

ALL-PARTY PARLIAMENTARY GROUP
FOR RUNAWAY AND MISSING CHILDREN AND ADULTS

PARLIAMENTARY INQUIRY SESSION THREE
MANAGING A MISSING PERSON'S PRACTICAL AFFAIRS – GUARDIANSHIP

held in

Committee Room Five in the House of Commons

on

Thursday 16th June 2011

2:00 – 4:00

Panellists

Nigel Adams, MP, Lead Chair

Jonathan Evans, MP

Caroline Nokes, MP

Baroness Sherlock

(From the Shorthand Notes of
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Nigel Adams, MP, Lead Chair: If I could introduce myself and my colleagues, I am Nigel Adams, Member of Parliament, we have here Caroline Nokes, Baroness Sherlock and Jonathan Evans. We have two hours, so will try and keep to time. I am going to use the written statements a bit earlier, in fact in a very short while. This is the third session of our Inquiry into support for the families of missing people. In Monday's session we heard about the emotional toll on families, and today we are looking at the practical issues that families can also face as the result of a disappearance. We will look at the issues that families can have in managing a missing relative's practical affairs, and whether the introduction of some form of legal guardianship mechanism will help them. It is vital that we act on the evidence heard at this Inquiry, and we aim to present a set of recommendations to the Coalition Government later this summer, to help the Government in its work around missing people and their families.

Without further ado, can I first of all mention the Ministry of Justice could not attend today's session, but they have sent a submission, and some of you have got copies of that. I will read a couple of key points round that because I think it will help set the tone for the session before we call people up. We also have a statement from the British Bankers' Association.

We asked the Ministry of Justice a couple of key points: "What provisions are made in law for the protection of the assets of a missing person when they cease to demonstrate capacity to administer their own financial affairs due to their disappearance?" and the response we got was: "Under the law of England and Wales there is no specific provision or procedure for the protection of the assets of a person who has disappeared. However, that person remains the owner of those assets to the same degree as before his or her disappearance."

We also asked: "What provisions are made in law for the protection of the assets of a relative of a missing person where they share joint assets or liabilities with the missing person and the latter is unable to administer their own financial affairs due to their disappearance?" The response was:

“Under the law of England and Wales there is no specific provision or procedure for the protection of the assets of a relative of a missing person who shares assets or liabilities with that missing person. The relative’s rights of ownership are not changed by the disappearance of the missing person.”

With regard to the British Bankers’ Association (BBA), if I could take a few minutes to summarise their submission I think this will be useful:

“Banks continue to actively support law enforcement agencies and the courts with their investigation into missing people. This submission provides commentary on the central departments within banks which are established to facilitate this, bank policy on discussing account details, and how banks can enable ongoing payments.

Maintaining commitment to customer confidentiality is essential for the banking industry’s reputation. When an individual signs a mandate with a bank for an account or a loan, that mandate must be upheld else the bank will be in breach of duty to the customer under the law and contract.

Any deviation from this mandate would ordinarily require a legal request, a legislative duty or some other compelling reason to arrange for:

- a stop to be placed on accounts once a person is considered to be missing;
- to transfer/stop direct debits and standing orders for household matters; and
- to obtain disclosure of what accounts the missing person holds.

Without this legal requirement or legislative duty there is limited room for banks to act on a discretionary basis. Unless a customer has provided a bank with authority to disclose details of an account to another person, then to do so we would be acting in breach of the bank’s duty to the customer under law and contract. This would remain the bank’s position, regardless of whether the individual had been reported missing.

If a missing person is one of the holders of a joint account, then the other person holding the account will be able to access the account details in their own right. However, this is not the case if the missing person is a primary cardholder on an account.

Generally, a bank will not offset funds from a missing person's account to enable ongoing payments to be made. The bank does however have a right to set off, and may exercise this right with discretion."

We do have these submissions if anyone would like a copy. I thought that was useful reading out those statements. Could I start by asking Peter Lawrence to come forward? Peter, as many of you know, is father of Claudia and at this point I declare an interest, I have known Peter for a number of years and also know Claudia. Peter, could you tell us what circumstances bring you here today?

