

When a death occurs in a Disability and Community Services Funded Service Guideline

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Revision History

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This Procedure may be varied, withdrawn or replaced at any time. Compliance with this directive is **mandatory** for the Department. **PLEASE DESTROY PRINTED COPIES.** The electronic version of this Procedure is the approved and current version and is located on the Department's Strategic Document Management System. Any printed version is uncontrolled and therefore not current.

1. Introduction

- This document sets out the policy guidelines for service providers responding to the death of a client and reporting the death in services provided or funded, in whole or in part by Disability and Community Services.
- All Services must comply with this Policy and any legislative requirements, as set out in this document. Services are strongly encouraged to develop procedures or use those that are provided in this policy.
- This Policy is not intended to cover all possible circumstances however it does provide the overarching framework for organisations funded, in whole or in part, by Disability and Community Services to provide specialist disability support services.

2. Transition to the NDIS

- Until commencement of the Full Scheme NDIS on 1 July 2019 all providers delivering DCS funded specialist disability services and services to NDIS funded participants are required to maintain compliance with DCS policies and procedures.
- Working collaboratively, open communication and information sharing during this transition period are essential. Providers with questions about DCS policies and procedures should contact their DCS Area Office, Community Partnership Team for clarification.
- Existing arrangements relating to Quality and Safety will remain in place for all individuals and NDIS participants until a National Approach is finalised. Eg. providers are required to comply with the *DHHS Quality and Safety Standards Framework for Tasmania's Agency Funded Community Sector* and ensure compliance with the *Tasmanian Disability Services Act (2011)* and *Tasmanian Disability Services Regulations (2015)*. Providers will be notified formally of any change in arrangements relating to quality assurance.

3. Mandatory Requirements

- The *Tasmanian Disability Services Act 2011* is the legislative basis for the provision of specialist disability services. This Act defines disability as impairment that:
 - is attributable to a cognitive, intellectual, psychiatric, sensory or physical impairment, or a combination of these, and
 - is permanent or likely to be permanent, and
 - results in a substantial reduction in the capacity of the person to participate in everyday life, and
 - requires continuous significant support services, and
 - may or may not be of a chronic episodic nature.
 - To be eligible for specialist disability services in Tasmania, a person must:
 - have a disability as defined under the *Tasmanian Disability Services Act 2011* (the Act)
 - live permanently in Tasmania
 - be an Australian citizen, or a permanent Australian resident, or a Temporary Protection Visa holder, or a member of a family on a work or study visa sponsored by the Australian Government
 - have a disability that manifests before the age of 65 years.
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- Clients who meet the eligibility requirements for the National Disability Insurance Scheme (NDIS) trial 2013 – 2016 will become the responsibility of the NDIS. Some policies, procedures and guidelines will remain relevant in delivering services to this cohort group.
- Failure to comply with this policy, without providing a good reason for doing so, may lead to disciplinary action.
- Disciplinary action in this context may be a Penalty under the Tasmanian Disability Services Act 2011 or constitute a breach of your Funding Agreement with the Department.

4. Guideline

- All service providers must be adequately prepared for such an event in order to ensure that all staff (paid and non-paid) know what to do when a death occurs, or is anticipated.
- All service providers must ensure that their actions have resulted in the minimisation of any trauma associated with a death, for all staff, family and carers concerned.
- All deaths must be treated with respect to cultural and/or religious beliefs with dignity and professionalism and meet ethical standards.

4.1 Planning and Preparation

Roles and Responsibilities/Delegations

Managers and Senior Staff are responsible for ensuring that all staff are aware of the following roles and responsibilities that must be adhered to in accordance to this Policy:

- Notification of the death to family/next of kin/relevant persons
- Notification of the death to their Line Manager
- Care and Management of the deceased body
- Securing of the area until the Police are in attendance
- Assisting the Police and Coroner when required
- Completing a statement or affidavit if present at time of death and/or involved in the lead up to death
- Clear and accurate documentation of the actions and outcomes relating to the client's death
- Supervision of staff to provide assistance and advice in managing the death of a client
- Providing support (including referrals for grief counselling for persons affected by client's death)
- Regular monitoring of compliance by staff with this Policy
- Adherence to service procedures, relevant protocols, practice standards and Legislation.

