Public Protection section.

The College of Policing practice advice "The medical investigation of suspected homicide", should be read in conjunction with this document as it outlines important information in relation to identification, viewing and human tissue.

***In particular the following legislation, policy and explanatory notes also applies:-***

- ***The Coroners and Justice Act 2009***
- ***The Human Tissue Act 2004***
- ***Human Rights Act 1998***
- ***Criminal Procedure and Investigations Act 1996 (CPIA)***
- ***Police and Criminal Evidence Act 1984 (PACE)***
- ***Human Tissue Authority Code of Practice 2006***
- ***The Coroners (Amendment) Rules 2005***
- ***The Coroners Rules 2013***
- ***Practice Advice: The medical investigation of suspected homicide – College of Policing (2019)***
- ***Advice to Police Forces regarding third party requests for fingerprint samples of deceased persons- Home Office NDNAD – 3<sup>rd</sup> July 2019***
- ***Explaining Disaster Victim Identification in Major Incidents - What happens when someone dies as a result of a mass fatality incident? - Information for families***

- ***The patronising disposition of unaccountable power: A report to ensure the pain and suffering of the Hillsborough families is not repeated. The Right Reverend James Jones KBE 2017***

## **Identification**

The formal identification procedure and the family visiting their loved one are separate processes. The identification process is the statutory responsibility of HM Coroners. Formal visual identification may not always be possible because of the injuries sustained or decomposition. HM Coroners will decide on the processes to employ to establish identity, especially if they are to be invasive. The "Medical investigation of suspected homicide" College of Policing practice advice outlines how to deal with the pathology aspects of an investigation and identification. The FLOs should only pass on information about these processes after appropriate consultation with both the SIO and HM Coroner's officer.<sup>1</sup>

HM Coroners have legal control over a person who has died and rests within their jurisdiction. At no point should any family be informed that the body is the property of HM Coroner. This is one of the issues highlighted by Bishop James Jones in his Review of the Hillsborough families' experiences. The use of this term causes huge distress to bereaved families.<sup>2</sup>

## **Post-Mortem and Second Post-Mortem Examinations**

*"While a coroner has legal control over the body of a deceased person, it is for the coroner to decide whether to commission a first or subsequent post-mortem examination and it is for the coroner to decide whether to permit a second examination of the body on the instruction of an interested party. Despite there being a widespread misconception (particularly in homicide cases), there is no automatic right to a second post-mortem examination and requests should be scrutinised rigorously by the coroner on a case by case basis."*

[Chief Coroner guidance No.32 - Post-mortem examinations, including second post-mortem examinations]

The FLO should liaise with the SIO and HM Coroner's officer concerning the release of the body, and keep the family aware of developments. The FLO may need to explain to them that in some circumstances the body will undergo subsequent post-mortems and may not be released for some time.

There are different types of post-mortem examination, some more detailed than others. The type of examination needed will be decided by HM Coroner and the reasons for it will

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<sup>1</sup> Practice advice: The medical investigation and suspected homicide – page 8

<sup>2</sup> The patronising disposition of unaccountable power: A report to ensure the pain and suffering of the Hillsborough families is not repeated. The Right Reverend James Jones KBE 2017 – page 34

be explained to the Family Liaison Officer (FLO) in order for the family to be kept updated.

Further guidance in relation to post-mortem and second post-mortem can be found in the Practice Advice: The medical investigation of suspected homicide – College of Policing<sup>3</sup> and Chief Coroner Guidance No. 32 - post-mortem examinations including second forensic post-mortem examinations.

### **Visiting (previously known as viewing)**

*The term Visual Identification refers to part of the identification procedure. It should be noted that use of the word **visiting** is used to describe the family attending the mortuary, which is a much more appropriate use of the terminology as opposed to viewing.*

When family members inform the FLO that they wish to visit their loved ones it is not for the FLO to discourage the family of their wish. Rather it is their responsibility to work with the family to support them, and to give them sufficient information to make those informed choices. To help the families in deciding whether or not to visit their loved one at the mortuary, the FLO should obtain as much information as possible about what the family will see.

Where visiting takes place after the post-mortem, the FLO should, in advance and in consultation with HM Coroner's Officer and/or mortuary staff, explain to the family the necessity and consequences of this procedure. It is advisable for the FLO to attend the mortuary in order to gather information before any family member attends. The information gained should be passed on to the family sensitively. If the injuries are severe the family may need to think carefully about going to see their loved one. It may help to take someone else with them but each case is different.

