



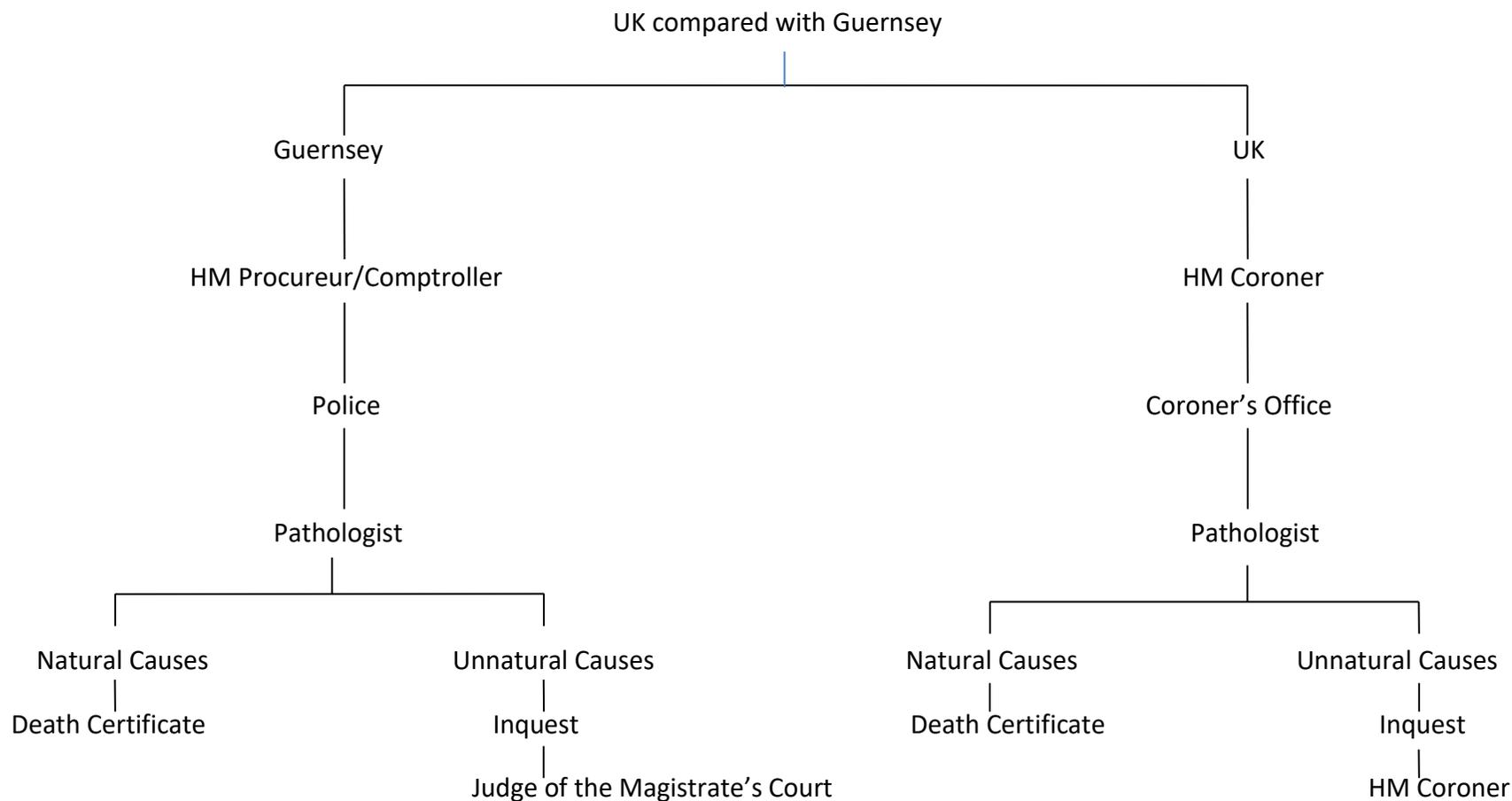
LAW OFFICERS OF THE CROWN

Guidance Notes: Deaths in the Bailiwick of Guernsey

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1. Investigating Unexpected Death: UK and Guernsey Flowchart



2. Why do we have certification relating to death?

For the Family

So that:

- a deceased's family will be able to register the death;
- the register can provide a permanent legal record of the fact of death;
- the registrar can provide a burial certificate to enable the family to arrange for burial;
- the registrar can provide copies of the entry in the register commonly known as the death certificate, which enables the family to settle the deceased's estate.

