

Ministry of Justice

Consultation Paper CP 10/2011

Consultation on Reforms Proposed in the Public Bodies Bill

Reforming the public bodies of the Ministry of Justice



A response by the Association of Personal Injury Lawyers

11 October 2011

The Association of Personal Injury Lawyers (APIL) was formed by claimant lawyers with a view to representing the interests of personal injury victims. The association is dedicated to campaigning for improvements in the law to enable injured people to gain full access to justice, and promote their interests in all relevant political issues. Our members comprise principally practitioners who specialise in personal injury litigation and whose interests are predominantly on behalf of injured claimants. APIL currently has over 4,600 members in the UK and abroad who represent hundreds of thousands of injured people a year.

The aims of the Association of Personal Injury Lawyers (APIL) are:

- to promote full and just compensation for all types of personal injury;
- to promote and develop expertise in the practice of personal injury law;
- to promote wider redress for personal injury in the legal system;
- to campaign for improvements in personal injury law;
- to promote safety and alert the public to hazards wherever they arise; and
- to provide a communication network for members.

APIL's executive committee would like to acknowledge the assistance of the following members in preparing this response:

Karl Tonks – APIL Vice President; and
Paul Balen – APIL member.

Any enquiries in respect of this response should be addressed, in the first instance, to:

Katherine Elliott, Legal Policy Officer

APIL

Unit 3 Alder Court

Rennie Hogg Road

Nottingham NG2 1RX

Tel: 0115 958 0585; Fax: 0115 958 0885 E-mail: Katherine.elliott@apil.org.uk

Introduction

APIL has campaigned for improvements and reform to the coroner system for many years and is disappointed with the Government's rejection of the provision of a Chief Coroner which has left him unable to take up office as Chief Coroner.

The government has committed itself to address inconsistencies and inefficiencies in the delivery of services through the coronial system to bereaved families, witnesses and other interested parties and yet fails to recognise that key plank of the reform is the role of Chief Coroner whose post was designed to join those reforms together. The very point of the Coroners and Justice Act 2009 was to provide full reform of an archaic and inefficient coroner system, which APIL believes cannot be achieved without the expertise of an independent Chief Coroner to oversee the system.

Executive Summary

APIL welcomes the opportunity to respond to the Ministry of Justice's (MoJ's) consultation regarding the reforms proposed in Public Bodies Bill.

- The Coroners and Justice Act implied that the role of Chief Coroner would provide a joined-up approach. The Chief Coroner would provide independent expertise and oversee the system to ensure consistency and efficiency.
- Should the estimated set-up and running costs be accurate, they prove exactly what level of reform is required in the current system.
- At present it is extremely difficult to challenge a coroner's decision due to the systems' medieval terms and processes, like judicial review or Attorney General's fiat, which are only available for handsomely wealthy individuals.
- There is not enough information regarding the Ministerial Board and supporting Bereaved Organisations Committee provided within the consultation papers. The money it would cost to set these organisations up would be better spent on reforming the system within itself through the appointment of a Chief Coroner.
- The coroner system needs to run as cost effectively and efficiently as possible and this is only capable of being achieved with the full and proper appointment of a Chief Coroner.

Consultation Questions

As our remit only extends to personal injury cases, we have only answered the questions which relate to the Office of Chief Coroner.

Q. 14. What are your views on the proposed transfer of functions of the Chief Coroner to the Lord Chief Justice and the Lord Chancellor: in principle and/or in relation to the particular functions detailed in Annex A?

When the government proposed full reform of the current archaic and inefficient coroner system in the Coroners and Justice Act 2009, it was implied that the role of the Chief Coroner would provide a joined-up approach. The Chief Coroner would provide independent expertise, from his own experience, and oversee the system to ensure consistency and efficiency that would, in effect, provide cost savings in the long term. It is understood that cuts in costs may have to be made but this is not where those cuts should be. Nominating the Lord Chief Justice and Lord Chancellor to undertake the role of Chief Coroner is proof there is a lack of understanding from the government of how the coronial system works.

