

**Open Report on behalf of Dr Tony Hill,
Executive Director of Community Wellbeing and Public Health**

Report to:	Executive
Date:	5 April 2016
Subject:	The Future Shape of the Coroners Service
Decision Reference:	I010609
Key decision?	No

Summary:

The County Council has a statutory responsibility to provide a Coroner's Service for Lincolnshire. The financial challenge facing the Council has precipitated a review of the Coroners' Service with respect to coronial geographical areas. The tender of the South Lincolnshire Senior Coroner's resignation has resulted in a more immediate requirement to revisit the options.

This report seeks the approval of the Council's Executive to pursue the option of a single coroner area for Lincolnshire.

Recommendation(s):

That the Council's Executive Committee:

1. Approves the option to pursue a merger of the two coronial areas in Lincolnshire;
2. Delegates to the Executive Director of Public Health and the Executive Councillor for Libraries, Heritage, Culture, Registration & Coroners' Service the management of the merger process and the appointment of a Coroner for the new coroner area.

Alternatives Considered:

A number of alternative options have been considered which are not articulated in this paper. These have included the appointment of an Area Coroner supporting the two coronial areas; the increased use of Assistant Coroners to reduce the hours worked by the Senior Coroners (being mindful of the current workload and the impact on their health and wellbeing); and the use of a Legal Executive to mitigate against the Coroner's workload. All of these options are less cost-effective than the one Coroner model and may not completely mitigate against the financial risk of long inquest payments.

Reasons for Recommendation:

The proposal to move to a single coroner area for Lincolnshire with full time terms and conditions of service for the Senior Coroner will:

1. Mitigate the financial risk presented by long inquest payments
2. Provide a more cost-effective, consistent and streamlined service which will meet the needs of bereaved families without adversely impacting on quality
3. Accords with national policy and guidance in the context of a move towards larger coronial areas

The overall objective is to facilitate an efficient, sensitive, timely and local Coroners' Service for the visitors to and residents of Lincolnshire which minimises financial risk.

1. Background

- 1.1 The County Council has a statutory responsibility to fund and support a Coroners' Service. The current service consistently overspends as a result of the vagaries of the long inquest payment mechanism. The overspend is partially offset by additional income generated by the Registration and Celebratory Service but presents an ongoing financial risk to the Council.
- 1.2 There are three agencies that form the Coroners' Services in Lincolnshire:
 - The Coroners – independent judicial officers appointed to investigate sudden or unexplained deaths; paid by but not employed by the Council
 - Lincolnshire Police – who appoint and largely fund the Coroners' Officers and
 - Lincolnshire County Council – which funds the Coroners and other aspects of the service including post mortems, body removals and administrative support
- 1.3 In Lincolnshire there are currently two part time Coroners covering the two coronial areas of Central Lincolnshire and South Lincolnshire. This followed a merger from four areas in 2012. Appendix A illustrates the current Coroners' areas of jurisdiction within Lincolnshire.
- 1.4 The Senior Coroner for South Lincolnshire tendered his resignation on 3 December 2015 and is seeking an early departure date. This, along with the financial challenge facing the Council, has precipitated a review of the current arrangement of two areas and suggests that a merger into one jurisdiction is likely to be more cost-effective and efficient and improve service quality.

2. What do Coroners do?

- 2.1 A Coroner is an independent judicial office holder, appointed and paid for (but not employed) by the relevant local authority. They must now be a lawyer but previously could be a lawyer or a doctor. Where a Senior Coroner vacancy arises the relevant authority must appoint a Senior Coroner and the Chief Coroner and Lord Chancellor must approve the appointment.
- 2.2 Coroners inquire into violent or unnatural deaths, sudden deaths of unknown cause, and deaths which have occurred whilst an individual was deemed to be under state detention. The authority to inquire and investigate flows from the report of a body being within the district and not from where the death occurred.
- 2.3 The objective is the timely and legally compliant investigation of a death. This is to allow for the identification of the deceased, to establish when, how and where they died. This supports the registration of the death to enable disposal of the deceased's body. The two coronial offices in Lincolnshire are located less than 20 miles apart, neither in the city of Lincoln where there is the highest population. Inquests determine what happened not who is responsible and take place in various locations across the county to accommodate bereaved families. There is a clear commitment to retaining a localised service through the contact of the Coroners' Officers and locally held inquests where possible and appropriate. Coroners also have responsibility for assessing treasure trove.

