

WIRRAL COUNCIL

SPECIAL CABINET

27 November 2014

SUBJECT:	PROPOSED MERGER OF THE WIRRAL AND LIVERPOOL CORONER AREAS and CORONER SERVICES
WARD/S AFFECTED:	All
REPORT OF:	Head of Legal & Member Services
RESPONSIBLE PORTFOLIO HOLDER:	Cllr Adrian Jones
KEY DECISION	Yes

1.0 EXECUTIVE SUMMARY

- 1.1 This report provides details of proposed merger of the Wirral and Liverpool Coroner Services arising from the retirement of HM Coroner for Wirral, Mr Christopher Johnson, on 31 December 2013.
- 1.2 From 1 January 2014, both Wirral and Liverpool Councils agreed to operate a joint coroner service on an interim basis pending a decision being taken in relation to the merger of both the Wirral and Liverpool Coroner Areas. The interim arrangements were duly endorsed by the Chief Coroner and Lord Chancellor/Ministry of Justice, and have ensured that both Councils, but in particular Wirral Council, had in place effective coronial arrangements that are adequately resourced to meet all legal duties and obligations.
- 1.3 This report includes the business case for the proposed merger of both coroner areas thereby creating a single "Liverpool and Wirral Coroner Area" and the "Liverpool and Wirral Coroner Service".
- 1.4 Approval and agreement is sought in respect of the business case and in turn to the proposal that the Wirral and Liverpool Coroner Areas and Services merge to create the Liverpool and Wirral Coroner Area and Service.

2.0 BACKGROUND AND KEY ISSUES

- 2.1 The Council has legal and statutory obligations regarding the provision of a robust and appropriate Coroners Service on the Wirral. Should provisions be inadequate this would lead to reputational damage for the local authority, and more importantly it would impact upon bereaved families and the legal process for investigating unexplained deaths. These same obligations apply in relation to Liverpool City Council.

- 2.2 It is the responsibility of a local authority to submit suitable proposals regarding any possible changes to the Coroners Services. All proposals, and subsequent changes, should adhere to the aspirations of the Chief Coroner for England and Wales, and have his support.
- 2.3 Ultimately the decision whether to adopt any proposal(s) is that of the Ministry of Justice and Lord Chancellor, based on recommendations made by the Chief Coroner stemming from any current national service aspirations or policy objectives.
- 2.4 Any proposal viewed by the Chief Coroner as lacking a sound business case and/or failing to meet the wider central policy objectives for coronial services would not receive his support.

Background

- 2.5 Mr Christopher Johnson was appointed HM Coroner for the Wirral Area (Senior Coroner) on 20 December 1988 following the retirement of Mr Rex Taylor on 29 September 1988.
- 2.6 Mr Johnson was the acting HM Coroner for Wirral between 30 September and his permanent appointment on 20 December 1988.
- 2.7 Mr Johnson as HM Coroner for Wirral (part-time), retired on 31 December 2013, after serving 25 years in the post.
- 2.8 The Wirral Coroner Service operated from the Ground Floor, South Annexe, Wallasey Complex. However, the service used both Wallasey and Birkenhead Town Halls as required, particularly for holding inquests.
- 2.9 As a result of Mr Johnson's retirement, the Council must request authority from the Chief Coroner and the Lord Chancellor to appoint to the vacant post, or suggest an alternative option within the statutory and legal framework, accounting for any government policy and/or aspirations.
- 2.10 Under the formal guidance issued by the Chief Coroner, and the requirements of the Coroners and Justice Act, 2009, a local authority must inform the Ministry of Justice and the Office of the Chief Coroner when a Coroner retires. This is intended to enable the Chief Coroner to consider the options available.
- 2.11 The work of the Coroner is 'business critical', and robust and appropriate arrangements must be in place to ensure business continuity. Should this not be the case the local authority could be in breach of current legislation, possibly leading to reputational damage and intervention by the Ministry of Justice.
- 2.12 Any future proposals, prior to any formal ratification by the Ministry of Justice and the Lord Chancellor, therefore need the full support and endorsement of the Chief Coroner.

Legal Framework

- 2.13 The provision of a Coroner's Service is a legal and statutory function of a local authority. It has no discretion and must provide the necessary resources,

funding and support to enable the Coroner(s) to discharge their statutory responsibilities.

