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Your reference

Our reference

CRS/94 6/1/5

Date

31 October 1995

Dear Ms Skinner

THE EXETER CORONER

Thank you for your letter of 26 September about the views of the Exeter coroner, Mr Van Oppen, on the need to report and conduct inquests into AIDS related deaths. I am conscious that there has been protracted, and rather one-way, correspondence on this matter for some months.

As I think you are aware, the general position is that coroners are independent judicial officers, and, subject to any guidance or determination on the matter by a superior court, it is entirely a matter for an individual coroner to decide what an 'unnatural' death is for the purposes of section 8 of the Coroners Act 1988. (This provision requires a coroner to hold an inquest where there is reasonable cause to suspect that the death was unnatural.)

Although it would be perfectly possible for this Department to hold a different view about the interpretation of 'unnatural' in this context (not that we have so far sought the views of our lawyers), I am afraid that, even if we did, we would have no powers to require the Exeter or any other coroner to take the same view. I appreciate, of course, that a lack of consistency in these matters can give rise to real problems, but, short of legislation, or a test case, our powers are limited.

It seems to me that there are three issues here: the unwelcome publicity for the relatives; possible misclassification of the cause of death, with, presumably, statistical implications; and inconsistency by the coroner himself, leading to doubts about his competence.

As regards unwelcome publicity, advice has already been given to coroners about the possibility of adding to the distress of relatives by the insensitive handling of inquests into AIDS victims, and suggesting, for example, that the cooperation of the press is sought in reporting the proceedings with due sensitivity.

The second and third issues are more complex. Any misclassification of death, or

misrepresentation of the incidence of a particular cause of death, are obviously a cause for concern, although given that the views of the Exeter coroner do not, as far as I am aware, seem to be widely shared by his colleagues, the statistical significance of his decisions appears limited. Perhaps you would say if you disagree.

I have, of course, noted the observations that Mr Van Oppen appears to display an inconsistency in his approach to the recording of AIDS in the completion of death certificates. Responsibility for appointing a coroner lies with the relevant county council. There is provision for a coroner to be removed from office on the grounds of, amongst other things, inability, but responsibility for taking such a step lies with the Lord Chancellor. As far as the Home Office is concerned, a practice has been agreed between LCD and us whereby we would investigate any allegations of conduct which might provide grounds for the dismissal of a coroner. Before instituting such enquiries we would need to be satisfied that a formal complaint was being made, and to be provided with sufficient details of the cases in question to enable them to be identified and to give Mr Van Oppen an opportunity to comment on the complaints made. You will appreciate from this that the process is quite open and that allegations need to be well-founded and to relate to misconduct or inability which, if found to be true, would justify considering the coroner's dismissal. Whether that is the case here seems to be a matter in the first instance for local registrars and medical staff to consider, rather than for us. Furthermore, it would clearly be difficult to reach conclusions as to his ability on the evidence of a single case, and where the proper course for redress would be to challenge the inquest, or specific interlocutory decisions, through the courts.

In considering any such course of action I think it would be right to mention also that Mr Van Oppen has recently been elected the president of the Coroners' Society, and you will appreciate the sensitivities that flow from this. That in itself would make it more difficult for the Home Office to raise the matter informally with Mr Van Oppen; nor has the Coroners' Society shown itself disposed to do so, although the matter has been drawn to the attention of the Honorary Secretary of the Society.

I should say that the issue has been discussed with experienced coroners from within the service. They considered that Mr Van Oppen's views did not reflect the view of the majority of coroners, although it might be shared by a small number of other coroners. They did not consider that it was necessary or appropriate to issue guidance to coroners on the matter since it concerned an issue of legal interpretation that could be subject to judicial review.

In the circumstances, it seems to me that there are two courses open to local doctors and registrars. One is to raise the matter with the coroner directly (it would appear from the correspondence that this has not so far been done) with a view to reaching a common understanding. As a medical/death registration matter, I see no reason why they should not approach him; indeed, they would be best placed to do so. The second is to reject his interpretation of 'unnatural' death, if they disagree with it, and to refer to him only those cases which they believe they are required to refer under the relevant legislation. (After all, the coroner can no more impose his interpretation of 'unnatural' on them as they can on him). This will not, of course, prevent Mr Van Oppen from holding inquests into AIDS-related deaths because there may be other grounds for requiring the death to be reported. But it may help to reduce the problem of an AIDS-related death being the subject of an inquest solely because Mr Van Oppen regards them as unnatural deaths.

I am sorry that we cannot be more helpful, and that it has taken us so long to send you a reply.

Yours sincerely

GRO-C

R J CLIFFORD V V
D Division