The death certificate includes an exact copy of the cause of death information from the Declaration of Death Form. This provides an explanation of how and why their

relative died. It also gives the family a permanent record to inform them about their family medical history. This may be important both for their own health and that of future generations.

For Society

Statistical information on deaths by underlying cause is important as it can be used for:

- monitoring the health of the population;
- designing and evaluating public health interventions;
- recognising priorities for health services;
- planning health services; and
- assessing the effectiveness of services.

3. Notification of Death

Deaths suspected to have been due to any unlawful act, suicide, accident, poisoning, deprivation or neglect, deaths in custody, mental health facilities, or children homes, and sudden deaths of unknown cause are referred to the Law Officers (in their capacity as investigative coroner) by Doctors, the Hospital or the Police.

Law Officers:

HM Procureur Megan Pullum, K.C.

HM Comptroller Robert Titterington, K.C.

Contrôle Délégués¹:

Crown Advocate Jon McLellan

Crown Advocate Chris Hookway

Crown Advocate Rupert Swards

Crown Advocate Fiona Russell

Crown Advocate Hilary Pullum

Crown Advocate Yousof Khan

The role of the Law Officers is to investigate sudden, unexpected, suspicious or unusual deaths, direct post-mortem examinations and authorise cremations. They will also direct the opening of an inquest if deemed necessary.

The Magistrate holds the inquests on unnatural deaths in Guernsey; the Court of Alderney in Alderney; and the Court of the Seneschal in Sark.

¹ Also authorised in respect of deaths as set out in this booklet, when the Law Officers are unavailable

Reports from GPs/Hospital Practitioners:

Many referrals from Doctors are straightforward cases where they simply require confirmation from the Law Officers that they are satisfied for them to sign the certificate without further investigation. For example, if a Doctor has not seen their patient recently (within 21 days) of death, or after death, they will consult the Law Officers to discuss the case. In some cases reported by the Hospital the Law Officers will advise them to speak with the Pathologist.

Doctors should not write death certificates of patients who die in hospital following a fall or accident without discussing the death with the Law Officers. A funeral may be delayed if the Law Officers direct a post mortem examination.

