

CABINET

29 JUNE 2023

TRANSFER OF CORONERS OFFICERS TO WORCESTERSHIRE COUNTY COUNCIL

Relevant Cabinet Member

Marcus Hart – Cabinet Member for Communities/Vice chairman of Cabinet

Relevant Chief Officer

Mark Fitton – Director of People

Recommendation

1. **The Cabinet Member with Responsibility for Communities recommends that Cabinet:**
 - a) **Approves the proposal to transfer of the management and future funding of Coroners Officers from West Mercia Police (WMP) to Worcestershire County Council (WCC);**
 - b) **That permanent recurrent funding is sought from the County Council’s budget, on a tapering basis, for 2024/25 onwards to fund the transfer of staff; and**
 - c) **Authorises the Strategic Director for People, in consultation with the Cabinet Member with responsibility for Communities to agree the detail of the transfer of staff and function with a target date of 1 October 2023.**

Background

2. Coroners are independent judicial officers who are appointed and funded by local authorities. They inquire into deaths reported to them which appear to be violent, unnatural or of sudden and unknown causes. Coroners are judicially independent and as such determine how they discharge their functions within the statutory framework.

3. Over the years there have been calls for a national Coroners’ Service of England and Wales, but this has not emerged, and it remains a locally funded service. The Coroners and Justice Act 2009 (“the 2009 Act”) has led to some significant and ongoing reforms which are focused on providing consistent good practice, openness and fairness. This, along with the Chief Coroners model coroner area document provides guidance which places the family at the centre of the investigation/inquest.

4. Worcestershire is designated as a Coronial area and as such is required to have a Senior Coroner appointed (not employed) by the Local Authority and agreed by the Chief Coroner and the Lord Chancellor. WCC have significant statutory duties in respect of the coronial service. These include:

- appointing and remunerating the Worcestershire Senior Coroner and Assistant Coroners;
- meeting all the costs of the Worcestershire Coroner service, including body removal, post-mortems, and toxicology reports; and

- providing the Senior Coroner with suitable premises and office accommodation to fulfil their role.

5. Coroners are supported by Coroners Officers, who are in many respects the mainstay of the administration of the coronial system. They are the officers most likely to have direct contact with bereaved Worcestershire residents. The service and staff are based with the Coroner at the Coroner’s Court in Stourport. As part of their role, they perform a range of tasks such as conducting enquiries on behalf of the coroner, liaising with families, collating statements of evidence and organising post-mortems and inquests following authorisation from the Coroner. The duties and tasks they perform are directed by the Coroner.

6. Within Worcestershire, these roles have historically been provided and funded by West Mercia Police (WMP), but are not considered core policing roles, and the current division of accountability does not sit well with a modern Coroner’s Service. These roles do not require the exercise of any police powers, hence the request to transfer to WCC.

7. The current tripartite arrangement for the provision of staff within the Coroner’s Office predominantly works on goodwill and collaboration. Whilst working relationships between the Senior Coroner, Local Authority Senior Managers and Senior Officers within WMP are very positive, there have been issues in respect of working relationships at an operational level, which are exacerbated by the challenges of the current line management structures. By having the officers managed within WCC it will better enable the development of positive working and allow for WCC to deliver their statutory duties in the most effective way.

8. The table below provides a snapshot of statistics for 2021, comparing Worcestershire against several other areas. Numbers only tell part of a story, which does not take into consideration the complexity of an area, whether there are prisons, trauma centres, major arterial roads/rail as well as rivers and canals. Consideration also needs to be given to any area that may have a high demand for faith deaths or others that require expediting. This too can impact on the number of Coroners Officers required to assist the Coroner.

Table 1: Comparison of Coronial areas with similar referral numbers

2021	Worcestershire	Area 1	Area 2	Area 3	Area 4	Area 5	Area 6
Number of referrals to the Coroner	2296	2801	2012	2042	2414	2547	2354
Number of Inquests	355	494	342	646	313	614	388
Coroner Officers	5.6 (soon to be increased to 6.4)	9	6.4	16	6.8	12	7
Police/LA funded	Police	LA	LA	Both	Both	Police	LA
Jury Inquests	11*	4	3	7	6	9	4

*number of Jury inquests in Worcestershire is higher due to Worcestershire pro-actively catching up following COVID-19, other areas may have taken a different approach. The normal average is 7.

