Draft Coroners Bill

Regulatory Impact Assessment

12th June 2006

Coroners Division
Department for Constitutional Affairs
Ground Floor
4 Abbey Orchard Street
London SW1P 2HT

Regulatory Impact Assessment

Draft Coroners Bill.

Contents

Title of proposal 1

Purpose and intended effect 1

- Objectives 1
- Background 2
- Rationale for government intervention 2

Consultation 4

Costs and benefits 7

- Sectors and groups affected 7
- Equity, fairness and diversity impact 12
- Options, costs and benefits 14
- Funding approach 28

Impact on small firms 29

Competition assessment 31

Enforcement and sanctions 32

Compensatory simplification 34

Implementation and delivery plan 35

Post-implementation review 36

Summary and recommendations 36

Declaration and publication 37

Title of proposal

Draft Coroners Bill

Purpose and intended effect

Objectives

1. The Bill aims to modernise the current coroner service so that it:

   - provides a more effective service for bereaved families and others who are touched by the service

   - has good national leadership, as well as the best features of a locally based service

   - can carry out more effective investigations.

2. In order to achieve this, the Bill will provide for six key reforms to the investigation of deaths by coroners.

   i. Bereaved people will be able to contribute to coroners' investigations to a greater extent, raising any concerns about a death, even where a death certificate has been issued. A coroners' charter will set out the service that bereaved people can expect.

   ii. National leadership will be introduced with guidance and support from central government, a Chief Coroner, and a Coronial Advisory Council.

   iii. Coroners will become full-time, and their current boundaries will be reshaped to create a smaller number of jurisdictions.

   iv. Investigation and inquest procedures will be modernised, and coroners will have new powers to obtain information to aid their investigations. Boundary restrictions will be removed allowing improved co-ordination in situations such as incidents with mass fatalities.

   v. Coroners will have a new discretion to prevent the publicising of personal detail if there is no public interest in doing so.

   vi. Coroners will have better medical advice and support at both local and national level to assist them in their investigations.

3. The Government has also examined further the earlier proposals that all deaths in England and Wales[1]should be subject to an additional independent medical

[1] 513,000 in 2005,

scrutiny by the coroner service[2]. The Government has decided not to proceed with such scrutiny for all deaths. Its decision took into consideration the concerns driving these proposals, balanced these against the risks of over-regulation and high costs, and decided that the Bill providing reform to the coroner service was the best way forward. These reforms will be complemented by initiatives the Government is developing aimed at improving patient safety and promoting quality in the NHS.

Background

4. Coroners investigate deaths reported to them where there is reasonable cause to suspect that the death was violent or unnatural, or was sudden and of unknown cause. Coroners must also investigate deaths that fall within certain public interest categories, such as deaths in custody. For all these cases where a death is reported the body must be lying within the coroner's district. Coroners may commission post-mortems to help ascertain the cause of death and they conclude their investigations with inquests: public hearings where the cause and other facts of the death are determined

5. In 2005 there were 513,000 deaths in England and Wales, 232,400 (about 45%) of which were reported to coroners. There were 114,600 post-mortems and 29,300 inquests. There are currently around 120 coroners' jurisdictions of varying sizes. Most coroners are part-time, otherwise working as solicitors or doctors. All coroners must be legally or medically qualified.

6. Coroners are appointed and funded by local authorities who pay the coroner and meet the coroner's costs (e.g. for inquests, mortuary storage and pathology). The police, in most areas, provide coroners' officers whose role is to undertake or manage the investigation and liaise with bereaved people.

Rationale for government intervention

7. Since the mid-1990s questions have been raised about the effectiveness of the current inquest system. Major disasters such as Hillsborough, Zeebrugge, the sinking of the Marchioness and the complexities of investigating particular cases, such as deaths occurring in police custody or in prison, have added to the debate about the effectiveness of the coroner service.

8. Cases involving the unauthorised removal and retention of body parts from post-mortem examinations – largely without the coroner's knowledge – have also called into question how coroners operate.[3]

---

[2] As proposed by the Shipman Inquiry (chaired by Dame Janet Smith) Report III, and the Fundamental Review of Death Certification and Investigation (chaired by Mr Tom Luce)
[3] The Interim Report of the Bristol Royal Infirmary Inquiry 2000; The Investigation into Organ Retention at Central Manchester and Manchester Children's University Hospitals, 2001; The Royal Liverpool Children's Inquiry Report, 2001 (HC12-11)

9. The subsequent Fundamental Review of Death Certification and Investigation (2003) and the Third Report of the Shipman Inquiry (2003) examined the coroner service, and identified:

   - an absence of quality controls and independent safeguards
   - the exclusion of the family and friends of those who have died
   - a lack of consistency, leadership or training by or for coroners
   - a lack of involvement of the family in coroner investigations
   - the unnecessary use of public inquests in some cases, and
   - an absence of medical knowledge.

10. They found a service which is fragmented, non-accountable, variable in quality and consistency, ineffective in part and very much dependent on the abilities of those working within it at present. The changes set out in the draft Bill will address these weaknesses and provide a coroner service fit for the 21st century giving bereaved people a higher level of service and protecting the public interest where there are issues of concern.

Consultation

Public consultation on proposals in the draft Bill

11. The proposals in the draft Bill result directly from the two key public enquiries into the coroner service and the Government Position Paper[4].

12. The Fundamental Review, chaired by Mr Tom Luce, and the Shipman Inquiry chaired by Dame Janet Smith, involved wide consultation, including professional representatives from the legal and medical side, emergency services and those who work with bereaved people[5]. The Shipman inquiry took 276 witness statements and 36,000 pages of documentary evidence, whilst the Luce inquiry consulted over 500 individual stakeholders in England and Wales alone. The Government has considered both of these reports in the preparation of this draft Bill.

13. The Home Office Position Paper, published in March 2004, brought together recommendations from Smith and Luce and was circulated widely amongst interested parties. Nearly fifty separate responses to this paper were received from a broad section of stakeholders following publication. The circulation included:

    - coroners and coroners' staff
    - local authorities
    - the police
    - health professionals
    - British Medical Association
    - pathologists
    - funeral industry representative bodies
    - burial authorities
    - cremation authorities
    - faith groups
    - family representative groups.

14. Subsequent to the Position Paper the Government worked closely with key stakeholders via workshops and other fora, to help shape further the specific ideas. These included workshops with coroners, discussions at the Coroners' Advisory Group, Ministerial participation in the Coroners' Society annual conference, meetings with representatives of coroners' officers, the police and local authorities, and meetings of faith group representatives, and of voluntary organisation representatives.

15. These discussions and consultations were based on the broader proposals in the Government Position Paper, although with indications of the developing thinking. However the significant elements of the proposals now embodied in the draft Bill, were consulted on – either as part of the Luce / Smith Inquiries or Government Position Paper, or separately by the Home Office and DCA. These key changes

---

[4] Home Office Command Paper 6159, published March 2004

[5] Groups which have a particular interest in supporting families through the bereavement process.

that have been publicly discussed include:

- a system of mainly whole-time coroners
- larger coroner areas to support that structure
- appointment of a Chief Coroner to give professional leadership and improve standards
- appointment of an advisory Coronial Council including representatives of the bereaved
- discretion to restrict publication of detail from an inquest if no public interest is served
- exemptions on the duty to hold inquests into deaths occurring abroad (which will arise only, as now, when the body or human remains are returned to England and Wales)
- reduction in the categories of deaths where it is mandatory to call a jury
- rights of appeal or review for bereaved people or interested parties
- services for bereaved people set out in a charter
- provision for the service to be audited or inspected
- the power to appoint judges to investigate complex cases
- a retirement age of 70 for coroners.
- appointment of a Chief Medical Adviser
- improvements in medical advice and expertise for the coroner's office

Note – in respect of these latter two items, the introduction of the Chief Medical Adviser role and of mechanisms to obtain improved local medical advice, primary legislation is not required. Therefore there is no explicit reference to either in the draft Bill itself.

