FORMAL RESPONSE

to the Ministry of Justice's consultation on

Coroner Reform and Additional Medical Advice

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Introduction

About AVMA

Action against Medical Accidents (AvMA) was originally established in 1982. It is the UK charity specialising in advice and support for patients and their families affected by medical accidents. Since its inception AvMA has provided advice and support to over 100,000 people affected by medical accidents, and succeeded in bringing about major changes to the way that the legal system deals with clinical negligence cases and in moving patient safety higher up the agenda. The legal reforms of Lord Woolf in the clinical negligence field and the creation of agencies such as the National Patient Safety Agency and the Healthcare Commission have followed after years of campaigning by AvMA.

AvMA is proud of the key role it has played in making clinical negligence a specialism within legal practice. It continues to accredit solicitors for its specialist panel (without membership of AvMA's or the Law Society Panel a law firm is not entitled to a clinical negligence franchise) and promotes good practice through comprehensive services to claimant solicitors.

AvMA believe that appropriate medical advice is essential to ensure that all deaths and particularly those relating to medical incidents are properly investigated so that the evidence obtained from those deaths can be used to inform patient safety and to prevent similar deaths occurring in the future. In many cases, deaths are not properly investigated due to a lack of relevant expertise in deciding which cases should be investigated, what investigations should be carried out and accessing an appropriate medical expert to advise. Not all general medical practitioners have the appropriate knowledge to locate appropriate practitioners and certainly not to advise on all medical deaths particularly when the assistance required is outside of mainstream issues. Adequate funding will be required to enable Coroners to satisfy the public protection role promised by the Ministry of Justice.

SUMMARY
Overview & Key Concerns

- The role of the National Medical Adviser (NMA) should be strengthened and developed to provide practical advice and assistance to Coroners rather than simply issuing written guidance and protocols.

- The NMA's office could provide a helpline for Coroners and Coroners' officers in respect of medical advice and also provide advice on the type of medical expert and the appropriate expert to instruct. The NMA could establish an expert database similar to that already in use by AvMA. It would be impossible to retain centrally sufficient experts to cover all the specialisms required to investigate complex medical deaths, although there may be a case for retaining a central pool of paediatric pathologists.

- Coroners and Coroners' officers require medical training to have a basic understanding of anatomy and medical issues. The NMA should also establish appropriate training courses.

- The DoH proposals for medical examiners do not give sufficient independence from the Primary Care Trusts and therefore, it is suggested that medical examiners should report to the National Medical Adviser and be located in the Coroners office.

- The public protection role of the Coroner would be more easily achieved if the NMA oversees the collation and evaluation of information relating to medical deaths and is responsible for disseminating this to those who would be in a position to act on the information e.g. healthcare trusts, Royal Colleges, National Patient Safety Agency, Healthcare Commission.

- AvMA believe that additional costs would be incurred in a centrally managed contract with a private healthcare consultancy and the most efficient system would be for Coroners to manage their own local budget but to have the benefit of access to a pool of expertise developed centrally in the NMA's office.

3. Additional Local Medical Advice to the Coroners System

3.1 The need

Q1 Is the priority need for additional medical advice at local level to help coroners investigate cases with high medical complexity or are there other needs that are more important?

The priority need for additional medical advice at local level is to investigate deaths with high medical complexity but there are other needs that should be met.

Ensuring appropriate scrutiny of death certification is only part of the process.

In many deaths, the causes of death and the factors leading to the death are often complex. In addition to a sound pathologist's report, Coroners may also need to access an appropriate medical specialist to review not only the post mortem evidence but also the clinical records and witness statements to understand the factors that contributed to the death.

For an inquiry process to be effective, it is essential that it extends beyond the immediate terminal event to explore the causal chain - the events that may have contributed, either directly or indirectly, to the deceased's death. For example, the default position in relation to the majority of deaths of older patients in hospital tends to be that of a finding of natural causes with death being certified as due to pneumonia, heart failure etc. However, an examination of the causative chain may well have revealed avoidable causes such as dehydration, over-medication, or an undiagnosed but treatable medical condition.

Medical input will also be required to analyse and evaluate data obtained, to ensure that appropriate lessons are learned from deaths and that the correct guidance and information is given to prevent similar deaths. In relation to medical deaths this information then needs to be evaluated and disseminated to all Healthcare Trusts.

Although this is can be a costly procedure it is vital in order to prevent similar avoidable deaths occurring.
This level of scrutiny is required to enable the Coroner to fulfill the public protection role envisaged by the Ministry of Justice.

3.2 Providing Local Advice

Q2 What is your preferred option for procuring advice with reasons why? Are there any options not explored above?