Peter Lawrence: Thank you for letting me come. Claudia went missing just over 800 days ago in March 2009. She was thirty four when she went missing. She is a chef, she has her own house, almost inevitably with a mortgage, house insurance, car insurance, bank accounts and investments. It was literally a very few weeks before I realised the difficulty in trying to deal with these matters when she is missing, and subsequently, having spoken to many people down at the headquarters of the Missing People charity, their tales are very much the same, although there is some inconsistency in the banks' reaction to missing people. Claudia's bank would not consider even moving any money from one account, a savings account, to her own current account to enable her direct debits to be continued to be paid, whereas another family member I spoke to down at Missing People with the same bank, had persuaded that bank to move money from one account to another. The BBA are quite right; technically there is no right at the moment to do anything at all. The Ministry of Justice statement I had the opportunity of reading through over lunch. Whilst they are indicating there are provisions there for the presumption of death to be dealt with by one means or another, they do admit that there are no provisions in English law at the moment to enable us

to deal with these practical affairs that need to be dealt with on a daily or weekly basis.

Nigel Adams, MP, Lead Chair: Could you expand on the difficulties please, specifically around mortgages and houses?

Peter Lawrence: Yes, banks I have mentioned, in the sense of moving money from one account to another. Insurance policies expire annually, some insurance companies will automatically renew them, but if they know the insured is missing then they are reluctant to do that. Car insurance companies are reluctant to keep their cars insured even for third party fire and theft, and as far as mortgages are concerned, if, for example, a fixed period comes to an end, as it has done in the case of Claudia, insurance companies are not willing to talk to anyone else about what should happen. I think I heard someone this morning giving evidence that you can reach the stage when the mortgage company actually takes possession of the property itself.

Baroness Sherlock: Have you spoken to other families who are in receipt of benefits, and do similar problems arise there?

Peter Lawrence: I haven't spoken directly to anyone but I am aware that there are certainly difficulties with benefits payments. Also, if I can go back to the banking situation, there are several families who have spoken to me who have a joint account, and because the person who is still around is not the primary account holder, the bank has been reluctant to discuss the account with the person who is still there, even though they are a signatory to the account, and certain wives that I have spoken to whose husbands are missing, where they are the second-named mortgage holder, the mortgage company has not been prepared to speak to them.

Jonathan Evans, MP: I understand you are a solicitor, I am a solicitor as well. You have looked at the response from the Ministry of Justice specifically on the guardianship issue. I am struck by the fact that they accept, from the shortness of their response, there is no specific provision or procedure whatsoever. In your position as a lawyer, have you been able to find any

mechanism or otherwise that assists in trying to resolve these matters other than do the best you can in negotiation?

Peter Lawrence: It is interesting to note that the BBA go on to give an example of joint funds, because this really misses the point, because a lot of people who go missing, like Claudia, have their own individual accounts and policies, and there is nothing - it is not my field, but I have spoken to judges and barristers - they haven't been able to find any procedure that is existing at the moment.

Caroline Nokes, MP: Thank you, it is very good of you to come here and share your story with us in such detail. You have clearly spent a great deal of time dealing with all the issues of banking, insurance, utilities and so on. Has there been one central place you have been able to go for information and advice?

Peter Lawrence: No, this is something that was of course dealt with on Monday, and the issue of signposting for both practical and emotional help seems to be very patchy, not postcode lottery, but certainly a patchy response. One of the very good things that came out of the session, both from the Minister and ACPO; they are actively trying to ensure that families of missing people are very quickly signposted by their local police, for example to the Missing People, the national charity. It was purely by accident that I came across Missing People. I wasn't directed to them, but very quickly after Claudia went missing, it was the annual BBC Missing programme on the TV, and there I came across Missing People.

Caroline Nokes, MP: Is that common, from your contact with other families, that they discover information by accident?

Peter Lawrence: Yes many people I have spoken to were not guided towards anyone for help and support.

