MANAGEMENT PROCESS DESCRIPTION MPD865/3

Obtaining Coroner/Procurator Fiscal Decision

This Management Process Description replaces MPD865/2

Copy Number

Effective **01/09/16**

Summary of Significant Changes

Insertion of FRM4193 and SOP3925 into applicable documents Section 2.5 to include DonorPath (DP) Section 2.6 and 3.4 added. Section 4.2 to spelling correction and reflection of potential form usage as opposed to actual.Section 4.3 to include reference to DonorPath.4.4 grammar change

Policy

Organ procurement should only occur after all requirements relating to consent, authorisation or absence of any objection currently in force within the Member State have been met. In the United Kingdom, in some circumstances, it is necessary for the Coroner or Procurator Fiscal (Fiscal) to determine if an objection to solid organ and/or tissue donation will be raised. The Coroner/Fiscal has a legal requirement to do this, and must be satisfied that neither organ nor tissue donation will impede his/her investigation. Therefore, the Specialist Nurse – Organ Donation (SN-OD) must ensure that, to the best of their knowledge, all relevant information is relayed to the Coroner/Fiscal Office so that they may make a decision in relation to raising an objection (consent in Scotland) to organ and/or tissue donation proceeding.

Purpose

To guide the SN-OD on what key information is needed regarding the circumstances surrounding the patient's admission and how this information is documented and communicated to the Coroner/Fiscal Office. So that the Coroner/Fiscal can assess the case and make a decision regarding permission for donation to proceed.

Responsibilities

Specialist Nurse – Organ Donation	To ensure that the removal of organs and/or tissues for donation only occur following Coroner/Fiscal approval for donation, where appropriate. To ensure that all necessary information pertaining to the potential donor's admission has been obtained and communicated to the Coroner/Fiscal to ensure that an informed decision has been made, either directly or via the responsible healthcare professional in the hospital. To document all conversations and decisions made by medical team and Coroner/Fiscal.
Responsible Medical Professional (doctor with delegated responsibility from the clinician in charge of the patient's/potential donor's care)	To discuss the case with the Coroner/Fiscal, confirm the circumstances surrounding the admission of the patient/potential donor, and the decision surrounding the cause of death to be written on the necessary documentation.

Definitions

SN-OD – for the purposes of this document the terminology ''SN-OD'' will apply to either Specialist Nurse or Specialist Practitioner. working within NHSBT Organ Donation Services Teams (ODST)
DP – DonorPath App

Fiscal – Procurator Fiscal
MCCD – Medical Certificate of Cause of Death
HCP – Healthcare Professional
Patient - This term refers to the donor/potential donor.

Obtaining Coroner/Procurator Fiscal Decision

Applicable Documents

FRM4039 - NHSBT Referral for Coroner/Procurator Fiscal
FRM4193 - Core Donor Data - SNOD (Used as EOS back-up)
SOP3925 – Manual Organ Donation Process for Potential Organ and/or Tissue Donor in the event of DonorPath/IT network unavailability

Exemplar of Section 9 Witness Statement (Form MG11)
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257982/Witness-statements.pdf
Central Office Procurator Fiscal Service
http://www.crownoffice.gov.uk
Department of Health Guidance for Donor Co-ordinators working with Coroners
http://www.nhsbt.nhs.uk/to2020/resources/guidancefordonorcoordinatorsworkingwithcoronersen.pdf

1 INTRODUCTION

1.1 Deceased organ donation can occur in a limited set of circumstances, either following the declaration of death/pronouncement of life extinct (in Scotland) following the irreversible cessation of brain-stem function, or the cessation of circulatory function (AOMRC, 2008). In many cases, the circumstances surrounding the death of the patient would lead the medical teams to contact the Coroner/Fiscal. The Coroner/Fiscal has a legal duty to enquire about deaths in his or her jurisdiction where the cause is either unknown, or where the death is violent or unnatural, and any death which occurs in prison.

1.2 In any case where the Coroner/Fiscal or police is involved, the Coroner/Fiscal has the final decision if organ and/or tissue donation can proceed (DoH, 2010; COPFS, 2004). In order to assist the Coroner/Fiscal to make that decision, the SN-OD and the medical team has an essential role in undertaking a detailed review of the circumstances surrounding the death of the potential donor.