In some circumstances, for example where family members wish to visit their loved one again, or in cases where there are divided families, the FLO might have to accompany different members of the family on separate occasions. FLOs should remember that deterioration may have occurred in the intervening period and may need to discuss this with the family in order to fully prepare them for what they are about to see. Where more than one family member has died, the FLO should discuss the arrangements with the family and HM Coroners Officer, this may involve visiting more than one family member at once, or separate visits.

The FLO should be prepared to spend time with the family at the mortuary. This is one of the most traumatic times for the family as this may be the last time they see their loved one and some will find it difficult to let go.

FLOs should bear in mind that family members often want to touch or kiss their loved one. Guidance should be sought from HM Coroner's Officer about whether this is possible and if not, why.

The injuries a person suffers when they die can be very severe. If the family want to know what injuries were suffered they should be told what is known, unless there is an

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<sup>3</sup> Practice advice: The medical investigation and suspected homicide – page 41 - 42

investigative reason not to do so e.g. there is a suspect within the family and a person is arrested/in custody. However, once this investigative reason has passed the family should be told.

### **Helping families visit their loved ones or view photographs/CCTV evidence.**

*For the purpose of this document – CCTV evidence also relates to body worn video evidence.*

Family members who wish to visit their loved ones when there is decomposition or severe injury, should not be discouraged. Rather it is the responsibility of the FLO to work with the family and to ensure sufficient support is in place for this to go ahead. This will enable the family to make decisions that are right for them. The FLO should discuss this with HM Coroner and the SIO and sensitively share the information with the families.

There may be occasions when some family members want to visit their loved one, but others do not. Supporting the families however is paramount at this time as it may be the last opportunity for them to say goodbye and also to know for sure that this is their loved one. The FLO should also ascertain whether the family are able to spend time alone with their loved one.

In relation to the viewing of photographs or CCTV that is likely to be used in evidence, however difficult or distressing this would be, the family should be told as much as possible and this would include whether there is a recording or photographs. If this is likely to be shown in court, then it would be helpful to manage this prior to the court date in order to manage the distress for the family. The family should not see this in court for the first time, especially if the CCTV footage shows the person being killed, unless there is a legal or investigative reason why this cannot be done. Any arrangements will need to be discussed with the SIO and agreed with CPS, taking into account the obligations and advice contained within Achieving Best Evidence in Criminal Proceedings.

Consideration around whether the family are witnesses or have any particular vulnerabilities should be taken into account when arranging such procedures. It is vital that this is managed properly, safely and with plenty of support for both the family and FLOs, or staff arranging the visit, whether in person or via photographs/media.

Any requests for a copy of photographs/CCTV or photograph of their loved one at the mortuary should be directed to the SIO and no promises should be made to the families without the express permission.

### **Strategies for visiting or viewing of evidence**

The aims of any visiting or viewing strategy may include:

- To provide the family the opportunity to visit their loved one or to view photographs/CCTV ensuring it is delivered in a sensitive and compassionate manner, safeguarding the investigation from injudicious disclosure of information.

- To ensure that the family are given information about support agencies and that referrals as appropriate are made to the keyworkers and other specialist support workers in accordance with the family's wishes and consent.
- To work with the family in order to comply with their right to receive all relevant information connected with the enquiry, subject to the needs of the investigation, in a way that is proportional to their fundamental right to privacy and family life.
- To rebuild the confidence, co-operation and trust of the family thereby enhancing their contribution to the investigation, which can positively impact on the wider issues of community trust and confidence as well as bringing positive benefits to the investigation.
- To ensure a debrief strategy will be considered and implemented without delay, including a peer support wellbeing assessment for the FLO.

Where available, a photograph may be used to assist family members in deciding whether they wish to proceed, or to prepare them. The FLO should also:-

- Explain to the family how they will follow a controlled reveal, done in steps, which can be paused or stopped at any point. **Step 1** will be the explanation of what the family will see. **Step 2** will be showing of photographs of the family's loved one. **Step 3** taking the family to see their loved one or viewing the CCTV.
- Ensure a health warning is given prior to any viewings.
- Maintain a Family Liaison Officer's log and keep records of all contact with the family/community leaders and intermediaries.
- Ensure this process is supervised regularly in accordance with the SIOs instructions and record in the FLO log.
- Liaise with the SIO upon completion.
- Bring to the attention of the SIO and FLC any reason to believe that the risk assessment level is likely to rise.
- Bring to the attention of the SIO and FLC any changes in health/welfare issues of their own.
- Advise the SIO and FLC of any requests or complaints made by the family.

