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Dear Mr Collins

Coroners and Justice Bill – funded representation at inquests into deaths in state custody

Thank you for your letter to Jack Straw of 5 June on behalf of the member organisations of the Criminal Justice Alliance concerning funded representation at inquests into deaths in state custody. I am replying as the lead Minister on the Coroners and Justice Bill.

Legal aid is not available for most inquests. An inquest is a fact-finding process; unlike a criminal trial there is no prosecution or defence, nor are there opening or closing speeches. The coroner alone decides which witnesses are called and ensures an impartial process. An inquest, crucially, cannot assign blame.

Legally aided representation is, as an exception to the general rule, already available to immediate family members at inquests examining deaths in state custody where the published funding criteria are met. Most 'deaths in custody' cases meet the criteria, and for this reason the Government has delegated the authority to grant funding in these cases to the Legal Services Commission ("LSC"). This has also helped to streamline the application process, which is no more bureaucratic than the importance of the issues at hand dictate. LSC figures indicate that, in 2007-2008, they granted 80 out of 101 applications for 'in scope inquests' (which includes deaths in custody cases).

The Government does not agree that the means test for families whose relatives have died whilst in state custody should automatically be waived. We made this clear when responding to Baroness Corston's report, which contained a detailed analysis of the problems facing women in the criminal justice system. The recommendation concerning legal aid was one of very few not accepted by the Government at the time.

The means test is an essential and long-standing element of the legal aid system. I can see no case for the further differential treatment of death in custody cases. The resource implications of removing the means test in inquests would be significant, and would mean that cuts would have to be made elsewhere within the limited legal aid budget, adversely affecting other equally deserving recipients of such assistance.

We spend, as Lord Bach said during Lords Committee on 10 June (Official Report col. 715), about £2 billion per annum on legal aid, an extremely high figure by international standards. In 1997-1998 that figure stood at £1.5 billion. The fund helps more than 2 million people each year. There is, I'm afraid, very little scope for any increase.

The National Offender Management Service recognises the effect of a death in prison custody on families and friends. It is very important that families bereaved by a death in custody are supported, treated fairly and honestly and given accurate information. Through dedicated and specifically trained Family Liaison Officers prisons offer families appropriate support, timely information and practical assistance, and provide a vital link between the prison and the family. Bereaved families have commented on the value to them of good family liaison following a death in custody.

Additionally, the entirely independent Prisons and Probation Ombudsman ("the PPO"). Investigates deaths in custody cases. The PPO has a dedicated family liaison team whose role it is to enable families to participate in the investigation; to obtain answers to their (the families') questions; and to provide a clear point of contact with the PPO for families.

Other aspects of the Coroners and Justice Bill will improve the way in which bereaved families can interact with the coroner system in England and Wales. Standards of service will be set out in the Charter for the Bereaved, including the roles and responsibilities of coroners, their offices and the bereaved families themselves, improving the service delivered. A new appeals system, where certain decisions can be appealed to the Chief Coroner free of charge, will be created. These and other reforms will strengthen the role of the bereaved in coroners' investigations.

I am copying this letter to Lord Thomas of Gresford who, on 10 June (Official Report col. 709), made reference to yours.

*Yours sincerely
Bridget Prentice*

BRIDGET PRENTICE