- 2.14 The role of HM Coroner is statutory with all deaths referred following a defined and formal legal process which ensures parity, and issues surrounding equality are considered within this process.
- 2.15 The primary legislation under which the Coroner's Service operates is the Coroners Act 1988 and the Coroners Rules 1984. More recently the Coroners and Justice Act 2009 came into force, setting out a number of changes to modify and standardise the Coroners Services in England and Wales.
- 2.16 Coroners are Independent Judicial Officers ('Crown employees'), and are not employed by the local authority. The local authority cannot review performance, enforce practices, procedure or policy, or invoke any disciplinary procedures. Coroners fall under the guidance of the Chief Coroner, and answer to the Ministry of Justice, and ultimately the Lord Chancellor.
- 2.17 Under the 2009 Act, a local authority is responsible for the appointment of Coroner(s) within their area. This includes payment of salaries and any expenses incurred through holding the office of HM Coroner. There are considerable costs associated with the operational needs of the service (such as mortuary and toxicology fees), which the local authority must also fund.
- 2.18 The local authority must fund the service in its entirety regardless of the costs. It is difficult to forecast with absolute certainty expenditure for either the service pre-31 December 2013 that was based on single coroner area or any potential new service model (whether based on the proposed merged service or an alternative). Whilst there is historic evidence regarding caseload, it is not possible to predict the exact make-up, type and complexity of the deaths referred; therefore costs can vary hugely irrespective of whichever operating model is implemented.
- 2.19 However, following the introduction of the new Coroners and Justice Act 2009 coronial services nationally remain subject to considerable change. New requirements and burdens, revised practices and procedures, and greater central guidance all impact upon the services and will continue to do so going forward.

Background to the proposed merger

- 2.20 With regards to the position following Mr Johnson's retirement (post 31 December 2013), normally a recruitment exercise would be undertaken by the Council for a Senior Coroner for the Wirral Area to be appointed. However, under the Coroner and Justice Act 2009, the Chief Coroner and Lord Chancellor's Department/Ministry of Justice required the Council to first consider whether the Wirral Area should be amalgamated with another Coroner Area before a permanent Senior Coroner appointment is made.
- 2.21 The issue of amalgamation arose following the Luce Review 2003 (which reported on 4 July 2003). The terms of reference of the Review was wide and considered arrangements for the identification of the deceased, ascertaining causes of death, the need for further public investigation, the qualifications of

those investigating death, the support and other services needed, including post-mortem examinations, and the possibility of introducing a so-called "medical examiner" system.

2.22 The Review resulted in a number of recommendations being made, which included:

- the 136 coroners' districts in England and Wales (in 2003) should be replaced by about 60 coroner areas broadly linked with police authorities;
- rebasing the system on predominantly full-time coroners;
- the appointment of a statutory medical assessor (medically qualified) for each coroner's district (now area), to support the coroner, but also to audit and support death certification by doctors;
- new more flexible procedures for inquests;
- fuller conclusions from inquests, with a stronger bias towards narrative and preventive findings; and
- a new, statutory recognition of the role of coroners' officers, including training and specialisation.

2.23 This policy direction has been reinforced by the Coroners and Justice Act 2009 and the appointment for the first time in 2012 of a Chief Coroner for England and Wales. The Chief Coroner's aspirations include the reduction in Coroners areas nationally from the current 96 to 75.

2.24 The Coroners and Justice Act 2009 changed the name of "coroner's district" to "coroner area"; the HM Coroner for a coroner area is now the "Senior Coroner" and a "Deputy Coroner" is now either an "Area Coroner" and/or an "Assistant Coroner".

2.25 Importantly, the Coroners and Justice Act 2009 requires the approval/consent of both the Chief Coroner and Lord Chancellor to first be obtained before any appointment of a Senior Coroner can take effect. Following discussions with the Lord Chancellor's Department and Ministry of Justice, the Chief Coroner and Lord Chancellor are unlikely to give their consent until the issue of amalgamation of coroner areas is fully considered.