All staff are responsible for:

- Improving outcomes at the service delivery level
- Working within Agency and Legislative requirements
- Working with Police and the Coroner when required
- Notification of the death to Senior Staff.

Planning and Training

- All service providers are to ensure that staff respond to death of a client in a sensitive and appropriate manner. This includes ensuring that the cultural and religious beliefs and practices of the client and their family are respected.
- All Service Providers are to ensure the response to death is dignified and prompt in order to minimise the distress arising from the event.
- Preparation is important if a death is expected and the service must allow time and capacity for anticipating likely scenarios, developing and implementing strategies to best deal with them.
- Service Providers must ensure all staff are educated on organisational procedures regarding the death of a client. When a death is expected it is advised that staff prepare other residents for the event by, for example, talking to them about the situation and what may occur after the person dies.
- Services must ensure that support staff training competencies are maintained in the areas of first aid and resuscitation techniques.
- Clients files must include up to date and easily accessible information on the following:
 - Life threatening allergies, behavioural tendencies (e.g. choking) and/or medical condition/s
 - Information on any known end-of-life decisions and advance directives
 - telephone numbers of (1) the clients Doctor (2) the clients emergency contact/next of kin and (3) secondary contact if staff cannot get a hold of the first contact person/next of kin
 - the name and contact details of the person to be contacted immediately following a client's death.

Accepting New Residents

- Placement of a new resident in a service must never occur immediately following the death of a client.
- If it is an emergency situation then the matter must be taken up with the Disability and Community Services Area Manager and discussed prior to making any arrangements to place a new client.

Palliative Care

- Palliative care is the responsibility of all health professionals and is delivered by two distinct categories of health professionals:
 - Primary care providers; and,
 - Health professionals who specialise in palliative care.
 - Palliative care is an active and total approach to the care of a patient with a life-limiting illness. It focuses on enhancing the patient's quality of life and supporting the family. This is achieved through preventing and relieving suffering by means of early identification, assessment, intervention and treatment of pain and other problems, provision of psychosocial and spiritual support; and care through death and bereavement.
 - Palliative care is indicated when the focus of care for the patient moves from the cure of the illness to maximising the patient's quality of life. A palliative approach to care may therefore be put in place at any stage where the effects of the life-limiting illness or treatment begin to compromise the patient's quality of life - in the physical, psychological, emotional, spiritual or social areas.
 - Palliative care is not simply for the terminal stages of life, nor does it end when the person dies,
Palliative care:
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- Provides relief from pain and other distressing symptoms;
 - Affirms life and regards dying as a normal process;
 - Intends neither to hasten or postpone death;
 - Integrates the psychological and spiritual aspects of patient care;
 - Offers a support system to help the patient live as actively as possible until death;
 - Offers a support system to help the family cope during the patient's illness and in their bereavement;
 - Uses a team approach to address the needs of the patient and their family, including bereavement counselling;
 - Aims to enhance quality of life, and may also positively influence the course of the illness; and
 - Is applicable early in the course of illness, in conjunction with other therapies that are intended to prolong life, such as chemotherapy or radiation therapy, and includes those investigations needed to better understand and manage distressing clinical complications.
- Palliative care is provided not only to the patient with the life-limiting illness but to their carer/family as needed - together comprising the unit of care. It is also appropriate in supporting carers and family members both prior to and following the patient's death. For a small number of people, that process may be more complex than anticipated and some may develop significant psychological and emotional issues. It is recommended that the bereaved carers receive follow-up to ensure that potential problems are identified early and referred for bereavement support if required.
 - Particular consideration must be given to the amount of resources and support that is needed to enable a client to remain at home, whether Palliative Care is provided by an organisation, by Community health Nurses, Palliative Care staff or others.
 - For further information about palliative care services, contact your nearest Palliative Care Service:
 - **South - Community Palliative Care** Ph. (03) 6224 2515
palliativecare.south@dhhs.tas.gov.au
 - **North - Community Palliative Care** Ph. (03) 6336 5544
palliativecare.north@dhhs.tas.gov.au
 - **North West - Community Palliative Care** Ph. (03) 6336 5544
palliativecare.north@dhhs.tas.gov.au

4.2 When a death occurs

Initial Response

- In an emergency situation, staff must know when emergency intervention is required to prevent death or reduce complications if possible.
- It is essential for staff to be able to make a decision regarding the need for emergency intervention including:
 - assess the situation and ensure your own safety
 - check that the persons airway is clear
 - breathing – Check if the person is breathing and **Use First Aid techniques if necessary**
 - circulation – Check if the person has a pulse and **Use First Aid techniques if necessary**
- If in any doubt immediately call an ambulance and commence emergency intervention techniques.