16. What is now required, is further consultation on these changes as a coherent and sustainable reform package. This is the process to be embarked on now via both the forthcoming pre-legislative scrutiny, and the family scrutiny outlined by the Government when announcing the changes in the House of Commons on 6 February 2006.

Cross Government consultation

17. Throughout the development of these reform policies a programme board has been in place to monitor progress, give advice, and facilitate communication and engagement across Whitehall. The board has had an active input into the final shape of reform and individual members have raised issues of particular concern to their department. The membership of the board is those departments that have a close interest in the subject and is as follows:

- Department for Constitutional Affairs (Chair)
- Cabinet Office
- H M Treasury
- Office for National Statistics
- Department of Health
- Office of the Deputy Prime Minister

- Home Office
- Northern Ireland Court Service.
- Welsh Assembly Government

18. In addition other departments have been consulted on specific issues, including:

- the Foreign and Commonwealth Office on inquests into deaths abroad
- the Department for Culture, Media and Sport on treasure
- the Attorney General's Office on appeals policy
- the Lord Chief Justice's Office on appointment of the Chief Coroner
- the Department for Education and Skills on safeguarding children issues.

19. The Domestic Affairs (DA) Committee cleared the policy to enable the drafting of the Bill to begin early in 2006, and had previously cleared the Government Position Paper in 2004.

20. Departments have welcomed these current reforms as being a sensible and proportionate response targeting scarce additional resources to make the most impact on the service to bereaved people and the wider public interest.

Consultation next stages

21. The decision to proceed by way of publication of draft legislation gives opportunities for further consideration and consultation. It will involve pre-legislative scrutiny, possibly by the Constitutional Affairs Select Committee (CASC). CASC are also carrying out their own inquiry into reform of the coroner and death certification system, and have already taken evidence from Dame Janet Smith, Tom Luce and Michael Burgess, the coroner for Surrey and the Queen's Household.

22. The Government announced in Parliament (6 February) its intention that there will also be the opportunity for pre-legislation consideration by families who have had recent experience of the coroner system. This will provide a further opportunity for examination of the proposed reforms by those with recent direct experience of the service.

23. In addition regional meetings will take place with those working in or resourcing the service locally, together with further national meetings with representatives of stakeholders and users.

Costs and benefits

Sectors and groups affected

24. This reform process will affect the individuals who work within the service, those public bodies that currently fund it (local authorities and the police), and other organisations that interact with the service in some way. Most importantly the reforms will have a positive effect on bereaved people who are served by coroners and their staff.

Bereaved people

25. The needs of bereaved people are central to the rationale for change. The new service will be more transparent and give a better quality of all round service. A new and improved charter will clearly set out what can be expected. National guidelines will establish expected levels of service, and provide consistency in the service that members of the public can expect, the procedures and processes they will experience, and the opportunities they will have to participate. National leadership will facilitate a higher profile for the service, so that the public are more aware of its functions and of how they might make use of it, particularly if they have concerns about a death.

26. New appeal and complaint arrangements will improve the service to the public. An appellate function for the new post of Chief Coroner will remove the need to seek judicial review or appeal to the High Court in order to pursue issues arising from investigations, including inquests.

27. Bereaved individuals will have a new right to challenge a coroner's decision to order a post-mortem.

28. The issue of the service available to those living in rural areas will be carefully considered. While the reformed system will comprise fewer coroners overall, they will be working in a whole-time capacity. Therefore access to the service will not deteriorate, and most likely improve. Further consideration as to how this issue might best be addressed will take place during work on implementation.

Those currently working in the coroner service

Coroners

29. The reforms are aimed a creating a largely whole-time coroner service by removing the smaller part-time jurisdictions (ie those where the workload is not sufficient to justify a full-time coroner). There will therefore be a reduction in the overall number of coroner posts (from around 120 currently to around 60-65 in the new system).

30. Coroners in the reformed service will need to be legally qualified, but provision will be made for current coroners with only a medical qualification to be eligible for the new service. Fair arrangements will be negotiated for those coroners not moving into the new service.

31. Coroners in the new service will have better support centrally and national leadership for the first time. At local level they will have new access to medical advice and expertise for their investigations, and the service will also have a Chief Medical Adviser.

32. National posts will provide elements of a career structure for the first time, and the potential for a general system of senior coroners for larger jurisdictions and assistant coroners should also provide opportunities for career progression.

33. The commitment to improved and extended training, and the intention to require induction training for new coroners before they take up post, will provide a more professional service. The development of training for coroners' officers and support staff will give coroners better trained staff.

Coroners' officers and staff

34. Coroners' officers are employed by the police in the majority of coroner districts and provided by the local authority otherwise, either directly employed or arranged by the coroner and funded by the local authority. These arrangements will not change though both the police and local authorities will be encouraged to discuss whether a transfer of coroners' officers from the former to the latter makes sense (this has happened successfully in a number of areas). It is not expected that the Bill will change, directly or indirectly, the total number of coroners' officers and staff. In terms of working procedures these proposals will give coroners' officers and staff more flexibility in conducting investigations effectively. Any change in location will be for local decision.

Current local government funders of the service

Local authorities

35. Local authorities will retain responsibility for funding their local coroner service. In line with the Government's new burdens doctrine the DCA is committed to funding the net additional costs falling on local government (including police authorities) arising from the proposed reforms. We estimate these costs to be £2.4m in running costs and £9.4m in transition (one-off) costs at current prices. In practice it may be better for some costs to be managed and met centrally (eg for coroner systems software changes). The cost of the central components that the reforms introduce – eg Chief Coroner, Coronial Council - are estimated to be £3.4m in running costs and £5.0m in set-up costs and will be funded by the DCA.

36. There may be some opportunities for local authorities to make economies of scale savings when existing districts are grouped to produce larger ones. This has generally been the case where local authorities have voluntarily amalgamated (typically there are two or three such amalgamations per year).

37. In the longer term local authorities may benefit from lower unit costs as more benchmark information becomes available (from the Chief Coroner) and a specific opportunity lies in reduction of the post-mortem rate which is a key cost driver and nationally high by international standards. A fuller description of the funding approach is given in paragraphs 70 to 78.

Police authorities

38. Police forces currently provide 90% of coroners' officers to support the coroner (although in some areas the coroner's officers have transferred to the local authority as noted above). These arrangements will continue in the reformed service. Whilst there will be no additional burden on the police in this respect, the Bill's confirmation that this is the way forward will end a period of uncertainty for the police as to their responsibility for coroners' officers and enable them to commit to their effective resourcing. It may well be the case that local service level agreements between the coroner and the police on coroners' officer provision will help give greater certainty.

Voluntary organisations

39. There are probably around 100 voluntary organisations that have an interest in protecting the welfare of the public within the funeral process. Such groups will need to be aware of the changes in provision, in order to advise members of the public most appropriately. Benefits should result for these groups as outlined in the section on bereaved people above.