Nigel Adams, MP, Lead Chair: What do you feel families need to help them deal with these issues?

Peter Lawrence: First of all, signposting, they need that as soon as they have reported to the police, whichever body they choose to report, they need that signposting. I received emotional support from close friends and had practical support since I came across Missing People, and have made it my own business to try and get round the practical difficulties, but have discovered very quickly not everyone is in the same position as me. Because of my professional background, I was able to hammer at the door of chief executives, but talking to other people they haven't got the ability.

Nigel Adams, MP, Lead Chair: What are you hoping to get out of this Inquiry?

Peter Lawrence: Signposting from Monday's session, and from this afternoon's session I don't mind what the Ministry of Justice end up wanting to call it, guardianship or whatever, the title is meaningless to me. I want families to be able to manage the practical affairs of adult family members that go missing. There is no intention as far as I am concerned of wanting to deal in any proprietary sense of the person gone missing, but we do need to be able to manage them on a day-to-day basis, and if the Ministry of Justice would take that on board, I am sure a very simple procedure could be found. It will make a difference to an enormous number of people. There are over a thousand families who have relatives go missing each year. There are a lot more than that where people have gone missing for a short time, and they need help. At one stage the Ministry of Justice issued a statement after I was on national television back in January saying there very few people involved that needed help, and I think it is fairly obvious from the evidence given to the Inquiry this is not the case. So if you can persuade the Government to act in that way, it will help a lot of people.

Caroline Nokes, MP: How quickly do you think guardianship should be able to kick in?

Peter Lawrence: It needs to be done within the month. Lots of direct debits are done on a monthly basis. You really need to get started. Whether

that is by application to the court or the Office of Public Guardian, it is not my field, but if someone is mentally incapable of giving instructions then a guardian can be appointed to manage their affairs, this is very similar; Claudia is not there to give instructions. It is a very close analogy.

Jonathan Evans, MP: I am a little less persuaded by the timescale. I think there is no specific provision for procedure, I think there should be, whatever we call it. I might be more persuaded with the three month test rather than the one month test, even though I can understand the practicality of the situation you faced, as soon as possible would be desirable. If you take it in terms of national law affecting all circumstances of people who are missing, do you think three months is a safer option?

Peter Lawrence: I wouldn't have any problem with that, each case is different. It may be a question if the police are investigating what their view is of someone missing and the likelihood of them being found.

Nigel Adams, MP, Lead Chair: Thank you very much for giving evidence today, we really appreciate your cooperation.

Peter Lawrence: Thank you for letting me come.

Nigel Adams, MP, Lead Chair: Please could you introduce yourselves and can you tell us briefly what services the charity Missing People provides for the families of missing people and try and give us an idea of your current workload?

Helen Morrell, Family Support Manager, Missing People: I am Helen Morrell, Family Support Manager, Missing People. We provide practical and emotional support via a 24 hour confidential family support line for the duration someone is away, which might be a short period or very long period. I think it is fair to say that we provide advice when we can. Often the advice we give is often as unclear to us, as we were speaking about today. Last year we took about 160,000 calls on our support line. Some of those were from the

same family, but that approximately shows the scale of our work, and we currently approximately have a thousand families we are supporting.

Martin Houghton-Brown, Chief Executive, Missing People: It is important to recognise that our review of the number of families that might need support in the longer term indicates we are currently only serving one twentieth of the overall need, partly because of the circumstances you have already heard, people are not automatically signposted to a charity they don't know exist, therefore we can't support them, and we don't know they exist, so we can't offer to support them. We think about 20,000 families a year will need some form of support. Not all of those will need guardianship, but we do know at the very least they need to be able explore what is available.

Nigel Adams, MP, Lead Chair: What is your understanding of the measures currently in place for families in this predicament?

Martin Houghton-Brown, Chief Executive, Missing People: I am delighted that the Ministry of Justice have been so clear that there are no provisions in place! I am happy to endorse their position! The reality is that these families are plunged into enormous emotional trauma, and they are trying to manage their practical affairs at a time when they are going through a scenario as was described on Monday, as impossible to place yourself in, to imagine. People tend to stop functioning when they are in a trauma situation, so trying to manage their loved one's affairs becomes incredibly challenging. They are then faced with financial difficulties on top. As we heard this morning, a family had their home repossessed and a mother and her children effectively made destitute.