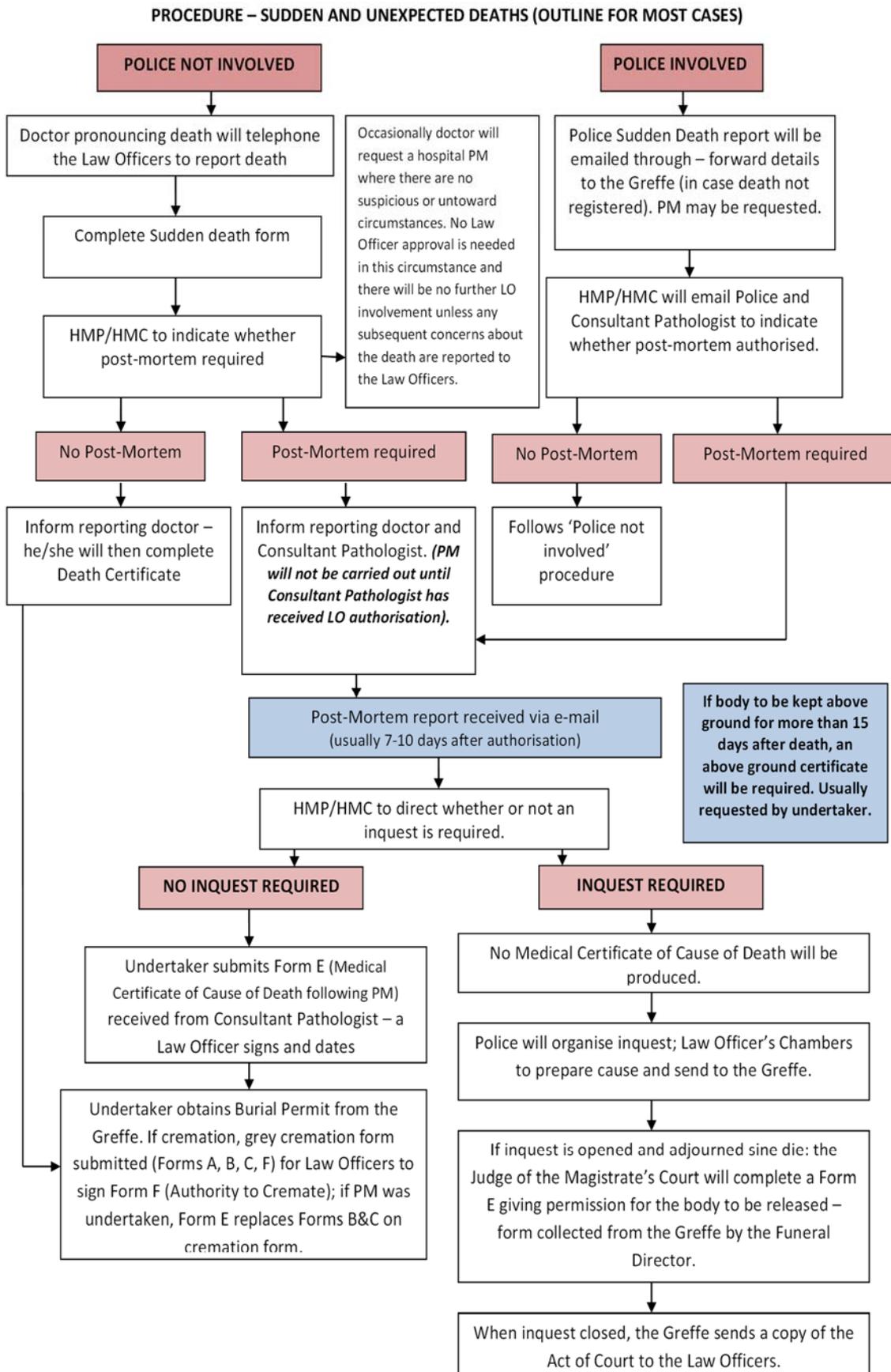
Reports from the Police:

The Law Officer will consider the background report provided by the Police, and may need to consult with the deceased's GP, before deciding whether to proceed with a post mortem examination.

Once a post mortem examination has been authorised, the Law Officer will contact the Pathology Department (and often the Greffe and Police, if they have not already been contacted).



4. Flow Chart of Guernsey Procedure



5. Post Mortem Examinations

Law Officers' (Coroner's) directed post mortem examination

The following are examples of cases where the Law Officers are likely to direct a post mortem examination. Post mortem examinations directed by the Law Officers do not require consent from the deceased's relatives.

<ul style="list-style-type: none">• Sudden deaths when the doctor cannot sign the death certificate	<ul style="list-style-type: none">• Allegations of medical negligence
<ul style="list-style-type: none">• Acute alcohol poisoning/ intoxication	<ul style="list-style-type: none">• Death involving drugs or poisons
<ul style="list-style-type: none">• Homicide	<ul style="list-style-type: none">• Suicide
<ul style="list-style-type: none">• Industrial accidents	<ul style="list-style-type: none">• Death from industrial disease
<ul style="list-style-type: none">• Death in custody	<ul style="list-style-type: none">• Road traffic accidents
<ul style="list-style-type: none">• Domestic accidents	<ul style="list-style-type: none">• Surgery related deaths
<ul style="list-style-type: none">• Sudden infant death	<ul style="list-style-type: none">• Pregnancy related deaths

Types of Death:

Sudden/Unexpected Death

A sudden or unexpected death will not necessarily require a post mortem examination. Many 'sudden' deaths, whilst unexpected, may be predicated by a long and well known history of medical problems. However, if there is no obvious cause and the relevant medical practitioners are not prepared to sign a death certificate, a post mortem examination will be required (see further below).

Suspicious Deaths

A 'suspicious' death will nearly always result in a post mortem examination, and possibly an inquest.