Business

40. The provisions in the draft Bill do not impact directly on business. Once a coroner has taken jurisdiction of a death it is entirely a public organisation matter until the coroner's functions have been discharged. However those in the funeral and cremation industries will need to be aware of the changes, and the DCA will provide material to launch the new service.

The funeral industry

41. The industry includes large organisations such as the Co-Operative Funeral Service and small independent companies that cater for a specific locality. The reforms in the draft Bill will not directly affect the way in which such firms will operate. However, they will need to be aware of any changes in broad terms and of any local changes in coroner organisation.

Crematoria

42. There are approximately 200 crematoria in England and Wales of which around 10% are privately owned; the remainder are owned by local authorities. The process for cremation will not change as a result of the Bill (although there may be separate changes in cremation legislation) so there is no additional burden. Again, crematoria will need to be aware of any coroner organisation changes.

Her Majesty's Courts Service, Crown Prosecution Service (CPS) and Legal Aid

43. Her Majesty's Courts Service fund and administer court buildings, and the CPS provide prosecution costs. Proposed increases in penalties for existing offences and penalties for the few new offences proposed should not lead to any significant additional burdens on the courts or the CPS. The number of such cases is currently minimal (probably less than ten a year) and any addition is likely to be small, possibly another five or so cases a year.

44. There may be a slight upward pressure on Legal Aid demand for inquests resulting from the new appeal procedure that forms part of the proposals in the draft Bill. This has been calculated at about £500k which consists of £400k for Legal Help and £100k for exceptional funding. Funds to cover this have been included within the overall cost estimates for the draft Bill proposals.

Medical professionals involved in death certification

45. The overall process for certifying deaths will not change under the draft Bill proposals and therefore this will have little impact on those doctors who complete the medical certificate of cause of death and (in a private capacity) complete the further certificates required when the body is to be cremated. This equally applies to crematoria referees who complete an additional certificate just prior to the actual cremation. Again these individuals will need to become familiar with the broad policy changes to coroner work and any local changes as a result of coroner area reconfiguration.

46. In addition guidance enabled by the draft Bill will seek to set out the criteria for reporting a death to a coroner more clearly. The aim is to reduce variability. For doctors who need to contact coroners with informal enquiries about deaths the reforms will provide, overall, greater availability of coroners, a more professional service, and one better informed by the new requirement to make medical advice available to coroners.

Civil registrars

47. Registrars are responsible for registering births, deaths and marriages within specific geographical areas. They register deaths on receipt of information from coroners, as well as checking whether deaths certified by doctors should be reported to the coroner. At this stage there is no indication that the draft Bill will lead to any significant impact on how a death is registered but DCA and ONS have worked together to make minor changes to The Births and Deaths Registration Act 1953 and will continue to work closely on the detail; minor software changes may, for example, be necessary.

Museums and metal detectorists

48. The reform of the coroner system will lead to a change in the way that treasure[6] finds are dealt with. The draft Bill provides for one designated coroner who will deal with treasure across England and Wales. The aim of this is to release local coroner resource to focus on the core business of investigating deaths and ensure specialist expertise is directed at the treasure process. Interested parties will therefore need to know of this change. The overall treasure system will be more efficient and effective, and where hearings are necessary (in about 20 cases each year), they can continue to be held in a range of locations around the country.

[6] Treasure is any item found made of more than 10% gold or silver which is over 300 years old, and in the case of coins, two or more such pieces. It also includes ten or more bronze coins more than 300 years old found in the same locality. Currently treasure finds must be reported to the local coroner within 14 days of the find. The Secretary of State can also designate other items as "treasure" by statutory instrument (one such SI has been made, the Treasure (Designation) Order 2002 (SI 2002/2666)).

Equity, fairness and diversity impact

49. A weakness of the current service is its variable standard. How an individual family interacts with and is treated by the coroner service will vary from area to area. In some jurisdictions the needs of bereaved people are taken fully into account, the process is explained well and rights and obligations are made understandable. Inequitably, this does not happen in other areas.

50. In the reformed system one of the central aims is to reduce this variability and have consistent practices and procedures across England and Wales. The Chief Coroner will be charged with achieving this.

51. These reforms will not adversely affect any group of individuals or sectors of society. Instead, the universal benefits of the reforms can be realised from a coroner service that is more sensitive to the needs of bereaved people, provides them with the right information at the right time and consults them on key aspects during investigations and inquests. This will be achieved in two ways:

    - a charter for bereaved people setting out national standards for the treatment of families, victims and witnesses

    - statutory provisions giving new rights and benefits to next of kin, for example, to make representations about and appeal decisions made in relation to the retention of bodies and human remains.

52. The post-mortem procedure can be controversial, irrespective of race or culture. Where a coroner decides a post-mortem examination is required the next of kin will, wherever practicable, be told in advance. They will be told the reason for the examination and the reasons why a non-invasive approach or limited examination will not suffice. In all cases the family will be given an opportunity to raise any objections and to appeal to the Chief Coroner if they are ultimately not convinced of the need.

53. To avoid increasing the grief of bereaved people and to respect sensitivities about publicity, coroners will have the discretion to impose reporting restrictions of some details. This would be for cases where the coroner judged that no public interest would be served by reporting, for example, some suicide and child death cases.

54. It will be essential, in the new service, that the delivery is not adversely affected in some rural areas by the proposal to have larger coroner jurisdictions. Decisions about areas and boundaries have yet to be made and will then be the basis for local delivery plans. At both the macro and micro level local delivery and access (particularly in relation to the location of inquests) will be a key criterion.

55. These proposals do not produce any adverse impact that solely affects one race, faith or ethnic grouping. A number of proposals will give coroners more flexibility in addressing the needs of different groups whilst not being detrimental to the rest of society, as in the following examples:

- Many current coroners are aware of the religious and cultural sensitivities and needs in their locality. They have built up good links with, for example, local Muslim groups. These coroners respond to the need for speedy burial or cremation by certain groups and can be flexible in making arrangements to meet those needs – for example by scheduling a quick post-mortem. They do this whilst being sensitive to the needs of others and maintaining the public interest.

- The aim to professionalise the service by whole-time coroners, better training, spreading best practice and other means, will again help ensure all coroners work in the way described above and are sensitive and respond to the needs of different cultural, faith and religious groups. The new Chief Coroner, will remind coroners of their responsibility in this regard if they fail to discharge it satisfactorily.

- The issue of post-mortems has been raised earlier. There are some faiths where an invasive procedure runs contra to the tenets of that faith, for example the Jewish faith. A post-mortem can establish as firmly as possible the cause of death, but the post-mortem rate in this country is high and it is possible that it could be reduced without damaging the effectiveness of the service. In the reformed system, with a Chief Medical Adviser and local mechanisms for medical input, it is probable that the number of unnecessary post-mortems can be reduced – thus reducing anxiety for families and being particularly welcome to particular faith groups. We are also removing the restrictions which coroners currently have to work within whereby post-mortems have to be carried out in their own area or a neighbouring area. In the reformed system, if a coroner is of the opinion that a non-invasive examination will satisfactorily establish the cause of death he will be able to request that kind of post- mortem irrespective of where it would be carried out.