- If there is an order on the clients file and Care Plan stating 'not to be resuscitated' the relevant staff will be required to contact the General Practitioner (GP) immediately.
- It is strongly advised that all staff be proficient in basic resuscitation techniques.

Residential Settings

- Immediately following the discovery of the body, and in addition to the above information, staff working in a Residential setting must immediately use their organisations usual emergency contact procedure.
- The most appropriate person should contact the next of kin. It should be remembered that the next of kin or other family member/s may wish to see the body in the home before it is taken to the funeral home.
- Consideration must be given by Management as to the best way to support co-residents and other staff during this time.
- When an unexpected death has occurred the most senior staff member available or the doctor must also contact the Police or Coroners Clerk.
- All staff must ensure that detailed records regarding the client are made.

Other Settings

- If a client collapses or has a serious accident whilst at a Community Access service, at an employment service, at work or in a public place, it is important to:
 - (a) check the clients pulse and breathing and commence resuscitation if appropriate
 - (b) call an ambulance and the clients General Practitioner (GP)
 - (c) if the client cannot be revived, the ambulance officer will call the police
- If the person's General Practitioner (GP) is willing to sign a death certificate a senior staff member of the residential organisation must be contacted so they can arrange to inform the client's next of kin and funeral director who will take the body to the funeral home.
- If the client's General Practitioner (GP) is not willing to sign a death certificate, the **police** will arrange for the body to be taken to the mortuary at the hospital and a coronial inquiry will commence.

Medical Assistance

- Staff must call an ambulance by telephoning '000', if there is any doubt about whether vital signs are present in a client.
- In residential settings, it is advisable to call a General Practitioner (GP) at times when non-urgent medical assistance is needed. A General Practitioner (GP) can also provide advice and direction if death of the client is anticipated.
- Under the Burial and Cremation (Handling of Human Remains) Regulations 2005 a person must not move human remains within any place or premises before a medical certificate or a declaration of life extinct has been issued in respect of those human remains, unless:
 - (d) the human remains are causing a risk to public health or public safety: or
 - (e) the moving is to preserve the security or the dignity of the human remains.

Action to be taken by a General Practitioner (GP) after attending place of death

- In most circumstances the deceased clients General Practitioner (GP) will sign the death certificate.
- Once the General Practitioner (GP) has been notified of the death they are responsible for making the necessary arrangements within 8 hours after receiving notification. The General Practitioner (GP) will attend the place of death and/or arrange for another medical practitioner to attend the place of death if necessary.

Following the initial response

- Staff must check on the clients file to identify if there are any pre-planned funeral arrangements.
- Staff attached to the Residential Services of Community Access Services who were not at work at the time of the clients death, should be contacted to inform them of the death.
- A Senior staff member of the organisation should collect relevant documents/medication dispensers/client files and store them in a safe place.
- A Senior staff member must take responsibility for ensuring minimal disturbance of the room containing the deceased client.
- All staff should write down their recollections of events as soon as possible after death of a client. This is to ensure that they do not rely solely on their memory if, sometime later, they are required to prepare an affidavit or are called as a witness at an inquest.

Cause of death

- The nature and cause of death is first determined by the deceased persons General Practitioner (GP). If they are uncertain, the cause will be determined at a post mortem.
- At a post mortem, the forensic pathologies, by detailed examination of the body will be able to determine the cause of death.

Police

- In a residential setting Police may assist in contacting the deceased persons General Practitioner (GP) and arrange for the body to be taken to the mortuary if necessary.
- In a service delivery setting, the Police must be called if a General Practitioner (GP) is not prepared to sign a death certificate. This will then require a coronial inquiry.