### **Cultural or Religious Considerations**

Wherever possible, family requests concerning visiting, contact with their loved one, or performing cultural rites should be considered and as far as possible, actioned. In cases where investigative priorities prevent any requests being accommodated, the SIO should be made aware for them to discuss with HM Coroner.

Any decisions and the reasons for them must be fully explained to the family.

### **Families requests for mementos**

Discussions with HM Coroner and SIO should also include whether there is any request or consideration for obtaining photographs, footprints, handprints, fingerprints, palm prints, lock of hair, or suitable photograph that they may wish to keep. In particular this should be discussed when there are deaths of young persons or children. Discussion with the family should occur only when it is known what is possible. FLOs should not make any promises that cannot be kept.

When such requests have been received from the family the following should be used for guidance<sup>4</sup>: *Advice to Police Forces regarding third party requests for fingerprint samples of deceased persons- Home Office NDNAD – 3<sup>rd</sup> July 2019*

### **Taking the family to the scene where their loved one has died.**

This will be done through the SIO. Such a visit will need to be planned in advance and could take some time to organise, it may also attract some media interest. Some scenes can be dangerous places, the safety of families and others must always be paramount. The family should be informed at every stage of the planning.

If families would like to leave a tribute, this should be discussed with the SIO. Each case will require its own considerations, and the police should engage with any other relevant organisation (such as the local authority) to facilitate a family's request.

### **Inquests**

HM Coroner conducts an inquest into the death of a person within their area, where they have reasonable cause to suspect the following circumstances:

- a violent or unnatural death
- a sudden death of which the cause is unknown
- a death in prison, or in such a place or in such circumstances, that requires an inquest under legislation.

An inquest is held to establish the following:

- who died
- where they died
- when they died
- the circumstances surrounding their death

All inquests in England and Wales are held at an HM Coroner's court for the area where the death occurred. Inquests are not held to establish blame. They may be held in a courtroom, which the family can visit beforehand, if it helps to prepare them. In some circumstances a jury will be present at the inquest. Once the inquest has been opened and adjourned, HM Coroner will issue an interim death certificate. This allows the family to make arrangements for the funeral. They can also use this certificate to tell organisations about the death and apply for probate.

Funeral directors are used to dealing with this type of certificate and the arrangements for them. They will be able to provide further advice to the family.

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• <sup>4</sup> Advice to Police Forces regarding third party requests for fingerprint samples of deceased persons- Home Office NDNAD – 3<sup>rd</sup> July 2019

Once the inquest comes to an end, HM Coroner or the jury will come to an inquest "conclusion" or "verdict".

Inquest verdicts include:

- Unlawful Killing
- Open (where there is no decision as to why the person died)
- Accidental
- Suicide
- Narrative (a short factual statement outlining the circumstances of the death)

The family can ask for a copy of the post-mortem examination report but they are normally written in formal, impersonal language and can be distressing to read.

### **Procurator Fiscal**

In Scotland, the Procurator Fiscal has a duty to investigate all sudden and unexplained deaths, including any deemed to be suspicious. To do this, they may direct that a police report is prepared. This does not automatically mean a criminal investigation is taking place, just that the police are acting as agents of the Procurator Fiscal.

The Procurator Fiscal will, on receipt of the initial report of a person's death, decide what investigations are required and direct the police accordingly. Once the police inquiry has been completed and all statements have been seen by the Procurator Fiscal, they will then decide:

- if there is a need for a criminal investigation
- if there is a need for a Fatal Accident Inquiry (FAI)
- that neither an investigation nor FAI is required
- to send their findings to the Crown Office

The Crown Office is based in Edinburgh. It is staffed by qualified advocates who will assess the evidence and direct the Procurator Fiscal appropriately.

### **Human Tissue Act**

The detail of the Human Tissue Act obligations are contained within the practice advice – "Medical investigation of suspected homicide", College of Policing February 2019.<sup>5</sup>

After the post-mortem examination the FLO should consult with the SIO and HM Coroner's office to ascertain which tissues and/or organs have been retained for further pathological examination and the reasons, timings for their retention/release. The FLO will also need to discuss with HM Coroner's office who will complete the Human Tissue Act form and follow the direction given by HM Coroner (each HM Coroner's jurisdiction may have different forms). These further examinations can sometimes take many weeks to conclude, but, in the case of significant parts of the body such as whole organs, every effort is made for full repatriation for cremation or burial. FLOs need to be prepared to discuss this with the family in order to obtain their wishes.

