

**North Yorkshire County Council****Executive****29 January 2019****Future structure of the Coroner Service in North Yorkshire****Report of the Assistant Director – Policy, Partnerships and Communities**

## 1. Purpose of report

- 1.1. To update members on the proposed future structure of the Coroner Service in North Yorkshire and to seek approval to undertake discussions with the City of York Council on a potential merger of the York and North Yorkshire services.

## 2. Background

- 2.1. The coroner service is an anomalous service within local authorities. Upper tier local authorities are responsible for the appointment and payment of the coroner, and meeting all reasonable costs of the service. This includes the cost of the provision of mortuaries, pathology services, forensic testing, and inquests.
- 2.2. Coroners are independent judicial officers and are not employees of the local authority. All appointments of coroners have to be agreed with both the Ministry of Justice and the Chief Coroner, and they effectively have a veto on any arrangements that do not meet their approval. Local authorities cannot remove or dismiss coroners, which effectively means that arrangements for a coroner's service can only be revised when there is not a permanently appointed coroner in place.
- 2.3. The Chief Coroner has published guidance to local authorities regarding how the coroner service should be organised (see appendix 1 – Chief Coroner's Guidance Note 14 - Merger of Coroner Areas). The guidance states that:
  - it is the Chief Coroner's view the number of coroner areas should be reduced in order to create sensibly sized coroner areas, taking into account the numbers of reported deaths, geographical size and types of coroner work in the area;
  - there are many part-time coroner jurisdictions which are too small for effective management and cost-efficiency; and
  - in many cases 3,000-5,000 reported deaths would be an appropriate number for a coroner jurisdiction.

- 2.4. Schedule 2 of the Coroners and Justice Act 2009 gives the Lord Chancellor the power to make orders altering coroner areas. To date all mergers have been effected by agreement.
- 2.5. If a local authority wishes to merge coroner areas it has to apply to the Lord Chancellor with written reasons, effectively a business case for the merger. Before doing so it should consult with the Chief Coroner. Where a new coroner area is created, it must consist of one or more whole upper-tier local authority areas.
- 2.6. Currently, North Yorkshire has two separate coroner services, each with a part-time senior coroner based in different offices with separate support arrangements. One covers the geographic areas of Richmondshire, Craven, Selby and Harrogate (West area) and the other the geographic areas of Scarborough, Ryedale and Hambleton (East area). The City of York has one service, also with a part-time senior coroner.
- 2.7. In 2017 there were around 1,150 reported deaths in the West area of North Yorkshire, around 1,050 in the East area of North Yorkshire, and around 900 in the City of York area. This gives a total of around 3,000 deaths, which the Chief Coroner sees as an appropriate size for a single coroner jurisdiction.
- 2.8. One of the North Yorkshire senior coroners has indicated that he will retire in March 2019. This means that future arrangements for North Yorkshire can be considered.
- 2.9. The part time senior coroner for the City of York area was appointed on an interim basis, which also means that future arrangements for the City of York can be considered.

### 3. Options

- 3.1. There are three options:
  - a. Continue with the existing two separate areas in North Yorkshire. This is considered as unlikely to meet with the approval of either the Ministry of Justice or the Chief Coroner.
  - b. Consider merging the two North Yorkshire areas into one. This is possible but the Chief Coroner's office has expressed an interest in receiving a joint proposal from the City of York Council and North Yorkshire County Council for an amalgamation of the three areas.
  - c. Consider merging the two North Yorkshire areas and the City of York area into one. This would require a joint proposal from the City of York Council and North Yorkshire County Council.
- 3.2. When one of the North Yorkshire senior coroners retires in March 2019, the remaining North Yorkshire senior coroner is likely to be appointed to

cover both areas on an interim basis (subject to the agreement of the Ministry of Justice and the Chief Coroner), which will deliver many of the benefits of merging the North Yorkshire areas. These would include a small financial saving and a more resilient and consistent service for bereaved people. However, this could only be a temporary arrangement and a formal merger, including or not including the City of York area, would need to be considered within 12 to 24 months.