- The proposals will give bereaved and other interested persons the opportunity to challenge coroner decisions through the new review and appeals route, as well as the opportunity to be consulted before decisions are taken. These benefits will be of particular advantage to families wishing to question decisions on the grounds of their religious belief. The aspects of the reform that may have a bearing on faith issues are the provisions relating to post-mortems, release of bodies and organ retention. Improvements to the investigation and inquest process will ensure that there are fewer unnecessary delays at each stage.

56. The appeals process

- The Chief Coroner will have an appellate function. Parties will not require legal representation to appeal to the Chief Coroner, although it is anticipated that for the cases where Legal Help, and exceptionally Legal Aid, is granted for the inquest, this will also be available on appeal. As stated in paragraph 44 above, this has been calculated at around £500k a year.

- The draft Bill will provide for the Chief Coroner to be able to review any decision made by a coroner or any determination made by a coroner or a jury. We propose to include a non-exhaustive list of decisions that can be appealed in the legislation. The Chief Coroner will also be able to substitute his own decision for that of the coroner, and be able to order costs.

- The Chief Coroner will be able to hear appeals orally, although it is intended that almost all appeals will be determined on the papers. We cannot be precise about how many appeals the new system will generate.

- The draft Bill will make provision for the appeals procedure to be determined in rules to be made by the Lord Chief Justice with the agreement of the Lord Chancellor. This will include the manner in which appeals are to be brought and any time limits.

- Appeals from decisions of the Chief Coroner will be to the Court of Appeal on a point of law only. This route of appeal will replace the existing reliance on judicial review and the statutory route of appeal to the High Court under the authority of the Attorney General. This simpler route of appeal is intended to be more transparent and accessible to interested parties to coroner investigations, but in particular to bereaved people.

57. In summary the new system will be fairer in the round, and overall more sensitive, and able to respond to the needs of different religious, faith and ethnic groups.

58. As already stated, the proposals draw on the Fundamental Review of Death Certification and Investigation (2003) and Shipman Third Report (2003), where extensive consultation was undertaken with a wide range of groups and individuals on these issues. We have continued to consult faith groups as our policy has developed, most recently in February 2006.

Options, costs and benefits

59. The options have been considered at two levels.

At the **top level,** options within the scope of reforming both the coroner and death certification systems were considered

A Do nothing
B Total reform of coroner service and death certification (2004 Position Paper)
C Focus reforms on improving the coroner service (in its present scope of investigating all deaths reported to it)

At the **second level**, option C has itself been taken forward and appraised as four separate options

C1 – Very limited change; progressing through continuous improvement
C2 – Whole-time coroner districts
C3 – Enhanced service, still locally based
C4 – Unified national service

Top level options

Option A – do nothing

60. Under this the system would continue as at present, non-accountable, with limited focus on bereaved people, and unable to cope with the demands placed on it by modern society. Expectations of change created by the Home Office Position Paper of 2004 would not be met.

Benefits	**Disbenefits**
Affordable No disruption to present service	Present poor level of service continues Present variability across the country continues Those currently in the service might start to leave Signals lack of interest from the Government Risk of further high profile incidents

Assessment: – not tenable. Fails to address any of the fundamental weaknesses identified by Dame Janet Smith and Tom Luce.

Option B – total reform of coroner service and death certification.

61. Under this all the changes would be made as outlined in the Home Office Position Paper of 2004. These included:

- an independent check on the cause of every death, provided by a reformed coroner service, requiring medically qualified personnel within coroners' offices, and the dismantling of the current cremation checking procedure
- a unified national coroner service, with effectiveness, efficiency, common standards, accountability, professionalism and leadership
- a greater focus on bereaved people, who can contribute information to investigations, and who need rights within the service
- better mortality information to assist the prevention of further avoidable deaths and inform public health planning

62. In framing the proposal for referring all deaths to the coroner service, it was recognised that many or most deaths would not raise cause for concern - the coroner, or representative could certify quickly and the body could be released. However the decision was that no death could be safely judged a priori, for example on the basis of age or previous health problems. Dame Janet Smith's conclusion was that a practical definition of an ‘expected death’ was not possible to make. She and Tom Luce concluded that any system providing safeguards on the certification of death therefore needed to cover <u>all</u> deaths.

63. Further analysis has shown that the cost of implementing a separate, independent second check on all deaths by the coroner service would have cost an extra £40m - £50m per year plus start-up costs of £30m.

64. Modelling work in Northern Ireland on a similar system also showed that additional delays of one or two days might be incurred in such a system. There are cultures in England and Wales where a quick burial or cremation is critical and we believe such a delay could be unacceptable. Small scale pilots of the medical examiner function were carried out and the results indicated the potential difficulty of implementing such a system. Collating and bringing the information required to make a properly informed judgement about the need for further investigation into one place was likely to take significant time – even more so in those areas where electronic record keeping was patchy (whilst electronic patient record keeping is improving, it is by no means complete).

Benefits	**Disbenefits**
Full response to Shipman and Luce reports and fulfils Position Paper proposals	Expensive – need substantial additional medical resource
Deterrent effect from universal check, although no assurance that abuse of death certification system would be reduced	Potentially overly bureaucratic in having every death subjected to an additional medical scrutiny
Potential for improved level of service from the coroner service	Unproven benefits of a second check particularly in relation to cost
	Does not align to best risk management practice
	Risk of insufficient good quality applicants for the medical examiner role
	Big disruption and may lead to loss of focus on improvements required in coroner service itself

Assessment: - the Government is not convinced that the additional benefits of such an approach indicate that this is a cost effective way to proceed, particularly when set in the context of the other improvements that the Department of Health is leading on patient safety and quality in the NHS. This option was therefore ***rejected*** on the basis of the risks of high cost and excessive bureaucracy with unproven benefits.

Option C – focus reforms on improving the coroner service (in its present scope of investigating deaths reported to it)

65. Whilst both the Luce and Shipman reports identified weakness in general death certification much of their criticism was directed towards the coroner service. In particular they identified that the system did not cater well for the bereaved, that there was too much variability in standards and practices and that the system relied too heavily on coroners who carry out the role on a part-time basis. These weaknesses could be addressed by a set of reforms that are significant, yet narrower in scope than those outlined above in Option B. Furthermore it was envisaged the costs involved would be more compatible with DCA's overall financial position, and the skills required to develop and implement the change more in line with the Department's expertise and experience.

66. The Department of Health is leading a series of improvements on patient safety and quality in the NHS. These health improvements will complement the coroner service reforms to create an environment where the risk of another Shipman operating for so long undetected is much reduced.

Benefits	**Disbenefits**
Focuses on areas of expertise that DCA has – legal and court	Leaves current death certification processes untouched
Less expensive than B	
Affordable	
Doesn't rule out wholesale changes to death certification in longer term if benefits outweigh costs	
Complements changes on patient safety and improving quality led by DoH	
Addresses most of the coroner service deficiencies identified by Dame Janet Smith and Tom Luce	
Much improved coroner service investigations and inquests and dealing with bereaved	

Assessment: – prima facie evidence that focusing on reforming the coroner service itself would be more affordable, but moreover more proportionate to the risks involved and the DCA's expertise in court based systems.

