



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 95 coroner areas in England and Wales (with 87 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, providing a business case for the merger. Before doing so it should consult with the Chief Coroner. The Ministry of Justice has standard forms and specimen examples to help with the business case.
15. Where, following statutory 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, therefore, the remaining senior coroner has had only limited experience as a senior coroner or where the merged area will be considerably larger (in terms of numbers of reported deaths) than the remaining coroner's current area,

the relevant authority may wish to consider the following points in deciding whether option (2) may be preferable:

- The extent of the experience of the remaining senior coroner. Whether that experience is a sufficient guide to their appointing him/her as senior coroner of a much larger coroner area or taking on a very different area profile eg prisons for the first time.
- Whether the public will have sufficient confidence in that person in the light of their experience.
- The likelihood that a good field of candidates will apply if a competition is held, so that the best candidate for the post can be appointed.

27. 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.

28. 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.**

29. 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.

30. 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.

31. 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.

32. 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.

33. The relevant authority would be well advised to consider these alternatives in advance of merger.

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

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

### **Compensation**

37. 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.
38. Another alternative is to offer and agree compensation for early retirement.
39. 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**

40. 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.
41. As the Chief Coroner's Guidance No. 6 *The Appointment of Coroners* provides, 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.

42. 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.
43. 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**

44. 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.
45. 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  
14 January 2016 revised**