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Department for
Constitutional Affairs
Justice, rights and democracy

Coroner Reform: The Government's Draft Bill

Improving death investigation in England and Wales



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Improving death investigation in England and Wales

Presented to Parliament by the
Secretary of State for Constitutional Affairs and Lord Chancellor
by Command of Her Majesty

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DRAFT CORONERS BILL

FOREWORD BY LORD FALCONER & HARRIET HARMAN

Coroners have a vital task, giving certainty and re-assurance to bereaved people, and meeting the public interest by determining the facts of deaths which are reported to them. These deaths may be violent, or unnatural, or of unknown cause. The coroner, supported by his or her staff, will investigate these cases and conclude with a formal inquest. That will give an official finding of the facts, and can identify lessons for preventing future deaths.

Coroners in England and Wales were notified of some 230,000 deaths last year. This represents nearly 45% of all the deaths that occurred in England and Wales, and means that many bereaved relatives and friends have contact with coroners and their staff, as do those working in the health service, the police, local authorities and other public services.

The Government is committed to strengthening and improving the service through this draft Bill.

Our reforms have a three-fold aim. We want the coronial system to provide a better service for bereaved people and for others who are affected by the work of coroners. We intend to create a good national framework and leadership whilst ensuring that the service remains firmly grounded locally. And we are committed to ensuring investigations and inquests are more effective.

There are five key reforms in this draft Bill.

First, bereaved people will have a clear legal standing in the investigation and the processes. They will have new rights to appeal against matters and decisions which concern them. A coroners' charter will set out guidelines and standards to make clear what service bereaved people can expect, and to promote better contact between them and the coroner and coroner's staff. An illustrative draft of this charter, which we have developed in consultation with those who have had substantial contact with the current system, can be found at the back of this publication.

The Bill will introduce national leadership through a Chief Coroner and support staff, and an advisory Coronial Council. The Chief Coroner will be responsible for developing national standards and guidance, supporting coroners and advising Government and for considering appeals against coroners' decisions and responding to complaints. Through the Lord Chancellor, he or she will be accountable to Parliament. Coroners will continue to operate as a local service, appointed and funded by their local councils, and supported by coroners' officers and other staff provided by the local police or local authority, and they will work closely with local health authorities.

The Bill will establish a service consisting of full-time coroners, and will create powers for Ministers to determine the size and boundaries of coroners' areas to ensure effective operation and coordination with other statutory services.

The Bill will modernise the processes for coroners' investigations and inquests and give coroners new powers to obtain the evidence they need for investigations. It will remove archaic boundary restrictions which can currently hamper coroners' investigations, and will make it easier to coordinate action, to work jointly and in other ways to make the best use of the resources available.

It will give coroners new powers to impose reporting restrictions in cases where no public interest would be served by the publicising the details. We recognise public inquests as a powerful and valuable part of impartial and independent investigation,

but we also know of the additional grief and pain that can arise for bereaved people from making public personal details. In some cases, for example some apparent suicides and child deaths, we do not believe that any public interest is served by this process and the bill will give the coroner a power to restrict reporting in these circumstances, by ordering that facts and findings which identify the deceased should not be published.

Although not in the Bill because legislation is not required, we will also be providing coroners with significant new medical expertise to help inform their decision making. There will be a new chief medical adviser to the coroner service to whom the Chief Coroner can look for advice on strategic medical issues, and each coroner will be funded to buy in medical support, in consultation with the local authority, which is best suited to meet local needs.

In these ways we will address weaknesses that have become increasingly evident over the last 20 years. The coroners' system at present is fragmented, non-accountable, variable in its processes and its quality, ineffective in part, archaic in its statutory basis, and very much dependent on the good people working in, or resourcing it, at present for its continued ability to respond to the demands we place upon it.

We are therefore pleased to publish this draft Bill and we welcome the scrutiny that it will now be subject to – from Parliament, from those who fund and deliver the service at a local level, from those affected by its operation, including bereaved people and the groups which represent them, and from anyone else with an interest. The feedback we receive will help us as we move forward to substantive legislation and to introducing the reforms in the years ahead.