Summary Table of top level costs / benefits analysis

Option	Add. Costs	Additional Benefits	Overall assessment	Recommendation
A. Do nothing	Zero	Zero	Fails to address any of fundamental weaknesses of coroner service	Not acceptable
B. Total reform of coroner service and death certification	£40m - 50m p.a. Up to £30m start-up costs	Better service to bereaved Better investigations. Unified service with oversight of whole system of monitoring, investigating and assessing deaths.	Risk it will be too costly and bureaucratic, with unproven benefits.	Not acceptable
C. Focus reforms on improving the coroner service	£1m - £16m p.a. Start-up costs up to £30m	Better service to bereaved. Better death investigations	Better value for limited funds and potentially affordable.	Progress for further analysis

67. Second Level Options

Option C1 - very limited change; progressing through continuous improvement

This option would seek maximum benefits for minimum costs. It would improve investigation/inquest processes and effectiveness, plus boundary relaxations for handling major emergencies. It would give some central leadership. It would continue to develop training, work with bereaved people and performance monitoring. However, it would have no effective means of directing (rather than encouraging) consistency, flexible use of resources, common standards and approaches for the service to the public, personnel management, accountability or forward planning. Because it would leave untouched the numbers of coroners, the part-time status of the majority, and their fragmented appointment and resourcing, it would also limit any voluntary changes requiring funding.

The changes. It would provide most of the changes in the Home Office Position Paper (2004) for process and procedure for investigation and inquest (subject to new legislation). These include new powers to obtain information, fewer requirements for juries, the discretion not to hold a public inquest in limited cases (for example suicides) where no public interest would be served, and relaxing outdated boundary restrictions on post-mortems and hearings. Coroners would be encouraged to appoint medically qualified doctors as deputies if a need for additional medical expertise exists. A Chief Coroner would be appointed (by statute) and a national advisory Coronial Council established. The DCA would be more active in the appointment process for coroners – improving quality in the long run. Existing improvements would continue on training, performance management, peer assessment, work with bereaved people, a basic charter, and district amalgamations where there is an opportunity. There would be no basic changes to the current structure, districts, or appointment/resourcing/accountability arrangements.

Timing assumptions. Coroners Bill given Royal Assent Oct 2007, new processes and procedures introduced by October 2008 (NB timings and cash flow for all options depends on parliamentary time).

Costs and cash flow

Start - up	Running (p/a)	Cash Flow	06/07	07/08	08/09	09/10	10/11
£3.2m	£0.6m	(£k)	1,400	2,400	1,100	600	600

Main benefits

- low cost
- timing is dependent only on new legislation
- some central leadership
- streamlining, modernising investigation and inquests for greater efficiency and with more focus on bereaved people

- more effectiveness in handling cross-district major emergencies
- co-operative working with coroners to develop training, model family charter and other initiatives, supported by strong positive central lead
- could provide scope for later move to a national service

Main disbenefits

- no change to current structure which is fragmented, non-accountable, variable and unreliable
- limited direct means and levers for Chief Coroner to require improvements, to ensure common service and performance standards
- future efficiency savings very difficult to drive through
- continuing low professionalism and low accessibility to the bereaved, with retention of part-time coroners for most districts
- ability of coroner to challenge medical establishments remains low due to insufficient medical knowledge in the office

This option was *rejected* as it was considered that it did not do enough to address the range of weaknesses in the coroner service. Whilst the procedural improvements would be welcomed, and a Chief Coroner could go some way to providing an overview on best practice, the step change required in professionalising the service could not be achieved in this way.

Option C2 - whole-time coroner districts

This option would have all the inputs of Option C1 - procedural improvements, some central leadership, some training, work with bereaved people and performance monitoring - and would add to these comprehensive boundary reshaping to give whole-time coroner jurisdictions[7]. This shifts the service from a predominantly part-time basis to a system with a cadre of professional, full-time coroners, all of whom will be fully focused on their coronial work. This gives greater potential for the centre to work together with coroners and for improved performance at the local level. However it means major upheaval and still leaves fragmented appointment, resourcing and operation which will require significant effort from DCA to create major national improvement.

The changes. As with Option C1, it provides most of the changes in the Home Office Position Paper for process and procedure for investigation and inquest (subject to new legislation). Furthermore existing improvements would continue, and a Chief Coroner would be appointed (by statute) and a national advisory Coronial Council established. The Secretary of State would have new powers to determine the size and boundaries of coroner districts creating up to 42 whole-time coroner districts linked to court boundaries. The DCA would be more active in the appointment process. These coroners would continue to be appointed and funded by local authorities, and there would be no basic changes to current resourcing and accountability. National inspection arrangements would be introduced with power for the Lord Chancellor to direct action in accordance with recommendations.

Timing assumptions. Royal Assent for legislation Oct 2007. New processes and procedures introduced by October 2008. Restructured districts and whole-time coroners April 2009.

Costs and cash flow

Start - up	Running (p/a)	Cash Flow	06/07	07/08	08/09	09/10	10/11
£12m	£2.7m	(£k)	1,000	3,500	10,000	2,700	2,700

Main benefits

- improved all round performance through a service made up of full-time, professional coroners
- gives the opportunity to 'refresh the mix' and create more diversity in a service currently quite homogeneous
- limited cost
- some central leadership (as before), which will have greater impact with full-time coroners
- potential, with larger jurisdictions, for greater commitment by lead funding authorities

[7] Note jurisdictions could be reduced still more and the service further rationalised to align with and take advantage of any police force amalgamations that may happen in the future, depending on timing.

- improvements in implementing common standards and responding flexibly to move coroner resource as required
- full-time coroners better able to respond to the needs of the bereaved and to cultural sensitivities in their community, establishing local networks
- (as before) streamlining, modernising investigation and inquests for greater efficiency and with more focus on bereaved people; more effective handling of cross-district major emergencies; co-operative working with coroners to develop training, model charter for the bereaved and other initiatives, supported by strong positive central lead
- demonstrable action on reform
- recognises value of local delivery and local provision
- (as before) provides scope for later move to a national service.

Main disbenefits

- coroner/district changes consume resources, and mean major upheaval, for limited benefits
- still leaves coroners dependent on a mix of police authority and local authority support
- still limited means and formal levers, for Secretary of State/Chief Coroner to require improvements, or ensure common service and performance standards
- potential for variation in performance but much less than for Option C1
- future efficiency savings still difficult to drive through (but easier than Option C1)
- ability of many coroners to challenge medical establishments remains low due to insufficient medical expertise.

This option was *rejected* on the grounds that it did not go far enough in providing the level of central leadership, accountability and governance that the service required. Further the Government consider that bereaved people needed to be served by an appeals procedure and that the general low level of medical knowledge in the service needed a specific remedy.

Option C3 - enhanced service, still locally-based

This option has all the inputs of the first two options - full-time coroner districts, procedural improvements, some central leadership, some training, work with bereaved people and performance monitoring - and strengthens the national arrangements for supporting the service so that it can operate on a unified basis to the maximum extent short of a single service. A central Treasure Coroner would deal with all treasure inquests relieving this duty from local coroners. In addition a central medical team is put in place and local access to independent doctor input is funded. It will mean major change, and the service will remain with lead local authorities for funding, appointments and operations, but it becomes more central to their business and in turn local authorities become more responsive to central requirements.

The changes. The option has all the inputs of Options C1 and C2, so provides full-time coroners, procedural streamlining, a Chief Coroner and Coronial Council, a Treasure Coroner, a Chief Medical Adviser. It provides a higher level of central leadership, support and investment, in terms of the headquarters operation, inspection, training and development, and performance monitoring/management. It provides (at central cost) basic IT applications for all coroners and staff. A central medical adviser and team is put in place and local mechanisms are set up to give coroners access to independent doctors for advice. Coroners would continue to be appointed and funded by local authorities, with no basic change to current resourcing and accountability. An appeals process to enable coroners decisions to be challenged other than through expensive Judicial Review is also put in place. A Treasure Coroner operating nationally takes on the duty from area coroners.