Unusual Deaths

Similarly, 'unusual' deaths would nearly always result in a post mortem examination. If there are questions resulting from the death which cannot be answered by reverting to the deceased's medical history or the police background, a post mortem examination may be required.

Hospital Post Mortem Examinations

Post mortem examinations are sometimes requested by hospital doctors to provide more information about an illness or the cause of death.

Sometimes the partner or relative of the deceased person will request a hospital post mortem examination to find out more about the cause of death.

Hospital post mortem examinations can only be carried out with consent. Sometimes, a person may have given their consent before they died. If this is not the case, a person who is close to the deceased can give their consent for a post mortem examination to take place (in the rare event that any family disagreement arises, the matter should be referred to the Law Officers).

Who reports a death to the Law Officers?

Under Guernsey law, every doctor who is called upon to state the cause of death, who has reason to believe that “a crime has been committed, or that death was caused or accelerated by negligence, or who is not in a position to state the cause of death”, shall immediately inform the police and the Law Officers (and, if the death occurred in Sark, the Constables and Seneschal of Sark, and in Alderney, the Greffier, NB: separate legislation applies in this regard in respect of Alderney).

In practice, whenever a patient dies, a doctor who is familiar with their medical history and can give an explanation of why death occurred should ideally speak to family members. This will provide an opportunity for the family to express any concerns before a Medical Certificate of Cause of Death form is completed. If the family is unhappy with the care and treatment the deceased received it is advisable to report the death to the Law Officers with particulars of the family's concerns. A written record of these concerns should always be made and retained with the medical records. If no doctor who cared for the patient can be found, the death must be referred to the Law Officers to investigate further.

A death occurring in hospital during the night which meets the above criteria does not usually need to be immediately reported to the Law Officers, but should be reported to the police. The body should be moved to the mortuary for overnight storage and the Law Officers contacted promptly the following morning.

Accurate certification

All doctors completing medical certificates of cause of death or cremation forms are expected to state the cause of death to the best of their knowledge and belief. They should be aware of when and how to complete the forms and when deaths should be referred to the Law Officers.

Generally, it is good practice for doctors to consider –

- *Legibility and spelling*
Doctors should ensure the form is readable and consider writing in BLOCK CAPITALS.

- *Abbreviations or symbols*

Doctors should not use abbreviations such as MI instead of myocardial infarction or (L) instead of left or medical symbols such as 1° instead of primary or # instead of fracture on death certificates. It is important to bear in mind that staff at the Greffe (and the family) may not understand what the abbreviation means and an abbreviation is not helpful for the public record. It is also important to ensure the form is readable and for doctors to consider writing in BLOCK CAPITALS.

Examples of terms doctors should avoid for cause of death;

- *Cancer alone*

The terms cancer, neoplasm or tumour should all have detail of the histological type, primary site and metastatic spread.

- *Organ failure alone*

Deaths should not be certified as due to the failure of any organ without specifying the disease or condition that led to the organ failure. Failure of most organs can be due to unnatural causes, such as poisoning, injury or industrial disease.

- *Terminal events, modes of dying, clinical signs and other vague terms*

Terms that do not identify a disease or pathological process clearly are not acceptable as the cause of death. Description of terminal events such as cardiac or respiratory arrest, syncope or shock describe modes of dying not causes of death. Signs such as oedema, ascites, haemoptysis, haematemesis and vague statements such as debility or frailty are equally unacceptable especially as a primary cause.

- *Old age or general debility of age*

It is possible that families, registrars or the Law Officers may request further explanation of any opinion that old age or exhaustion was the sole cause of death. Old age may be acceptable as the only cause of death in some cases of patients over 80 years of age. However, in all these cases you need to be confident the death was expected following gradual decline in health due to natural causes, but not to any identifiable disease.

Notwithstanding the examples given above, doctors should ensure they are competent by generally updating their knowledge and reflecting on their relevant professional practice and guidance on these issues (and in any cases not dealt with by the above, reference may helpfully be had to the GMC Guidance for doctors completing Medical Certificates of Cause of Death in England and Wales (2022): [Completing a medical certificate of cause of death \(MCCD\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/completing-a-medical-certificate-of-cause-of-death-mccd)).