2.26 Coroners and Justice Act 2009 seeks to give effect to some of the recommendations of the Luce Review. In particular, the intention behind Schedule 2 of the Act is to move towards fewer (but larger) coroner areas which are supported by a full-time Senior Coroner. This approach may lead to greater economies of scale, through sharing of staff and resources and will enable full-time Senior Coroners to focus entirely on their coronial duties, thus develop their skills and experiences more fully.

2.27 The formal guidance issued by the Chief Coroner states that should a Coroner retire, or a post become vacant, the local authority must consult with the Chief Coroner and the Lord Chancellor (via the Ministry of Justice) to seek guidance on what may happen to any vacant area.

2.28 Under the 2009 Act, when two or more existing Coroner areas merge or combine the new area cannot consist of *part* of a local authority area, it must

consist of a *whole* local authority area (or in some cases more than one local authority area).

- 2.29 The Council must therefore explore and evaluate the merits of the Wirral Area being merged with another Coroner Area before it can consider whether to appoint a permanent Senior Coroner for the Wirral Area. This assessment requires a business case to be developed which explores and evaluates the possible options available. A detailed business case has been developed proposing the merger of the Wirral and Liverpool Coroner Areas to create a single coroner area to be known as the "Liverpool and Wirral Coroner Area". The supporting service would be known as the Liverpool and Wirral Coroner Service". The business case is set out at Appendix 1 to this report.
- 2.30 Consideration has also been given to the possible amalgamation of the Wirral Coroner Area with the Cheshire, Warrington Coroner Area.
- 2.31 The Council will be required to consider whether amalgamation is appropriate and justify whatever decision it reaches.
- 2.32 If amalgamation is favoured, the Ministry of Justice will undertake formal targeted consultation before a final decision on the issue of amalgamation is taken by the Chief Coroner, Lord Chancellor's Department and Ministry of Justice. Consultation will be for a period of six weeks and will commence on 8 December 2014 subject to approval by Cabinet and Council of the attached business case proposing merger.
- 2.33 If amalgamation is not favoured, the Council will be required to set out its rationale to the Chief Coroner, Lord Chancellor's Department and Ministry of Justice, who may or may not accept the Council's position. The operation of the interim arrangements (see below) has been positive and well received - the Council must bear this in mind when reaching its decision.

Interim Arrangements

- 2.34 Until the issue of amalgamation is addressed, the Council agreed to put in place appropriate interim arrangements to ensure that an effective coroner service was maintained after Mr Johnson retired on 31 December 2013.
- 2.35 From 1 January 2014, the Council appointed, with the consent of Liverpool City Council, the Chief Coroner, Lord Chancellor and Ministry of Justice, Andre Rebello as the Assistant Coroner for the Wirral Coroner Area. Mr Rebello was already appointed as the Senior Coroner for Liverpool and is highly regarded both nationally and locally.
- 2.36 It was agreed that the interim arrangements would be remain in place until such time that a permanent Senior Coroner appointment is made that covered the Wirral Coroner Area.
- 2.37 The key features of the interim arrangements are as follows:

- i. Mr Andre Rebello undertakes full operational control of both the Liverpool and Wirral Coroner Areas.
- ii. The existing Liverpool Council Coroner Offices situated at Gerard Majella Courthouse, Liverpool (previously St Georges Buildings, Liverpool), be the designated address for both the Coroner Services for both Liverpool and Wirral.
- iii. All 10 Coroner's Officers employed by Merseyside Police operate from the Liverpool Council Coroner's Offices (resulting in Wirral Coroner's Officers relocating from Bromborough Police Station).
- iv. The IRIS Case Management Systems operated by both Councils be aligned and reconfigured.
- v. The Liverpool Council Coroner Administrative Support Team undertakes and delivers all administrative functions and tasks. (There are no staff implications arising for Wirral Council in connection with this).
- vi. If requested by families living on the Wirral, inquests relating to Wirral residents be undertaken at Birkenhead Town Hall.
- vii. The cost of the Coroner's Service be apportioned on a pro rata basis between Liverpool and Wirral Councils based on the number of deaths that have occurred within each geographical area during the operation of the interim arrangements (current ratio is 38:68 between Wirral:Liverpool).

2.38 Mr Rebello is supported by six assistant coroners who are called upon as required to ensure matters are dealt with in a timely manner.