9. There is no formal agreement between WMP and the Senior Coroner which sets out for example the role of the police in Coroner investigations or any rationale for the level of staffing to be provided. Instead, there is guidance issued nationally by the Chief Coroner around the appropriate level of inquests to Officers. (CC guidance.) This guidance talks of an average caseload of 25 inquests at any one time, per full time Coroners Officer, with the addition of investigations adding an extra burden.

10. The Coroners and Justice Act 2009 changed the process of inquests when investigations were introduced. Whilst investigations do not automatically become inquests, there are further enquiries instructed by the Coroner to be undertaken which ought to be considered as part of the overall workload.

Table 2: The figures in the below table demonstrates the current caseload equally shared across the team based on their working hours to demonstrate volume of work compared to the optimum caseload advised by the Chief Coroner.

Post holders (6.4FTE)	Investigations	Inquests	Optimum caseload	Notes
1	8.4	28.35	25	37 hours per week
2	8.4	28.35	25	37 hours per week
3	8.4	28.35	25	37 hours per week
4	6.8	24	20	30 hours per week
5	8.4	28.35	25	37 hours per week
6	6.8	24	20	30 hours per week
7 * postholder due to start in July	6.7	22.68	20	29.4 hours per week

Note- Figures as at February 2023

Proposed Future Arrangements

11. It is envisaged that the proposal, which has been initiated by WMP, would result in the transfer of tasks and staff from WMP to WCC via a Transfer of Undertakings (Protection of Employment) legislation) (TUPE) on 1 October 2023. Transfer date is subject to formal agreement/consultation as required via TUPE legislation. WMP have proposed funding over four years on a phased withdrawal basis. It is proposed that any staff who transfer would be located within the existing Registration, Coroners and Resettlement Service. There is no current budget within the Council to fund the phased transfer and therefore there will be a requirement to identify funding streams or budget reductions to fund future costs.

Table 3 outlines the amount and percentage of funding attributable to WCC and WMP over the four-year period.

Table 3	Year 1 - 2023 (from date of transfer)	Year 2 - 2024	Year 3 - 2025	Year 4 - 2026	Ongoing from 2027
WCC	£0	£66,342 25%	£132,686 50%	£199,028 75%	£265,371 100%
WMP	£265,371 100%	£199,028 75%	£132,686 50%	£66,342 25%	£0

12. Over the four-year period above the forecast cumulative pressure for WCC would be a total of c£0.4 million plus annual salary and on-cost increases, with £265,371 (plus year-on-year salary inflation/demand) recurrently from year 5 onwards. This equates to c£0.3 million per year from 2027 onwards, assuming a 4% annual pay uplift.

13. Several transfers to local authority management have taken place in recent years and in most of those cases similar transition funding to that proposed in this report has been agreed.

14. This proposal highlights that any future inflation / salary uplift needs to be costed and funded. It is envisaged that WCC may need to review the service following transfer (subject to TUPE legislation) and would want to negotiate risk sharing any potential implications with WMP. Further commercial conversations will need to be held with WMP over transfer of tasks/staff to WCC and any cost implications with both WCC and WMP recognising the importance of ensuring the service is able to continue to deliver its functions post transfer in October 2023.

Legal, Financial and HR Implications

15. Under s24 of the 2009 Coroners and Justice Act a “Relevant Authority” must maintain the Coroner by supplying Officers, staff and accommodation. Under s48 of the Criminal Justice Act 2009 a “Relevant Authority” is, under Para 3 of Schedule 2 of the 2009 Act, in the case of a coroner area consisting of the area of a single local authority, that authority is the relevant authority for the coroner area. Therefore, the duty to supply Officers, staff and accommodation to the Coroner in Worcestershire falls on WCC. (Of course, the Coroner themselves remains independent from WCC.)