Coroners Clerk

- The role of the Coroners Clerk is to liaise between the Coroner, family members, involved staff, organisations and the Police. The Coroners Clerk is a Police Officer and is usually responsible for completing the investigation and all the documentation that is required for a coronial inquiry.
- The Coroners Clerk is notified by the Police of all reportable deaths that occur.
- The Coroners Clerk is also on call 24 hours a day and can be contacted if there is any uncertainty about how to proceed in the event of an unexpected death of a resident.

Removal of the body

- In accordance with the Burial and Cremation (Handling of Human Remains) Regulations 2005, Funeral Directors are required to remove the deceased body within 8 hours after receiving notification that the body is ready to be transported.

- Ambulance Officers usually do not remove the body from a person's home; they can however remove a body if it is located in a public place.
- Arrangements for the removal of the body are made with the Funeral Director. If staff are unaware which Funeral Director has been chosen by the family the Police can arrange the mortuary ambulance to take the body to the mortuary at a Regional Hospital. This has to occur within 8 hours of notification.

4.3 Funeral Planning and Preparation

- All Service Providers are to provide opportunity for their Clients to plan the details of their funeral in advance in order to minimise the number of decisions that need to be taken at the time of death.
- If the client needs assistance to plan their funeral and if they wish to talk about their plan, contact the Australian Funeral Directors Association (AFDA) <http://afda.org.au> or a Funeral Director of their choice and request they visit the client. The Tasmanian Division of the AFDA can be contacted on 03 9859 9966.
- Where appropriate, staff are to provide assistance, support and/or advice to the deceased persons family in regards to the processes and arrangements to be made following the death of their loved one.
- In cases where the client does not have family/next of kin or the family cannot afford the cost of the funeral and/or where a Will does not exist, the responsibility is managed by the Public Trustee. The Public Trustee can be contacted on 1800 068 784.
- Any staff who may be considering attending the client's funeral must take in to account the client's families wishes and staff must seek approval from both their Manager and the client's family/next of kin.
- Information regarding Prepaid Funerals can be accessed through the Australian Funeral Directors Association (AFDA). <http://afda.org.au> The Tasmanian Division of the AFDA can be contacted on 03 9859 9966.
- Following the death of a client staff must be provided counselling services information and contact details.

4.4 Following death

Funeral arrangements

- It is important that all service providers are aware of whether the deceased person had any particular wishes (or had made any plans) regarding any aspect of their funeral arrangements.
- If no one takes responsibility for the funeral the body will be kept at the nearest regional public hospital/mortuary for around 10 days. After this time a hospital or mortuary staff member will contact a Funeral Director who will arrange a cremation.

A Coronial Inquiry

The Coroner is required by law to inquire into all reportable deaths where:

- the deceased has died a sudden or unnatural death, or has died as a result of an injury or accident;
- the deceased has died during anesthesia or sedation or as a result of these procedures and not due to natural causes;
- the cause of death is unknown and a medical practitioner will not issue a medical certificate as to cause of death;
- the deceased is a child under the age of 1 year and death was sudden and unexpected;
- the deceased was being held in care or custody at the time of death;

- the deceased died whilst escaping from prison or police custody or an institution or while a prison officer or police officer was attempting to detain that person;
 - the identity of the deceased is unknown; and
 - the death is a result of an accident or injury that occurs at a workplace.
- Under the Coroners Act (1995), deaths occurring in these categories are classed as reportable deaths and are required to be reported by police to the coroner's office. If a coroner decides not to hold an inquest he/she must notify, in writing, the next of kin or the guardian of the deceased person stating the reasons for their decision.
 - If the next of kin has sufficient concerns and wishes an inquiry to occur they have a number of options. In order of approach they contact the coroner and ask for an inquest, contact the State Attorney General who has the power to direct a coroner to proceed with an inquest or apply to the Supreme Court for an order that an inquest be held.

The Inquiry Process

There are three types of coronial inquiry that can follow a reportable death and these are the Preliminary Hearing, the Summary Hearing and the Formal Hearing.

Preliminary Hearing

- The first stage of an inquiry will commence if a General Practitioner (GP) is not satisfied that death was due to natural causes and will not sign a death certificate. Local police will then proceed with an investigation and gather evidence at the scene of the death.
- This information may then be enough for a coroner to order a post mortem. If there are doubts, after the post mortem, that death was not by natural causes the second stage of the coronial inquiry process would proceed.

