



HM Government

Section 58 and Schedule 28 to the Coronavirus Act 2020:

Local death management

Statutory guidance for local authorities on Schedule 28
and the Powers in Relation to Transportation, Storage and
Disposal of the Deceased.



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April 2020

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Section 1: About this guidance

This section sets out the purpose and the status of this guidance. It explains briefly the policy background and what relevant powers in the Coronavirus Act 2020 will be covered, as well as how the guidance should be used.

Background on Section 58 and Schedule 28

- 1.1. Section 58 of and Schedule 28 to the Coronavirus Act 2020 (“the Act”) introduce new powers relating to the transportation, storage and disposal of dead bodies and other human remains. These powers were included in the Act to ensure the UK is prepared for a reasonable worst case of deaths caused by COVID-19.
- 1.2. If advice indicates that the number of people who might die from COVID-19 is likely to significantly exceed the capacity to locally or nationally manage the deceased, despite deployment of other contingency measures (for example, action taken by Local Resilience Forums (LRFs) to augment capacity across areas, or additional storage provided by government), local and national government will have the ability to take control of a component or components of the death management process.
- 1.3. The powers of direction will only be used where there is a risk to public health and when scientific evidence and operational advice suggests that it is necessary. Using the powers will help ensure the local death management system continues to work effectively to protect public health and the dignity of the deceased. Personal choice will be respected as far as possible, including local and national authorities having due regard to handling the deceased in a manner that is consistent with the deceased’s wishes, religion or belief.
- 1.4. The powers in Schedule 28 are:
 - **Part 1: Information on capacity.** These powers enable local authorities to require persons, and national authorities to require local authorities, to provide information for the purposes of ascertaining capacity (locally and nationally) to deal with transportation, storage and disposal of dead bodies and other human remains. See section 2 where this is covered in more detail.
 - **Part 2: Directions and other measures to address lack of capacity.** These powers enable national authorities to “designate” a local authority where, as a result of coronavirus disease, there is, or is likely to be, insufficient capacity within that area to transport, store or dispose of dead bodies or other human remains. Once a local authority is designated, that authority can give directions to organisations such as businesses (but not individuals or public authorities) to address capacity issues. In addition, a national authority can give directions where it considers a national or regional response is more appropriate. See section 3 where this is covered in more detail.

- **Part 3: Power to direct local authorities.** These powers enable national authorities to give directions to local authorities where they consider local authorities have failed to exercise their functions properly (either as a burial or cremation authority, or in connection with the transportation, storage or disposal of deceased bodies). See section 4 where this is covered in more detail.
 - **Part 4: Deceased's wishes.** The powers create a legal obligation for local and national authorities to have regard to the deceased person's wishes, religion and beliefs, where known, of the method used of their final committal (i.e. burial or cremation), when carrying out functions under Schedule 28 or under the legislation listed in paragraph 13(3) of Schedule 28. See section 5 where this is covered in more detail.
 - **Part 5: Interpretation.** This part clarifies definitions of terms used in Schedule 28.
- 1.5. This guidance sets out the framework and principles for local authorities exercising these powers.
- 1.6. The Act includes a number of other provisions aimed at relieving pressure in the death management system and to allow funerals to take place more quickly. Please see GOV.UK¹ for further information on the additional provisions.

When does the legislation come into effect?

- 1.7. The Coronavirus Act 2020 received Royal Assent on 25 March 2020. The information-sharing powers (in Part 1 of Schedule 28) can be used now to assist in the COVID-19 emergency. However, as the powers of direction (in Part 2 of the Schedule) are extraordinary measures, they have to be 'switched on' by the appropriate national authority through the process of designating a local authority, before that local authority or the appropriate national authority can use them. The process for this is outlined later in the guidance.

Who is this guidance for?

- 1.8. This guidance is for local authorities in England. A list of what constitutes a local authority for the purposes of Schedule 28 is set out in Part 5 of that Schedule. National authorities also have additional powers under these provisions, however this guidance has been developed for local authorities. Throughout this guidance 'government' has been used in places to refer to the national authority for England; it is anticipated that for England, the national authority would be the Secretary of State for Housing, Communities and Local Government².
- 1.9. The guidance will also be of interest to individuals and organisations involved or with an interest in local death management.

¹ See <https://www.gov.uk/government/publications/coronavirus-bill-what-it-will-do/what-the-coronavirus-bill-will-do#managing-the-deceased-with-respect-and-dignity>

² Any Secretary of State or the Minister for the Cabinet Office is authorised by legislation to be the national authority.

- 1.10. This guidance is relevant for England only. Resilience is a devolved matter. Although the provisions in Section 58 and Schedule 28 apply in Wales, Scotland and Northern Ireland, the respective devolved administrations will develop their own guidance on these powers to reflect devolved differences in local government structures and different legislative positions. These sets of guidance will be published on their government websites after they are made.

How should this guidance be used?

- 1.11. The purpose of the guidance is to assist local authorities in understanding and utilising powers in section 58 of, and Schedule 28 to, the Act by setting out the principles and good practice to follow when exercising those provisions. Local authorities should refer to this guidance when using the relevant powers, recognising the guidance has been written to reflect diversity of local processes and therefore may use hypothetical situations that do not apply in some local authorities.
- 1.12. This guidance does not impose additional legal obligations on parties seeking to make use of the powers, nor is it an authoritative statement of the law. This is statutory guidance which local authorities must have regard to when exercising functions under Schedule 28. The phrase 'must have regard', when used in this context, does not mean that the sections of statutory guidance have to be followed in every detail, but that they should be followed unless there is a good reason not to in a particular case.
- 1.13. This guidance should be read alongside other guidance for local authorities on death management including *Managing the Deceased During a Pandemic: Guidance for planners in England*, and *Guidance for care of the deceased with suspected or confirmed coronavirus*. Details of how to access further guidance is included at Annex A.

Status of this guidance

- 1.14. This guidance is issued under paragraphs 9 and 13 of Schedule 28 to the Act, by the Secretary of State for Housing, Community and Local Government (MHCLG). It is issued through publication on GOV.UK.
- 1.15. The guidance is valid from publication. It will be kept under review and updated as necessary. It will remain valid as long as the powers in the Act are in force.

Section 2: Information about capacity

This section sets out guidance on using the information-sharing powers in Part 1, Schedule 28 of the Act. The template that local authorities should use to request information is included at Annex B.

- 2.1. The powers in Part 1 of the Schedule enable local authorities to require persons, and national authorities to require local authorities, to provide information to assist those authorities to ascertain the capacity to deal with transportation, storage or disposal of dead bodies and other human remains, in a particular area or nationally.
- 2.2. Local Resilience Forums (LRFs) are the principal forums for collecting information on capacity in local death management systems and provide the structures to facilitate effective information sharing between public and private organisations. This coordinated understanding of capacity is vital for managing pressures within the system. The powers in this Part of the Schedule can be used in addition to the LRF arrangements to support and enhance this process, and for effective planning and reporting on a local, regional and national level. All organisations involved in the local death management system should have already been identified and included in LRF planning.

