

**From:** Mike Hill, Cabinet Member for Community and Regulatory Services  
Simon Jones, Corporate Director, Growth, Environment & Transport

**To:** Growth, Economic Development and Communities Cabinet Committee – 10 May 2022

**Decision No:** N/A

**Subject:** KCC Public Protection - Coroner Service

**Classification:** Unrestricted

**Electoral Divisions:** All

**Summary:** The purpose of this paper is to inform the Cabinet Committee about the statutory role of KCC to support the Coroner Service and the extensive work undertaken to modernise the service delivery model.

**Recommendation(s):** The Growth, Economic Development and Communities Cabinet Committee is asked to note and make any comments and recommendations to the cabinet member.

## 1. Introduction

- 1.1 The Public Protection Coroner Service sits in the Public Protection Group within the Growth and Communities Division.
- 1.2 Coroners (i.e., the judicial official who is empowered to conduct or order an inquest into the manner or cause of death and to investigate or confirm the identity of an unknown person who has been found dead within the coroner's jurisdiction) are the legal entity, the Coroner Service is therefore not a local authority (LA) service, rather the LA has a statutory obligation (s24 Coroners and Justice Act 2009) to
  - meet all the costs of the service;
  - provide sufficient coroners officers, other staff, and accommodation to enable the coroners to discharge their statutory functions;
  - indemnify coroners against legal challenge; and,
  - appoint coroners (senior coroners, area coroners and as many assistant coroners as required for each area).
- 1.3 A Statutory Instrument requires KCC to deliver the Coroner Service on behalf of Medway Council. A funding arrangement is in place to recover the Medway proportion of service costs.
- 1.4 Coroners are independent judicial office holders appointed and paid by the LA, but have no employment status of the LA. The Ministry of Justice is the government

department with responsibility for the legislation and policies as they apply to the Coroner Service.

- 1.5 Government rejected the 2021 recommendation by the Justice Committee Review to centralise the Coroner Service.
- 1.6 The Coroners and Justice Act 2009 (implemented in 2013) introduced the role of Chief Coroner (CC) of England & Wales, responsible for leadership and guidance but with no management role. The Coroners themselves remain independent judicial office holders and the CC cannot interfere with any judicial decision and is therefore limited to issuing guidance.
- 1.7 KCC's role in this service is therefore unique compared to other KCC services in that we do not have overall control of the service, which is led by the Senior Coroners. However, KCC must provide sufficient staff, suitable accommodation and all other resources required by the Senior Coroners (SCs) to deliver their statutory functions. The CC has issued a 'Model Coroner Area' setting out expectations of the relevant local authority.
- 1.8 The coroner service is one for which demand is ultimately uncontrollable by KCC and to some extent Coroners themselves. The Coroners must respond by investigating deaths reported to them if they have reason to suspect that:
  - The death was violent or unnatural;
  - The cause of death is unknown; or
  - The deceased died whilst in prison, police custody or another type of state detention.
- 1.9 There is a link between the rate of deaths and the rate of population growth in the county, however the link is not direct or absolute, the consequence being it is also difficult to predict demand.
- 1.10 The Coroner is also required to investigate reports of 'Treasure' and determine whether an object is treasure, who found it and when and where it was found.
- 1.11 There are four distinct Coroner areas in Kent and Medway: Central & South East Kent (CSEK); Mid Kent & Medway (MKM); North East Kent (NEK); North West Kent (NWK), each with a Senior Coroner appointment. Additionally, KCC has appointed 3 full-time area coroners and 10 assistant coroners (fee paid)
- 1.12 Prior to 2013, a Coroner appointment was a life appointment. Two of the Kent & Medway Coroner areas have Senior Coroners who are life office holders, Mid Kent & Medway (Patricia Harding) and North West Kent (Roger Hatch)
- 1.13 On the resignation / retirement of the Senior Coroners for NEK (end 2013) and CSEK (during 2016), with the approval of the Lord Chancellor, KCC appointed Patricia Harding as the Acting Senior Coroner for NEK and CSEK.

1.14 KCC has received support from the Chief Coroners' office as part of the national modernisation agenda to merge the four Kent & Medway Coroner areas into a single Coroner area but cannot do so by displacing a life office holder. Legislation is pending to be able to merge Patricia's three areas.