On the information provided, it does not appear that sufficient funding will be given to obtain the necessary medical expertise. The sums provided must be considered in the context of the numbers of Coroners and the number of deaths to be covered by this additional funding. The basic funding currently allowed to Coroners by local authorities will not cover additional work of this type.

It is not clear how the budget would be divided between Coroners and whether this would be allocated equally between Coroners and how Coroners would access the additional funding.

AvMA do not believe that a centrally managed contract with a private healthcare consultancy would satisfy the requirements and in addition, the limited monies available would be wasted in the additional cost of obtaining expertise in this way. In any event appropriate expertise could only be built up over time. A third party will introduce additional costs and presumably there will be no greater allocation of budget to allow for this.

It would seem sensible that there is a combination of option A and option C. This would allow a central resource to provide specialist advice to Coroners and if need be to provide a central database to provide appropriate experts to advise on cases. Coroners could feed back and this would allow a pool of expertise to be built up centrally which could be accessed by all Coroners. Ultimately there would be costs savings once the expertise had been accumulated.

However in many cases Coroners would be able to access appropriate medical advice locally if it was felt they had sufficient knowledge.

The budget should remain locally with the Coroner.

AvMA recommends appropriate medical experts to solicitors who wish to investigate clinical negligence claims. The expert is matched to the case and AvMA relies on feedback from the solicitors as a means of ongoing quality assessment. These requirements are analogous to those of Coroners in finding experts to advise in non-mainstream cases.

AVMA has a pool of approximately 1500 medical experts in 122 disciplines. There are also many sub-specialties required to ensure that the appropriate expert advises on the appropriate case. Accordingly, we suggest that the centrally provided resource should be one of providing information as to the appropriate expert to contact rather than retaining experts other than in the areas listed above. Some specialisms and sub-specialisms will be required very rarely and others more frequently.

It would not be realistic to assume that a pool of doctors could be retained to advise on all cases although it may be appropriate to retain specialist pathologist in fields such as paediatrics.

3.3 Integration with proposed Department of Health Medical Examiners?

Q3 Having read the DoH proposals and formed a view on the coroner's need for additional medical advice, what potential role, if any, do you see for MEs in the provision of medical advice to the coroner?

AvMA have concerns about the independence of medical examiners (MEs) as it is proposed they will be employed by the Primary Care Trust. We would have thought it more appropriate that if such medical examiners are to be employed, they should be employed by and report to the National Medical Advisor and be located in the Coroners' office.

However, it must be recognized that no one doctor could provide all the advice required for the full range of cases likely to be faced by a Coroner.

The role of the ME could also be usefully deployed in assisting in patient safety by collating evidence and information to be returned to the office of the NMA and disseminated to all those who might usefully benefit from such information such as NHS Trusts.

4. National Medical Adviser to the Chief Coroner

4.1 What might the role entail?

Q4 What are your views on the potential role of the National Medical Adviser outlined above?

AvMA would hope that the NMA would be able to devise strategies for investigating deaths, ensuring that information relating to any medical death could be collated, analysed and disseminated to satisfy the public protection role of Coroners.

It would seem appropriate that medical examiners should report to the National Medical Adviser and be entirely separate from the Department of Health and Primary Care Trusts.

It would be hoped that the NMA would give more practical support to Coroners rather than simply providing written guidance as suggested. For example, the NMA could through his/her office organise appropriate medical training courses for Coroners and Coroners' officers. All Coroners and Coroners' officers should have some knowledge of basic anatomy and medical issues.

It has also been suggested earlier in this response that the NMA could set up a database to advise Coroners on appropriate experts and to give advice generally on medical matters. In addition to training and publications the NMA could also provide a helpline to provide medical advice to Coroners and Coroners' officers.

The role of the National Medical Adviser (NMA) is a far weaker role than that of the Chief Coroner and would lack any statutory powers unlike the Chief Coroner. The NMA should have a level of independence from the Chief Coroner as there may be competing interests.

4.2 Skills and Experience

Q5 What are your views on the skills and experience necessary for the role, the 'level' of the post, and ensuring the role is attractive to high quality candidates?

The skills and experience described seem to focus on pathology and whilst it is noted that the candidate need only have an understanding of pathology not be a pathologist it seems likely that former pathologists will apply for this as no other medical expertise is required.

AvMA suggest that the National Medical Adviser should be experienced in forensic investigations, for example someone who has experience in investigating clinical negligence claims or other investigative work and could look at the broader picture. These skills would be ideally suited in devising strategies for the coronial service. Ideally the NMA should also have some understanding of medical training and devising research programs.
We have no views as to how the role can be made more attractive from the point of view of career progression.