Baroness Sherlock: I am interested in discussion of other things that affect families, you have obviously a wide range of calls. What are the sort of issues that come up for families of people that go missing?

Helen Morrell, Family Support Manager, Missing People: Peter touched on a lot of issues that people face, and it depends on your relationship between the person that is left behind and the person who has gone away, and

for how long they have been away. Banking accounts and different types of legal issues have been discussed, and also matters to do with benefits, housing benefits for joint applicants, housing benefits for council property, all sorts of issues round that, and claiming tax credits for children.

Baroness Sherlock: What would happen? If someone goes missing, the family left behind needs to notify the relevant department of the change, and that is quite a complex situation?

Helen Morrell, Family Support Manager, Missing People: I think it is, and we are called upon as a starting point with families asking how do we go about this, if a family member is missing, can we have a letter from you as a charitable agency? Do we need to go to the police? Where is the starting point for that? And actually it is particularly unclear where the starting point is, whether our charity's reputation carries the weight that is needed.

Baroness Sherlock: Can I ask you, if people go to you, are you properly funded for this? If all the people that needed help came to you, would you be able to cope?

Martin Houghton-Brown, Chief Executive, Missing People. No. The estimate is that the organisation is currently run on a £1.9 million budget. We have done sums to service 20,000 families. We think we can service that number of families for a budget of £5.4 million, which is reasonable in the circumstances. Currently the charity receives just over £300,000 of funding from the Government, leaving us with an enormous amount of money to raise on an annual basis from the private sector in order to sustain our work.

Caroline Nokes, MP: In your professional opinion what do families need from you when they first come to you in terms of practical help and support?

Martin Houghton-Brown, Chief Executive, Missing People: I think the families are looking for us to solve the problem for them. They come to us and say they are faced with these difficulties, and are expecting a process exists, and that we as a charity will be able to direct them to this process, and assist

them through that process. It is regrettable we cannot help them; we can't provide anything more than emotional support. Even our practical advice is significantly limited because there are no mechanisms to get around these protections that are in place for dealing with banking accounts, for social security payments, mortgage arrangements, therefore the families find themselves in situations where they are left incredibly vulnerable, and we find ourselves in a situation where we are unable to provide them with the support that we would like to provide.

Caroline Nokes, MP: When a family first comes to you, presumably they don't have any idea of the scale of the problem they are about to encounter? Do you provide some kind of checklist that they might like to think about, for example, contacting insurance companies, the banks, mortgage companies?

Helen Morrell, Family Support Manager, Missing People: I think that is a very good point, a lot is dependent on the families that come and the issues they face. What is very clear is that the families we support straddle the demography of our country, and lots of the families we work with don't have the web, or even understand the implications to be able to sort out their own benefits and financial difficulties, they are not necessarily as capable as some of the families we have heard from at this Inquiry. Bear in mind they are also dealing with police investigations which is probably a new experience as well, and the experience of having someone missing, and how the police system works, and what their role is in that, and on top of that, managing the missing person's affairs.

Jonathan Evans, MP: Let me say, first of all, as a preamble, it is clear they accept there is no provision, but they say later on you can go and speak to the banks or the building society or insurance company to negotiate. I just want to make sure we all understand this. I happen to have my general folder here in which I make all my notes on the left-hand side, of everyone who speaks, and on my left-hand side in the folder it says (in fact things to do today):-

“First, authority to disclose information to a Member of Parliament”. That is because all of us when we are dealing with public authorities, sometimes they write back, but sometimes they refuse on basis of confidentiality, data protection and any other obstacles there are – they say “we will only deal with the policy holder”, so every conversation has to begin with getting the authority to disclose, signed, whether we call it guardianship, or power of attorney or anything along those lines. I understand you have done quite a lot of work campaigning, so can you share with us some of your ideas in this respect as to how this would work?