The role of the Pathologist

The Post mortem examinations in Guernsey are carried out by:

1. The States Consultant Pathologist
2. Visiting Forensic Pathologist for suspicious deaths
3. Visiting Paediatric Pathologists
4. Specialist pathologist, depending on the cause of death e.g. maternal death or death during deep sea diving

It is important to reiterate to the family the respectful manner in which the pathologist conducts an examination. It is also helpful for the family to be made aware that visiting Pathologists can take between 3-6 months to produce reports.

There is little merit in the Police or Law Officers trying to explain the medical process undertaken by the Pathologist in a post mortem examination. It is more helpful to focus on the merits of the examination.

If the family has concerns or request further information regarding the examination, the best course of action would be refer to the person to the Pathology Department or the deceased's GP for them to explain the process, or the results.

Once the post mortem examination report is received, and signed off by the Law Officer (if a Law Officers' post mortem examination) and an inquest is not required, the Police and Undertakers are informed to enable the burial/cremation arrangements to be made.

Retention of Organs and Tissue

Retention of Post Mortem Organs

The Human Tissue and Transplantation (Bailiwick of Guernsey) Law, 2020 will come into force on 1st January 2023 and you will need to refer to the Law Officers if organs are to be removed.

Examinations of Post Mortem Organs in the UK

In rare occasions, the whole organ (usually brain, heart or lungs) is removed and referred to the UK for expert opinion.



After obtaining the written permission from the Law Officers or the relatives for consented post mortem examinations, the details of the organs are recorded, by the Pathologist. The referral letter to the UK from the Pathologist will request return of the organs to the Department of Pathology for appropriate disposal usually according to family's wishes, by re-uniting the organs with the deceased.

Relatives and the Post Mortem Examination

Post mortem examinations can be a difficult process for families to cope with. When a Law Officer directs a post mortem examination a police officer will act on behalf of the Law Officer in making the necessary arrangements, and investigations. All medical staff should facilitate the police officer in these duties. Sometimes the police will appoint a police liaison officer to deal with a complex matter, other times no liaison officer may be appointed and the family's doctor may be asked to assist in giving the family sensitive information.

How to achieve this:

- Explaining clearly the purpose of, and what is hoped to be achieved by, the post mortem examination;
- Explaining the benefits of a post mortem examination in ascertaining the cause of death for the peace of mind of the family to be able to understand what caused their relatives' death, or to identify any potential hereditary/genetic problem which might exist;
- Illustrate how the post mortem examination should (in most instances) explain clearly what factors had contributed to the death of their relative and to allow the family to grieve knowing that they fully comprehend the cause of death.

Law Officers and Families

Family members have, on occasion, contacted the Law Officers to seek clarification, or request information, in respect of their relatives' death. This is more likely to occur where the death has been due to an accident or other factors where the cause or circumstance of death is unclear.

Clarification of a Post Mortem Examination:

Where families have requested further information from the post mortem examination report from the Law Officers, our usual policy is to contact the deceased's GP and provide a copy of the Report to them so they may clearly explain the facts of the Report and answer any further medical questions the family may have. The Pathologist can also assist in explaining complex deaths to the families.

Clarification of the inquest process:

Where appropriate, the Law Officers may speak with the family to clarify the inquest process; however, the Police will generally deal sufficiently with this issue.

Other circumstances in which the Law Officers liaise with relatives/partners:

Repatriation

As mentioned in the repatriation section which follows, the Law Officers may become involved in assisting relatives/partners of deceased persons who have died abroad, to try and obtain the correct certification regarding the circumstances of death. This is usually because of a sudden, unexpected death.

Family disputes

In cases where there is ill-feeling and the next of kin may exclude another key person in the deceased's life e.g. a partner with no legal rights, that person may contact the Law Officers to obtain further information.

Suspicion of foul play

On rare occasions, a person may contact the Law Officers to complain about the circumstances of their relatives' death, and to request an investigation. If this were to occur, the Law Officer would liaise with the Police and Doctors to identify the full circumstances.

6. Inquests

An inquest is an inquiry principally held to establish answers to four key questions:

- Who the deceased was;
- Where they died;
- When they died;
- How the deceased came by their death.

The Law Officer will arrange for the body to be released for burial or cremation if the Pathology Department and Police are happy that no further investigation in this area is required.