When do these powers become available?

- 2.3. The information provisions in Part 1 came into force on Royal Assent and are available to use immediately to ascertain information about capacity.

When would a request for information need to be made?

- 2.4. Information requests can be made when information is required about the death management system's capacity for transportation, storage and disposal of deceased bodies. Information is critical for facilitating effective death management — for example, if local authorities need to understand the storage capacity in their area in order to identify whether there are, or are likely to be, capacity issues. This information will also be relevant to national authorities in determining whether a local authority should be 'designated' (see section 3).
- 2.5. Local authorities are able to seek the information without using these powers, using the usual methods available to them. This is likely to be the fastest method of getting the information - companies and organisations are likely to be willing to help. **The information request using Part 1 of Schedule 28 provisions should be used if normal processes are not working.** However, local authorities are able to use the Schedule 28 powers to make the request initially, particularly if they believe it is the most effective way to get the information needed quickly.
- 2.6. If an organisation is not cooperating with an information request, either using the Part 1 powers or not, it should be escalated within the LRF for the Strategic

Coordination Group's oversight and, where needed, involvement of the Strategic Coordination Group chair.

- 2.7. Requests for information using the Part 1 powers could be made to assist with the following:
- To support activity coordinated by LRFs relating to local death management;
 - To assess capacity to carry out local death management plans;
 - To evaluate whether additional requests for support are needed (e.g. Military Aid to the Civil Authorities requests);
 - To feed into data or information returns for central government;
 - To assist central government in ascertaining capacity nationally or within a particular area or region, which will also help to inform decisions about designating local authorities.
- 2.8. Some examples of the type of information we would expect to be collected are:
- information from private businesses (such as private funeral homes or crematoria) on their capacity, i.e. number of cremators running;
 - information from funeral homes on their operational status i.e. staff absences;
 - information on workforce, including staff training levels;
 - information on burial capacity in cemeteries;
 - information on consecrated or burial provision for certain religious and community groups;
 - information on vehicles for movement of bodies; and
 - information on excavation equipment for digging of graves.

Authorities can also require that information is shared with other actors who require it (for example neighbouring local authorities who are searching for spare capacity in the region) and/or can disclose it to them so long as it is for the purposes of ascertaining capacity.

- 2.9. The list in 2.8 is not exhaustive and the scope of the provision is broad. If a local authority considers that certain information is reasonably required to ascertain capacity about the transportation, storage or disposal of deceased bodies or other human remains, the powers in Part 1 can be used to obtain that information and disclose that information to others who need it for those purposes (provided there are no relevant legal restrictions on the use or disclosure of that information — please see 2.14 – 2.16). This includes information which may be deemed commercially sensitive – local and national authorities are able to request this information if it is required.

How often is it needed?

- 2.10. The frequency of information returns will depend on the nature of the information request. It will be a decision for local authorities to determine whether information is needed as a one-off return, or whether daily/weekly/fortnightly information will be required. This will depend on the timing of the request and the reason for it. The deadline for receipt of information and the frequency with which it should be provided must be outlined when the information request is made.

- 2.11. Local authorities should bear in mind the additional administrative burden their information requests may pose on organisations. They should ensure that they are not asking for information too regularly if there is a risk that higher priority requests could be delayed as a result.

How can an authority make a request for information?

- 2.12. An information request made under Paragraph 1(1) of Schedule 28 must:
- Be in writing – the template which should be used is at Annex B.
 - Specify whether the information is to be provided to the local / national authority or another specified person. For example, a local authority may request information from a crematorium and specify that the information must be reported to both the local council and central government. This will need to be clear in the request.
 - Specify how the information is to be provided - for example, a telephone call as soon as the information is available, followed up by a confirmatory email. Requests are always needed in writing.
 - Specify when the information is to be provided.

It may be helpful to provide an acknowledgement of receipt of information return to the information provider once they have completed the request.

- 2.13. If practical, local authorities may wish to nominate a single point of contact or contacts within the authority to be responsible for managing information flows using this power. This could help to avoid any duplication of requests, and would also provide a contact point for businesses to highlight any issues or delays to providing the information.

EXAMPLE: Making a request for information

Local Authority A wants to ascertain the total body storage capacity in its area, including all public and private spaces available. It makes a request through local structures to engage with the organisations and agree data collection and use.

An organisation is cooperative but does not provide the necessary information in the timeframe agreed. Attempts are made to obtain the information using normal methods, including involvement by the Strategic Coordination Group chair.

If this intervention by the Strategic Coordination Group chair is unsuccessful the local authority makes a request as outlined above in writing in the template and follows any enforcement action as required.

Restrictions on use and disclosure of information

- 2.14. Information provided under Part 1 of Schedule 28 can only be used or disclosed for the purposes of ascertaining information on capacity to deal with the transportation, storage or disposal of dead bodies or other human remains. In particular, it can only be disclosed to a third party if it is for this specific purpose.
- 2.15. Information provided in a response to a request under Part 1 of Schedule 28 must be processed in accordance with data protection laws. Data of the deceased is not personal data for the purposes of the data protection legislation. However, where data is shared that includes personal data³, the commissioning authority is a data controller and responsible for ensuring processing is compliant with the data protection legislation as defined by section 3(9) of the Data Protection Act 2018. We would expect that the most likely personal data being shared will be next of kin details.
- 2.16. Confidential and market-sensitive information supplied from the industry should be treated appropriately and confidentially. Data should be handled, stored and – when appropriate - destroyed in line with data protection legislation, with reference to a data retention policy to classify and manage the retention and disposal of information⁴.

Which authorities can make use of the powers?

- 2.17. Requests for information can be made by local authorities and national authorities. The guidance below applies to information requested by both national and local authorities.
- 2.18. A list of what constitutes a 'local authority' for the purposes of Schedule 28 is contained in Part 5 of the Schedule, and includes:
- a combined authority
 - a county council, including unitary county councils
 - a district council, including unitary district councils
 - a London borough council
 - the Greater London Authority
 - the Common Council of the City of London in its capacity as a local authority
 - the Council of the Isles of Scilly.

Parish councils are not included in the definition of what constitutes an English local authority. However, as parish councils are often burial and/or cremation authorities, they may cooperate with local authorities to ensure appropriate death management occurs.

³ For example, next of kin data.

⁴ See data protection guidance: <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/principles/storage-limitation/>

How will these powers be enforced?