Timing assumptions. Royal Assent for legislation Oct 2007. New processes and procedures and part of head office functions introduced by October 2008. Restructured districts, whole-time coroners and remainder of central role April 2009.

Costs and cash flow

Start - up	Running (p/a)	Cash Flow	06/07	07/08	08/09	09/10	10/11
£14.5m	£5.8m	(£k)	1,600	3,800	11,700	6,400	5,800

Main benefits

- (as before) full-time coroners, shift from a part-time service, greater potential for joint working with a diverse, ‘refreshed’ mix of professional coroners fully focused on this work
- central leadership focused on integration and improvement
- rights of bereaved strongly underpinned by introduction of appeals process
- (as before) streamlining, modernising investigation and inquests for greater efficiency and with more focus on bereaved people; more effective handling of cross-district major emergencies; co-operative working with coroners to

develop training, charter and other initiatives for the bereaved, supported by strong positive central lead

- ability of most coroners to challenge medical establishments greatly improved due to local mechanisms for independent doctor input and central medical expertise (incl potential for reducing post-mortem rate)
- Treasure responsibilities centralised to enable area coroners to focus on death investigation

Main disbenefits

- additional investment of central funding and other resourcing, major service-business change
- in spite of greater central investment than Option C2, direct levers still limited for Secretary of State/Chief Coroner to require improvements, or ensure common service and performance.
- will be a challenge to develop and implement a model that allows adequate central guidance and control whilst funding remains with local authorities and police
- Implementation inevitably more difficult than for single organisation as needs to be done in partnership with local authorities and police
- future efficiency savings still a challenge to drive through (but easier than in previous options)

This option was *accepted*. It was deemed to be the most cost-effective, and one where the limited additional resources available would directly improve front-line performance. Although the administration and funding would still be distributed this grounded the service firmly at local level and would work nationally with a service-wide framework. This option also addresses the weakness in medical knowledge by bringing in a Chief Medical Adviser and providing funds for local access to medical input. It was considered this option could make the step change in performance required in the coroner service, was affordable and provided best value for money amongst all the options outlined here. This option is now being taken forward in the draft Bill, and forms the basis of discussion in the remaining sections of this document.

Option C4 - unified national service

This option would create a single national service organisation, possibly as part of a DCA agency. It would make Ministers accountable for providing effective means for a consistent, flexible, responsive, efficient public service, with common standards for the public, an enforceable charter for the bereaved, leadership, accountability, inspection and internal appeals processes for the public. It centralises forward planning and efficiency savings. It has a national career structure for its coroners (who will be full-time) and staff. But it has the highest cost of the four options and will need a major change programme and upheaval for the service.

The changes. A new national organisation would appoint all coroners (who would be part of the new service), employ all other staff and own all resources. It could be separate from, or part of, DCA or one of its agencies. Local government and the police would no longer have direct involvement and would transfer over resources, staff and funding (totalling £66m - £70m). The leadership would have powers and responsibilities to direct and manage the service, ensure that it is effective and cost-efficient, introduce common standards for service to the public, and promulgate a Family Charter. Coroners would be whole-time and allocated to specific areas while having jurisdiction anywhere in England and Wales. The service would deploy them flexibly for best use of resources and to respond to shifts in demand. The service would respond nationally to major incidents and mass fatalities. Local teams would be unified for the first time, with common line management. Coroners and other personnel would have a national career structure and continuing training and development. All the procedural improvements would be included and some could be introduced in advance of the structure/governance changes.

Timing assumptions. Coroners Bill given Royal Assent Oct 2007. Some new processes and procedures introduced by October 2008. New organisation begins April 2009.

Costs and cash flow

Start – up	Running (p/a)	Cash Flow	06/07	07/08	08/09	09/10	10/11
£31m	£17m	(£k)	1,700	5,600	21,500	18,000	17,000

Main benefits

- effective introduction and enforcement of good practice, common standards for public, charter for the bereaved, complaints/appeals process
- leadership and public accountability
- enables comprehensive co-ordinated forward planning, resource management, efficiency savings
- single career structure for coroners and staff, management of personnel
- single system of medical expertise to support service
- (as for previous options) streamlining, modernising investigation and inquests for greater efficiency and with more focus on bereaved people
- one co-ordinated approach to major emergencies and exceptional cases

Main disbenefits

- highest cost option which would require using additional resources that could be allocated to another area of DCA business or invested for greater benefit
- high overhead cost for relatively small organisation
- national organisation no guarantee of best possible service
- risks losing the benefits of a locally delivered service and integration with other local services
- money invested in reorganisation rather than improved benefits

This option was *rejected* because it was unaffordable, and because it was considered that the additional costs incurred in setting up a separate organisation that are not related to purely operational delivery (eg pension crystalisation, payroll amalgamation) did not, in particular, represent good use of resources. The Government is not convinced there is evidence to show that a step change in performance can only be achieved by creating a separate national coroner organisation.

Second level option appraisal summary

Option	Additional costs	Overall assessment	Recommendation
C1 Very limited change	£0.6m p.a. £3.2m start-up	Fails to address fundamental weaknesses	Not acceptable
C2 Whole-time coroner districts	£2.7m p.a. £12m start-up costs	Insufficient improvement in weaknesses and lack of national framework.	Not acceptable
C3 Enhanced service, still locally based	£5.8m p.a. £14.5m start-up costs.	Cost effective, addresses weaknesses and balances local and national dimensions	Acceptable
C4 Unified national service	£17m p.a. £31m start-up costs	High cost for centralised system with risk of lack of proportionate benefits	Not acceptable

New coroner areas

68. These reforms require a change to coroner areas to create a smaller number of larger coroner areas across England and Wales. In determining new boundaries the Government will have regard to boundaries and boundary changes and developments of related services, particularly health, policing and local government, to ensure co-terminosity for management and operational benefits.

69. The number of coroner areas may not equate to the number of full-time coroner posts. It would be possible under the draft Bill to create single coroner areas with teams of coroners operating within them.

Funding approach

70. The DCA expect to provide funds (both start up and running) for new requirements in the Bill both centrally and where required through to local government funders.

71. DCA expect to provide funding centrally to recruit, set up, and run all the new leadership and governance structures - the Chief Coroner, Coronial Council, Treasure Coroner, and Chief Medical Adviser. The funding will also cover the inspection and appeals arrangements which will both be centrally organised and administered. The cost of providing some professional training for coroners has been met by the DCA in the past and this will continue to be the case in the new service.

72. The DCA expect to provide local authorities (through the most appropriate mechanism) with one-off funding estimated at £9.4m to cover the following transition costs:

- selection costs for new coroner roles
- potential payments relating to current posts (if applicable)
- induction training for all staff prior to commencement of new service
- production of a local implementation plan
- publicity and launch of the new service
- case transition from the old to new service
- changes to local IT software required as a result of new or changed procedures.

73. In addition the DCA plan to provide local authorities with funds estimated at £2.4m to cover the following on an on-going basis:

- new arrangements for local medical advice
- more training for coroners
- greater funds for expenses for coroners to cover larger areas

74. Local authorities and the police will continue to be responsible for meeting the cost of delivering the coroner service in their area on a day-to-day basis and of providing the adequate infrastructure to do so. The Chief Coroner will promulgate national standards that reflect an adequate level of service to the public, and it will continue to be the responsibility of local authorities to resource at an adequate standard.