1.3 Following the review the SN-OD and the medical team must ensure that the key information is communicated to the Coroner/Fiscal office for a decision to be made. This information is then assessed by the Coroner/Fiscal to determine if organ and/or tissue donation can proceed, without compromising any potential investigations. It is vital that the SN-OD documents such communication accurately; so that the meaning is clear (NMC, 2009).

2 COLLATION OF INFORMATION and DESCISION TO REFER TO CORONER

2.1 Obtaining an accurate account of the circumstances surrounding the patient's admission, course of illness, diagnosis, medical and surgical procedures and/or investigations and medical history from the critical care clinician and nursing staff is a crucial first step in determining a detailed history.

2.2 A discussion must be held with the clinician regarding the completion of a medical certificate for cause of death and if the clinician will be referring the patient's death to the Coroner/Fiscal. An agreement must be made as to who will contact the Coroner/Fiscal in the first instance. Ensure that a clinician who has treated the patient is available to speak with the Coroner/Fiscal and/or their officers.

2.3 If there is any doubt as to whether a Coroner/Fiscal should be contacted, best practice would be to make an inquiry to their offices to confirm if the case requires their attention. A list of reasons for contacting the Coroner in England and Wales can be found at Appendix 1, for the Procurator Fiscal in Scotland at Appendix 2, and for the Coroner Service in Northern Ireland at Appendix 3.

2.4 If a clinician has decided not to refer then this is their decision. However, in a situation where a decision is made not to refer but the SN-OD thinks a referral should be made then the SN-OD should engage with the clinician to discuss. If the clinicians' decision remains not to refer, and the SN-OD believes the Coroner should be notified, please escalate to the TM/ RM for advice.

2.5 If the clinician has already spoken to the Coroner/Fiscal in relation to donation, this should be clearly documented in the patient's medical records, detailing the agreement of which organs and/or tissues can be donated, any restrictions put in place or special requirements or requests and the SN-OD must ensure that a copy of the clinician's medical entry is held in the donor file. Details of the conversation with the Coroner/Fiscal must be recorded on DonorPath in the Coroner/Fiscal section.

2.6 If DonorPath is unavailable then FRM4039 - Referral Form for Coroner/Procurator Fiscal must be completed in full, and a copy of FRM4039 left in the patient's medical records. The Coroner/Procurator Fiscal consent information must be included on FRM4193 if SOP3925 is implemented.

2.7 Some Coroner/Fiscal Offices require all deaths to be reported to them or some only require those deaths that fall within their jurisdiction (such as suspicious/traumatic deaths). The referral timings may vary, some Coroner/Fiscals only wish to be contacted following the family's acceptance/decision to donate, whilst others may wish to be contacted before the outcome of the donation conversation. This information will be held locally within regional donor books.

2.8 The decision of when to contact the Coroner/Fiscal should be made on a case by case basis. There is no formal jurisdiction for a Coroner/Fiscal to agree to organ donation whilst a patient is still alive. However, the Coroner/Fiscal can provide a provisional indication of their views in these cases. There may be some regions with specific Coronial/Fiscal requirements in relation to Donation after Circulatory Death (DoH, 2008; COPFS, 2004).

3 REFERRAL TO THE CORONER/FISCAL OFFICE

3.1 The SN-OD or Clinician should contact the Coroner/Fiscal Office, where possible, during working hours. This will allow for the Coroner/Fiscal to be contacted more easily and enable a more speedy decision to be made. It will also allow for the Coroner/Fiscal office to have discussions with other Coroner/Fiscals, where the initial injury/incident may have occurred outside their jurisdiction or to the relevant police officers to discuss the case in further detail. If this is not possible, then contact should be made through agreed communication channels. The SN-OD and Clinician must be available to answer any possible questions from the Coroner/Fiscal.

3.2 The SN-OD should ask the Coroner/Fiscal or their officer if they are able to give a timeframe for a decision to be reached. If there is any significant delay there may be an impact on timings for the organ donation process, e.g. Approach to the family for organ donation or mobilisation of NORS team. Consider setting up the organ donation process and the coroner/fiscal to be contacted the next day, before NORS teams are mobilised to attend. This will be based on local agreements with the Coroner/Fiscal e.g. Memorandums of understanding, but it should be followed with this MPD.