3. What is an Area and Assistant Coroner?

- 3.1 Each Coroner has a number of Assistant Coroners to stand in for the Coroner when they are not available, e.g. when on leave. They will deal with all coronial matters including hearing inquests in the Coroner's absence. Either personally or through an Assistant, a Coroner must be available at all times for their geographical area. A new role of Area Coroner was introduced with the Coroners and Justice Act 2009; they act as a permanent Assistant to the Senior Coroner.
- 3.2 The Assistant Coroners' role is not full time, they assist when requested to do so by the Coroner. Assistant Coroners are usually experienced solicitors engaged in private practice when not dealing with ad hoc coronial duties and are fee paid. Area Coroners are salaried like the Senior Coroner; there is currently no Area Coroner in Lincolnshire.

4. What is the Role of a Coroner's Officer?

- 4.1 Coroners' Officers are employed by Lincolnshire Police and work alongside the Coroners. Historically, they have been primarily former police officers who have retired into this role. They liaise with families and act as a conduit between relatives and formal agencies (police, doctors, funeral directors). Essentially they are the primary interface with the public on behalf of the Coroner.

- 4.2 Coroners' Officers work under the direction of the Coroner, receive reports of deaths and make inquiries at the direction and on behalf of the Coroner. Their role is critical to providing an efficient and caring service to bereaved families. Cover is provided 24 hours per day, 365 days of the year.

5. Current National Policy and Position

- 5.1 The Chief Coroner for England and Wales and the Ministry of Justice (MoJ) must be consulted and approve any changes to Coroners' areas. The Chief Coroner and MoJ are seeking fewer coroner areas with more whole time Coroners covering larger geographical areas. This policy was embedded in the Coroners and Justice Act 2009.

'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, 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.'

Chief Coroner Guidance 16 – Merger of Coroner Areas

- 5.2 Concern has been raised about the impact of such a move on bereaved families in a large county like Lincolnshire, however benchmarking data from similar geographical areas¹ proves that this is possible (Appendix B). Recent successful mergers of coroner areas include Norfolk (2010) and Peterborough with two Cambridgeshire areas (2015); East and West Somerset are also in the process of merging (2016) and Cornwall also has only one Coroner. These amalgamations have generated financial savings and improved local service provision. The move to a single Coroner area and office does not mean that relatives will have to travel to Lincoln for an inquest; these can continue to be held across the County as they are currently. Locations for current Inquests include Boston, Grantham, Lincoln and Spilsby. The offer of the use of local Registration Service ceremony rooms for holding Inquests also provides the opportunity of a further seven sites across the County providing a commitment to supporting families in their locality.

¹ This includes Norfolk and Cornwall. Norfolk has a larger population base than Lincolnshire and both have a wide network of rural roads and seasonal heavy holiday traffic, so are similar in nature to Lincolnshire.

5.3 The Chief Coroner and the MoJ have made it clear that their preference would be for a single Coroner for the local authority area, providing there are effective Area and/or Assistant Coroner arrangements in place. This is in line with the Coroners and Justice Act (Schedule 2):

<p>Coroner areas</p> <p>1(1)England and Wales is to be divided into areas to be known as coroner areas. (2)Each coroner area is to consist of the area of a local authority or the combined areas of two or more local authorities</p> <p>Coroners and Justice Act 2009 (Schedule 2)</p>

6. Activity

6.1 Over the last five years the level of referrals to the Coroner has varied slightly; the higher number of deaths in 2015 followed a national trend. A summary for the whole of Lincolnshire is below and has been expanded in Appendix C to reflect the two areas.

Activity	2011	2012	2013	2014	2015*	Five year average *
Deaths referred to the Coroner	3,287	3,148	3,242	3,048	3,812	3,307
Post Mortem Investigations	1,202	1,225	1,489	1,356	1,544	1,363
Inquests	290	296	303	333	381	321

* Unconfirmed figures

7. Issues

7.1 The mechanism of salary payment for part time Coroners is based on caseload with additional payments for the preparation and delivery of long inquests (inquests which exceed one day). It is recognised nationally, that the long inquest payment mechanism potentially provides for a perverse incentive to increase Coroner salary payments. In addition there are risks that new work streams, such as Deprivation of Liberty Safeguarding authorisations (DoLS) may increase the caseload. In areas with a full time Senior Coroner, changes to the caseload will still need to be considered but the financial impact is more contained. There is a great deal of national debate (the Local Government Association being a key contributor) on Coroner salaries; this affects many local authorities with part time Coroners, as there is no real mechanism for validating workload capacity or long inquests.

8. Options

8.1 Two options have been considered in response to the financial challenge. In both cases, the Coroners' Officers would continue to provide the local interface with the public, where the physical presence of a Coroners Officer is required.