The inquest is normally opened before the body can be released.

When a Law Officer directs an inquest to be opened, again a police officer will act on behalf of the Law Officer in making the necessary arrangements, and investigations. All medical staff should facilitate the police officer in these duties.



How an inquest will proceed

- The inquest is presided over by a Magistrate;
 - It is held as soon as is practicable after all enquiries have been completed;
 - It is held in public;
 - If oral evidence is required, the Magistrate will examine the witnesses under oath, as may those representing interested parties (if any).
 - The Magistrate will return a verdict - a short statement which records the answers to the previous four questions. There are a number of verdicts that can be given including:
 - natural causes;
 - industrial disease;
 - dependence on drugs/non-dependent abuse of drugs;
 - want of attention at birth;
 - suicide/killed him or herself [whilst the balance of his or her mind was disturbed];
 - accident or misadventure (which means almost the same thing);
 - disaster which is the subject of a public inquiry;
 - attempted or self-induced abortion (now rare);
 - unlawful killing;
 - open verdict – this means that doubt remains as to how the deceased came to their death and there is insufficient evidence to reach any other verdict;
 - stillbirth;
 - narrative verdict (A form of verdict where the magistrate may give a longer explanation of what they think are the main or important issues.)
 - In some cases the words “contributed to by neglect” can be added, but only in limited circumstances.
 - The inquest is designed to find out the circumstances of death, not to assign culpability or apportion blame. Such proceedings would need to go through the usual criminal or civil routes.
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7. Declaration of death and Limit of time for keeping the body

A declaration of death must be made to the Registrar of Births and Deaths within 5 days after death under Article 9 of The Law Relating to the Registration of Births and Deaths in the Bailiwick of Guernsey 1935, as amended.

Article 15 of the same above Law, prescribes the period of time a body is allowed to be kept. If the body is not in the custody of the States (in reality, if not at the PEH mortuary), the limit of time it may remain is six days, after which the Medical Officer of Health must be informed.

Whether or not Medical Officer of Health notification is required, a body may only be kept without specific authorisation for a maximum of 15 days.

Once this period has expired, mainly due to delays in an inquest or need for further investigation before the release of a body, authorisation has to be obtained from the Law Officers and the Constables of the Parish where the body is, (and in Sark, from the Constables and Seneschal) for the body to be kept 'above ground'. Failure to comply with these provisions constitutes a breach of the relevant law and is punishable by way of a fine.

8. Repatriation

From Guernsey

The Law Officers are not usually involved in the repatriation of bodies from Guernsey unless an inquest is required, or there have been other circumstances which would require further involvement. Repatriation from Guernsey usually requires a Freedom from infection Certificate from the treating Doctor or Pathologist.



To Guernsey

The Law Officers occasionally become involved in the repatriation of bodies from the UK, and will need to ensure that an appropriate death certificate has been issued in the UK before the body comes back to Guernsey for burial/cremation.

For persons repatriated from outside the UK, it is general practice for the local undertakers to consult with the Law Officers to ensure they are content with the certification provided.

Problems have occurred with repatriation from some countries e.g. France, where insufficient cause of death has been provided. The Law Officers are sometimes involved in consulting directly with overseas hospitals, embassies and undertakers to ensure the appropriate information is provided. If the cause of death is still unclear, the Law Officers can direct a post mortem examination on a repatriated deceased person.

9. Cremations

For a cremation to proceed, after the death has been registered, the undertaker must obtain, inter alia, the signature of a Law Officer. The relevant legislation is '*The Cremation Ordinance, 1972*'. Please note that the Cremation (England and Wales) Regulations 2008, which enable the appointment of a Medical Referee, do not apply to the Bailiwick of Guernsey.