3.3 If the timeframe for a decision has elapsed, and it is appropriate, then the SN-OD should contact the Coroner/Fiscal or their officer for further advice.

3.4 Organs can be offerred pending a Coroner/Fiscal decision, however NORS should not be mobilised under normal circumstances. In exceptional circumstances NORS can be mobilised pending a Coroner/Fiscal decision if this has been agreed by the Regional Manager.

4 DECISION FROM THE CORONER/FISCAL

4.1 In Scotland written confirmation from the Fiscal involved is required Human Tissue (Scotland) Act 2006 as soon as is practicably possible. Usually this is faxed to the donating unit.

4.2 On occasion the Coroner/Fiscal may wish to speak to a retrieving surgeon(s) with certain stipulations and requests in relation to the retrieval operation. E.g: Body Mapping, Photos, Witness 9 / MG11 Forms or pathology / police presence at retrieval, faxing of referral form FRM4039 (if completed), the SN-OD must facilitate this. The SNOD should request that the Coroner/Fiscal section of DonorPath is sent by the DRD post donation if requested by The Coroners/Fiscal Office.

Coroner/Fiscal Consent

4.3 If the Coroner/Fiscal agrees to organ and/or tissue donation, the SN-OD must confirm any special requirements or specifications or restrictions and document it clearly in the patient's medical records and on DonorPath or FRM4193 if SOP3925 is implemented. It is the SN-ODs responsibility to facilitate and support this. All relevant stakeholders and the donor family must be informed.

- In attempt to preserve evidence (e.g. suspected murder case) it is very important to involve the police service. Discussions should be held between the Coroner/fiscal office, the SN-OD and the police teams to consider this possibility. Remember to discuss family keepsakes at this point.

Coroner/Fiscal Refusal

4.4 If the Coroner/Fiscal or their officer refuses organ and/or tissue donation, the SN-OD should ascertain the reasons why donation cannot proceed. The SN-OD should explore with the coroner/fiscal office options which may support consent. For example:

- Where possible or by regional agreement the SN-OD should request to speak to the Coroner/Fiscal directly to discuss the rationale behind the objection to donation.
- Whilst full organ donation may not be allowed, restricted permission may be an acceptable compromise for the Coroner/Fiscal.
- Attendance of forensic and/or Home Office/Crown Office pathologist healthcare professionals can allow for an accepted form of post mortem to take place.
- Completion of relevant legal paperwork by retrieval surgeons (Section 9 Statements (Form MG11) - voluntary statements provided in compliance with the Criminal Justice Act (1967)) if required by the Coroner/Fiscal (www.nationalarchives.gov.uk/ERORecords/HO/421/2/cpd/pvu/**mg11**.pdf).
- In attempt to preserve evidence (e.g. suspected murder case) it is very important to involve the police service. Discussions should be held between the Coroner/fiscal office, the SN-OD and the police teams to consider this possibility. Remember to discuss family keepsakes at this point.
- Further discussions between Coroner/Fiscal and lead clinicians about the patient's injuries and/or the cause of death, may assist in permission being granted for donation; whilst the death might be unnatural, a cause could be clear.

4.5 The SN-OD must inform all relevant stakeholders and donor family members of the Coroner/Fiscal's decision and document this.

APPENDIX 1 – Deaths which should be reported to the Coroner in England and Wales

- The cause of death is unknown
- It cannot readily be certified as being due to natural causes
- The deceased was not attended by a doctor during their last illness or was not seen within the last 14 days or viewed after death
- There are any suspicious circumstances or history of violence
- The death may be linked to an accident (whenever it occurred)
- There is any question of self neglect or neglect by others
- The death has occurred or the illness arisen during or shortly after detention in police or prison custody (including voluntary attendance at a police station)
- The deceased was detained under the Mental Health Act
- The death is linked with an abortion
- The death might have been contributed to by the actions of the deceased (such as a history of drug or solvent abuse, self injury or overdose)
- The death could be due to industrial disease or related in any way to the deceased's employment
- The death occurred during an operation or before full recovery from the effects of an anaesthetic or was in any related to the anaesthetic (in any event a death within 24 hours should normally be referred)
- The death may be related to a medical procedure or treatment whether invasive or not
- The death may be due to a lack of medical care
- There are any other unusual or disturbing features to the case
- The death occurred within 24 hours of admission to hospital, unless the admission was for the purposes of terminal care
- It may be wise to report any death where there is an allegation of medical mismanagement