3.3. A possible merger of the two North Yorkshire areas and the City of York area will require detailed assessment by the City of York Council and North Yorkshire County Council and consultation with the Ministry of Justice and the Chief Coroner. It will also require a binding agreement between the two councils on the operation of the merged service and division of costs. A merger should result in an additional small financial saving and a more resilient and consistent service for bereaved people. It is envisaged that the assessment, consultation and agreement can be completed within 12 months, leading potentially to a merger with effect from April 2020.

3.4. It should be noted that a merger of the areas would not mean that inquests would be centralised. Given the size of the county, officers' current view is that there would continue to be a need for inquests to be held in various towns within North Yorkshire (as well as in York if that merger were to occur).

#### 4. Financial implications

4.1. It is estimated there will be a small financial saving from merging the two North Yorkshire areas. Work with the City of York Council will be required to ascertain the full financial implications of a joint service but it is anticipated that an additional small financial saving should be achievable.

#### 5. Impact on other services/organisations

5.1. Officers of the City of York Council have indicated that they can see potential advantages to a merger, and are seeking their members' views as to whether they would support further work being undertaken.

5.2. North Yorkshire Police has indicated support for the merger of the two areas in North Yorkshire and for consideration of the creation of one area covering the whole of North Yorkshire and the City of York.

5.3. The Lord Chancellor would consult with a wide range of stakeholders as part of his consideration of a request for merger of coroner areas.

#### 6. Equalities implications

6.1. An Equalities Impact Assessment screening report has been undertaken which indicates a full Equalities Impact Assessment is not required for the

merger of the coroner areas. It is proposed that inquests will continue to be held in the same venues as they are currently.

## 7. Reasons for recommendations

7.1. The only proposal that the Chief Coroner and the Ministry of Justice will realistically accept for North Yorkshire will be a merger of the two existing areas. In addition, Chief Coroner's office has expressed an interest in receiving a joint proposal from City of York and North Yorkshire for an amalgamation of the three areas.

7.2. The Council's constitution delegates to the Assistant Director (Policy, Partnerships and Communities) the exercise of all functions of the coroner's service other than major changes in the pattern of provision.

## 8. Recommendations

8.1. That, subject to the agreement of the Ministry of Justice and the Chief Coroner to the remaining senior coroner also being appointed senior coroner for the other area on an interim basis or other similar arrangements, the two North Yorkshire coroner areas be managed as one area and one service from April 2019.

8.2. That discussions are held on the feasibility and desirability of merging the City of York and North Yorkshire coroner areas and services.

8.3. That the Executive delegates to the Chief Executive in consultation with the Executive Member with responsibility for the coroners service:

- a. The decision regarding submitting a proposal seeking merger of coroner areas to the Lord Chancellor.
- b. The decision regarding an agreement between North Yorkshire County Council and the City of York Council on the operation of the merged service and division of costs.

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21 December 2018

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Appendices:

Appendix 1 – Chief Coroner’s Guidance no 14 Merger of Coroner Areas  
Appendix 2 – Equalities Impact Screening Assessment



CHIEF CORONER

## **GUIDANCE No. 14**

### **MERGERS OF CORONER AREAS**

#### **Introduction**

1. The purpose of this guidance is to advise local authorities and coroners of the powers under the Coroners and Justice Act 2009 (the 2009 Act) to merge coroner areas.
2. The guidance is also intended to identify the consequences of a merger in terms of the appointment of a senior coroner for the newly merged area and the position of senior coroners (and area and assistant coroners) from the old areas merged together.
3. Having considered the provisions (including the transitional provisions) of the 2009 Act, particularly Schedules 2, 3 and 22, and the Coroners and Justice Act 2009 (Coroners Areas and Assistant Coroners) Transitional Order 2013, all of which came into force on 25 July 2013, the Chief Coroner sets out the following guidance.
4. This guidance has been discussed with the Lord Chancellor and its contents are agreed.

#### **Coroner areas**

5. When the 2009 Act came into force in 2013 all coroner districts in England and Wales became coroner areas automatically. The names of the districts became the names of the areas.
6. A local authority area may comprise one or more coroner areas. In some parts of the country a coroner area is coterminous with the area of a local authority, whereas in others it may be part only of a local authority area. A coroner area may also consist of the combined areas of two or more local authority areas, with one local authority taking the lead for coroner purposes as the relevant authority for the coroner area.
7. However, where a new coroner area is created by combining two or more old coroner areas (under powers of the Lord Chancellor in the 2009 Act), the new

coroner area cannot consist of part only of a local authority area. It must consist of a whole local authority area or more than one local authority area.