The duties of a Law Officer of the Crown include the following:

- Not to allow any cremation to take place if it appears that the deceased left a written direction to the contrary;
- Not to allow any cremation to take place unless they are satisfied that the death of the deceased has been duly registered by the production of a certificate of registry of death on one of the forms provided by the Registrar of Deaths for production in cases of burial (i.e. usually a burial permit);
- Before allowing the cremation, to examine the application and certificates and ascertain that they are such as are required by the Ordinance and that the inquiry made by the persons giving the certificates has been adequate. They may make any inquiry with regard to the application and certificates that they may think necessary;
- Not to allow the cremation unless they are satisfied that the application is made by an executor or by the nearest surviving relative of the deceased, or if made by any other person, that the fact that the executor or nearest relative has not made the application is sufficiently explained, and that the person making the application is the proper person to do so;

- If it is intended to hold an inquest, then generally not to allow the cremation to take place until the inquest has been held, or until the Magistrate has given permission to dispose of the body;
- They may decline to allow the cremation without stating any reason;
- Not to allow the cremation unless they are satisfied that the fact and cause of death have been definitely ascertained; and in particular, if the cause of death assigned in the medical certificates be such as, regard being had to all the circumstances might be due to poison, to violence, to any illegal operation, or to privation or neglect, not to allow the cremation unless a post mortem examination is held, and if a post mortem examination fails to reveal the cause of death, shall decline to allow the cremation unless an inquest be held and a certificate be given by the Magistrate in a prescribed Form;
- If it appears that death was due to poison, to violence, to any illegal operation, or to privation or neglect, or if there are any suspicious circumstances whatsoever, whether revealed in the certificates or otherwise coming to their knowledge, to decline to allow the cremation unless an inquest be held and a certificate given by the Magistrate in a prescribed Form.

Who signs cremation forms?

- When the death is due to a known natural cause, the cremation form is signed by two medical officers and then counter signed by a Law Officer.
- When the death is due to natural causes, following a post mortem examination, the Pathologist signed the cremation form, D1, which is then counter signed by a Law Officer.

10. Cases with Criminal Inquiry

Clearly these cases are particularly traumatic for victims' families, more complex for Police and Law Officers, and likely to take longer to resolve than most other cases.

Court permission to release victim's body for burial/cremation is always necessary but cannot be sought until [potential] defendants have had adequate opportunity to obtain a further post mortem examination or other evidence for which the body is required. An inquest can then be opened, but is not generally concluded until the trial is complete and any appeal has been dealt with.

These considerations are not just applicable to homicide: fatal RTAs, workplace accident and even drug-related deaths can involve criminal proceedings.



11. Relevant Forms

Declaration of Death

The Declaration of Death Form for use in registration of the death.

SEE INSTRUCTIONS OVERLEAF	Form B	FOR REGISTRAR'S USE
DECLARATION OF DEATH		No.
		Date
Date and Hour of Death:		
Full Names and Surname of Deceased:		
If Deceased is a woman who has been married—		
(i) Maiden Surname of Deceased:		
(ii) <u>Wife</u> of:		
Widow		
Age:		
Full names and Surname of Father:		
Full Names and Maiden Surname of Mother:		
Place of Death:		
Rank, State or Profession:		
Ordinary Residence:		
Place of Birth:		
Cause of Death:		
Signature of Declarant:		
Relationship to Deceased (see overleaf):		
Residence of Declarant:		
This declaration must be delivered to the Registrar WITHIN 5 DAYS of the death by a person of at least 16 years of age.		
REGISTRATION OF DEATHS		
Extract from the Law of 1935		
ARTICLE 9		
Before the expiration of five days after the death of a person the nearest relative living in the house, and in default of such, the nearest relative in the island, and in default of such, the occupier or the proprietor of the house, in which the death has taken place, or the person, who has the superintendence of the funeral, shall, under a penalty not exceeding one hundred pounds sterling make in person or send by a person of at least sixteen years of age, to the Registrar, a declaration in writing signed by him, stating the surname, christian name and age of deceased, the time, date and place and, as far as he is able, the surnames and christian names of the father and mother of the deceased, his rank or profession, place of birth, and his ordinary place of abode, according to Form 'B' of the Schedule of this Law, accompanied by the doctor's certificate, mentioned in Article 11 stating the cause or probable cause of death, or stating that he is not in a position to state the cause or probable cause of death. The provisions of this Article shall apply as far as possible, in the case of a still-born child.		No.