1.15 The purpose of a Coroner's investigation is to establish:

- who the deceased was;
- how, when and where the death occurred;
- details required by the Births and deaths Registration Act 1953
- identify and report circumstances which left unremedied could result in further deaths.

## **2. Background to the Coroner Service Modernisation Agenda**

2.1 The Government and Chief Coroner are working to deliver reforms to create a more modern, open, and consistent series of locally delivered Coroner Services across England and Wales, and to reduce unnecessary delays.

2.2 In all reforms, statutory and otherwise, the Chief Coroner maintains the essential concept that bereaved families must at all times be at the heart of the Coroner process.

2.3 The 2009 Act placed a legal obligation on upper tier LAs to provide Coroners Officers (COs) where not provided by the police service.

2.4 In 2013, Kent Police gave notice that they intended to transfer employment of COs to KCC. This was implemented on 1<sup>st</sup> January 2014.

2.5 During 2013 and 2014, the Regulatory Services (now known as Public Protection) management team considered how KCC could implement the Chief Coroner's national modernisation agenda to implement national best practice and achieve consistency of standards between the four Kent & Medway Coroner areas. A review of the administrative arrangements and working practices of the COs was also undertaken.

2.6 The service also underwent a Customer Service Review (CSR), supported by the Cabinet Member, and the Corporate Director for Growth Environment and Transport.

2.7 The reviews concluded that in order to deliver a countywide service fit for the future, a greater focus must be given to the following six areas:

- i. Greater emphasis on putting the family of the deceased at the centre of the Coroner Service
- ii. Co-location (part or in full) of all teams to take advantage of economies of scale and provide a more consistent and resilient service to bereaved families and stakeholder partners, no matter where they are in the County
- iii. Improvements to efficiency and timeliness of case handling, with Coroners co-located with their KCC team, supported by a consistent application of Standard Operating Procedures (SOPs)

- iv. Improving the interfaces between the service and partner organisations, for example with the police and justice agencies, pathologists and mortuaries, hospitals, care homes and registrars etc
- v. Greater level of operational consistency supported by better technology, including the use of a shared case management system across the teams
- vi. More effective, stable, and resilient team structure with less reliance on fixed-term contracts and agency staff, and more opportunities for staff development and retention.

2.8 The service has been working with the Kent and Medway Senior Coroners and the Chief Coroner (England and Wales) to develop greater control over large parts of the cost of the service, acknowledging that much of the spend is the consequence of judicial decisions in which KCC cannot seek to interfere.

2.9 Whilst far from complete, the Coroners Service Transformation Programme is a longstanding programme of continuous improvement activity which is exploring and implementing a variety of solutions to deliver greater efficiency to better manage all aspects of resources utilised in the delivery of the service.

2.10 To achieve the local transformation of the Kent & Medway Coroner Service we looked at the following:

- staffing to include roles, job descriptions and numbers
- accommodation, both office accommodation for coroners (who were home working, remote from the officers with an allowance from KCC), the staff team and provision of court and ancillary facilities
- procedures, move away from paper with historic reliance on telephone calls and fax machines.

### **Staffing**

2.11 Up to January 2014, the Coroner Service was delivered by Kent Police operating as six separate and remote teams; each working very differently. This made cover arrangements and county-wide resilience difficult to manage. Following the transfer of the service to KCC, a review staff structures and operational procedures was undertaken in collaboration with Patricia Harding in two of the four coroner areas followed by a new staff structure and standardised operational procedure, implemented in April 2016.

2.12 The restructure introduced three new roles: investigative, administrative and court ushering with new line management and supervision functions to improve consistency of working practices. It also introduced the role of coroner's court usher, allowing the COs to focus on case work progression rather than spending days in court with no added value. Coroner Investigation Officers will attend court when they have a role to play in the hearing rather than to run a court. The Coroners Court Usher role has developed into a relatively small pool of highly capable and very flexible staff to support the families and witnesses and delivery of inquest hearings, without concern for the work building up back at the office.

## **Accommodation**

- 2.13 The coroner's officers were allocated KCC office accommodation during 2014 but remained working as four distinct teams from four locations until suitable accommodation could be found to co-locate the whole team. Since November 2017 all CS members have been co-located in one office space, enabling the merger of the four teams, greater resilience, and consistency across four coroner areas and improved 'one-team' approach and mindset.
- 2.14 Ad-hoc provision was made for courts, mainly at Archbishops Palace, but 'competing' with weddings and citizenship ceremonies for venue capacity limited the ability to deliver sufficient courts and so hiring external venues was necessary creating budget pressure and loss of time for coroners and staff to travel.

