



Chief Coroner

CHIEF CORONER'S CONFERENCE FOR LOCAL AUTHORITIES 2023

SPEECH

1. Good morning. It is very good to see you here today. Over the course of the past twelve months I have enjoyed the privilege of meeting many of you as I have visited coroner areas around the country. I should like to begin this address by thanking you for the hospitality you have shown me and for all the hard work you put into running the coroner service.
2. Almost universally, behind every well-run coroner area is a good Local Authority that understands the unique needs of coroner service and does its best – with increasingly limited resources – to provide the senior coroner and the officers and staff with everything they need.
3. This year, for the very first time, we have invited representatives of police forces to attend this conference. That's because a significant number of coroner jurisdictions still have officers who are employees of local police forces and it seems wrong, and perhaps even self-defeating, to exclude them from this national event. Coroners' officers are the backbone of our service. An increasing number of local authorities now provide coroners' officers from their own staff. Those officers have always had a 'voice' at this conference, if only indirectly through the presence of their senior local authority representatives. I am very keen that those police forces

who help to provide coroner services have the opportunity to consider and understand, along with their local authority colleagues, the statutory duties that apply to them under section 24 of the Coroners and Justice Act 2009, as well as other allied matters, such as the important principle of judicial independence.

4. So let me extend a special welcome to those police representatives who have joined us today. But whether you happen to be here on behalf of a local authority or a police body, I hope each of you will find today's event useful and enjoyable.
5. If you were designing a coronial system – even a locally resourced one – from scratch, you would probably not come up with the somewhat complicated set of relationships that currently exist in many coroner areas – the so-called ‘triangle of responsibility’ involving the senior coroner, the local authority and the local police force. If you had a free hand, you might, in the absence of a national system, entrust the entire responsibility for resourcing individual areas to the relevant local authorities.
6. The reason we continue to retain the somewhat elaborate tripartite arrangements that still prevail in many jurisdictions is largely historical. Although section 24(1)(a) of the Coroners and Justice Act 2009 places the responsibility for providing officers and other staff squarely on the relevant local authority, that particular provision applies only if, or to the extent that, the necessary officers and other staff are not provided by a local policing body.
7. This arrangement generally works in a reasonably satisfactory way, but it is idle to pretend that there are no exceptions or that problems do not arise. My tour of the country has revealed a small number of cases where

grossly inadequate provision of officers and staff means that coroners' officers are being placed under wholly unacceptable and unsustainable levels of pressure. While some of those cases involve local authorities, the majority occur in areas where the local police body is part of the equation and is responsible for providing the officers and, sometimes, other staff as well. What's more, I'm afraid there is no escaping the impression I have formed that police forces – for whatever reason – are not generally as agile in addressing such difficulties as local authorities. The result can be demoralised personnel, constant 'churn' (with the need for equally constant and time-consuming training of new staff), absences through long-term illness and premature retirements. On the whole, it has been my experience that local authorities tend to be more motivated and adept when it comes to solving these problems. I do not mean to single out the police representatives here. That would be unfair. In truth, the root cause may simply be the fact that the 'triangle of responsibility' is intrinsically unwieldy and is perhaps something we should, collectively, consider leaving behind. In my view, clear lines of responsibility when running any public service are important, and when those lines become confused, we can end up with poor outcomes for the bereaved and the public.

8. In the course of my tour, I have visited a number of areas where former police staff have been transferred to the relevant local authority. In some cases, officers (particularly, perhaps, former 'warranted' police officers) were initially apprehensive at the prospect of such a change and were inclined to oppose it. However, my strong impression is that once the new system has been allowed to 'bed in', the officers or staff have almost universally considered themselves to be better off than under the previous system.

9. In some very recent visits, I have even encountered cases where the impetus to undertake a transfer process has originated among the officers themselves – possibly because they have been able to see the advantages the process has brought to colleagues in other jurisdictions in the same locality.

10. As we all know, the landscape of the coronial world is changing, and doing so for good. We must accept that we are not witnessing some kind of ‘blip’ or temporary upheaval that can be blamed on the recent pandemic or other passing factors. The challenges to which we are together responding by professionalising and modernising our system are challenges that are here to stay and that – I might add – are affecting other legal jurisdictions as well. I have seen for myself how most of you are investing in infrastructure, staff and judicial resources to meet those challenges. We all have to face up to the fact that we cannot run a 21st century judicial system with late 20th century methods and resources.