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<sup>5</sup> Practice advice: The medical investigation and suspected homicide – page 46

## **Human Tissue and Organ Donation**

Organ donation must occur very quickly after death and is therefore only possible from those dying in intensive care or emergency departments. Tissue donation however may be possible up to 48 hours after death, when the deceased is in the mortuary or funeral home. Donated tissue such as skin, bones, tendons, eyes and heart valves can be retrieved after death. Families who are suddenly bereaved as a result of a criminal act or losing their loved ones in a fatal road traffic collision, do not always think about tissue donation at the time, but this could be something that brings them great comfort at a later stage and will also help to save and improve the lives of many recipient patients.

NHSBT Tissue and Eye Services (TES) is one of the largest tissue banks in Europe. It has a specially trained team of nurses who discuss tissue donation with families over the telephone every day. There are four regional tissue donation teams based in the UK. The tissue teams are based at Liverpool, Leeds, Filton and Colindale. They are responsible for ensuring tissues are donated safely and lawfully, in accordance with the Human Tissue Act (2004).

It is important that FLOs do not attempt to provide a medical view on tissue or organ donation, but facilitate communication between the family and NHSBT or [organdonation.nhs.uk](http://organdonation.nhs.uk) that is timely. Enabling families to consider the option of an organ or tissue donation is an important part of after death care and decision making. Family choices should, as far as possible, be listened to and actioned to help honour the donors' decision to save and improve the lives of recipient patients.

Tissue and organ donation saves and improves the lives of thousands of recipients every year. Evidence shows that bereaved families often feel pride and take comfort in helping others at such a difficult and often traumatic time. In supporting this initiative, the discussions regarding tissue donation will further be normalised and regarded as part of high quality after death care and decision making.

## **Next of Kin**

The term Next of Kin (NoK) can be confusing and persons appointed as NoK will not be aware of how different organisations and legislation affect the role. The person who sees themselves as NoK may believe this brings with it an implied importance which could be in conflict with legislation and other procedures. The term NoK is widely used, but has no legal definition in the UK. An individual can nominate any person as their NoK.

Generally, families are asked by FLOs to name their NoK so that it can be established at an early stage whom they would like to be kept informed and to assist with making decisions. FLOs may find themselves dealing with just one individual or many members of the extended family. In circumstances where there are differences within families the following are three main areas to be considered:

1. The investigation - the decision regarding who will act as NoK will be suggested by the family, however, this may be contested by other family members. The SIO in

consultation with the FLC/FLA and FLO should decide who the most appropriate NoK is. Consideration to consult with Force legal services to seek their advice.

2. HM Coroner's investigation. HM Coroner, in consultation with the SIO /FLO (and adhering to the family wishes) will assist in deciding who is the best person to act as NoK, especially in relation to the Human Tissue Act 2004.
3. Property and financial disputes are a civil matter. In a murder investigation the Homicide Service could be consulted with a view to using their mediation services or access to legal advice. In other cases the FLO should suggest the family seek independent legal advice. The FLO may offer a list of suitable legal firms (see Family Liaison Practice Advice – Family Liaison and Independent Legal Advice) who can act independently on behalf of the family members who are in dispute.

Next of Kin Glossary Terms - The document is intended to assist in understanding some of the meanings and terms used.

### Support Services

- **HM Coroners Support Services** – to support practically and emotionally the family and other witnesses attending HM Coroners Courts. Helpline 0300 111 2141 or [info@ccsupport.org.uk](mailto:info@ccsupport.org.uk)
- **FLACSS** – Family Liaison and Co-ordinations of Support Services – is a network of organisations who exist to help those affected by Murder/Manslaughter, Fatal Road Collisions, Mass Disasters and Terrorism. Website [www.flacss.co.uk](http://www.flacss.co.uk)
- **NHSBT Specialist Nurse** - 0800 432 0559 or Email: [tissue.donation@nhsbt.nhs.uk](mailto:tissue.donation@nhsbt.nhs.uk)
- **Organ Donation** - [www.organdonation.nhs.uk](http://www.organdonation.nhs.uk) – 0300 123 2323
- **Donor Family Network** - Donor Family Network, PO Box 127, Bexley, DA5 9DT, Phone 0845 680 1954, E-mail: [info@donorfamilynetwork.co.uk](mailto:info@donorfamilynetwork.co.uk) Website [www.donorfamilynetwork.co.uk](http://www.donorfamilynetwork.co.uk) .Twitter @donorfamilynetwork
- The **gov.uk** website is also a good source of useful information