

Looked After Children (Scotland) Regulations 2009

Regulation 6 – The Death of a Looked After Child

Looked After Children (Scotland) Regulations 2009

Regulation 6 – The Death of a Looked After Child

1. Introduction

Under regulation 6, in the event of the death of a child who is looked after by them, a local authority is required to immediately notify i) the Scottish Ministers ii) the Care Inspectorate and iii) as far as is reasonably practicable, every parent of the child and every person who has any parental responsibilities or parental rights in relation to the child, except where the child is living with such a person.

This guidance sets out further details about the process to be undertaken when a looked after child dies.

2. Notifying the Scottish Ministers

If any looked after child dies (whether he or she was living at home or was placed away from home) the local authority looking after the child must notify the Scottish Ministers¹.

The Scottish Ministers can be notified by emailing looked_after_children@gov.scot. This should be done within one working day of the local authority becoming aware of the child having died.

When notifying Scottish Ministers, the local authority should provide the following information:

- The name of the child
- His or her date of birth
- The legal circumstances in which he or she was being looked after and the location of where they resided at the time of death; and
- Brief details of the cause and circumstances of his or her death, if known.

These details can be provided to the Scottish Ministers by copying in the Scottish Ministers to the notification in Form DLC1 given to the Care Inspectorate (see further below). This form can be accessed online at <https://www.careinspectorate.com/index.php/news/9-professional/6431-deaths-of-looked-after-children>.

3. Notifying the Care Inspectorate

If any looked after child dies (whether he or she was living at home or was placed away from home) the local authority looking after the child must notify the Care Inspectorate.

¹ Where a young person in receipt of Continuing Care or Aftercare dies please see [Providing Continuing Care Placements - Guidance on Part 11 \(Continuing Care\) of the Children and Young People \(Scotland\) Act 2014 - gov.scot \(www.gov.scot\)](#) [Guidance on Part 10 \(Aftercare\) of the Children and Young People \(Scotland\) Act 2014 - gov.scot \(www.gov.scot\)](#) in respect of the notification process.

The process for notifying the Care Inspectorate is as follows:

Notify the Care Inspectorate at

cistrategicteamnotification@careinspectorate.gov.scot of the death within one working day of the local authority becoming aware of the child having died.

- The local authority should provide the following information:
 - The name of the child
 - His or her date of birth
 - The legal circumstances in which he or she was being looked after and the location of where they resided at the time of death; and
 - Brief details of the cause and circumstances of his or her death, if known.
- This can be done using Form DLC1 and copy to Scottish Ministers at [Looked after children@gov.scot](mailto:Looked_after_children@gov.scot) as stated above.
- If the child was receiving support from a registered care service at the time of death, that service also has a separate duty to notify the Care Inspectorate².

4. Process to be followed after initial notification

Once the initial notification has been issued, the local authority should liaise with their local child death review group, and where appropriate the CPC/Chief Officers Group, to agree the review approach and how best to support the family.

Local authorities should note that, following the establishment of the [National Hub for Reviewing and Learning from the deaths of Children and Young People](#), all child deaths should be reviewed. A range of review processes are currently in place when a child or young person dies. Therefore, early discussion between child/public protection leads, NHS Board and local authority implementation leads for child death reviews, and relevant senior officers from the local authority/HSCP, will be important to consider and agree the most appropriate review process.

The [National guidance for child protection committees undertaking learning reviews](#) recommends that where there is a death of a looked after child then local authorities should always consider a learning review. The full criteria for undertaking a learning review are set out in the national guidance. This approach provides a robust and comprehensive framework which supports multi-agency learning.

The agreed review should be proportionate and informed by the child's individual circumstances and the services involved in their care and support. Wherever possible, there should only be one multi-agency review for each child.

If a learning review is not undertaken, local authorities must, within 28 days of the date of the child's death, send the Care Inspectorate a full report detailing the circumstances of the death of a looked after child. It may not always be possible to supply complete information at this point if, for instance, a police investigation is still being carried out and/or criminal proceedings are outstanding. However, as full a

² In accordance with the duty of candour procedure under sections 21 and 22 of the [Health \(Tobacco, Nicotine etc. and Care\) \(Scotland\) Act 2016](#) (and relevant regulations).

report as possible should be supplied, with a supplementary report sent to the Care Inspectorate as soon as the additional information is available.

As per the guidance on the [National Hub for reviewing and learning from child deaths](#), a core review dataset should then be completed online and uploaded to the National Hub via the secure electronic portal. Only one dataset should be completed per child. It should be agreed with the local area child death review group who will be best placed to do this. The Care Inspectorate will respond to reports in writing. The local authority may be asked for supplementary information, including information from other relevant bodies involved with the child.