11. Last year, I fear I may have ruffled a few feathers when I said that the coroner service is not just one among many calls upon local authority budgets, but is a uniquely special case. Yet it *is* special, not just because of the authority’s specific legal duty under section 24 to maintain the service, but for the more profound reason that it is an immense privilege for any local body to be entrusted with the appointment of judges – not to mention the running of an important part of our system of justice that would otherwise be administered by central government. Of course, as I said at the time, most funding authorities recognise this point. It is only a minority who don’t.

12. Twelve months later, I have to tell you that my national tour has only served to convince me of the truth of what I said at our last conference. So much so that I'd like to develop it a little today. Of course, most local authorities are struggling under the weight of many competing responsibilities with inadequate resources of their own. I do not for one moment suggest that the coroner service somehow trumps everything else, or that it is wrong to conduct a proper accounting exercise. But the crucial point I want to make is that in balancing your budgets, it is a serious mistake to regard the coroner service as just "one department among many". Strictly speaking, it is not a department of the local authority at all. It is a locally administered branch of the national judiciary, which is precisely why I make no apology for repeating that it is a great privilege for local bodies to be entrusted with the responsibility of appointing and resourcing coroners. As you know, you appoint coroners, but you do not employ them. Indeed, coroners are not employees at all in the strict sense of the term. They are office-holders. Like all other judges in this country, they hold office under the Crown. That is why the coroner service is entitled to a special place when it comes to the allocation of budgetary resources.

13. At the same time, the coroner service, while not a "department" of the local authority, is, I recognise, a significant call on its resources. How are you to balance its needs against those of your own departments? Well, I repeat that the coroner service, while it cannot expect unquestioning provision of everything for which it asks, is entitled to a degree of priority that flows from the fact that it is a judicial service. And in assessing its legitimate needs, it is necessary to take into account the new ways of working that are evolving as we continue the process of modernisation

and professionalisation, such as the increasing use of salaried area coroners as we build a more efficient, resilient and collegiate service.

14. Why do I continue to insist that the coroner service is entitled to expect a degree of priority flowing from its judicial nature? It is because there must eventually come a point at which inadequate funding of any court system, in and of itself, poses a threat to the fundamental principle of judicial independence. That is an uncrossable bridge. Coroners are judges and the Bangalore Principles, about which you may hear something from our next speaker, make it clear that the independence of judges is nothing less than a prerequisite to the rule of law itself. As a minimum, therefore, the coroner must be free to exercise his or her judicial responsibilities with an independence that is not merely theoretical but practical. If that does not happen, the coroner may be forced, simply by lack of resources, to take decisions which he or she would not otherwise take in the interests of justice. Such decisions are neither truly independent nor just. Equally, with or without the tacit connivance of coroners, their officers may find themselves with no practical choice but to cut legal and procedural corners that ought not to be cut. And who suffers from all this? The public and, in particular, the bereaved who ought to be at the very heart of the process.

15. Don't take it from me. Some years ago, the Council of Europe held a high-level conference of ministers of justice and representatives of the judiciary from many European nations at which the key speaker was a British judge of the Court of Appeal, Lord Justice Vos, who was at the time President of the European Network of Councils for the Judiciary.

16. Referring to a study the Network had undertaken in connection with judicial independence and accountability, Sir Geoffrey Vos said this:
- “The primary challenges to independence were identified as being **inadequate investment** in the courts and judicial structures, **increases in case complexity and workload**, **gratuitous criticism of judicial decisions by politicians, parliamentarians and the executive**, and **inadequate staffing and administrative assistance for judges.**” [*my emphasis*]
17. We have seen all these things recently in connection with the coronial system. I know that the vast majority of local authorities have high expectations for their coroner service but there are undoubtedly some coroner jurisdictions suffering the effects of “**inadequate investment**”. During my tour, I visited one area where the local authority had vacated a large council building on the well-merited basis that it was no longer fit for use. The only people who were expected to remain in the building, which had a leaking roof and paint peeling off the walls, were the coroners and their officers and staff!
18. We have seen “**increases in case complexity and workload**”. They are not the fault of coroners, local authorities or police forces, but they are a fact of life that we cannot wish away. They reflect the permanent change in the landscape to which I referred a few minutes ago. They are here to stay, and coroners cannot be expected to deal with them on the level of resources that were considered appropriate ten or even five years ago.
19. We have also seen “**gratuitous criticism of coroners by politicians**”. Only a few weeks ago, a Member of Parliament made critical remarks

about a coroner under cover of parliamentary privilege. The coroner, of course, cannot respond to such remarks.