- 2.19. If a local partner fails to provide information requested under Part 1 within the specified timeframe the request should be followed up highlighting that it is a statutory requirement to comply with the request. If a request is not met this should be escalated within the LRF for the Strategic Coordination Group's oversight and, where needed, involvement of the Strategic Coordination Group's chair.
- 2.20. It is an offence if a request for information by the local authority made under Paragraph 1(1) of Schedule 28 is not complied with without reasonable excuse, or to knowingly or recklessly give false information in response to a requirement under Paragraph 1(1). It is also an offence for a person to use or disclose information for non-authorised purposes. However, a requirement to provide information under Paragraph 1(1) does not require or authorise the disclosure of information which would contravene data protection legislation, such as knowingly or recklessly re-identifying information that has been de-identified without the consent of the controller who de-identified the data contrary to section 171 of the Data Protection Act 2018, or that is prohibited by Parts 1 to 7 or Chapter 1 or Part 9 of the Investigatory Powers Act 2016. In England, a person guilty of any of the offences listed in Part 1 of Schedule 28 is liable on summary conviction to a fine.

Section 3: Directions and other measures to address lack of capacity (Part 2 Powers of Direction)

This section provides guidance on Part 2 of Schedule 28, which gives powers of direction to local and national authorities in order for them to manage capacity in the death management system. It sets out how these powers can be activated by government and how we expect they will be used by local and national authorities. Templates that local authorities should use to issue, vary or revoke directions under this Part are included at Annex C.

- 3.1. The powers of direction enable local and national authorities to address capacity issues in the death management system, through making directions which facilitate the transportation, storage and disposal of the deceased. Before a local or national authority can make directions under Part 2 of Schedule 28, a local authority must be 'designated'.

What is a designation?

- 3.2. A designation is the legal mechanism by which the appropriate national authority 'activates' the direction powers in Part 2. Once designated, these powers are 'switched on' and available for that local authority to use. A designation takes effect when published online, and can be revoked at any time. Once designated, a local authority is able to use the powers of direction to address capacity issues within the death management system.

When would a designation be triggered?

- 3.3. The Secretary of State or Minister for the Cabinet Office will only designate a local authority where they consider that as a result of Coronavirus (i) there is, or likely to be, insufficient capacity in that authority's area to transport, store or dispose of deceased bodies or human remains, and (ii) the powers of direction are likely to be an effective means of addressing those capacity issues (see paragraph 4(1) of Schedule 28).
- 3.4. LRFs are the principal forum for collecting information on capacity within local death management systems and government is already working closely with local areas to monitor and assess capacity. These structures, together with the information provisions in Part 1 of the Act, are designed to identify potential capacity issues at an early point so that government can support local authorities to meet additional capacity requirements. However, the Part 2 powers of direction are an important additional tool to manage capacity, and information on current or forecasted capacity provided through LRFs and Part 1 powers will inform decisions on designations.

- 3.5. Forecasted capacity issues should be raised within a LRF's response structure to the Strategic Coordination Group, where the strategic leadership can jointly consider whether additional powers may be an appropriate course of action, and feed views into government on whether it may be appropriate to put the case forward for a ministerial decision. The Government Liaison Officer (GLO) will be involved in this assessment and can provide a view on whether there is a case for a designation.
- 3.6. The national authority's decision about whether there is, or likely to be, insufficient capacity within a local authority's area will be based on a number of factors which could include (but are not restricted to) the following:
- Local capacity for managing deaths as identified in returns submitted by the LRF including Part 1 information
 - Advice from Public Health England or local public health directors
 - Advice from Scientific Advisory Group for Emergencies (SAGE)
 - A direct ask from a local authority or group of authorities
 - Feedback from Government Liaison Officers in the area
 - Non-compliance of organisations to take appropriate action within their area that assists capacity.
 - Information from the Chief Coroner's Office on coronial capacity
 - An assessment by government of the national capacity picture and predicted trajectory based on ongoing work.
 - Information from the sector (e.g. funeral directors)
 - NHS capacity data (including hospital mortuary capacity).
- 3.7. In assessing whether a designation is required, the government will also consider how the powers could be used to address capacity issues in the local death management system, and what effect they are intended to create, including a consideration of other ways of addressing the capacity issues. For example, if a factor driving local capacity issues relates to hospital practices which can be addressed by changing processes or providing additional resources to the hospital, a designation may not be required.
- 3.8. If information suggests that the conditions in paragraph 4(1) of Schedule 28 to the Act are met, Government ministers will make the decision to designate a named local authority. The Secretary of State for Housing, Communities and Local Government (or other HM Secretary of State or Minister for the Cabinet Office) will make the designation. Government would seek to complete the steps above as quickly as possible, recognising that reaching this point would likely mean swift action was urgently required to address capacity issues.
- 3.9. If the government decides to designate a local authority, the government will inform the local authority of the designation and the decision will be published online on GOV.UK. The designation will take effect at the point at which it is published online. The designation will also be published in the London Gazette as soon as practicable after the designation is made.
- 3.10. The decision to designate will be recorded by government along with details of the rationale to ensure consistency in application. Details of the justification will be shared with the local authority. This will include information on the reasons for

designation, the capacity issue the designation is seeking to address and set out the intended use for the local authority.

- 3.11. **Local authorities will be expected to use the direction in line with this reasoning.** The powers of direction should only be used for the purposes outlined in the designation form. In most cases the local authority designation will reflect all capacity issues (i.e. transport, storage and disposal). This is to avoid the need to further designate an authority, nevertheless, if the reasoning indicates that the primary issue is transportation we would expect the local authority to act within that sphere unless there is good reason to do otherwise (for example at a latter point when other capacity reasons arise). In all cases reasons for the local authorities actions should be recorded.
- 3.12. However, there may be occasions where it is clear that there are only issues with one aspect of capacity (i.e. either transport, storage or disposal but not all) and that it is unlikely that other capacity issues will arise, for example in a case where storage issues arise and the intention is to address this either at local level or regional level. In that case the designation may only reflect that issue (i.e. storage). In those cases we would expect the local authority to issue directions only in relation to storage issues or indeed if the reasons indicate that the designation is to facilitate a regional or national response, we would expect the local authority to not act and leave matters to the national authority to direct. This will be kept under review - if additional factors emerge that would indicate that it would be appropriate for a local authority to use the powers of direction for an alternative purpose, an amended designation could be issued.

Can a local authority request a designation?

- 3.13. If a local authority wishes to request a designation this should be raised to government via LRF reporting structures, including the Strategic Coordination Group. Local authorities will already be working with LRFs and the support of government to manage capacity and put plans in place to avoid reaching the point where these powers are required. A designation can only be made when government consider that the two conditions set out in paragraph 4(1) of Schedule 28 to the Act are met.

What if a local authority is not content with a proposed designation?

- 3.14. We anticipate that decisions on capacity will be taken with the support of and in collaboration with local authorities. Local authority views on whether the designation is an appropriate response will be an important part of the decision-making process. However, government will proceed with a designation if it believes it is necessary to address a lack of capacity, in line with the two conditions in paragraph 4(1) of Schedule 28.