8. Where decisions are to be made about mergers of coroner areas or the appointment of a senior coroner for a newly created coroner area, in the case of a coroner area consisting of two or more local authority areas, the relevant authority must consult the other authorities before making a decision.
9. For the purposes of this guidance the local authority (whether a single authority or multiple authorities) will be referred to as the relevant authority.

### **Mergers of coroner areas**

10. The Lord Chancellor may, after consultation, make orders altering coroner areas, either combining (merging) or dividing coroner areas.
11. The Lord Chancellor has no present plans for dividing coroner areas.
12. There are presently 99 coroner areas in England and Wales (with 96 senior coroners). It is the view of the Chief Coroner, following upon the recommendations of the *Luce Review* in 2003<sup>1</sup>, that the number of coroner areas should be reduced in order to create sensibly sized coroner areas, taking into account the numbers of reported deaths, geographical size and types of coroner work in the area. In many cases 3,000-5,000 reported deaths would be an appropriate number, although smaller or larger areas may in places be appropriate. There are many part-time coroner jurisdictions which are too small for effective management and cost-efficiency.
13. In the short term mergers of coroner areas are only likely to take place with the agreement of all local authorities concerned. The Lord Chancellor must in any event consult with local authorities (amongst others) before ordering a merger. There is, however, no reason in principle why the Lord Chancellor should not in due course combine areas after consultation but without agreement where there is a clear case for merger.
14. Where a relevant authority wishes to merge one or more coroner areas into one larger coroner area it should apply to the Lord Chancellor with written reasons, effectively a business case for the merger. Before doing so it should consult with the Chief Coroner.
15. Where, following consultation, the Lord Chancellor makes an order altering coroner areas by combining an existing coroner area with one or more coroner areas, the newly combined area will receive a new name from the Lord Chancellor.
16. As above, a newly combined coroner area cannot consist of only part of a local authority area. It must consist of a whole local authority area or more than one local authority area.
17. In considering a potential merger local authorities are encouraged to think carefully about the future of their coroner area(s), including sensible succession

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<sup>1</sup> *Death Certification and Investigation in England, Wales and Northern Ireland: The Report of a Fundamental Review*, Cm 5831.

where appropriate for the post of senior coroner, and planning for the prudent development of their local coroner service in the interests of the public.

18. Where possible the relevant authority should state its intentions about the appointment of a new senior coroner in advance of merger. In this way senior coroners who may be affected by the merger will know in advance what is intended and can, if required, have discussions with the relevant authority about their future.

### **Appointment of new senior coroner**

19. Where a new coroner area is created by the merger of one or more coroner areas (the old areas), the relevant authority must appoint a senior coroner for the new area. The appointment must be made within three months of the merger (or within whatever further period the Lord Chancellor allows).

20. The relevant authority responsible under the 2009 Act will appoint a senior coroner for the new coroner area in one of two ways:

**Option 1.** - The relevant authority may appoint one of the senior coroners from the old areas.

**Option 2.** - Alternatively, the relevant authority may appoint a senior coroner following an open competition. The competition will be open to all suitably qualified coroners.

21. In either case the appointment of the new senior coroner cannot be made without the consent of the Lord Chancellor and the Chief Coroner.

22. It will be a matter for the relevant authority to decide which option to choose, bearing in mind the matters set out below. The relevant authority may seek the views of the Chief Coroner or the Ministry of Justice but in the end it will be the relevant authority's decision.

23. If option (1) is chosen there will be no open competition.

#### ***Option 1: Appointment from one of the senior coroners of the old areas***

24. Relevant authorities are advised that option (1) should usually be the preferred option. It has the effect of preserving the status quo (in part at least), of allowing an existing coroner to remain in office and therefore not putting an existing coroner at risk of loss of senior coroner office in an open competition. It also avoids the possible payment of compensation for early retirement (see below).