2.39 Under the interim arrangements the identity of the Wirral Coroner Service and its operation/presence within the Borough has continued.

2.40 Whilst the interim arrangements have proved to be very successful, this has however only been possible through additional time and effort being expended by Andre Rebello and all members of the current Coroner's Administrative Support Team.

2.41 The table of statistics set out at Appendix 2, clearly demonstrate that Wirral cases are being dealt with in a timelier manner and that older cases have been addressed expeditiously. For example, as at 31 December 2013, there were 116 inquests outstanding between 0 and 24 months old; however those outstanding inquests have been reduced to a total of 4 during the 10 months of the interim arrangements being operational.

2.42 During the interim arrangements Andre Rebello has introduced effective working practices to the manner in which Wirral coronial services are delivered. Inquests have been dealt with more expeditiously, there is a lower post mortem rate (which is a key cost driver), there has been a significant shift in emphasis onto ensuring the needs of bereaved families are prioritised and met, and a

more robust approach taken to ensure public funds are utilised effectively. Andre Rebello has had an excellent open and transparent working relationship with Liverpool City Council for many years; and that relationship has been extended equally to Wirral Council.

- 2.43 Wirral has also, during the interim arrangements, benefited from further savings in not having to incur the same level of expenditure on the provision of a coroner service as it did prior to 31 December 2013. The savings to Wirral Council (using latest full year figures for the previous Wirral Coroner Service and actual costs of the interim arrangements) for 2014/15 financial year are anticipated to be in the region of £70,000.
- 2.44 In summary, the interim arrangements have been proven to be more robust, resilient and cost effective than the previous service. If the proposed merger is not approved, Wirral Council would need to invest more resources into Wirral's Coroner Service to ensure it was capable of meeting the demands on and needs of the service. For example, Wirral Council (and Liverpool Council) would need to invest in a new area coroners for their respective areas in any event as there has been a noticeable trend for such appointments to be made in order to support the increasing demands on senior coroners in busy inner city areas. The cost of a new area coroner is in excess of £111,000. Under the proposed merger only one area coroner would be needed.
- 2.45 Whilst the retirement of Mr Johnson is the key driver for changes to the Coroner's service in Wirral, there are other considerations. These are, in broad terms, as follows:
- a) The drive nationally to reduce the number of Areas from 96 to 75, and any proposed options for Wirral should be seen to support this desire.
 - b) The retirement offers a unique opportunity which may not occur again for many years due to the tenure of Coroners. Coroners in post before the 2009 Act have 'tenure for life' (no retirement age), and those appointed after the 2009 Act came in to force must retire at 70.
 - c) There is the opportunity to review and modernise the service delivery model, ensuring it is fit for purpose now and in the future.
 - d) As far as is possible within the constraints of the service requirements demonstrate value for money and seek economies of scale.

New arrangements for one Coroners Area

- 2.46 Since January 2013, when the Chief Coroner began to exert influence over the services nationally, some 21 Coroners Areas have merged into 10 new jurisdictions. These include Shropshire, Dorset, Cumbria and Derbyshire; and prior to 2013 Cornwall, Gloucestershire and Norfolk all moved to a single Coroner. This trend will continue as Coroners' posts become vacant.
- 2.47 Taking all these factors into account and in particular the views of the Chief Coroner and his aspiration to see larger Areas, on the retirement of the Wirral Coroner, the preferred option, which would receive central support, is that of a merger between Wirral and Liverpool Coroner Areas to form a single Coroner's

jurisdiction to be known as the “Liverpool and Wirral Coroner Area” (this would of course be subject to the outcome of the consultation).

2.48 It is proposed, subject to approvals and the outcome of consultation, that the merger to create the Liverpool and Wirral Coroner Area and a single Liverpool and Wirral Coroner Service would take effect on 1 April 2015.

2.49 There is the statutory requirement to have one ‘Senior Coroner’ in a Coroner Area, supported by Area and/or Assistant Coroners. The Chief Coroner’s Guidance states the preferred option is to appoint Senior Coroners from the existing areas rather than holding a competitive selection process as this removes any risk of a claim for compensation for ‘loss of office’, which could be very costly for a local authority.