Which authorities could be designated?

- 3.15. Any 'local authority' could be designated using these powers. A list of what constitutes 'local authority' is covered in Part 5 of the Schedule, and includes:
- a combined authority

- a county council, including unitary county councils
- a district council, including unitary district councils
- a London borough council
- the Greater London Authority
- the Common Council of the City of London in its capacity as a local authority
- the Council of the Isles of Scilly;

Parish councils are not included in the definition of what constitutes an English local authority. However, as parish councils are often burial and/or cremation authorities, they may cooperate with local authorities to ensure appropriate death management occurs.

- 3.16. The decision of which tier of local authority should have the designated powers will be determined before designation and set out in the designation. The decision will be informed by the geography of capacity issues and likely use of powers, and advice from the local area and local authorities. Provided the criteria for designation have been met, the local authority/authorities who are considered most effectively placed to use the powers to coordinate excess death functions and address capacity issues will be the authority that is designated. In two tier authorities it may be most effective to adopt a mixed model where the powers are conferred to the districts in some areas and the county for others.
- 3.17. In most cases, it is not expected that mayoral combined authorities would be the most appropriate tier of local government to make use of the direction powers. However, there may be some exceptions, for example in cities where a number of local authorities might be affected, and in these cases, the designation of a mayoral combined authority may provide that powers of direction are only to be exercised by the Mayor where this is most appropriate.
- 3.18. All councils in the local authority area subject to a designation would be expected to cooperate with the designated local authority. Designated local authorities should ensure any local burial authorities are considered and involved where necessary.
- 3.19. The powers of direction will be given to the local authority. It will be for the local authority to decide who should be directed to take actions under Part 2 of Schedule 28 to the Act. However it is recommended that the Head of Paid Service ensures that the statutory monitoring officer is consulted to ensure actions are lawful, and the relevant elected individual is involved.

What is the practical effect of a designation – how can the powers be used by a local authority?

What types of activity could a direction cover?

- 3.20. Once a local authority is designated, a local authority can give directions to support local death management systems. Consideration should be given to how these

can be used alongside the provisions in sections 18-21 of the Act⁵ to streamline the process for registration of deaths. The directions that can be given are broadly defined to provide flexibility as to what may be required to deal with the situation as necessary.

- 3.21. The actions could include (but are not limited to):
- directing whether to bury or cremate a deceased person, having had regard to the legal duties in Part 4 of the Schedule about the deceased's wishes;
 - directing crematoria to operate longer hours;
 - directing funeral directors to have shorter services or to manage the deceased even if they are not the preferred funeral director;
 - directing a business to use their vehicles to transport bodies or resources;
 - directing a shorter time for body storage;
 - directing those with excavation equipment to dig burial spaces under the supervision of those with relevant authority/qualifications; and
 - directing when an action needs to be taken.
- 3.22. There may be circumstances where it may not be appropriate for a direction to apply to certain case(s). For example if the direction would impede a police investigation or breach health and safety legislation. Local authorities should limit the directions to exclude these.
- 3.23. Local authorities will be expected to undertake actions which are in line with the reasoning and rationale set out by government when the designation is made. For example if the reason for designating relates to pressures relating to transportation, local authorities will not be expected to use directions for other capacity issues. See paragraphs 3.11- 3.12).

Who can be directed using these powers?

- 3.24. The directions can be given to businesses such as companies or corporations only, but cannot be given to individuals or public authorities. Therefore they cannot, for example, be used to direct the military or NHS. The only exception is that the national authority can direct local authorities under part 3 of the Schedule. There are no further restrictions on which organisations can be directed or where in England these organisations are based, provided that the activity required by the direction is for the purpose of facilitating the transportation, storage or disposal of deceased bodies or other human remains. There are, however, important considerations for local authorities to take into account when making directions under paragraph 5(1) of Schedule 28 (see 3.25 below).

How should an authority issue a direction?

- 3.25. The powers in Part 2 of Schedule 28 provide local authorities with the flexibility to direct local organisations such as businesses as they consider necessary to facilitate effective death management capacity in their area. However, in making

⁵ Registration of Deaths and Still-births, available at: <http://www.legislation.gov.uk/ukpga/2020/7/part/1/crossheading/registration-of-deaths-and-stillbirths-etc/enacted>

directions, local authorities must ensure they are using the powers effectively and in line with the legal requirements of the Act. Local authorities:

- **Must have due regard to the wishes, religion or beliefs of the deceased, as set out in Part 4 of Schedule 28.** This is critical and local authorities will need to be able to demonstrate how they have met this legal requirement. Further guidance is included in Section 5.
- **Must consider the effect that any direction is likely to have on the ability of the organisation to carry on their normal business.** If an organisation sits outside the death management sector and has a critical role in the wider COVID-19 response, for example refrigeration vehicles, and has indicated they do not have sufficient capacity local authorities should avoid issuing directions unless absolutely necessary. In these scenarios it should be raised within the LRFs response structures to determine the overall impact on the COVID-19 response and agree a final decision on the appropriateness of the direction before it is issued.

In addition local authorities should:

- **Have regard to whether certain groups will be disproportionately affected** by the action they are considering under the Public Sector Equality Duty.
- **Discuss requirements with their LRFs**, as the principal forum for monitoring capacity within local death management systems. Local authorities should also consult local organisations involved, for example local crematoriums or funeral directors, to assess potential actions that may be required to facilitate effective death management.
- **Work with the community to understand how the directions could be used most effectively** including with funeral directors who are likely to have valuable knowledge of the local death management system.
- **Apply fairness, reasonableness and proportionality to their decision making.** The actions taken should be those deemed most effective to address capacity in the area which will inevitably mean extra pressure or requirements on part of the sector or organisations. However, a local authority should be able to justify how activities have been undertaken fairly, as far as practicable.
- **Cooperate with surrounding areas.** It is recommended that, where appropriate, local authorities work together to share capacity, particularly in highly populated cities. If a local authority deems that it is necessary to issue a direction which would have an impact outside of their area, this should be raised through the relevant LRF(s).
- **Ensure that the organisations they direct are carrying out required activities safely.** All action should be in line with Public Health England guidance (see annex for details).

3.26. Once requirements are identified, local authorities should issue the directions using the templates included at Annex C. This includes a template if a local authority needs to vary a direction, and a template for revoking directions which should be used when they are no longer needed.

What records should be kept?

3.27. Designated local authorities and national authorities making directions must keep records. This should include the following information – a record keeping template is included at Annex D:

- who was directed, what the direction was and the date of direction;
- a log of decisions regarding the directions made and rationale for those decisions;
- information on local partners who were consulted in making the decision;
- how they considered the effect of the direction on carrying out normal business has been considered;
- how they adhered to Part 4 legal duties (wishes of the deceased); and
- any equalities impacts.