This draft Bill will strengthen the coroner service, and those who work within it with such energy and commitment. Our rigorous approach to investigating deaths is not found in all countries, but it has served England and Wales well and, improved by these changes to the law, it will provide an effective and important service into the future for bereaved people and for our society more generally.

Charles Falconer



*Charlie
Falconer*

**Rt Hon Lord Falconer
Secretary of State for
Constitutional Affairs and
Lord Chancellor**

Harriet Harman



Harriet Harman

**Rt Hon Harriet Harman
Minister of State
Department for Constitutional
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INTRODUCTION

This publication is set out so that the Bill is as easy to understand as possible. It begins with an overview of the contents followed by a list of the Bill's measures.

The Bill's clauses and schedules are down the left hand side of the page, with an explanation of the purposes of the clauses on the right hand side.

The final section is an illustrative draft of a charter for bereaved people in a reformed coroner service.

If you would like to comment on the proposals made in this draft Bill, or on the charter for bereaved people, please write to:

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Responses should be received by 8 September, and should include your name (and organisation if relevant) and a contact address. Please let us know if you do not wish for your responses to be made public.

CORONERS BILL – SUMMARY

The Bill replaces the whole of the Coroners Act 1988 although some of the clauses are a reworking of the 1988 Act using contemporary language. Most clauses are new, creating a governance structure and giving coroners powers aimed at improving the effectiveness of investigations, including removing boundary restrictions. Provision is also made to take treasure out of the mainstream workload of coroners.

Background

The policy in the Bill is underpinned by three main aims:

- an improved service for bereaved people and others who interact with the coroner system;
- the introduction of national leadership and improvements to enhance the local nature of the system;
- more effective coroners' investigations.

The legislative changes proposed in the Bill are part of a package of reforms aimed at addressing some of the weaknesses in the present coroner system, identified in the reports of the Fundamental Review of Death Certification and Investigation and the Shipman Inquiry, both published in 2003.

Investigations into deaths

Part 1 of the Bill contains measures relating to the appointment of coroners and investigations into deaths.

Coroners will continue to be appointed and funded by their local authorities. The Lord Chancellor will have power to determine new coroner area boundaries. As there will be fewer coroners (probably 60-65 full-timers as opposed to the current mix of 110 full and part-timers), an initial allocation across the country will be made by the Lord Chancellor in consultation with the Secretary of State for Local Government, and the National Assembly for Wales in relation to Wales. Representations from local authorities will also be considered. Some coroners will be working for a cluster of local authorities. Where this occurs, the Bill will contain provision to establish a lead local authority which will have responsibility for making appointments, with the approval of the Lord Chancellor. Local authorities will decide how many part-time assistant coroners are required in their areas to support full-time coroners, and will be responsible for appointing a pool of such coroners.

The Bill makes a distinction between the coroner's duty to investigate a death and the duty to hold an inquest. This reflects the fact that only about 10% of cases that coroners investigate conclude with an inquest. This new distinction between the investigation and the inquest is reflected in provisions to make (a) rules for inquests, such as the way in which the determination (or verdict) is delivered, and (b) regulations governing other parts of the investigation, such as the commission and conduct of post-mortem examinations.

New provisions are included to remove the need for coroners to investigate certain categories of deaths such as deaths which occurred over 50 years ago and deaths abroad. There are exemptions to allow for investigations of such deaths in certain cases including where it would be in the public interest to do so. This would include, for example, deaths of members of the armed forces killed in military action, or deaths of those where lessons can be learned for the future. There are new powers to assist in the transfer of cases between coroners, with a power for the Chief Coroner to intervene to direct that cases be transferred. Such a provision is aimed at facilitating a co-ordinated operational response to incidents with mass fatalities spanning more than one coroner area.