16. Under s24(2) of the 2009 Act the statutory duty to supply Officers and staff under s24(1)(a) attaches to the County Council “*if, or to the extent that, the necessary officers and other staff for that area are not provided by a local policing body*”. The Explanatory Notes to the 2009 Act state, in relation to the duty to supply staff under s24:-

- *This section requires the relevant authority for a Coroner area to provide sufficient administrative staff and coroners’ officers. When, locally, the police authority is responsible for providing coroners’ officers, then they will be expected to continue to do so. The local authority and local police authority will be expected to work together, with the senior coroner, to secure appropriate staffing levels. (Police authorities currently provide approximately 60% of Coroner’s officers to support the work of coroners across England and Wales.)*

17. In summary, the statutory duty to supply Officers, staff and accommodation to the Coroner in Worcestershire falls on WCC.

18. If the transfer is agreed, then the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended by the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014) (TUPE) will be deemed to apply, and appropriate consultation will need to take place. The Coroners Service will be absorbed into the existing responsibilities of the Head of Registration, Coroners and Resettlement Services who already manages the WCC Coroner Administrative Officers.

19. The Council does not currently budget for the costs of the Coroner Officers as this is 100% funded by WMP. There is no additional cost implication to the 2023/24 budget, however, the decision to transfer the service to the Council and assume responsibility for funding will bring additional costs over the medium term, on a phased basis and recurrently from 2027. The transfer of the service to the Council brings with it budgetary implications which are expected to total at least £0.3 million recurrently from 2027 (assuming a 4% salary uplift per annum).

20. Subject to the decision to transfer the service and agreement for the Council to fund the service, the additional cost implications will need to form part of the budget setting process from 2024/25 onwards.

Risk Implications

21. Officers may choose not to transfer to the Local Authority and either leave or are redeployed across WMP. This would result in considerable pressure on the remaining team until replacements could be recruited, and with their assistance, trained.

22. An uncoordinated transition of officers from WMP to WCC could damage the relationship between WCC, WMP and HM Coroner, lead to an uncontrolled funding pressure for WCC and an unmanaged transition which could damage the support to the bereaved. If the recommendation to transfer is agreed, then a project plan will be developed and implemented to ensure the transfer is managed as smoothly as possible.

23. Diminution in service levels whilst any recruitment and training are provided may result in delays for families. This may be reduced with an early indication of staff who may wish not to move to WCC and the formal transfer of staff providing WCC with the opportunity to recruit.

24. Appropriate access to systems within West Mercia will need to be maintained to facilitate the smooth running of the office. Consideration to the feasibility of this or alternative arrangements put in place to prevent a diminution in service provision. This would apply to TUPE staff and any new members of staff

25. All information to date indicates that 6.42 FTE staff is not sufficient to perform effectively and in line with the Chief Coroners guidance. Therefore, there is a risk that additional staff may need to be recruited to bring the staffing to the appropriate level and along with it, additional financial implications. This risk exists now and is for WCC to manage in line with its statutory responsibilities. The transfer of staff and function will enable WCC to manage this risk to better effect by closely monitoring caseloads etc.

Recommendations

26. In order for WCC to fully discharge its statutory responsibilities as outlined in paragraph 15, it is therefore recommended that:

- The Coroners Officers, transfer under TUPE regulations, on 1 October 2023
- The budget for the service is transferred from WMP to WCC, phased over a four-year period
- The ongoing financial implications of the transfer are included within the budget setting process from 2024/25 onwards on a phased basis which will require funding to be identified
- A review of the following transfer will be considered. This redesign will need to consider workforce and roles, staff development and training.

Joint Equality, Public Health, Data Protection and Sustainability Impact Assessments

A **joint impact assessment (JIA)** screening (and any full impact assessments – if screening indicates that they are required) **must** have been completed before the cabinet report is submitted.

The JIA screening did not identify any potential considerations requiring further assessment during implementation. The screening report is included as the appendices to the cabinet report.

Supporting Information

- Appendix JIA Screening – Available online.

Contact Points

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Specific Contact Points for this report
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