8.2 Option One – Retain two coroner areas for Lincolnshire

8.2.1 The current costs of this option are found below; tax is excluded due to the variations in personal taxation:

2014-15	Net	NI	Tax	Pension	TOTAL COST
	£	£	£	£	£
Actual Costs for Part Time Coroners in 2014-15					
Senior Coroner Basic	96,263	9,924		11,647	117,834
Assistant Coroners	32,768	2,506			35,274
Sub Total	129,031	12,430		11,647	153,108
Plus Long Inquests 2014/15	135,066	16,376		26,608	178,050
TOTAL	264,097	28,806		38,255	331,158
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2015-16	Net	NI	Tax	Pension	TOTAL COST
	£	£	£	£	£
Projected Costs for Part Time Coroners in 2015-16					
Senior Coroner Basic	95,588	9,163		11,423	116,174
Assistant Coroners	48,124	5,522			53,646
Sub Total	143,712	14,685		11,423	169,820
Plus Projected Long Inquests 2015/16	109,000	12,759		21,473	143,232
TOTAL	252,712	27,444	0	32,896	313,052

8.2.2 Advantages:

- No change.

8.2.3 Disadvantages:

- This option would have little if any impact on efficiency savings for Coroner costs and the potential for rationalising and standardising processes and procedures will be reduced;
- Rising and expensive Long Inquest costs with the financial risk associated with these unknown payments in terms of length and/or cost.

The timescale to recruit a new Coroner for the South Lincolnshire area would be approximately five months.

8.3 Option Two – Amalgamate to a single coroner area for Lincolnshire

8.3.1 The existing two coroner areas would be merged into a single area with a whole time Coroner supported by a part time or full time Area and/or Assistant Coroners. This option is in line with the national direction of travel;

is the model now in operation in a number of comparator areas; and would be the preferred option for the MoJ and Chief Coroner. The merger process takes approximately 9 – 12 months and must be agreed by the Secretary of State.

8.3.2 Estimated costs:

This option considers one full time Coroner salaried in line with the existing Joint Negotiating Committee (JNC) agreement in relation to population bands and caseload for larger coronial areas of over 700,000 with additional support for a whole time Coroner to be largely provided by an Area Coroner supplemented with Assistant Coroners. The part time hours' percentage of this role can be negotiated, however working on 70% of a full time Coroner's salary some indication of costs is below:

	Core Costs Full time Area Coroner (1 FTE)	NI and Pension and not including Tax	Total		Core Costs Part time Area Coroner (0.75 FTE)	NI and Pension and not including Tax	Total
Cost of a whole (full) time Coroner	£95,346	£29,658	£125,004		£95,346	£29,658	£125,004
Area Coroner @ 70% Salary band	£66,742	£20,076	£86,818		£50,056	£14,486	£64,542
Assistant Coroner Cover (supplementary) based on 15 days @ £350 x 5 Assistant	£26,250	£6,980	£33,230		£26,250	£6,980	£33,230
Total	£188,338	£56,714	£245,052		£171,652	£51,124	£222,776

8.3.3 Assumptions include the ability to recruit to the post of part time Area Coroner on the nationally agreed JNC salary scales. However, recent advertisements in other local authorities have had significant interest from a high calibre of applicants. An additional assumption is that the role of Area Coroner would be fully supported by the Senior Coroner.

8.3.4 Advantages

- It would generate savings on Coroners' costs (estimated at a minimum of £50,000 annually however could be as much as £100,000 depending on the hours for the Area and Assistant Coroners) and reduce financial risk;
- Standardised systems and processes across the whole county;
- There would be a dedicated 'deputy' to cover service requirements and business continuity with an Area Coroner;

- Known and predictable staffing budget with the removal of Long Inquest payments.

8.3.5 Disadvantages

- Equivalent of two full time Coroners for a 3,000 caseload makes this a relatively generous workload option, however a part time Area Coroner may reduce these costs;
- There may be insufficient work for the need for five Assistant Coroners, and this level of Assistant Coroner support may be reduced however would realise a saving of £5,250 per Assistant Coroner;
- The introduction of Medical Examiners may impact on caseload.

The recruitment timescales for an Area Coroner would be approximately five months.

8.3.6 Alternative Routes to Coroner Appointment

The Executive should be aware that there are two options for appointing a coroner on the merger of coroner areas:

- The existing Senior Coroner can be appointed to the amalgamated area; or
- To provide assurance that the best candidate for the newly amalgamated area is appointed the post of Senior Coroner could be offered out to open competition. This may or may not result in the retention of the existing Senior Coroner for Central Lincolnshire. If the sitting Coroner was successful, terms and conditions would be re-negotiated to reflect the full time status and as this is a new appointment, the incumbent would be required to retire at 70²; if not appointed, the Council would be liable to a 'Loss of Office' compensation claim.

8.3.7 Guidance from the Chief Coroner for England and Wales on the appointment process is found below:

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.

² There is no fixed retirement age for coroners appointed before the introduction of the Coroners and Justice Act 2009.

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.