25. But the relevant provisions of the 2009 Act do not provide automatic inheritance of the newly formed coroner area for the remaining coroner (where there is only one remaining). If two coroner areas are merged into one when one of the existing senior coroners retires, the other senior coroner has no entitlement as of right to become the new senior coroner. A new senior coroner must be appointed for the new coroner area and it will be a matter for the relevant authority as to how to proceed, with option (1) or option (2).

26. Where option (1) is chosen the relevant authority must be satisfied that their choice of senior coroner is a rational, fair and proportionate decision. The coroner so appointed may be over the age of 70 and/or not comply with the 5-year judicial

appointment eligibility condition, so long as the coroner was in post as senior coroner for one of the old areas when the 2009 Act came into force. Against this legislative background local authorities are reminded that all coroners hold office on whatever terms they agree with their relevant authority.

27. Local authorities are reminded that senior coroners may only be removed from office by the Lord Chancellor (with the agreement of the Lord Chief Justice) for incapacity or misbehaviour. Local authorities appoint senior coroners but they do not employ them. **They cannot remove or dismiss senior coroners by merger of coroner areas or in any other way.**
28. Where, therefore, two or more areas are to be merged, the relevant authority must look carefully at the options in advance in order to achieve fairness for the senior coroners of the old areas.
29. There can only be one senior coroner in a newly merged coroner area. Merger of two or more coroner areas will therefore involve the loss of office of one or more senior coroners. If one (or more) retires leaving only one senior coroner from the old areas remaining, under option 1 that senior coroner will usually be chosen as senior coroner for the newly merged coroner area, subject to the necessary consents.
30. Where however there are two (or more) senior coroners from the old coroner areas, the relevant authority will apply one or more of the following alternatives -
  - (1) Appoint one as the new senior coroner.
  - (2) Allow one or more to retire.
  - (3) Offer the other (or others) where appropriate the salaried post of area coroner for the enlarged area at no loss of salary, or
  - (4) Pay agreed compensation for early retirement.
31. It is expected that the relevant authority will take all reasonable steps to accommodate a former senior coroner who is displaced from the post of senior coroner by this process.
32. The relevant authority would be well advised to consider these alternatives in advance of merger.

***Option 2: Appointment following open competition***

33. Where the relevant authority decides upon option (2), the relevant authority will apply one or more of the following alternatives -
  - (1) Hold an open competition. One or more senior coroners of the old areas may apply for the new post, as well as other candidates from within or outside the old coroner areas. The relevant authority appoints the best candidate after a full and open competition (subject to the necessary consents). See the Chief Coroner's Guidance No. 6 *The Appointment of Coroners*.
  - (2) Allow one or more senior coroners to retire.
  - (3) Offer the other (or others) where appropriate the salaried post of area coroner for the enlarged area at no loss of salary, or
  - (4) Pay agreed compensation for early retirement.

34. Where a senior coroner (or senior coroners) applies but fails to win the competition, that senior coroner (or senior coroners) will be offered alternatives (2) – (4).
35. The relevant authority which decides on option (2) would be well advised to consider these alternatives in advance of merger.

### **Compensation**

36. As a result of the process of merger, in particular in relation to option (2), one or more senior coroners from the old coroner areas may no longer hold the position of senior coroner. It is arguable that the displaced senior coroner (or senior coroners) is entitled to remain a salaried coroner (with no reduction in salary) but not entitled as of right to continue to hold the office of senior coroner. Be that as it may one of the alternatives in the process is to offer a displaced senior coroner from an old area a new position as area coroner in an enlarged merged area.
37. Another alternative is to offer and agree compensation for early retirement.
38. The amount of compensation will be a matter for the relevant authority. Local authorities will have their own established procedures for assessing compensation for loss of contract of employment which can no doubt be used in appropriate cases as a starting point for assessing loss of office. They will of course have to take into account the existing agreed terms and conditions between coroner and relevant authority and be mindful that senior coroners in post at the coming into force of the 2009 Act are not obliged to retire at the age of 70.