Medical Certificate of Cause of Death

In practice, where more than 21 days has elapsed since the deceased has been seen by his local GP, but they received other appropriate care and the doctor is satisfied as to cause of death, the Law Officer will simply initial and date the top right hand corner of this document to show they have seen it and have taken no issue. It should be noted however that, if the medical practitioner who states the cause of death has not seen the body after death, another registered medical practitioner must also sign the certificate.

REGISTRATION OF BIRTHS AND DEATHS (GUERNSEY) LAWS, 1935 and 1969		Form C	NO. of Entry
MEDICAL CERTIFICATE OF CAUSE OF DEATH			
For use only by a Medical Practitioner WHO HAS BEEN IN ATTENDANCE during the deceased's last illness			
Name of deceased		Age as stated to me yrs.	
Date and time of death as stated to me day of		at a.m./p.m.	
Place of Death			
Last seen alive by me on day of			
(a) The certified cause of death takes account of post-mortem information. (b) Post-mortem information may be available later (c) Post-mortem not being held. (see note 3)			
		Seen after death by me (see note 1) Not seen	
CAUSE OF DEATH		For Statistical purposes only	
I Disease or condition directly leading to death (see note 2) Antecedent causes Morbid conditions, if any, giving rise to the above cause stating the underlying condition last II Other significant conditions contributing to the death, but not related to the disease or condition causing it.	I (a) due to (or as a consequence of) (b) due to (or as a consequence of) (c) II	Approximate interval between onset and death I (a) (b) (c) II	
I hereby certify that I was in medical attendance during the above-named deceased's last illness, and that the particulars and cause of death above written are true to the best of my knowledge and belief.			
Signature		Qualifications	
Date			
Notes 1. Delete whichever does not apply. If the medical practitioner in attendance during the deceased's last illness has not seen the body of the deceased, the certificate set out below must be completed by another registered medical practitioner authorised to practise in Guernsey. 2. This does not mean the mode of dying, such as e.g. heart failure, asthenia, etc.; it means disease, injury or complication which caused death. 3. Delete whichever does not apply.			
CERTIFICATE (see Note 1 above)			
I hereby certify that I saw the body of the above named deceased on the day of			
Signature		Qualifications	
Date			

Medical Certificate of Cause of Death after Post Mortem Examination

After a Post Mortem examination, and if appropriate, e.g. if the death is from natural causes, the Law Officer is required to sign this document to confirm there is no need for an inquest.

FORM E

MEDICAL CERTIFICATE OF CAUSE OF DEATH AFTER POST MORTEM EXAMINATION

Name of deceased Age as stated to me yrs.

Deceased identified to me by

Date and time of death as stated to meday of20... ata.m. / p.m.

Place of Death

CAUSE OF DEATH		For Statistical purposes only
<p>I</p> <p>Disease or condition directly leading to death (see note)</p> <p>Antecedent causes</p> <p>Morbid conditions, if any, giving rise to the above cause stating the underlying condition last</p>	<p>I</p> <p>(a) due to (or as a consequence of)</p> <p>(b) due to (or as a consequence of)</p> <p>(c)</p>	<p>Approximate interval between onset and death</p> <p>I</p> <p>(a)</p> <p>(b)</p> <p>(c)</p>
<p>II</p> <p>Other significant conditions contributing to the death, but not related to the disease or condition causing it.</p>	<p>II</p> <p>.....</p> <p>.....</p>	<p>II</p> <p>.....</p> <p>.....</p>

I hereby certify that I have performed a post mortem examination of the body of the above named deceased person and that the particulars and cause of death above written are true to the best of my knowledge and belief. I further certify that the said cause or causes of death were natural.

Signature Qualifications

Date **NOTE:** This does not mean the mode of dying, such as e.g. heart failure, asthenia, etc.; it means disease or complications which caused death.

THIS SECTION FOR USE BY THE LAW OFFICERS OF THE CROWN ONLY:

I am satisfied as to the cause of death above certified and that there is no need for an inquest into the circumstances of this death.

Dated thisday of 20....

.....
H.M. Procureur/Comptroller.

For further information: relevant documents

- Law relating to the Registration of Births and Deaths in the Bailiwick of the Island of Guernsey (1935), as amended
- The Cremation Ordinance, 1972, as amended (available to download from the Guernsey Legal Resources website - www.guernseylegalresources.gg)