2.50 Any possible merger can be complex from a procedural and operational perspective; however, the impact is often far greater on the back office function and management arrangements rather than on service users and stakeholders. The proposal however does not have such a dramatic impact. No staff employed by Wirral are affected by the proposal, save that management would need to take account of the different operating model.

2.51 In short, the proposals outlined in the business case seek to formalise and make permanent the interim arrangements, whereby:

- a. Andre Rebello is appointed the Senior Coroner for the proposed Liverpool and Wirral Coroner Area;
- b. Both Councils have equality of position;
- c. Liverpool City Council is appointed the Lead Authority in relation to the coroner service (which shall be governed by an overarching legal governing agreement between both Councils);
- d. The coroner service shall operate from the Jerard Majella Courthouse, Boundary Street, Liverpool (save that Birkenhead Town Hall shall be used to hold Inquests upon request); and
- e. The costs of the service shall be apportioned in accordance with an agreed formula (review annually) based on the number of deaths that occur within Wirral and Liverpool.

2.52 The interim arrangements have demonstrated that the impact upon bereaved families or the public has been positive. Currently, the contact between a Coroner / their office, and the next of kin / family is by telephone, post and/or email. Face-to-face contact generally only takes place at the formal inquest. Therefore, the physical location of HM Coroner or any administrative function is not critical. However, the proposal as outlined in the business makes it clear that any bereaved families living on the Wirral that request inquests be heard on the Wirral shall have that request met. Birkenhead Town Hall would be used for such inquests.

2.53 There would be little impact upon key stakeholders such police, undertakers, hospital trusts, etc.

- 2.54 Contact with the Police is usually by telephone and email. As is presently the case, face-to-face contact is very limited, except for the very complex and difficult cases.
- 2.55 On occasions some Undertakers, who are based near to Coroners' offices, do collect paperwork in person, but this is infrequent as undertakers are spread across both boroughs. The use of electronic communications such as email remains the norm as it is cost effective, timely and reliable.
- 2.56 Any merger is not linked to those locations where the deceased are taken pending Post Mortems, and where Police ID's / family viewings take place. Current arrangements would remain unchanged.
- 2.57 In summary, the impact on the public and stakeholders of the proposed merger is small. The interim arrangements have enabled requisite infrastructure and operational changes to be made thereby reducing the impact of the proposed merger further.
- 2.58 The Business case attached at Appendix 1 provides extensive details, information, statistics and cost information to assist the Council reach an informed decision with regards to the proposed merger.

3.0 RELEVANT RISKS

- 3.1 The Council has an obligation to ensure that appropriate arrangements are in place to meet all legal duties and obligations. The Council must consider the issue of merging with another coroner area to determine the most effective way of delivering and meeting the needs of the resident of the borough. The Council must ensure whatever arrangements are implemented they must be sufficiently robust and resilient to mitigate identified risks.

4.0 OTHER OPTIONS CONSIDERED

- 4.1 Consideration has also been given to the possible amalgamation of the Wirral Coroner Area with the Cheshire, Warrington Coroner Area and details have been set out in the business case at Appendix 1.

5.0 CONSULTATION

- 5.1 The Chief Coroner, Lord Chancellor's Department and Ministry of Justice have been consulted and engaged throughout the process and discussions have taken place with the Lord Chancellor's Department and Ministry of Justice.
- 5.2 The Ministry of Justice will undertake targeted consultation for a period of 6 weeks commencing on 8 December subject to Cabinet and Council approval of the proposed merger and business case set out at Appendix 1.
- 5.3 A final decision on the proposed merger will take place after the consideration of the consultation responses.

6.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

6.1 All stakeholders as determined by the Ministry of Justice shall be consulted.

7.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

7.1 The costs of the proposed merger are set out in the business case. The proposed merger will result in savings for both Wirral and Liverpool Councils on the assumption Liverpool and the Wirral would need to appoint an area coroner in any event.