### **Area coroners and assistant coroners**

39. Where two or more areas are merged the relevant authority of the new area, together with the new senior coroner, will have to re-assess the extent of the coroner team. Existing area coroners and assistant coroners cannot lose their posts just as a result of a merger. But the relevant authority is entitled to consider the needs of the newly merged area.
40. As the Chief Coroner's Guidance No. 6 *The Appointment of Coroners* provides, area and assistant coroners appointed after the coming into force of the 2009 Act should be appointed for an initial term of 12 months and thereafter for a renewable term of three years. For those who held these posts in the old areas, either as old or new appointments, they should also be subject to renewable terms for posts in the new coroner area.
41. The Guidance also provides that assistant coroners who have not worked for three years should not be retained. That should apply to old and new areas.
42. Relevant authorities should always bear in mind that they can negotiate with all coroners for 'whatever terms are from time to time agreed' (paragraph 19, Schedule 3 to the Act).

### **Advice**

43. In addition to receiving this written guidance local authorities or coroners may discuss any of these matters with the Ministry of Justice or the Chief Coroner's office at any time.

44. The Guidance of the Chief Coroner, Guidance No.6 *The Appointment of Coroners*, will be subject to this guidance and amended accordingly.

**HH JUDGE PETER THORNTON QC  
CHIEF CORONER**

**1 May 2014**

## Appendix 2

Initial equality impact assessment screening form			
<p>This form records an equality screening process to determine the relevance of equality to a proposal, and a decision whether or not a full EIA would be appropriate or proportionate.</p>			
Directorate	Central Services		
Service area	Coroner		
Proposal being screened	Possible merger of coroner areas		
Officer(s) carrying out screening	Robin Mair General Manager - Registration, Archives & Coroners		
What are you proposing to do?	To merge the two coroner areas in North Yorkshire or to merge the two coroner areas in North Yorkshire with the one in the City of York.		
Why are you proposing this? What are the desired outcomes?	<p>It will be cheaper but at the same time will provide a more resilient and consistent service with a full-time coroner rather than part-time coroners as now.</p> <p>In addition this is in line with the guidance on the merger of part-time jurisdictions issued by the Chief Coroner, who has to approve all appointments of coroners.</p>		
Does the proposal involve a significant commitment or removal of resources? Please give details.	No		
<p><b>Impact on people with any of the following protected characteristics as defined by the Equality Act 2010, or NYCC's additional agreed characteristic</b></p> <p>As part of this assessment, please consider the following questions:</p> <ul style="list-style-type: none"> <li>To what extent is this service used by particular groups of people with protected characteristics?</li> <li>Does the proposal relate to functions that previous consultation has identified as important?</li> <li>Do different groups have different needs or experiences in the area the proposal relates to?</li> </ul> <p>If for any characteristic it is considered that there is likely to be a significant adverse impact or you have ticked 'Don't know/no info available', then a full EIA should be carried out where this is proportionate. You are advised to speak to your <a href="#">Equality rep</a> for advice if you are in any doubt.</p>			
Protected characteristic	Yes	No	Don't know/No info available
Age		✓	
Disability		✓	
Sex (Gender)		✓	
Race		✓	
Sexual orientation		✓	
Gender reassignment		✓	
Religion or belief		✓	
Pregnancy or maternity		✓	
Marriage or civil partnership		✓	
<b>NYCC additional characteristic</b>			
People in rural areas		✓	
People on a low income		✓	
Carer (unpaid family or friend)		✓	

<p><b>Does the proposal relate to an area where there are known inequalities/probable impacts</b> (e.g. disabled people's access to public transport)? Please give details.</p>	<p><b>No</b></p>			
<p><b>Will the proposal have a significant effect on how other organisations operate?</b> (e.g. partners, funding criteria, etc.). <b>Do any of these organisations support people with protected characteristics?</b> Please explain why you have reached this conclusion.</p>	<p><b>No</b></p>			
<p><b>Decision (Please tick one option)</b></p>	<p>EIA not relevant or proportionate:</p>	<p><input checked="" type="checkbox"/></p>	<p>Continue to full EIA:</p>	
<p><b>Reason for decision</b></p>	<p>The work of the coroner will be identical before and after any merger of areas. There will be a commitment to continue to hold inquests in the same towns as now. The users of the service will see no impact on the service they are provided with.</p>			
<p><b>Signed (Assistant Director or equivalent)</b></p>	<p>Neil Irving Assistant Director (Policy, Partnerships &amp; Communities)</p>			
<p><b>Date</b></p>	<p>1<sup>st</sup> November 2018</p>			