The Scottish Ministers may either directly or through the Care Inspectorate (or any other relevant body), advise the local authority or others what, if any, further action they will take or require them to take.⁽³⁾

This may include taking steps to:

- examine the arrangements made for the child's welfare during the time he or she was looked after
- identify learning points which should be drawn to the attention of the local authority concerned and/or other relevant bodies (including other local authorities)
- review legislation, policy, guidance, advice or practice in the light of a particular case or any trends emerging from deaths of children being looked after.

5. Notifying parents and other relevant persons

Parents and other relevant persons should be notified in a sensitive, timely and transparent manner. Where the address(es) of the parents are unknown, other statutory agencies may be able to assist in identifying or finding them or other persons concerned. It may also be appropriate to seek the help of other agencies in notifying the persons concerned where they live some distance out-with the local authority area. It may not be possible to enlist the help of authorities out-with the UK. If a person to be notified has been identified but is living outside the UK, every effort should be made by the local authority to convey the information in a sensitive manner. Where the person is a UK citizen living abroad, the British Consulate in the country concerned may be able to assist.

Depending on the cause of death, sometimes feelings of anger may be expressed by parents or carers that more could have been done to prevent the death. Where appropriate, details should be provided in the report to the Care Inspectorate about how such issues have been dealt with if they have emerged.

⁽³⁾ For example, section 51(3) of the Public Services Reform (Scotland) Act 2010 provides that the Care Inspectorate must provide advice to Scottish Ministers; and section 55 provides that at the request of the Scottish Minister, the Care Inspectorate must carry out an inspection of any social service, including a service provided to a particular child.

6. Arrangements for the funeral

Where parents retain their parental responsibilities and parental rights, they have responsibility for all the funeral arrangements unless they delegate that to the local authority or cannot be found. Support and assistance should be provided to parents to help them make arrangements and give other help which may be required, including bereavement counselling. It may be helpful for support to be provided by someone who has been through a similar bereavement.

Where the local authority has parental responsibilities and parental rights through a permanence order they should discuss who is to make the funeral arrangements with the parents, and anyone else with responsibilities or rights under the order or the child's nearest relative (per section 66 of the [Burial and Cremation \(Scotland\) Act 2016](#)). Again, support and assistance should be provided to parents and others, including bereavement counselling.

Generally, however, the local authority should help those with parental responsibilities to take responsibility for arranging the funeral and burial or cremation. Where parents or persons with parental responsibilities cannot be found, efforts to find them should not delay the funeral.

The funeral should be conducted in accordance with the child's wishes, religion or beliefs (where known). Where parents or persons with parental responsibilities or the child's nearest relatives cannot be found but there is information about a child's religion or beliefs, advice should be sought immediately to ensure local authorities make appropriate arrangements. Sections 87 and 88 of the [Burial and Cremation \(Scotland\) Act 2016 \(legislation.gov.uk\)](#) [Burial and Cremation \(Scotland\) Act 2016](#) place a responsibility on local authorities to make arrangements for the remains of a child who dies within the local authority area and no other arrangements have been made or are being made under section 66(2) of that Act:

- to be buried or cremated, having regard so far as known to the authority
- to any wishes that the child expressed and whether the child was of a particular religion or belief.

The local authority may make payments to any person who is a relative of a child who had been looked after, or any other person connected with the child, in respect of travelling, subsistence or other expenses incurred in attending the child's funeral, where it appears to the local authority that the person concerned could not otherwise attend the child's funeral without undue financial hardship and that the circumstances warrant the making of the payment.

This provision might apply where the child has been placed a long way from home and the carers and the other children in the placement wish to travel to the funeral, or where the child's family are living on a very restricted budget and have no capacity to cover unforeseen expenses. These payments are not recoverable by the local authority.

In some circumstances family members may be eligible for a Funeral Support Payment. Further information on eligibility criteria and how to access this support can be found at [Funeral Support Payment – mygov.scot](https://mygov.scot/government/eligibility-criteria-for-funeral-support-payment).

7. Support of staff and carers involved with the child and family

Staff and foster families who have been closely involved with a child who dies while being looked after, or who make the funeral arrangements or provide bereavement counselling, may need support to come to terms with the events. Local authorities should make this support available where necessary. The Fostering Network may be able to put foster carers in touch with other foster carers whose foster children have died. Where necessary, local authorities should also provide support to staff and others about dealing with the death of a looked after child.



© Crown copyright 2024

OGL

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-83521-795-5 (web only)

Published by The Scottish Government, February 2024

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS1398174 (02/24)

W W W . g o v . s c o t