20. During my tour I have, I'm afraid, witnessed a number of cases of **“inadequate staffing and administrative assistance”** for coroners. Indeed, it represents the single most common cause of complaint that I have encountered.
21. All these things, as Sir Geoffrey Vos pointed out, impact directly upon judicial independence. Most local authorities understand this and avoid them. Unfortunately, some don't, perhaps because they don't have as highly developed an understanding of the role of the coroner as an independent judge as they ought to have.
22. In more than once case during the past twelve months, I have had to intervene to prevent funding authorities from reducing the pay of individual coroners. In each case, the reason offered would make sense in the case of an employee – even, perhaps, a very senior one. For example, there may come a point at which it is reasonable to impose a temporary pay reduction for an employee who is on long-term sick leave. But it is no justification to say that because you would do it to the chief executive you should be able to do it to the coroner. It is not a question of seniority or importance. Like it or not, it is fundamental to the preservation of judicial independence that a judge's pay may not be reduced.
23. The independence of the judiciary is not a principle of merely relative importance. It is inviolable. You cannot have a system of justice that is “mostly” independent. Such a system is not worth having and might as well not exist.

24. Does this seem “absolutist”? Well, it is and it I mean it to be. You cannot compromise when it comes to a constitutional principle of such fundamental importance. You cannot dispense with it for reasons of convenience or cost. And I’m afraid this is still not well understood. I recently received correspondence from one local authority arguing that it had to “balance” the principle of judicial independence against “other considerations”, the clear implication being that you can legitimately dispense with the independence of the judiciary if you think you have a good enough reason. That is wholly misconceived. There is no balancing exercise to be had. We either respect and uphold judicial independence inviolate or we undermine and ultimately destroy it. It is a public good that benefits society – you, as funding authorities, have the privilege (although you it might not feel like that when trying to navigate the unusual problems judicial independence throws up from time to time) of safeguarding that public good.

25. As I say, none of this means (to coin a phrase) that “what the coroner wants, the coroner gets”. But it does imply that there is an irreducible minimum level of support which must be maintained in all circumstances. Most jurisdictions attain that level. Some undoubtedly do not. They have officers with individual caseloads approaching, and sometimes into three figures. That degree of pressure is utterly incompatible with respect for judicial independence. Just as importantly, no human being can or should be expected to withstand such pressure. I cannot forget the distressing response I received, early in my tour, when I asked a small – indeed, far *too* small – team of coroners about their individual caseloads. As soon as I posed the question, every single member of that team spontaneously burst into tears.

26. I have spent a good deal of time this morning talking about the separation of powers and judicial independence because they form an important theme of this year's conference. But before I finish, I should like, quite briefly, to address two other themes.
27. The first is that of recruitment and appointments. As I said last year, and have repeated today, I want to see more area coroners in our system. That's because of the advantages they bring, including resilience, mutual welfare support, enhanced collegiality, increased efficiency and greater flexibility of listing. All those factors contribute to managing the increasing complexity of coroner work, thereby saving cost in the long term.
28. I must say that I have been pleasantly surprised by the willingness of some local authorities to run competitions for area coroners in response to the suggestion I made at last year's conference, repeated in many individual conversations with you during the tour. We have already achieved a significant rebalancing, and I very much hope that those local authorities who ought to be appointing additional area coroners but who are still hesitating will recognise the force of the arguments in favour. Apart from the advantages I have just mentioned, there are, in my opinion, other benefits capable of delivering potentially significant cost savings that are no less real for being difficult to quantify with arithmetical precision.
29. As I made clear a year ago, however, this welcome development must not be at the expense of recruiting new assistant coroners. This is all the more important because the greater use of area coroners is likely to reduce sitting opportunities for assistants. At least one authority has recently run

a competition for assistants in which it shortlisted only those candidates who already held assistant posts in other areas. That was objectionable because holding such a position had not been specified as a criterion in the application pack, and I refused to approve the sift and required the local authority to carry it out again, properly and fairly.