## **Procedures**

- 2.15 The updating of the Civica Case Management system in 2020 has allowed the service to move to fully electronic case management system which has improved efficiency and accountability.

## **Ancillary Considerations**

### **Movement of the Deceased**

- 2.16 KCC has in place a series of contracts to move the deceased between home address and mortuary or mortuary to mortuary on behalf of the Senior Coroners. The total cost in 21-22 was £606.7k however the cost of KCC directly providing this service was calculated to be prohibitive.
- 2.17 The main provider of this service remains funeral directors and historically they fully or partially absorbed the costs on the basis that some families will instruct them to make the funeral arrangements. Since 2018-19 this has moved to full cost recovery. Papers were presented to GEDCCC for consideration prior to awarding these contracts last year.

### **Mortuaries and Post-Mortem (PM) arrangements**

- 2.18 Kent and Medway do not have a public mortuary, KCC is therefore reliant on the NHS facilities to store the deceased and carry out post-mortem examinations. KCC currently has contracts with four Kent & Medway NHS Trusts across five mortuaries on behalf of the Senior Coroners to deliver the provision. Since 2018-19 the NHS have moved to full cost recovery to provide this service and the total cost in 21-22 was £1.3m.
- 2.19 Coroners PM examinations (PME) must be carried out by a registered and licensed pathologist. PM is no longer a mandatory part of pathologist training and there is a declining number of pathologists trained for this work further exacerbated by the nationally set fee for PMs not increasing since 2007, so many NHS pathologists will not undertake coroners' PMEs. The Service is therefore reliant on agency pathologists the cost of which is up to 3.5 times the set fee. The Coroner Service explored direct employment of pathologists to provide greater resilience and budget

control, but it was not possible to achieve largely due to the reducing number of pathologists and competition with the NHS.

## **Statutory changes**

- 2.20 A **Medical Examiner** Service was introduced by the Department Health Social Care on a non-statutory basis statutory from summer 2022). It is responsible for scrutiny of all cases not reported to the Coroner. The expected benefit of scrutiny of these deaths by the NHS is to reduce the total number of referrals to the coroner. However, with added scrutiny cases that have not been referred that should have been are now being referred. By nature, these cases tend to be more complex, and as a percentage of coroners' casework, the PM rate and inquest hearings will increase.
- 2.21 Legislation is waiting Royal Assent to require Coroners to inquire into **Still-births**, this is a new burden and although the total numbers are likely to be relatively small, they will require specialist pathologists and facilities and potentially expert opinion. For example, we do not have suitable mortuary facilities in Kent for babies so all still-birth cases will require transporting to and from a London mortuary.
- 2.22 **Covid** temporarily stopped inquest hearings and once courts resumed in summer 2020 covid compliance meant that we had to shift our ad-hoc courts which had an unintended benefit of centralising courts in Maidstone, reducing travelling for coroners and court staff representing significant savings in terms of time and cost.
- 2.23 The need to deliver courts virtually was achieved by purchasing digital court software package, which prevented Kent & Medway from building significant backlogs of inquest hearings as experienced by many other coroner areas. Indeed, our work in setting up digital court services was ground-breaking and complemented by the Deputy Chief Coroner for England and Wales

## **3. The Future of the Kent & Medway Coroner Service**

### **Accommodation**

- 3.1 The service currently uses Sessions House, Archbishops Place and Oxford Road (all Maidstone) to deliver inquests. As well as competing with other KCC service needs, they do not meet the needs for a modern coroner service and do not provide the ancillary arrangements for the families and witnesses, but it has enabled KCC to meet a minimal statutory obligation.
- 3.2 The ability to centralise five coroners' courts with ancillary space as well as office accommodation co-located with the KCC CS at Oakwood House provides a modern and appropriate court facility which enables us to put the experience of bereaved people at the centre of what we do. Anticipate the Coroner Service will operate from Oakwood House from January 2023.