Expenditure	Liverpool 2013/14	Wirral 2012/13	Projected Full Year Cost of Merged Service
Coroner	£132,472	£144,821	£157,057
Office Costs			
Area Coroner	£111,300	£111,300	£111,300
Fees for Assistant Coroners	£25,600	£6,700	£32,300
Admin Staff Salary Costs	£84,125	£30,084	£121,029
	£117,750	£13,200	£117,750
Inquest Accommodation	£0	£0	£8,000
IT	£19,312	£2,454	£22,633
Post Mortems	£270,054	£171,728	£348,397
Mortuary	£177,271	£103,200	£280,471
Toxicology	£157,855	£0	£234,625
Removals	£45,605	£0	£65,942
Jurors	£0	£4,337	£3,000
Transport	£0	£2,005	£1,600
Internal Recharge	£0	£13,968	£2,500
Total	£1,141,798	£603,797	£1,506,604

Wirral Previous Arrangement	Liverpool Previous Arrangement	Wirral & Liverpool Combined Previous Arrangement	Liverpool & Wirral New Arrangement	Saving (anticipated)
£603,797 (includes costs of an area coroner)	£1,141,798 (includes costs of an area coroner)	£1,745,595 (includes costs of an area coroner)	£1,506,604	£238,991*

* Minus any accommodation costs.

8.0 LEGAL IMPLICATIONS

8.1 All legal implications are set out in the main body of the report.

9.0 EQUALITIES IMPLICATIONS

9.1 Has the potential impact of your proposal(s) been reviewed with regard to equality.

No - there are such issues arising.

10.0 CARBON REDUCTION AND ENVIRONMENTAL IMPLICATIONS

10.1 None

11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

11.1 None

12.0 RECOMMENDATIONS:

12.1 That Cabinet:

- a. Approves and agrees the business case set out Appendix 1;
- b. Agrees that the business case be subject to consultation by the Ministry of Justice.
- c. Endorses any recommendations of the Chief Coroner for England and Wales, and any decision by the Lord Chancellor regarding a merging of the Wirral and Liverpool Coroner areas.
- d. The Head of Legal & Member Services be authorised to undertake any necessary actions, if permission is formally granted, to implement the requirements of any statutory instrument or Order to combine the Wirral and Liverpool Coroner Areas.
- e. Following formal guidance issued by the Chief Coroner regarding the appointment of Coroners, and subject to the outcome of consultation

and the Lord Chancellor making the Order, it is recommended that the current Senior Coroner for the Liverpool Coroner Area (and the current Assistant Coroner for Wirral), Andre Rebello, be appointed as Senior Coroner for the new single jurisdiction to be known as the “Liverpool and Wirral Coroner Area”.

- f. The Head of Legal & Member Services be authorised, in consultation with both relevant Cabinet Members for Wirral and Liverpool Councils and the City Solicitor for Liverpool City Council, to undertake a joint recruitment exercise (in accordance with the requirements of the Chief Coroner, Lord Chancellor and Ministry of Justice) for a full-time Area Coroner, if permission is formally granted to combine the Wirral and Liverpool Coroner Areas.
- g. The Head of Legal & Member Services be authorised, in consultation with both relevant Cabinet Members for Wirral and Liverpool Councils and the City Solicitor for Liverpool City Council, to undertake a joint recruitment exercise (in accordance with the requirements of the Chief Coroner, Lord Chancellor and Ministry of Justice) for two further assistant coroners, if both Wirral and Liverpool Councils agree the business case set out at Appendix 1.
- h. That the current interim arrangements approved and operated since 1 January 2014 continue until such time that the Council addresses the issues of amalgamation of the Wirral Coroner Area and a permanent Senior Coroner is appointed to cover Wirral;
- i. Authorises the Head of Legal and Member Services to undertake all necessary steps required to progress the issue of amalgamation of the Wirral Coroner Area in accordance with the directions of the Chief Coroner, Lord Chancellor and/or Ministry of Justice.
- j. Recommends that Council endorses the business case as set out at Appendix one to this report and the actions detailed above.

3.0 REASON/S FOR RECOMMENDATION/S

- 3.1 To ensure that the Council discharges its legal obligations and provides an effective Coroner Service for Wirral residents.

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APPENDICES

Appendix 1 – Business Case for Merger of the Wirral & Liverpool Coroner Areas

Appendix 2 - Wirral Inquest Statistics

BACKGROUND PAPERS/REFERENCE MATERIAL

Luce Review 2003

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Cabinet	2 December 2013
Council	2 December 2013