(DoH, 2008)

NOTE
SN-ODs MUST BE AWARE OF THEIR REGIONAL CORONERS' REFERRAL PATTERNS AND CRITERIA, HOWEVER, IF IN ANY DOUBT THE CORONER'S OFFICE SHOULD BE CONTACTED TO DISCUSS THE CASE.

APPENDIX 2 – Deaths which should be reported to the Procurator Fiscal in Scotland

- any death caused by an accident arising out of the use of a vehicle including an aircraft, a ship or a train;
- any death of a person while at work;
- any death resulting from an accident in the course of work or arising out of industrial disease or poisoning ;
- any death due to poisoning;
- any death where the circumstances indicate that suicide may be a possibility;
- any death under medical care;
- any death resulting from an accident;
- any death following an abortion or attempted abortion;
- any death where the circumstances seem to indicate fault or neglect on the part of another person;
- any death occurring while the deceased was in legal custody;
- any death of a new born child whose body is found;
- any death of a child from suffocation including overlaying;
- any death which may be categorised as due to sudden death in infancy syndrome or sudden unexplained death in infancy (SUDI). The term sudden unexplained death in infancy (SUDI) is now used by many paediatricians in preference to SIDS (sudden infant death syndrome). This terminology recognises that the mechanism for such deaths is not fully understood and that there may be a number of causes which are not attributable to a single syndrome.
- any death occurring as a result of food poisoning or an infectious disease;
- any death by burning or scalding or as a result of a fire or explosion;
- any death of a foster child;
- any death of a child in the care of a local authority;
- any death of a child on a local authority "At Risk" register;
- any drug related death;
- any death, if not already reported, where a complaint from the next of kin is received by a Health Board or NHS Trust and the complaint is about the medical treatment given to the deceased with a suggestion that the medical treatment may have contributed to the death of the patient;
- any death which occurred in a GP's surgery, Health Centre or similar facility;
- any other death due to violent, suspicious or unexplained cause;

(COPFS, 2004)

NOTE
SN-ODs MUST BE AWARE OF THEIR REGIONAL PROCURATOR FISCALS' REFERRAL PATTERNS AND CRITERIA. HOWEVER, IF IN ANY DOUBT A PROCURATOR FISCAL'S OFFICE SHOULD BE CONTACTED TO DISCUSS THE CASE.

APPENDIX 3 – Deaths which should be reported to the Coroner Service in Northern Ireland

There is a general requirement under section 7 of the Coroners Act (Northern Ireland) 1959 that any death **must** be reported to the Coroner if it resulted directly or indirectly, from any cause other than natural illness or disease for which the deceased had been seen and treated within 28 days of death. Deaths should be referred to the Coroners Service if a medical practitioner has reason to believe that the deceased died directly or indirectly: This list is not exhaustive:

- As a result of violence or misadventure or by unfair means
- As a result of negligence, misconduct or malpractice of others
- From any cause other than natural illness or disease
- From natural illness or disease for which the patient had not been seen and treated by a registered medical practitioner within 28 days prior to their death
- In such circumstances as may require investigation
- In prison or in police custody.

A death in hospital should be reported if:

- You suspect that the deceased may have died as a result of medical negligence or misadventure
- The death occurred before a provisional diagnosis was made, and the GP is not willing to certify the cause
- The cause of death is unknown
- The patient died as the result of the administration of anaesthetic.

The General Register Office currently has a statutory duty to report certain types of deaths to the coroner - for example, where it appears that the death occurred during an operation, and deaths due to industrial disease.

(Section 7 of the Coroners Act (Northern Ireland) 1959)

NOTE
SN-ODs MUST BE AWARE OF THEIR REGIONAL CORONERS' REFERRAL PATTERNS AND CRITERIA. HOWEVER, IF IN ANY DOUBT THE CORONER'S OFFICE SHOULD BE CONTACTED TO DISCUSS THE CASE.