There are new powers in respect of post-mortem examinations. Under the Bill the coroner can arrange to move bodies to any place for a post-mortem rather than as at present just within his or her area or a neighbouring area. This is aimed at enabling coroners to make better use of specialist pathology skills and specialist equipment where an investigation into a particular death requires it.

Measures in the Bill will update the current law on the suspension and resumption of inquests. These will cover circumstances where other inquiries or investigations are taking place – for example criminal investigations and inquiries under the Inquiries Act 2005 – and will provide for the coroner to be kept informed to enable him or her to take decisions about how to proceed.

The Bill reduces the numbers of jurors required for a coroner's jury and the circumstances in which a jury is required – a jury in the inquisitorial coroner system has a different function to the adversarial criminal courts, and does not need to be as large.

Investigations in relation to treasure

Part 2 of the Bill contains provisions for the role of coroners in treasure cases, which is largely governed by the Treasure Act 1996.

The reform of the coroner system will lead to a change in the way that treasure finds are dealt with. The Bill provides for one designated coroner, the "Coroner for Treasure", who will deal with treasure across England and Wales. The aim of this is to release local coroner resources to focus on the investigation of deaths and ensure specialist expertise is directed at the treasure process. Where hearings are necessary, they can continue to be held in a range of locations around the country.

The Bill will amend the Treasure Act to encourage reporting of treasure finds, by extending the reporting responsibility to those who come into possession of treasure and not simply those who discover it.

Further provision in relation to investigations and deaths

Part 3 of the Bill contains more detailed provisions about investigations and deaths. It includes:

- measures to enable coroners to obtain information and evidence relevant to investigations. There are provisions for coroners to have increased power to require information to be provided to them and new powers to enter and search premises, and seize property.
- provisions for the protection of children including a power to direct that a child gives evidence via live link or unsworn.
- measures aimed at ensuring early release of bodies by requiring the consent of the Chief Coroner for retention for a prolonged period – this is designed, in particular, to prevent abuses by defendants in criminal cases who might insist that the body is retained on the remote possibility that it may be a significant source of evidence.

Governance

Part 4 of the Bill contains provisions for governance. The key measures are:

- the appointment of a Chief Coroner
- the establishment of a national Coronial Advisory Council
- appeal rights for interested persons against coroners' decisions and
- powers for the Chief Coroner and Lord Chancellor in setting and reviewing standards.

A person to be known as the Chief Coroner will be appointed to head the service. He or she will have a role in relation to providing training for and guidance to coroners, receiving complaints and hearing appeals against coroners' decisions and determinations, and providing an annual report and advice to the Lord Chancellor in respect of the coroner service. The Bill includes provision for Deputy Chief Coroners to be appointed to support the Chief Coroner. It is intended that one full-time Deputy will be appointed with other Deputies appointed as locums to hear appeals as required. The Chief Coroner can sit as a coroner, and has a power to invite the Lord Chief Justice to nominate a judge to preside over a particularly complex case.

The Bill creates a new appeals system with appeals against decisions or determinations of a coroner going to the Chief Coroner. Any further appeal is to the Court of Appeal on a point of law only. This provides a new simple route for bereaved people to challenge coroners' decisions.

A new council to be known as the Coronial Advisory Council will provide advice and make recommendations to the Chief Coroner and Lord Chancellor on policy and operational matters relating to the coroners service. It is intended that the Council will include members of the public who have had dealings with the service.

Provision is made to enable the Lord Chancellor to issue guidance, which will include how bereaved people can participate in investigations and details of their rights. It is proposed that this will take the form of a Charter for Bereaved People.

There will be requirements for coroners to provide regular information to the Chief Coroner, to enable him or her to monitor standards and to provide annual reports to the Lord Chancellor.

Supplementary

Part 5 of the Bill contains supplementary provisions, including the abolition of the office of coroner of the Queen's household. In future, any investigation which would have been carried out by the coroner of the Queen's household will be carried out by the coroner for the area where the death took place (unless, for example, the Chief Coroner directs another coroner to carry it out).

Coroners Bill

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