Summary Hearing

- This stage involves a more detailed gathering of evidence including Affidavits from family, staff and other people involved, taken by the police, along with documentation such as file notes, medical records, medication dispensers, house files and other relevant materials.
- On the strength of this evidence a Coroner will then decide if he/she can now finalise the inquiry or determine if it is necessary to have a formal hearing.

Formal Hearing (Inquest)

- A formal hearing must be held if:
 - a Coroner suspects homicide
 - the deceased immediately before death was held in care or custody
 - the identity of the deceased is not known
 - the deceased died whilst escaping or attempting to escape from prison, police custody, an institution or in the process of being detained by Police or Prison Officers
 - the Attorney-General or the Chief Magistrate directs.
- If the investigation is straightforward, a Coroner may give his or her findings on the day of the inquest. Alternatively, the hearing can also be adjourned to a future date in more complex situations.

- The inquest itself may be over within a few hours or it may run over one or more days depending on the circumstances of the case.

The Post Mortem

- A post mortem or autopsy is an examination of a body to determine the cause of death. It is carried out by a forensic pathologist and consists of a full external and internal examination. This can include a microscopic examination of tissue and an analysis of body fluids and tissue when required.
- A post mortem is usually required if the person's General Practitioner (GP) is not willing to sign a death certificate or, if a **Coroner** decides one is necessary due to the circumstances surrounding the death.
- The deceased person's next-of-kin may object in writing to a post mortem being performed.
- If the pathologist finds that the death was not due to natural causes a coronial inquiry would proceed to a summary hearing.

The Estate

- If relatives are not immediately forthcoming, the personal effects of the deceased person, and any money, are to be held by the Public Trust Office. The Public Trustee can be contacted on 1800 068 784.

4.5 Evaluation and Review

- There are many complex issues that might arise in the event of someone dying. Given the legalities and wide ranging issues that can arise, it is important for organisations to consider developing their own policies and procedures.
- When organisations formulate policies, procedures or guidelines for themselves it is important to include a procedure for evaluating their effectiveness and reviewing them regularly to assess whether or not they are still relevant, adequate and effective. This process would be appropriate following the death of a resident.
- Evaluation involves both identifying where policies and procedures have worked and what can be done to improve processes.
- Evaluation should include all staff and, if appropriate, the opinions of others not employed as staff members, who were involved (eg, local area coordinators, nurses, social workers etc.).
- If a summary report on the circumstances surrounding the death has been completed, it can act as an invaluable resource when compiling an evaluation report.

Key Definitions

Affidavit

An affidavit is a written statement signed and sworn on oath before a person with authority to administer it. It is required in order to assist the Coroner to gather the facts surrounding the death of a person. They differ from statutory declarations and undeclared statements which are both unsworn statements.

Disability

Disability means a disability:

- (a) which is attributable to a cognitive, intellectual, psychiatric, sensory or physical impairment or a combination of those impairments; and
- (b) which is permanent or likely to be permanent; and
- (c) results in –
 - (i) a substantial restriction in the capacity of the person to carry on a profession, business or occupation, or to participate in social or cultural life; and
 - (ii) the need for continuing significant support services; and
- (d) may or may not be of a chronic episodic nature.

Expected death

An expected death is when a client has a progressive, advanced disease or terminal illness or when a condition has progressed to the state where curative treatment is not effective and cure is unattainable, or the client chooses not to pursue curative treatment.

Post Mortem

A post mortem or autopsy is an examination of a body to determine the cause of death. It is carried out by a forensic pathologist and consists of a full external and internal examination. This can include a microscopic examination of tissue and an analysis of body fluids when required.

Specialist Disability Services

Specialist disability services are supports and initiatives specially designed to meet the needs of people with disability that are either funded or provided by the Department within the framework of the Act.

Service Provider

A Service Provider is an individual or group of individuals or a body corporate or incorporation that renders or provides specialist disability services other than disability supports provided by carers.

Unexpected death

An unexpected death is when a client dies suddenly and unpredictably.

Related Documents/Legislation

- Department's Incident Reporting and Management Policy
- Tasmanian Disability Services Act 2011
- Workplace Health and Safety Act 1995
- Burial and Cremation (Handling of Human Remains) Regulations 2005
- Child Welfare Act (1960)
- Coroners Act (1995),
- Mental Health Act (1963).