75. Local coroners will need to interact with the Chief Coroner and other leadership bodies in a constructive way which will include, for example, providing performance and other management information. Local coroners will have access to a range of guidance and advice on best practice, efficiencies, unit costs etc as well as professional development. The net effect of the new relationship with the centre will be of benefit to the local coroner and no additional funds will be provided to the local authority specifically in relation to this interaction.

76. The reforms should produce a reduction in inquests and a number of opportunities for efficiencies.

- Caseload reductions - the number of inquests requiring juries will decrease. In addition responsibility for Treasure will be removed from local coroners.
- Larger-jurisdiction efficiencies - previous amalgamations of existing coroner districts have taken place, with cost reductions through economies of scale.
- Best practice and unit costs - there are likely to be further savings available to local authorities both through a better understanding of the costs of service across England and Wales (unit costs vary greatly currently) and via the spread of best (efficient and effective) service. Both these opportunities will be facilitated by the DCA-funded Chief Coroner and team.
- Better medical advice, both centrally and locally, should enable an overall reduction in the post mortem rate which is a key cost driver in the system. If this is achieved significant savings will be forthcoming.

77. There may be some one-off infrastructure costs (eg changing IT and estate arrangements) associated with creating new and larger areas which will need to be borne by local authorities. In most, if not all cases, those costs will be offset by future economies of scale and efficiencies as well as the caseload reduction as indicated above. In those exceptional cases where a lead authority can demonstrate that the amalgamation creates costs that will not be recouped in a reasonable period the DCA will fund the difference.

Agreeing the detail with ODPM and LGA

78. Detailed issues and the practical arrangements will be the subject of consultation between DCA, ODPM and the LGA. Under the approach outlined above the DCA considers it will be providing sufficient funds to cover the net additional costs falling on local government. Subject to the necessary legislation the intention would be that additional funding provided to local authorities will be included in the Local Government Finance settlement that covers the year from 2008/09.

Impact on small firms

79. The coroner service has limited interactions with three groups of small firms - funeral directors, pathologists and body removers. The reforms in the draft Bill are concerned with effective process, structure and management and do not affect the nature or quantity of those interactions. We assess the impact of the draft Bill proposals on small businesses as minimal and insignificant.

Funeral Directors

80. Around 4,000 businesses in England and Wales operate in the funeral market. Some are large national organisations (eg Co-Operative Funeral Services) and some are small local businesses that fall within the small business criteria. The reforms in the Bill will not impact on the way in which these firms do business, but they will need to be aware of the changes in general and of any changes in contact details for coroners. This should not be onerous, and is a situation that arises to a limited extent at present whenever new coroners are appointed or coroner districts amalgamated or varied.

81. The DCA will produce material on the major policy changes to distribute to these firms closer to the implementation date. It is also likely that a number of public events will be held open to all businesses that interface with the coroner in some way.

82. Allowing £100 per firm for familiarisation with policy and local delivery changes gives a sum of £400,000 for the impact in this sector.

Pathologists

83. Pathologists are commissioned by coroners to undertake post-mortems (114,600 in 2005), generally on a private fee based arrangement. The creation of a reformed service may lead to some reduction in the number of post-mortems - which is high in this country by international standards - but this will be a matter for the Chief Coroner and Chief Medical Adviser to review and any change in trend will not be immediate. We assess the impact on these professionals as being minimal. They are generally salaried employees of the health service with other demands upon their time.

84. In relation to forensic pathologists, who provide more specialist examinations and operate more on a freelance basis, demand for these services outstrips supply currently and even with a reduction in post-mortems this is still likely to be the case.

85. Like funeral directors, pathologists will need to become familiar with the reformed system and any local changes. There are currently around 700 – 800 pathologists regularly carrying out coroner post-mortems in England and Wales. Again if £100 is factored in for this the total resource implication is about £80,000.

Body removals

86. In a number of coroner areas the local authority has contracted out to a private firm the business of moving bodies from the scene of death to a mortuary where it appears that a coroner's post-mortem will be required. The number of such firms is not large (less than 100 in England and Wales), and in some cases this is carried out by local undertakers. Again these firms would need to become familiar with any local structural changes. In some cases the change may result in a need to re-tender the service.

Competition assessment

87. There are no indications that the proposals will have a significant impact on competition in any sector as they will not alter the structure of any markets to any extent.

88. The reforms will lead to a decrease in the number of coroners, and a more national outlook will prevail with the introduction of a central organisation. However, it is not expected that this will lead to any impact on the local structure of the funeral industry.

89. In relation to provision of mortuary[8] and pathology services the exchange of costs information and benchmarking will bring greater competition into the market and potentially drive down unit costs. There is anecdotal evidence, for example, that there are some older mortuaries that are not financially viable and the national outlook provided by the Chief Coroner is more likely to expose whether and where this is the case.

[8] Mortuary provision is by the public sector, either via local NHS hospitals or (especially in London) via Local Authorities. However mortuary provision could still be made more efficient through effective competition.

Enforcement and Sanctions

90. In order to ensure that the new processes and duties are observed, it will be necessary to put in place appropriate offences and penalties. In many instances, this will reflect existing provisions, but in some instances the penalties will be increased. This is necessary to ensure they act as an effective deterrent to abuse and reflect the importance which the Government attaches to compliance. The table below sets out the details. As specified the actual number of enforcements is very low (less than ten) and may go up by no more than a handful. The impact on the court and prosecution agencies will therefore be negligible.

Existing enforcement provisions

Provision	Penalty	Comments
Disposal without lawful authority	Level 1 fine[9]	
Failure to notify date, place and means of disposal	Level 1 fine	
Removal of body outside England and Wales without notice	Level 1 fine	
To bury or permit burial of still-born children without authority	Level 1 fine	
Failure to provide information for the purposes of registration of a death	Level 1 fine	
Falsifying certificates etc	Level 1 fine	
Failure by juror to attend, or refusal to serve	A fine not exceeding £1000	
Failure by witness to attend an Inquest, or refusal to answer a question	A fine not exceeding £1000	
Failure, upon finding an object reasonably believed to be treasure, to notify the coroner within 14 days	Level 5 fine or imprisonment for a term not exceeding 51 weeks (or 3 months prior to the commencement of paragraph 48 of Schedule 26 to the Criminal Justice Act 2003), or both	No change in penalty. The time limit for bringing prosecutions will be extended to 6 months from the date on which the prosecutor had evidence to warrant proceedings, with a longstop of 3 years. The period for notification will be changed to 28 days.