3.28. The appropriate period for which records need to be kept is a minimum of three years. However, under the GDPR as implemented by the Data Protection Act 2018, personal data, such as next of kin details, should not be kept for longer than it is needed⁶.

3.29. Local authorities must submit records to MHCLG if requested. This will ensure transparency and central oversight. Local authorities should also share with other relevant authorities if there has been working across other local authority areas, for example if the direction applied to a business which operated primarily in another area.

Monitoring

3.30. When a designation is triggered, local authorities should work closely with government and LRFs as the powers are used. When directions are made by a local authority, copies of the direction forms should be copied to government when these are made – contact details will be provided.

3.31. Government will also keep in regular review (i) whether local authorities are using the powers correctly and appropriately, including the points set out in 3.25; and (ii) What impact the powers are having – ongoing capacity returns will be used to determine whether a change of approach or revocation of the designation is required.

When would government make directions?

3.32. A national authority has the power to make directions under Schedule 28, and this power may be used in three different scenarios:

⁶ See data protection guidance: <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/principles/storage-limitation/>

- i. **If the national authority considers that a regional or national response is appropriate**, instead of leaving it to a local authority. This can only be utilised if one or more local authorities are designated under paragraph 4(1) (see paragraph 5(2) of Schedule 28). This course of action may be considered if there is a judgement from the national authority that a regional or national approach is the most appropriate solution. An example of this would be where several local authorities are asking for powers of directions to direct a business to use their vehicles. Instead of designating multiple local authorities in this case, it might be more suitable for the national power to direct the business instead.
 - ii. **If the national authority considers a designated local authority is failing to exercise its powers of direction under paragraph 5(1) of Schedule 28 properly**. In this situation, the national authority can give any direction under paragraph 5(1) that the designated local authority could have given (see paragraph 6 of Schedule 28).
 - iii. **If the national authority considers that a local authority has failed properly to exercise its functions as (a) a burial or cremation authority or (b) in connection with the transportation, storage or disposal of dead bodies or other human remains**. The national authority can give the local authority directions as to the exercise of its functions in connection with the above matters under the powers included in Part 3 of the Act (see section 4).
- 3.33. Options (ii) and (iii) may be considered if ongoing monitoring suggests that powers are not being used correctly, appropriately or at all. These are only options once a local authority has been designated and either following a direction being made by a local authority if it is considered that the local authority has not acted properly or where the local authority has failed to take action in response to a direction within a reasonable period of time. Indicators government will consider are:
- If a local authority is not issuing directions in line with guidance.
 - If a local authority is not moving at the pace required to manage capacity issues, for example there are delays to issuing directions.
 - If the local authority issues directions that are out of scope with the rationale issued by the government,
 - Whether the local authority is adhering to the requirements set out in 3.25.
- 3.34. In these cases, the national authority will clearly communicate what is happening at national level to local authorities.
- 3.35. If a direction made by government conflicts with a direction made by a local authority, the government direction takes precedence to the extent of the conflict in the directions and must be followed (see paragraph 7 of Schedule 28). It is also possible a combination of the directions powers in both paragraph 5(1) and 5(2) could be an effective means of addressing the capacity issue(s), i.e. both a local authority and national authority may issue directions concurrently.

Compensation for affected parties

- 3.36. Businesses who have been issued with a direction may be entitled to compensation (see paragraph 8 of Schedule 28). This compensation could be for:

- costs associated with anything provided in accordance with a direction made under Schedule 28; and
- losses or liabilities incurred in complying with a direction made under Schedule 28.

Compensation will be paid by the local authority except where the costs or losses relate to a direction issued by government under paragraph 5(2) of Schedule 28.

3.37. The government will publish a separate scheme setting out the arrangements for compensation.

What happens in the event of non-compliance?

3.38. If a business fails to comply with a direction, without reasonable excuse, it is an offence and they may be liable on summary conviction to a fine.

3.39. A reasonable justification may be that the business is unable to act against certain individuals due to legal reasons, for example, if doing so would breach GDPR requirements or duties of care under Health and Safety at Work legislation.

Revoking the designation

3.40. As part of ongoing monitoring, government will keep a designation under regular review. A designation must be revoked when the government stops being of the view that the requirements in paragraph 4(1) are met (regarding the threshold for designating a local authority). The decision will be based on the factors such as those set out in paragraph 3.6 – 3.7.

3.41. The decision to revoke the designation will be communicated to the local authority before the formal revocation, so that the local authority can prepare for the powers to be withdrawn. A revocation takes effect when the decision is published online, and will be published in the London Gazette as soon as practicable after the revocation is made. The effect of the revocation is that the local authority is no longer a “designated local authority” and therefore the powers of direction in Part 2 are not available to be used and any existing directions made no longer have effect. Therefore if a direction given by a local authority is drafted to be an ongoing obligation, that obligation will lapse when the designation is revoked. When a designation is revoked, local authorities should ensure that suitable records have been stored and that all persons affected by directions which are still live at that point are informed of the revocation.

3.42. A revocation of a designation does not prevent a local authority from being designated again under Paragraph 4(1).

3.43. The powers of direction will only be available whilst the powers in Schedule 28 are in force. Once the Act has been ‘sunsetting’ these powers will no longer be available.

Section 4: Powers to direct local authorities (Part 3)

This section outlines the powers in Part 3 of Schedule 28, which give national authorities the ability to direct local authorities, and explains when they may be used.

- 4.1. The powers included in Part 3 of the legislation differ from government ‘stepping in’ in Part 2 (paragraph 6) and the ability of the national authority to make directions where a regional or national response is required in paragraph 5(2) as outlined above in paragraph 3.32(ii) in this guidance. In those cases the national authority would be exercising the powers of direction instead of the local authority.
- 4.2. The Part 3 provisions give government the ability to give directions to local authorities about how the local authority should exercise *their* functions in relation to transportation, storage and disposal of dead bodies and other human remains both generally and under the Act and also as burial and cremation authorities.

When would government direct a local authority?

- 4.3. The powers under Part 3 would apply when government deems the local authority has failed to properly exercise its functions in the death management system.
- 4.4. The most likely scenario where this would be used is when a local authority is not willing to use the powers of direction in Part 2 (see paragraph 3.33). In this case, government could direct the local authority to do so. This would mean government does not step in and direct on the local authority’s behalf, but instructs the local authority to do so. If urgency requires, government can step in using paragraph 6 powers.
- 4.5. The decision to give direction to local authorities will be made by HM Government ministers.
- 4.6. Government would give directions to local authorities in writing. The directions must be specific and be related to the storage, transportation and disposal of deceased bodies.
- 4.7. The directions given to local authorities will be revoked in writing when government assesses they have been fulfilled or are no longer required. This assessment would be made based on information government receives from the LRF, Government Liaison Officer, reports from the death management industry, national information reporting mechanisms, and scientific advice. See ‘Revoking the designation’, above.

