

Draft Coroners Bill - Decisions and Actions Required

Decisions

1. *Members are asked to agree the LGA's key lobbying lines for use in negotiations with government and briefings. This will include the discussion with Harriet Harman QC MP, Minister for Constitutional Affairs, planned for this meeting.*

Actions Required

2. *Officers to carry out actions as determined by the Board.*

Action by: *LGA Secretariat*

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Draft Coroners Bill

Summary

1. *The draft Coroners Bill was published for consultation on 12 June with comments due by 8 September. The pre-legislative scrutiny process will probably be by way of parliamentary committee, although this is to be confirmed. This report asks members to agree the LGA's key lobbying lines for use in negotiations with government and briefings. Harriet Harman QC MP, Minister for Constitutional Affairs, will attend the meeting.*

Background

2. *Coroners in England and Wales are independent judicial officials who investigate deaths reported to them and find out the cause of the death. Although coroners are appointed and funded by consortia of local authorities across 129 coronial districts, the coroner is not a local government officer but holds office under the Crown. Coroners can only be dismissed by the Lord Chancellor and have no retirement age.*

3. *Councils are responsible for payment of the coroner's salary and expenses, including administrative support (in some areas the council employs the administrative staff directly). These costs are agreed locally and the Joint Negotiating Committee for Coroners (JNCC) publishes suggested salary scales, for example, whole-time salary levels range from £68,409 to £83,529. The council is also responsible for the costs incurred by coroners in the course of their duties, including the removal of the deceased, mortuary services, medical reports, courtroom facilities etc. There are also statutory fees, determined by the Secretary of State, for post mortems and witness expenses.*

4. *Councils express considerable frustration at the difficulty in controlling the ever increasing costs of inquests and the quality of service to the bereaved. This is because the decisions taken by the coroner, on the basis of professional judgement, are outside council control which creates significant costs pressures in the system. The Coroner is not answerable to the local community for the quality of service provided.*

5. *Coroner's officers receive referrals of deaths and sometimes make the initial decision as to whether a post mortem is required. The cost of Coroner's Officers is usually met by police authorities, although there are locally agreed combinations of funding and employment involving local authorities.*

6. *Following significant failures in the Shipman and Alder Hey cases, both the coroner and death certification systems came under public scrutiny in the Luce report and the third Shipman inquiry report in 2003. The government issued a position paper proposing a national coroners agency in 2004; this would have removed the function from local authorities which the LGA did not oppose as long as appropriate links were maintained with local services. The provisions in the draft Bill do not reflect the position paper.*

The draft Bill

7. The draft Bill will:

- leave appointment and funding arrangements with local authorities and the power to confirm or remove appointments with the Lord Chancellor;
- change investigation and inquest processes and give coroners new powers to obtain information, including medical advice, to help them with investigations and to dispense with inquests in certain cases;
- create new rights for the bereaved;
- establish a Chief Coroner and advisory Coronial Council with the power to hear appeals, commission inspections, provide guidance and promote good practise;
- bring together small areas into whole-time coronial jurisdictions.

PROPOSED LINES TO TAKE

Accountability and governance

8. On 22 May the LGA launched its vision of the future government of localities 'Closer to People and Places' setting out our ambitions for the people and places we represent. Our objectives, shared with the government, are to:

- increase improvements in public services and make better use of public money;
- improve the quality of life and economic performance of cities, towns and villages;
- give people greater power and influence over their lives, their services and the future of the places where they live.

9. At the heart of the new settlement would be local government with responsibility for steering and joining the totality of public services in its area and forging close relationships with local people. There is no reason why coroners services, which deal with people at a most sensitive time and which are financed through local taxation, should not meet the challenge of modernisation and local accountability.

10. While the LGA agrees there is need for a fundamental change in the coroners system to improve public confidence, the Association believes that as long as the ultimate power to 'hire and fire' remains with the Lord Chancellor then the coroner will not be truly accountable, as councils will continue to pay the bills but have no control over performance and policy. We argue that the independent judicial nature of coroners' decision making is not undermined by our proposed governance arrangements as sufficient legal mechanisms exist for those dissatisfied with a coroner's decision.

11. The LGA is calling for the coroners service to:

- either be brought fully into the judiciary as set out in the government's 2004 position paper, or,
- become a fully integrated part of the local authority, working alongside other statutory agencies through Local Area Agreements, accountable to the Local Strategic Partnership.

12. The model in the Bill continues the existing tripartite relationship between Coroner, Police and LA, now to be further complicated by creation of a fourth party, the Chief Coroner. The current arrangements already cause difficulties with responsibilities, accountability and funding.

13. The government's current proposal represents a partial reform falling between the two options above. We believe the following governance and accountability arrangements will ensure a focus on the service user without compromising the judicial aspects of the process:

- joint governance arrangements between councils and the Lord Chancellor;
- the Chief Coroner to be jointly appointed by DCA and ODFM;
- local authority representation on the national advisory council;
- council scrutiny committees to have the power to review coroner's performance, send a report to the Lord Chancellor and request a response within 28 days;
- coroners to be subject to the same terms, conditions and employment policies as other local government officers;
- a 'trigger' mechanism for the bereaved that will lead to a review of the coroner's investigative process (not the decision) by the DCA;
- mechanisms to ensure councils can keep costs under control
- new coronial districts co-terminus with councils, police, criminal justice and health services.

Funding

14. A detailed breakdown of the Bill and the financial burdens that could arise is attached at Appendix A. Additional costs over and above current expenditure must be funded by the Department for Constitutional Affairs (DCA) in accordance with the new burdens protocol. It is estimated that currently LAs spend around £40m per annum providing coroners services. Uncertainties about the future of the service since 2002 mean that some authorities have been reluctant to invest in service improvements, leading to uneven provision around the country.

15. DCA's Regulatory Impact Assessment that accompanies the Bill says £9.4m will go to LAs (including police authorities) as set up costs and £2.4m per annum as running costs. The central bureaucracy will cost £5m to set up and £3.4m per annum to run. DCA's calculations offset savings that are assumed will arise as a result of the minor changes to process in the Bill against the amount needed from central funds to set up and run the new system. We have not yet seen the detail behind these figures which, in any case, would not come on stream for some years. We believe local tax payers must have the right, through their local authority, to challenge the cost of the coroners service.

16. The uncertainty has also led to some police forces threatening to remove long standing funding that supports coroners officers which means that the burden would fall on councils unless a transfer of funding takes place. We are currently in discussion with Association of Chief Police Officers to broker a national protocol for staff transfers.

Implications for Wales

None identified.

Financial/Resource Implications

None identified.

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