



Attorney General  
for Northern Ireland

Mr Paul Givan MLA  
Chairman  
Committee for Justice  
Room 242  
Parliament Buildings  
Ballymiscaw  
Stormont  
Belfast  
BT4 3XX

Our Ref: 18/05/14/001

Date: March 5 2014

*DeW Chairman*

**Legal Aid and Coroners' Courts Bill**

I understand that the Justice Minister intends to introduce the above Bill. This is a fairly short Bill, and only a small part of it deals with amendments to the Coroners Act (Northern Ireland) 1959. As you know, I have a power under this Act to direct an inquest where I consider it 'advisable' to do so. It is in this context that I draw the Committee's attention to a potential amendment to the 1959 Act (to be achieved through amending the above Bill) which could be of considerable benefit to the public.

As the Committee may know, while I can direct an inquest under section 14 (1) of the Coroners Act when I consider it 'advisable' to do so I have no power to obtain papers or information that may be relevant to the exercise of that power.

In recent years, I have had some difficulty in securing access to documents, such as serious adverse incident report forms, which I have needed from Health and Social Care Trusts. As there is no specific legal duty on Trusts to disclose what would otherwise be confidential material, it is understandable that there is some nervousness on the part of the Trusts' lawyers in sharing such materials with me.

An amendment to the 1959 Act could confer a power on the Attorney General to obtain papers. This would provide a clear statutory basis for disclosure. It could be drafted perhaps along the following lines:

"X(1) The Attorney General may for the purposes of consideration of whether or not to direct an inquest under section 14 (1) require any person who in his opinion is able to provide information or produce documents relevant to his consideration to provide any such information or produce any such documents.

(2) A person may not be compelled for the purposes of subsection (1) to provide any information or produce any document which that person could not be compelled to provide or produce in civil proceedings in the High Court.

(3) Where any information or document required to be provided or produced under this section consists of, or includes, information held by means of a computer or in any other form, the Attorney may require any person having charge of, or otherwise connected with the operation of, the computer or other device holding that information to make the information available, or produce the information, in legible form.

(4) Every person who fails without reasonable excuse to comply with a requirement under subsections (1) or (3) shall be guilty of an offence and be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

I do hope that you can consider this at the committee stage of the Bill. I am, of course, available to speak to the Committee should that be of assistance.

The focus of my concern is principally with deaths that occur in hospital or where there is otherwise a suggestion that medical error may have occurred.

*Mrs Simoes*

*John F Larkin*

John F Larkin QC  
Attorney General for Northern Ireland



# Attorney General for Northern Ireland

Ms Christine Darrah  
Clerk to the Justice Committee  
Committee for Justice  
Room 242  
Parliament Buildings  
Ballymiscaw  
Stormont  
Belfast  
BT4 3XX

Our Ref: 18/05/14/001

Date: 30 April 2014

Dear Christine

## **Legal Aid and Coroners' Courts Bill**

Thank you for your letter of 4 April seeking views on the above Bill and the Attorney's proposed amendment. Having reflected further on the draft amendment, the Attorney would suggest that the Committee, if it is in agreement with the substance of the proposal, adopt an amended text.

The main change, as can be seen from the new text below, is to clearly provide a statutory basis for disclosure to the Attorney of papers relating to deaths, for example, in a hospital over a certain period so that he can then consider whether he should exercise his section 14 (1) power to direct an inquest in any particular case. The text proposed initially could have been interpreted as only applying to papers relating to a specific death of which the Attorney was already aware. The second change is designed to restrict the scope of the power to information or documents which relate to the health or social care provided to the deceased. Finally, this text adopts a more modern drafting approach to information held electronically.

The Attorney's proposed amendment now reads as follows (drafted as an insertion into the Coroners Act (Northern Ireland) 1959:

### **Provision of information to Attorney General for purposes of section 14**

14A.—(1) The Attorney General may, by notice in writing to any person who has provided health care or social care to a deceased person, require that person to produce any document or give any other information which in the opinion of the Attorney General may be

relevant to the question of whether a direction should be given by the Attorney General under section 14.

2) A person may not be required to produce any document or give any other information under this section if that person could not be compelled to produce that document or give that information in civil proceedings in the High Court.

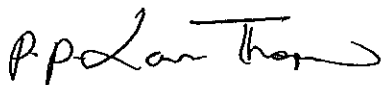
(3) In this section—

“document” includes information recorded in any form, and references to producing a document include, in relation to information recorded otherwise than in legible form, references to providing a copy of the information in a legible form;

(4) A person who fails without reasonable excuse to comply with a requirement under this section commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

If the Committee wish to discuss any aspect of this proposed clause or the Bill as a whole with the Attorney then please do not hesitate to contact me.

Yours sincerely



Maura McCallion  
Division Head