At paragraph 72 of the consultation paper¹, the MoJ has estimated the set-up costs to be £10.9 million with £6.5 million running costs per year. These costs do appear to be excessive and we question how these figures were arrived at. However, should these figures be accurate, they prove exactly what level of reform is required in the current system. On the other hand, common sense suggests that the introduction of a professionally supervised team of full time coroners properly resourced is bound to be more cost effective than the haphazard largely unsupervised system currently in place. We have no confidence that experience or resources will be made available to the Lord Chancellor and Lord Chief Justice to achieve this. Having one Chief Coroner to head and lead the service rather than delegate a patchwork of responsibilities to a court system which hitherto had played little or no part in the coronial service seems unlikely to achieve an improved service for interested parties.

¹ *Consultation on reforms proposed in the Public Bodies Bill, reforming the public bodies of the Ministry of Justice*, Consultation Paper CP10/2011, Page 21 paragraph 72.

In Annex A² it states that Section 40 of the Coroners and Justice Act 2009 appointed the Chief Coroner as responsible for a new appeals system. The transfer of this function suggests that there is an existing ability to challenge a coroner's decision and that there will now be no new appeals system. This is wholly inadequate. At present it is extremely difficult to challenge a coroner's decision due to the systems' medieval terms and processes, like judicial review or Attorney General's fiat, which are only available for handsomely wealthy individuals. This provides serious access to justice issues for the average member of the public who will be a one-time user of the system at a most emotionally draining time. Procedural challenges which will bring improvements and consistency in the coronial system will be impossible for all but the wealthy.

Unlike the court system, the coronial system relies on local authorities for the coronial budgets. Few, if any, of the facilities used for hearings are under the control of coroners. Dealing with local authorities political and budgetary restraints is not something the Lord Chief Justice or the Lord Chancellor should be expected to become involved with and should be the responsibility of a co-ordinated approach through a centralised coronial system headed by a Chief Coroner.

Q. 15. What are your views on the proposed Ministerial Board and supporting Bereaved Organisations Committee?

There is not enough information regarding the Ministerial Board and supporting Bereaved Organisations Committee provided within the consultation papers to discuss this question, including the cost to set-up and run these organisations or savings and efficiencies they might provide within the system in the future.

The money it would cost to set these organisations up would be better spent on reforming the system within itself through the appointment of a Chief Coroner. It was decided, following review, that the role of Chief Coroner was needed to ensure total reform of the current coroner system. The government is failing to deliver on that recommendation by proposing to transfer those functions to the Lord Chancellor, Lord Chief Justice and the proposed Board and Bereaved Organisations.

² *Consultation on reforms proposed in the Public Bodies Bill, reforming the public bodies of the Ministry of Justice*, Consultation Paper CP10/2011, Page 40.

Q. 16. Are there any functions of the Chief Coroner not adequately covered by the proposals above, in your opinion? Please explain your reasons.

As stated previously, judicial review is not an adequate remedy for the average member of the public. A new appeals system should be set in place immediately to provide full and fair access to justice. Standards of consistency of approach by Coroners and the provision of appropriate facilities and resources by local authorities need to be championed.

Further comment

The coroner system needs to run as cost effectively and efficiently as possible and this is only capable of being achieved with the full and proper appointment of a Chief Coroner. The appointment of a Chief Coroner would see delay kept to a minimum for bereaved families and provide them with an appropriate person for the resolution of their concerns and their experience of the inquest system. A Chief Coroner would impose his authority over coroners within the system and ensure there is much more consistency of approach within what is currently an archaic, fragmented and inefficient system.

- Ends -

Association of Personal Injury Lawyers

- ▶ Unit 3 Alder Court, Rennie Hogg Road, Nottingham, NG2 1RX
- T: 0115 958 0585 ● W: www.apil.org.uk ● E: mail@apil.org.uk