

A new dawn for coroners' courts?

*Will the Coroners and Justice Bill significantly improve the service bereaved families receive from a reformed coroner system as promised? **Lucy Wilton** investigates*

The past year has seen a number of high-profile inquests, including those into the deaths of Amy Winehouse and Gareth Williams, which have brought the coronial system and its limitations into the glare of the media spotlight. Some, if not all, of these limitations were intended to have been addressed by the Coroners and Justice Act 2009 (CJA 2009), which was enacted in November 2009.

While many of those provisions in CJA 2009 which relate to the coroners'

courts are yet to come into force, a significant step forward has been made with the appointment of the first chief coroner for England and Wales, which was announced last month. Judge Peter Thornton QC has been selected for the role and will take this up in September 2012. The Lord Chancellor has stated that he will be giving the chief coroner "the full range of powers to drive up standards, including thorough coroner training, and to tackle delays within the system".

Delay

The issue of delay is inevitably of particular importance to the families of the deceased and has in the past been seen as one of the major flaws in the inquest process. The *Coroners Statistics for 2011*, published by the Ministry of Justice on 17 May 2012, stated that the estimated average time taken to process an inquest (ie, the period from when the coroner became aware that the body of the deceased was in their area up to conclusion of the inquest) in 2011 was 27 weeks. However, my colleagues and I have represented family members at inquests where it has taken some years for an inquest to come to a close.

Section 16 of CJA 2009 requires that, where an investigation into someone's death has not been completed or discontinued within a year, the relevant coroner must notify the chief coroner and that the chief coroner must register such notifications. The chief coroner must then provide a written report to the

Lord Chancellor every year, containing a summary of the number and length of investigations in respect of which s 16 notifications have been made.

This report must also include the reasons for the length of the investigations, as well as any measures taken to prevent unnecessary delays. The report is then to be published by the Lord Chancellor and they must lay a copy of the report before both Houses of Parliament. It is to be hoped that this higher level of scrutiny will assist in procuring greater consistency in standards between different coroners' areas in the UK and ultimately bring down the average "processing" time for inquests.

Accountability and transparency

Another commonly cited concern among bereaved families and legal commentators has been the perceived lack of accountability and transparency within the coronial system. Coroners are able to appoint their own deputies and assistants and there is no clear process in place for overseeing such appointments or the procedures adopted before these are made. This was thrown into sharp relief by events following the inquest into Amy Winehouse's death, when it was revealed that the presiding assistant coroner had not been appropriately qualified to take on her role. She has since resigned and a judicial inquiry into the situation has been launched.

Schedule 3 to CJA 2009 sets out provisions regarding the appointment of senior, area and assistant coroners and requires that any appointments must be consented to by the Lord Chancellor and chief coroner. It also states that the Lord Chancellor (with the agreement of the Lord Chief Justice) can remove any senior, area or assistant coroner from office.

The inquest into the death of Gareth Williams, an employee of GCHQ who had allegedly been seconded to MI6, also raised questions as to the transparency of the inquest process. Prior to the inquest, which took place before Dr Fiona Wilcox in March this year, the Foreign Secretary signed a public interest immunity certificate authorising the withholding of information from the inquest relating to Mr Williams' work, particularly as concerned joint operations with the US.

This development caused concern in some quarters about a move towards "secret" inquests, where important information relevant to the death could be kept not only from the public and the press but also from the deceased's family. Such concerns appeared to have been borne out when the government recently introduced the Justice and Security Bill, which proposes to allow the use of "closed" proceedings in cases involving issues of national security.

Inquests have since been removed from the scope of this legislation, but the Lord Chancellor already has the power

(under Sch 1 to CJA 2009) to require that an inquest be suspended where an inquiry is being held, or is planned to be held, in relation to the death under the Inquiries Act 2005. Under the Inquiries Act 2005, disclosure of documents can be restricted as can publication of parts of the inquiry's final report. There is, however, a requirement in CJA 2009 that, for an inquest to be suspended, a senior judge must have been appointed to chair any such inquiry and the Lord Chief Justice must approve that judge.

Cautious optimism

The Coroners and Justice Bill, which preceded CJA 2009, was heralded by the then government as a means of "significantly improv[ing] the service bereaved families receive from a reformed coroner system". As referred to above, there have clearly been some setbacks in getting these reforms off the ground. However, despite ongoing concern about open justice in the coroners' courts, there does now appear to be cause for cautious optimism that, as it was put by Helen Shaw (co-director of INQUEST), "the government can now focus its efforts on working with [the chief coroner] to strengthen and improve the coronial system".

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