Section 5: Deceased's wishes (Part 4)

This section of the guidance explains Part 4 of Schedule 28 and the obligations placed on a local authority when considering a deceased person's wishes, religion or beliefs, where known, of the method used for their final committal (i.e. burial or cremation).

- 5.1. The powers in Part 2 of Schedule 28 enable local authorities to direct organisations as necessary to relieve pressures in the death management system and ensure effective working of the system. Local and national authorities under Schedule 28 are under a legal obligation to have regard to the deceased's wishes, religion or beliefs where known. This is specifically to ensure that their preferred method for their final committal, including any requirements they had in relation to their religion or belief (i.e. burial or cremation), is followed.
- 5.2. These matters are sensitive and personal. Whether the deceased should be buried or cremated is of the utmost importance to many people, including those of certain religions and beliefs. As such, religion and belief groups have been consulted on this Schedule to the act, and on this part of the guidance, and these matters must be considered by local authorities before the powers of direction are used.
- 5.3. Local authorities should undertake relevant consultations as early as possible with local religion and belief organisations.

What does this practically mean for local authorities when issuing directions?

- 5.4. This means that local authorities should make a reasonable attempt to ascertain the deceased's wishes for their final committal (whether to be buried or cremated), by:
 - consulting any available record of the deceased's wishes, such as an "advance directive", or hospital notes taken if the individual has died in a hospital
 - contacting and consulting their Next of Kin or family members to understand the deceased's wishes
- 5.5. If unable to locate the deceased's Next of Kin or family members, local authorities shall, where relevant, contact any religion or belief group of which the deceased was a member, if membership of that group was publicly known. Local authorities will be expected to take into account their consultations with relevant religion or belief groups, and follow the guidance given as this could provide a reasonable inference of the deceased's preferred method of committal (i.e. burial or cremation).
- 5.6. If the deceased's wishes for their final committal are ascertained, the local authority should make directions under their powers in paragraph 5 of Part 2 of Schedule 28 so that they receive their preferred method of committal where that is possible – in this respect see further guidance provided in paragraphs 5.13 and 5.14 below.

- 5.7. If the steps at points 5.4 and 5.5 are followed, and the local authority has been unable to discover the deceased individual's wishes, then the local authority will have made reasonable attempts to discover those wishes, and they may issue a direction for committal of the deceased.
- 5.8. Local authorities should also, where possible consider personal preferences for other aspects of the death process, including any requirements they had in relation to their religion or belief, in addition to method of final committal. These considerations must be balanced with operational requirements and the capacity of mortuaries. Government's guidance for care of the deceased with suspected or confirmed coronavirus (see Annex A) must be followed.
- 5.9. Where possible, local authorities should:
- Bury or cremate a body in line with the wishes of the deceased or the family's wishes if the wishes of the deceased are not known
 - Bury a body, or intern cremated ashes, in the appropriate section of a specified burial ground or cemetery based on the wishes of the deceased, including any requirements they had in relation to their religion or belief, such as the removal of ashes in line with wishes.

How should local authorities demonstrate implementation of Part 4?

- 5.10. As set out in paragraph 5(7) of Schedule 28 to the Act, local and national authorities must keep records of the decisions made and the rationale. This must include demonstrating having due regard to the deceased's wishes, if known. This should include the following information – a record keeping template is included at Annex D:
- recording the steps taken to find out the deceased's wishes, religion or beliefs;
 - recording the steps taken to comply with the deceased's wishes, religion or beliefs;
 - recording the decisions taken, including the rationale, for departing from the deceased's wishes, religion or beliefs (if that has become necessary – see paragraphs 5.13 – 5.14 of this guidance).
- 5.11. The appropriate period for which records need to be kept is a minimum of three years. However, under the GDPR as implemented by the Data Protection Act 2018, personal data, such as next of kin details, should not be kept for longer than it is needed⁷.
- 5.12. Local authorities must submit records to MHCLG if requested. This will ensure transparency and central oversight.

⁷ See data protection guidance: <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/principles/storage-limitation/>

Are there any circumstances for which local authorities can make a direction that goes against an individual's wishes, religion or belief?

- 5.13. Making a direction for cremation or burial that would go against an individual's wishes, religion or belief must be the last resort and only used if there is a severe public health risk in not doing so, for example if there was no body storage availability, and no way of alleviating the pressures through other means.
- 5.14. Before this extreme measure is considered, local authorities must nonetheless have regard to the deceased's wishes and demonstrate they have:
- considered whether cremation or burial capacity can be increased using other measures, such as:
 - whether Part 2 Powers of Direction can be used to increase cremation or burial capacity by creating new burial sites, lengthening crematoria operating hours, or, where relevant, ensuring full utilisation of the burial sites of the deceased's religious group.
 - whether the body can be committed in line with the deceased's wishes in an area outside of the local region
 - consulted local community, religion and belief groups to understand whether there are any alternative mitigations available
 - considered whether the body can be stored for longer, embalmed or frozen until it can be committed in line with the deceased's wishes. This is only an option if it complies with public health guidance on storing and handling the deceased, and with the understanding that certain religion and belief groups require rapid disposal of the body after death.
 - sought out best practice and assistance from other local authorities and industry partners.

Section 6: Interpretation

Part 5 of Schedule 28⁸ provides definitions for terms used in the legislation.

This can be found in the print of the Act. It outlines which authorities can use the powers in the Act. In England:

The **'appropriate national authority'** means the Secretary of State or the Minister for the Cabinet Office.

'Burial authority' means a burial authority for the purposes of section 214 of the Local Government Act 1972.

'Combined authority' means a combined authority established under section 103(1) of the Local Democracy, Economic Development and Construction Act 2009.

'English local authority' (referred throughout this guidance as 'local authority') means:

- a combined authority
- a county council, including unitary county councils
- a district council, including unitary district councils
- a London borough council
- the Greater London Authority
- the Common Council of the City of London in its capacity as a local authority
- the Council of the Isles of Scilly;

'Mayoral combined authority' has the meaning given by section 107A(8) of the Local Democracy, Economic Development and Construction Act 2009.

⁸ See <http://www.legislation.gov.uk/ukpga/2020/7/schedule/28/paragraph/14/enacted>

Annex A: Related guidance

It is important that this guidance is read in conjunction with that guidance published in support of specific measures now in effect and other guidance specific to COVID-19.

A full list of guidance for those involved in managing COVID-19 deaths is available at: <https://www.gov.uk/government/publications/guidance-for-those-involved-in-managing-covid-19-deaths/guidance-for-those-involved-in-managing-covid-19-deaths>

Annex B: Template for using the information-sharing powers (Part 1)

Local authorities should use this template when requesting information using the information-sharing powers in Part 1, Schedule 28 of the Coronavirus Act 2020.