## **Digital Autopsy**

- 3.3 The CC has encouraged all LAs to provide a digital scanning service to establish the medical cause of death in lieu of traditional invasive PME where suitable. The benefits include:
- potentially reducing the number of Kent and Medway invasive autopsies from c3300 per year to c1300 per year.
  - potentially deliver financial savings (in terms of NHS and pathologist fees),
  - reduces the pressure caused by shortage of PME trained pathologists
  - reduces the distress that an invasive PME causes many families
  - potentially means that the deceased can be released to the family's own funeral arranger much quicker.
- 3.4 The proposal is to build a body store facility at Aylesford and contract a Digital autopsy (DA) scanning provider. This is a particularly complex project, complicated further by this being a very new function with no precedents to follow.
- 3.5 In 2013 KCC explored the construction of a PM facility, but the cost was prohibitive, however the provision of DA scanning alleviates some of the pressure arising from the need for the NHS to support coroners PM work.
- 3.6 KCC also retains a statutory obligation to provide a response to a mass fatality incident and there is a risk that should the incident be greater than an NHS facility can manage, significant costs will be incurred commissioning a temporary mortuary and possibly body store facility (if the event is large). The proposed DA facility will include body storage which will help ameliorate this risk.

## **Benchmarking**

- 3.8 KCC regularly contributes to benchmarking activities with other LAs. The benchmarking is in the context of
- all coronial decisions being independent, and inconsistencies are outside the control of the relevant LA
  - the complexity of the work is highly variable between coroner areas and is impacted significantly by the presence of prisons or other detention facilities, acute, specialist referral hospitals, mental health units, major transport hubs, road networks, particular location/ demographic, e.g., areas of deprivation or high illicit drug use
  - the increased complexities impact coroner and CS numbers more than just total referral numbers without the complexities.
- 3.9 Analysis demonstrates that the complexity of caseload arises from Kent & Medway having high numbers of
- prisons/ detention centres (8)
  - inpatient mental health units (10 NHS and 4 private)
  - 5 NHS teaching hospitals with A&E and surgical functions and 7 specialist centres and specialist maternity units
  - major transport network, 4 motorways, ports, and channel tunnel

3.10 The result is that the Kent & Medway Coroner Service has relatively high numbers of deaths referred, high numbers of inquest hearings and high number of complex inquests.

### **The Impact of Covid-19**

3.11 Despite unprecedented numbers of death referrals, the Kent & Medway Coroner Service has continued to deliver a service without excessive delays in progressing cases and inquest hearings. This is due to

- a highly dedicated team, who remained highly motivated to deliver their core function despite the challenges they faced over a sustained 28-month period starting in the winter 2019
- the provision by KCC of suitable accommodation to create covid compliant courts which avoided a significant backlog of inquest hearings.
- the purchase of an electronic document handling system that enabled us to deliver courts virtually, including a high-profile complex inquest hearing
- the innovative and flexible approach of the KCC staff team to deliver courts virtually at the same time as ensure that families remained at the centre of the process and that hearings are legally compliant
- the introduction of the new case management system, despite being one month into lockdown, working remotely without the usual time to test and plan and deliver face to face training
- the manager team working closely with the Senior Coroner to identify and deliver innovative working practices:
- employing agency staff to make initial contact calls to families on the day of referral, avoiding potential distress for families and complaint
- piloting new ways to progress casework despite being in full response mode e.g., developed pathways of automation and increased use of electronic documentation, creating a series of reports to assist stakeholder partners e.g., mortuary capacity management, creating an alternative workflow for cases that could be identified as not needing full coronial scrutiny to reduce the handling by the KCC staff team

## **4. Equality and Diversity**

4.1 The existing Equality Impact Assessments underpinning the breadth of the service's work apply to the work and roles described in this paper

## **5. Legal implications**

5.1 The report sets out the legal framework of the Coroners Service.

## **6. General Data Protection Considerations**

6.1 A Data Protection Impact Assessment is not needed for this overarching narrative report.

## **7. Financial Implications**

7.1 The Budget for the Service is in the budget book for 22/23. However, as described above, due to the nature of the service it is not always possible to forecast increases due to the judicial nature of decision making.



## **8. Conclusion**

- 8.1 The Kent and Medway Coroners Service has been on a long and exceptionally complex journey of modernisation since Kent Police served notice to pass the service to KCC. Due to the size and complexity of the Kent and Medway area it has been a challenging journey, but due its forward thinking and innovative approach it is now generally recognised as a 'market leader'.

## **9. Recommendation(s):**

The Growth, Economic Development and Communities Cabinet Committee is asked to note this report and make comments and recommendations to the Cabinet Member.
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## **10. Contact details**

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