[9] Current fine levels are:-
Level 1 fine £200
Level 2 fine £500
Level 3 fine £1,000

91. Proposed additional provisions

Provision	**Penalty**
Service on a jury by a juror in knowledge that he is not qualified for such service	Level 5 fine
Refusal by a juror to answer questions put to him to determine whether he is qualified to serve as a juror, intentionally or recklessly giving false answers to such questions.	Level 3 fine
Making false representations to the coroner with the intention of evading jury service, making such representations on behalf of another person with the intention of enabling that person to evade jury service.	Level 3 fine
Intentionally altering evidence or preventing evidence from being given, intentionally concealing or destroying a document	Level 3 fine or imprisonment for a term not exceeding 51 weeks, or both.
Giving false evidence unsworn	A fine not exceeding £1000 or imprisonment for a term not exceeding 51 weeks, or both. If the person guilty is under 14, the punishment is a fine not exceeding £250
Failure, having come into permanent possession of an object reasonably believed to be un-notified treasure, to notify the Treasure Coroner within 28 days in circumstances where that object has not previously been notified.	Level 5 fine or imprisonment for a term not exceeding 51 weeks (or 3 months prior to the commencement of paragraph 48 of Schedule 26 to the Criminal Justice Act 2003), or both.
Failure to deliver a suspected treasure find to such a person as designated by the Treasure Coroner, within 28 days of being directed to do so by the Treasure Coroner.	Level 5 fine or imprisonment for a term not exceeding 51 weeks or 3 months prior to the commencement of paragraph 48 of Schedule 26 to the Criminal Justice Act 2003), or both.

Compensatory simplification

92. This legislation is intended to repeal and replace the Coroners Act 1988 (the Act) and parts of the Coroners Rules 1984 (the Rules). It will rationalise some of the confusing aspects of the existing legislation – there are some provisions in the Act, which properly belong in the Rules, such as detailed procedural issues relating to the conduct of inquests. Likewise there are some provisions, which belong in the Act, that are currently in the Rules, such as the purpose of inquests.

93. The overall aim is to create a new transparent framework in which coroners will operate in the future and which clarifies their functions and responsibilities. This, in turn, will ensure that those bereaved people coming into contact with the coroner service, will understand the coroner's role, their own responsibilities, and their opportunities for involvement in investigations and inquests.

94. Consolidation and clarification are therefore the main compensatory measures which this Bill will achieve. The Bill itself will set out a new core framework within which coroners operate, including the introduction of a new Head of Service to provide leadership, and will set out coroners' responsibilities in relation to investigations, in particular new provisions on what factors should prompt an investigation, and clarifying provisions on post-mortems, such as when bodies can be released for burial or cremation, and a mix of new and clarifying provisions for inquests.

95. The Bill will provide for more detailed rules to be issued on the detail of the conduct of inquests, and for regulations to be issued on all other aspects of coroners' investigations. This will provide both a clear framework and, at the same time, flexibility to respond to real world developments without returning to Parliament to seek new legislative opportunities.

96. In providing a new framework, there are some examples of deregulation. For instance, coroners are currently not permitted to commission post-mortems, or to use mortuary facilities, outside of either their own geographically defined area, or a neighbouring geographical area. This can prevent the most effective post-mortem examinations being carried out, or else would mean they were carried out unlawfully if the body was moved beyond the neighbouring area. Under the draft Bill, geographical regulations of this kind will be removed leading to better investigations and better services to those who are bereaved.

Implementation and delivery plan

97. The current aim is that following publication of the draft Bill in late May / early June 2006 pre-legislative scrutiny will follow almost immediately. A Bill proper will follow this when the legislative timetable allows, with implementation as soon as possible after that.

Outcomes and success criteria

98. The objectives of the reforms are:

- better service for the bereaved
- professionalisation of the service
- better accountability and governance
- better medical knowledge in the service.

Each of these will be monitored with specific performance indicators.

Continued consultation

99. This is critical to success. This is planned on several levels and is wide ranging in scope, including the following.

- Pre-legislative scrutiny of the draft Bill will allow stakeholders to feedback on what they see as the pros and cons of the proposals as they stand.
- Family PLS – as part of the announcement on coroner reform on 6 February the Government said that it intended additional scrutiny by members of the public who have recently come into contact with the service.
- A number of larger stakeholder events are planned to coincide with key milestones (eg draft and proper Bill publication) both to communicate the message and to elicit feedback on policy and implementation issues.
- A number of smaller sub-groups of practitioners will be set up to help shape the final detailed policy and the implementation plans, for example on issues such as training, leadership, governance, areas and structure.

100. The nature of these reforms and the current administrative arrangements require that the consultation going forward must be collaborative with local government representatives and the police, both of whom currently resource the service and will continue to do so post reform. Close relationships have been established with both the LGA and ACPO and it will be critical to maintain these as discussions progress.

101. All the above issues, and more, will be put together in an over-arching communications strategy.

Preparation for a new system

102. For those who will be working in the new service (coroners and coroners' staff), there will be comprehensive training to ensure that they are well prepared for the change. This will take place ahead of the commencement date which is planned for April 2009.

103. More widely, for those professionals and businesses that interact with the coroner service, and for the public at large, there will be a range of information available both on policy and law but also on local delivery arrangements. This information will be available in a number of formats and languages.

DCA reform resources and programme management.

104. The DCA will lead the implementation. The existing team will be expanded to deliver this. An implementation plan is currently being prepared which will indicate the size of the team required and the skills mix. The programme will be managed by a programme office and by formal change programme management mechanisms, including Gateway reviews. The DCA's Programme & Project Assurance Office will support on programme management issues.

Post-implementation review

105. The intended effects of the reform policy are outlined above. Formal post-implementation reviews will take place at both 18 months and three years after implementation. The 18 month review will examine whether the required reform elements are in place in each area, the three year review will assess whether outcomes are as expected. This will be carried out by the Chief Coroner and his or her team with input from the Coronial Council who will ensure all stakeholders are consulted. The Chief Coroner will also work closely with the coroner inspection body to ensure that information obtained by inspection is available as part of the review.

106. These reviews will not be part of the legislation but there will be a commitment to do this which will be reinforced by the Chief Coroner upon their appointment. There are no sunset clauses required as part of the legislation.

Summary and recommendations

107. The Government is committed to reforming the coroner service. The DCA has considered the wider reforms as set out in the Home Office Position Paper of March 2004. A system is required that can identify and investigate suspicious deaths, but which allows families to proceed quickly with funeral arrangements where there is no cause for concern. We are not convinced that the proposal to have all deaths referred to coroners achieves that, and have made no provision for this in the draft Bill, but we will continue to look at this issue.

108. At this stage the Government believes that the resources currently available are much better focused on improving the coroner service itself – in its present scope of investigating those deaths reported to it. Within this range the DCA has analysed four options and is proceeding with a draft Bill for a reform package that has the following features:

- Bereaved people will have a right to contribute to coroners' investigations. They will be able to bring their concerns to coroners even where a death certificate has been issued. A coroners' charter will set out the service bereaved people can expect.
- We will introduce national leadership, guidance and support, a Chief Coroner, and an advisory Coronial Council. The Chief Coroner will be accountable to Government. Coroners will continue to be appointed and funded by their local councils, and served by coroners' officers drawn from the local police or local authority.
- We will create a body of full-time coroners, and will reshape current boundaries to create a smaller number of coroner jurisdictions.
- We will modernise investigation and inquest processes, and give coroners new powers to obtain information to help their investigations. Archaic boundary restrictions will go, so as to improve co-ordinated action, for example in incidents with mass fatalities,
- Coroners will have a new discretion to restrict reporting where no public interest is served by doing so. Such publicity can intrude unnecessarily into private grief.
- Coroners will have better medical advice and support at local and national level to help them in their investigations.

109. The option chosen achieves the objectives set out at the start of this document and has neither a significant or disproportionate impact on the small number of businesses and voluntary bodies that regularly interact with the service. Nor does the option have any significant bias in its impact on society.

Declaration and publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs.

Signed

Harriet Harman