As set out in paragraph 2.5 of the guidance, local authorities can seek information without using these powers – in most cases this will be the fastest way of getting information, and industry and other organisations have already demonstrated willingness to support data collection efforts. However, these powers can be used if normal processes are not working, or these powers are considered likely to be the most effective way of getting information.

To: [Organisation / individual's name]
[Organisation / individual's address/email address]

Request for Information under Schedule 28, Part 1, paragraph 1(1) of the Coronavirus Act 2020

[Local authority] requires you to supply the information set out below in the form and manner specified, for the purposes of ascertaining capacity within [local authority's] area to deal with the transportation, storage or disposal of dead bodies or other human remains. This request is made under paragraph 1(1) of Schedule 28 to the Coronavirus Act 2020 ("the Act").⁹

Information requested

- 1) Please provide the information set out below to the recipients listed in paragraph 2 and [by the date **OR** by the dates **OR** as set out] in paragraph 3:
 - a) [Please list the information you are requesting here. Be as specific and clear as possible with any information requests to help ensure the information you receive is useful. Examples of the type of information that you could request are set out in **Annex B(i)**.]

Recipients

- 2) The recipient[s] mentioned in paragraph 1 are:
 - a) [Insert recipient name and address/email address]
 - b) [Insert recipient name and address/email address]

Timing of information

- 3) The information set out in paragraph 1 must be provided by [date] [mandatory].
[Optional: specify other requirements, e.g. one-off or ongoing request, how often information should be provided if ongoing (for example this may be twice weekly if used to support Local Resilience Forums' data returns), etc.]

⁹ Accessed at <http://www.legislation.gov.uk/ukpga/2020/7/schedule/28/enacted>

Other requirements

- 4) Please provide this information [*specify how the information is to be provided* **[mandatory]**] and in what form **[optional]**]

Important information relating to this notice

- 5) It is an offence to fail, without reasonable excuse, to comply with this request or to knowingly or recklessly give false information in response to this request.¹⁰
- 6) Information provided in response to this request may only be used or disclosed for the above stated purpose or for the purpose of complying with an enactment, and it is an offence to use or disclose it otherwise.¹¹ This request does not require or authorise a disclosure which would contravene the data protection legislation¹² or is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016. Confidential and market-sensitive information will be treated appropriately and confidentially. Data will be handled, stored and destroyed in line with the data protection legislation.

If you have any questions about this request, please contact [*relevant contact at local authority*].

[*Name and job title*]

[*Local authority*]

ANNEX B(i): Examples of types of information that could be requested [*N.B. Examples to be removed when template issued*]:

- a) *Information about capacity of burial grounds, including space for individual plots available for use for burials.*
- b) *Baseline storage capacity¹³ and type – e.g. freezer, refrigeration or cold room.*
- c) *Information about any staff shortages, considering the necessary training levels of those staff working for a Funeral Director including staff qualifications, training undertaken, and experience.*
- d) *Data on current and anticipated capacity from Funeral Directors.*
- e) *Data on practices being undertaken at funerals, such as number of attendees.*
- f) *Information on available land for potential burial sites.*
- g) *Information on available slots for cremations.*
- h) *Number of vehicles available.*
- i) *Details on standard operating hours.*
- j) *Details on the geographical area generally served.*

¹⁰ See paragraph 1(3) of Schedule 28 to the Coronavirus Act 2020.

¹¹ See paragraphs 1(4) - (6) of Schedule 28 to the Coronavirus Act 2020.

¹² "The data protection legislation" has the same meaning as the Data Protection Act 2018 (s.3).

¹³ Normal storage capacity without additional temporary measures.

Annex C: Templates for making, varying or revoking directions (Part 2)

Local authorities should use these templates when making, varying or revoking directions under Part 2 of Schedule 28.

EXAMPLE DIRECTION FOR USE BY A LOCAL AUTHORITY

[NAME OF THE LOCAL AUTHORITY]

Coronavirus Act 2020 Transportation, storage and disposal of dead bodies or other human remains (insert addressee) [(No. [x]) insert number if this is not the first Direction given to the addressee] Direction

[insert name of LOCAL AUTHORITY] (“the Authority”), in exercise of the powers conferred by section 58 of and paragraphs 5(1) and 10 of Part 2 of Schedule 28 to the Coronavirus Act 2020¹⁴ (“the Act”), gives the following direction.

The [delete as appropriate **Secretary of State for Housing, Communities and Local Government/Minister for the Cabinet Office**]¹⁵ is of the view that:-

- (a) as a result of coronavirus disease, there is or is likely to be, insufficient capacity within the area of the Authority to transport, store or dispose of dead bodies or other human remains; and
- (b) the powers conferred by Part 2 of Schedule 28 to the Act are likely to be an effective means of addressing that lack of capacity,

and the [delete as appropriate **Secretary of State for Housing, Communities and Local Government/Minister for the Cabinet Office**]¹⁶ has made a designation to that effect on [insert DATE];

Before giving this direction the Authority has had regard to—

- (a) the effect that this direction is likely to have on the ability of any person to carry on their normal business; and
- (b) the desirability of disposing of a dead person’s body or other remains in accordance with the person’s wishes, if known, or otherwise in a way that appears consistent with the person’s religion or beliefs, if known.

¹⁴ 2020 c. 7.

¹⁵ Just delete to leave the name of the relevant minister who made the designation – could also be another SoS if neither or the two named were available at the time it was made.

¹⁶ As above reflect the name of the person who made the designation, will be same as above.

DIRECTION

Person directed

1. This direction is given to [*insert* **NAME OF PERSON**] (“the addressee”).

Directed actions

2. The addressee must¹⁷:
 - a. **[provide the following service(s)]¹⁸**
 - b. **Provide in the manner specified in this direction the following [*insert as appropriate*¹⁹ **services/facilities/premises/vehicles/equipment**]**
 - c. **[to bury or cremate a dead body or other human remains in the manner and location specified]²⁰**

[SUPPLEMENTAL MATTERS]

Record keeping

3. The addressee must keep a record of the steps it has taken in response to the direction in paragraph 2 and retain [those] records for a period of three years from the date of the steps taken.

Provision of information

4. The addressee must, if requested to do so by [the national authority/the Authority²¹], provide information to [the national authority/the Authority²²] about the steps taken in response to the direction in paragraph 2. The information must be provided within 7 days of the date on which the addressee receives the request.

Conflicts

5. For the avoidance of doubt, and as set out in paragraph 7 of Schedule 28 to the Act if this direction conflicts with any direction given by [*insert: national authority*] under either paragraph 5(2) of Part 2 of Schedule 28 to the Act (powers of Ministers to direct regional or national response), or paragraph 6 of Part 2 of Schedule 28 to the Act (“powers of Ministers to step in”), this direction is of no effect to the extent of that conflict.

Duration

6. The direction has effect until the earlier of—

¹⁷ The following list are just examples of directions that may be given rather than an exhaustive list.