Chief Coroner Guidance 16 – Merger of Coroner Areas

9. Legal Issues

Equality Act 2010

9.1 The Council's duty under the Equality Act 2010 needs to be taken into account when coming to a decision.

9.2 The Council must, in the exercise of its functions, have due regard to the need to:

(1) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;

(2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it: Equality Act 2010 s 149(1). The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation: s 149(7).

9.3 Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

(1) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;

(2) Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;

(3) Encourage persons who share a relevant protected characteristic to participate in public life, or in any other activity in which participation by such persons is disproportionately low.

9.4 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

9.5 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic, and persons who do not

share it, involves having due regard, in particular, to the need to tackle prejudice and promote understanding.

- 9.6 Compliance with the duties in this section may involve treating some persons more favourably than others.
- 9.7 This duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified, consideration must be given to measures to avoid that impact as part of the decision making process.
- 9.8 An Equality Impact Analysis has not been prepared for this decision. The Coroner's Service responds to all deaths within its jurisdiction regardless of protected characteristics and its services are sensitive to differences in culture associated in particular with differences of race or religion and belief. Certain groups with a protected characteristic could be expected to be disadvantaged if families were expected to travel further to attend inquests. This would be especially true of, for instance older people or people with a disability. However, inquests will continue to be delivered locally wherever possible and individuals should not see any change in the service as a result of the change in jurisdictions.
- 9.9 In reaching a decision, the Council must also have regard to the Lincolnshire Child Poverty Strategy, the Joint Strategic Needs Assessment (JSNA) and the Health & Well Being Strategy.

Child Poverty Strategy

- 9.10 The Lincolnshire Child Poverty Strategy has the followings four strategic themes:
- Economic poverty
 - Poverty of access
 - Poverty of aspiration
 - Best use of resources

Following due consideration it is not considered that this proposal has any link to, or impact on, the Lincolnshire Child Poverty Strategy.

Joint Strategic Needs Assessment (JSNA) and Joint Health and Wellbeing Strategy (JHWS)

- 9.11 The Council has an obligation to have regard to both the JSNA and JHWS in exercising its functions.
- 9.12 In this case, the proposed changes in jurisdiction do not directly impact on the themes of the strategy.

Crime and Disorder Act 1998

- 9.13 Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.
- 9.14 The efficient operation of the Coroners service contributes to these matters by providing a jurisdiction for the determination of cause of death in cases of sudden or unexplained death including criminal causes.

10. Next Steps

- 10.1 With Executive support, the County Services Manager will liaise with the Ministry of Justice and the Chief Coroner to develop a business case for merging the two coroner areas for Lincolnshire.

11. Conclusion

- 11.1 The financial challenge facing the County Council has required the organisation to explore more radical options to achieve efficiencies. In the context of the Coroners' Service, an early consideration of alternative approaches has been precipitated by the tender of the South Lincolnshire Coroner's resignation. The merger of the two coroner areas in Lincolnshire is anticipated to generate earlier financial efficiency and reduce financial risk arising from Coroner payments. In addition, it is also anticipated to generate efficiencies from a move to a single Coroner's Office and the streamlining of business processes. These changes are anticipated to improve the quality of the service being delivered to bereaved families; locally held inquests will continue to be held and could be extended further.

11. Legal Comments:

The legal background to the Coroners service and the legal considerations to be taken into account in reaching a decision are set out in the Report.

The decision is consistent with the Policy Framework and within the remit of the Executive if it is within the budget.

12. Resource Comments:

As highlighted in the report, the current model of Coroners service is not sustainable within the budget available for the service. Accepting the recommendations in the report will allow a model of service to be established that will reduce the financial risk around managing the service within the approved budget.

13. Consultation

a) Has Local Member Been Consulted?

n/a

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

Consultation will be undertaken dependent on the outcome of the decision.

d) Policy Proofing Actions Required

n/a

14. Appendices

These are listed below and attached at the back of the report	
Appendix A	Map of Coroner Areas
Appendix B	Benchmarking Information
Appendix C	Coroner Statistics and Activity Levels

15. Background Papers

The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Document title	Where the document can be viewed
Coroners and Justice Act 2009	www.legislation.gov.uk/ukpga/2009/25/contents
Chief Coroners Guidance on Merger of Coroner Areas (May 2014)	www.judiciary.gov.uk/related-offices-and-bodies/office-chief-coroner/guidance-law-sheets/coroners-guidance/

A Summary Paper - The Coroners Service in Lincolnshire 2015 and Beyond (dated September 2015)	Contact Donna Sharp - donna.sharp@lincolnshire.gov.uk
The Financial Challenge Beyond 2015/16 - Paper submitted to Councillors for Budget Scrutiny (dated September 2015)	Contact Donna Sharp - donna.sharp@lincolnshire.gov.uk

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