30. Now, there is nothing to prevent a funding authority from specifying that it will give priority to experienced applicants (perhaps expressing that as a 'desirable' quality). However, such persons are likely to enjoy a natural advantage anyway, precisely because their experience in other jurisdictions will give them a head start over newcomers. So I question whether there is anything to be gained by making it a requirement, or even a criterion, for appointment as an assistant coroner.
31. We cannot simply recirculate the same people, however experienced they may be, among coroner jurisdictions. We must continue to invigorate our service by recruiting able new judges. They are, after all, the area and senior coroners of the future. So we have to keep infusing new blood into the coroner service. I think it's important that those who are seeking appointment, but who have no prior sitting experience, should be given a fair chance to compete on equal terms. After all, if existing experience is so important to a funding authority, that body ought, perhaps, to be questioning whether it might not be better to appoint an area coroner instead of another assistant. These are all matters that may well feature in the forthcoming updated version of the Model Coroner Area.
32. I should also like to underline the importance of running fair recruitment competitions. That may seem obvious, but during the past year I have encountered more than one case where, with the best of intentions,

authorities have unfortunately adopted unfair approaches, obliging me to refuse my consent to a sift or appointment. For example, if you choose to adopt a points-based system for assessing candidates you must apply that system consistently. It is no good awarding applicant A more points than applicant B but then deciding that you'd rather interview or appoint applicant B. An authority taking that course is effectively trying to appoint the losing candidate!

33. The other theme I'd like to touch upon is recovery from Covid. In truth, that recovery is now inextricably linked to the pressures on coroners and coroner services that arise from other factors, some of which are what you might call the 'long tail' from Covid. These include the exceptional winter pressures you are all facing this year, increasing pressure on mortuary capacity, the acute shortage of pathologists, the growth in uncertified deaths resulting from the reluctance of many medical practitioners to undertake death certification, and more besides. This is all in the context of a potentially larger cohort of excess deaths in 2022 than in any of the pandemic years. Emerging ONS figures suggest that the numbers of registered deaths in 2022 may have jumped to around 650,000 – which would be the highest ever number of recorded deaths in England and Wales, and higher than either of the pandemic years, but without the extra funding, resources (such as additional body storage), legislative easements and central government command and control that was available during the period of emergency. No one really knows why this is occurring – but it may well continue into 2023.
34. So my overall assessment is that while many areas have already recovered from the backlogs created by Covid, the service in general has struggled to get back to any sense of pre-pandemic 'normality'. We will talk about

Covid recovery a little later today and it may be that we can explore these issues a little further at that stage. My focus is on putting pressure on the Government to resolve, as urgently as possible, the problems to which I've referred, especially those relating to pathology and death certification.

35. Before I finish, let me tell you that my tour of England and Wales is almost complete, with just a handful of jurisdictions still to visit. Despite some of the critical comments I have made today, my overall impression is a positive one. All coroner areas have worked hard to overcome the many additional problems that the pandemic and its immediate aftermath have thrown at them. The vast majority of local authorities have enthusiastically and effectively supported them. Most police forces have done the same. If I have dwelt today upon certain negative aspects – particularly the impact on the welfare of teams of coroners' officers – it is because I am duty-bound to do so. But morale remains high among coroners and their officers and staff, even in jurisdictions where their welfare has been compromised. The most common phrase I have heard is, "We don't want to let the families down". Their response to the challenges they have had to face has been truly inspiring.
36. Let me also place on record my profound gratitude to the many local authority and police representatives I have met during my visits. They have engaged constructively with the tour, extending a warm and hospitable welcome to me, and to the officials who have accompanied me.
37. I should like to thank the two deputy Chief Coroners, Her Honour Judge Alexia Durran and Senior Coroner Derek Winter, whose terms of office have – I'm pleased to say – been formally extended. There have been a

couple of changes to my team of officials since our last conference. Rehad Miah and Bethany Marriott have moved on to new posts. I thank them and wish them every success in their new positions, and I welcome their respective successors, Nadira Karim and Hannah Regan. As always, I am deeply grateful to all members of the Chief Coroner's small (but perfectly formed!) team, under the distinguished leadership of James Parker.

38. Finally, let me thank the volunteers from the Coroner's Court Support Service who have once again graciously agreed to support the administration of this conference. They will be here all day if you are interested in talking to them about the benefits of having the service in your local jurisdiction.

39. As I said at the start, I hope you will find today's event helpful and informative – not just the programme of talks, but perhaps above all and the opportunity to reconnect with colleagues from across the country and to exchange views and ideas.