¹⁸ List what services you require the addressee to provide, be specific and precise so that the addressee knows what is required of them.

¹⁹ These are only examples taken from the wording of the Act but are not an exclusive list. List here clearly and specifically what you want the addressee to provide and how they are to provide that, for example be clear about the extent of any premises, where vehicles or equipment are required to be taken or if they will be collected etc..

²⁰ Specify whether it is a direction to bury or cremate and where.

²¹ Insert here either authority or national authority or both if relevant

²² As above.

- (a) its revocation by the Authority by a further direction under paragraph 5(1) of Part 2 of Schedule 28 to the Act, or
- (b) the revocation of the designation of the Authority under paragraph 4 of Part 2 of Schedule 28 to the Act.

Signed by, or on the authority of, [LOCAL AUTHORITY]
XXXX
[NAME IN PRINT AND JOB TITLE]

DAY MONTH 2020

EXAMPLE DIRECTION FOR USE BY A LOCAL AUTHORITY TO VARY DIRECTIONS

This form can be used to vary directions issued by a local authority. We suggest that the title of a variation uses the following formulation:

“[Title of the Direction being varied] (Variation) Direction”.

If a second or subsequent variation to the original direction is required then the title of the variation direction should be added, so that the addressee can keep track.

“[Title of the Direction being varied] (Variation) (No [x]) Direction”

[NAME OF THE LOCAL AUTHORITY]

Coronavirus Act 2020 Transportation, storage and disposal of dead bodies or other human remains [insert addressee] (Variation) [(No. [x]) insert number if this is the second or subsequent variation of the original Direction] Direction

[insert name of LOCAL AUTHORITY] (“the Authority”), in exercise of the powers conferred by section 58 of and paragraphs 5(1), 10 and 11 of Part 2 of Schedule 28 to the Coronavirus Act 2020 (“the Act”), gives the following direction.

The [delete as appropriate **Secretary of State for Housing, Communities and Local Government/Minister for the Cabinet Office**]²³ is of the view that:-

- (a) as a result of coronavirus disease, there is or is likely to be, insufficient capacity within the area of the Authority to transport, store or dispose of dead bodies or other human remains; and
- (b) the powers conferred by Part 2 of Schedule 28 to the Act are likely to be an effective means of addressing that lack of capacity,

and the [delete as appropriate **Secretary of State for Housing, Communities and Local Government/Minister for the Cabinet Office**]²⁴ has made a designation to that effect on [insert DATE];

Before giving this direction the Authority, has had regard to—

- (a) the effect that this direction is likely to have on the ability of any person to carry on their normal business; and
- (b) the desirability of disposing of a dead person’s body or other remains in accordance with the person’s wishes, if known, or otherwise in a way that appears consistent with the person’s religion or beliefs, if known.

DIRECTION

1. This direction varies the direction [insert title of original direction here] on [insert original direction DATE].

²³ As above, amend to reflect the relevant minister who made designation.

²⁴ As above amend to reflect the relevant minister who made designation

2. The earlier direction mentioned in paragraph 1 is varied as follows.
3. *[to replace an existing provision with a new one]* For paragraph [x], substitute:
“[new text of paragraph [x].”
4. *[to omit an existing provision without replacement]* Omit paragraph [y].
5. *[to insert a new provision]* After paragraph [z] insert:
6. *[to replace the body of a direction with extensively revised text]* Omit from paragraph [a] to [f] and insert as follows”
“[text of new paragraphs]”

[INCIDENTAL ETC. PROVISION]²⁵

Signed by, or on the authority of, [LOCAL AUTHORITY]
XXXX
[NAME IN PRINT AND JOB TITLE]

DAY MONTH 2020

²⁵ Include here any information necessary as a result of the variation.

EXAMPLE DIRECTION FOR USE BY A LOCAL AUTHORITY TO REVOKE A DIRECTION OR MULTIPLE DIRECTIONS

[NAME OF THE LOCAL AUTHORITY]

Coronavirus Act 2020 Transportation, storage and disposal of dead bodies or other human remains (Revocation) Directions.

[LOCAL AUTHORITY], in exercise of the powers conferred by section 58 of and paragraphs 5(1), 10 and 11 of Part 2 of Schedule 28 to the Coronavirus Act 2020, hereby revokes the following direction(s):

REVOCATION

1. [insert name of Direction] on [*insert date of direction*].
2. [insert name of Direction] on [*insert date of direction*].
3. [insert name of Direction] on [*insert date of direction*].
4. This revocation takes effect on [*insert DATE*].

Signed by, or on the authority of, [LOCAL AUTHORITY]

XXXX

[NAME IN PRINT AND JOB TITLE]

DAY MONTH 2020

Annex D: Template for record keeping

This form is to help local authorities keep the appropriate records of directions (see paragraphs 3.27 – 3.29 and 5.10), and should be filed alongside copies of the relevant designation forms (Annex C).

These records should be kept for three years from the date of direction. However, under the GDPR as implemented by the Data Protection Act 2018, personal data, such as next of kin details, should not be kept for longer than it is needed.

RECORD OF DIRECTION

| Title of direction / reference: | Date |
|--|------|
| <i>Include detail of who was directed and what the direction was</i> | |

Rationale for direction

Describe the rationale for the direction, including:

- decisions regarding the directions required made and rationale for those decision, e.g. how it addresses the capacity problem outlined in the designations;*
- Which stakeholders have been consulted (if applicable)*

Impact on business

Set out how the effect of the direction on carrying out normal business has been considered. This should include any discussions held with LRFs or government on this issue.

Due regard to individuals' wishes, religion or beliefs

Set out how regard to the deceased's wishes, religion and beliefs have been considered, in line with guidance set out in Section 5. This should include:

- recording the steps taken to find out an individual's wishes, religion or beliefs;*
- recording the steps taken to comply with an individual's wishes, religion or beliefs;*
- recording the decisions taken, including the rationale, for departing from the deceased's wishes, religion or beliefs (if that has become necessary – see paragraphs 5.13 – 5.14 of guidance).*

Public Sector Equality Duty

Set out any considerations relating to requirements of the Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010. This requires the local authorities to pay due regard to the need to:

- *eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act*
- *advance equality of opportunity between people who share a protected characteristic and those who do not*
- *foster good relations between people who share a protected characteristic and those who do not.*

The protected characteristics which should be considered are:

- *age*
- *disability*
- *sex*
- *gender reassignment*
- *marriage or civil partnership*
- *pregnancy and maternity*
- *race*
- *religion or belief*
- *sexual orientation.*

Other information

Please use this section to any other information relevant to the designation. This could include:

- *Discussions with other local authorities where a designation has affected another area.*
- *How safety considerations have been taken into account, in line with Public Health Guidance.*
- *Any discussion with government or LRFs relating to the designation.*