Martin-Houghton-Brown, Chief Executive, Missing People: The good news is there is an existing model, not here in the UK, but in Australia, where it is possible for an application to be made, a trustee to be appointed, or a set of trustees to be appointed to deal with a missing person’s affairs, and a missing person will be categorised as a protected missing person. The same view is taken as that of the UK legislation around the Mental Capacity Act where there is a need to protect the person’s assets, but also to manage their affairs and any responsibilities they may have to other third parties. It is interesting you picked the 90 day rule because that is what they do in Australia, that after 90 days if the person has not been found, and all reasonable efforts have been made to find the person, and no draw has been made on their bank account, the police are willing to endorse a missing person has been missing for 90 days, then on that basis an application can be made. In the best interests of the missing person a trustee is appointed, they are able to pay the missing person’s debt, they are able to maintain the missing person’s dependants, and they are able to provide care and maintenance for the missing person’s estate. I think that is really helpful to us because it indicates there are workable models, and that they are relatively simple, and in fact in Australia they are free. They charge nothing for this process, you can swear an affidavit to the effect all reasonable endeavours have been made, and their equivalent Court of Protection will appoint trustees for you.

Our view, and our campaign has shown, that is exactly what families are looking for; it will fill a gap in our legislative process. It is more of a procedure, although it does require legislation because of the need for the banking,

insurance and mortgage industry to be able to comply with these processes. At this stage, I am not persuaded it is in the Ministry of Justice's business interest to pursue this. I don't think they are saying for a moment this is not a right thing to do, they are simply saying it is not high enough on their business priority list to make it on to their agenda, and part of this process is to demonstrate there is evidence they should add it on to their agenda.

Jonathan Evans, MP: Do you have any statistics on the number?

Martin Houghton-Brown, Chief Executive, Missing People: We can certainly find out.

Jonathan Evans, MP: You are also the Secretariat to the APPG, and it is my understanding that you have set up this series of evidence sessions, and we certainly congratulate you on drawing widespread public attention all week. We are aided greatly by the fact that many people we speak to during the course of this week have talked about the significant publicity that there has been, and this has been a worthwhile exercise apart from the work we are doing in relation to the recommendations. Can I ask you how widespread has been your engagement with your stakeholder groups?

Martin Houghton-Brown, Chief Executive, Missing People: We are very privileged. We have a group of family representatives who are people who have reached a stage of living with their ambiguous loss, who are willing to work with us and talk about the issues they face, and it is very challenging, and as we saw this morning it can be overwhelming for those families, not something most of our families can participate in, but through the family representatives we can hear their views. Our work through our research department to undertake an analysis of the views of families enabled us to produce "Living in Limbo", and that was really the basis of our original work, and enabled us to maintain a level of confidentiality with families in a safe way, discover what people really needed. In terms of wider engagement, we sought help and support from a range of agencies. The biggest challenge for Holly Towell, who personifies the Secretariat to APPG, indeed personifies all the work that has gone into this to make this happen, has found it incredibly

challenging, because when she has asked people to participate on behalf of the Chair, they have said, “We can’t say anything, there is nothing to say because we don’t have any procedure or process, I wouldn’t want to come and give no evidence because I have no evidence”. When you are working in a policy arena where there is nothing, and there has been no previous history - it is not a runaway agenda where there is lots of policy work to draw on and history - there is simply nothing, the joy of that in some respects is there is an opportunity for leadership, and I do believe the Ministry of Justice has an opportunity in a very clean policy environment to set a very clear principle on the basis of evidence, and on the basis of policy that works elsewhere internationally to provide engagement.

Baroness Sherlock: Yesterday someone was describing the situation of someone who had a severe terminal illness, and suddenly went to a hospice, but they had a social worker, would someone in these circumstances be entitled to a social worker?

Helen Morrell, Family Support Manager, Missing People: Not as far as I am aware.

Nigel Adams, MP, Lead Chair: Do you know of much communication between different families? Do you encourage different families and individuals to communicate with each other, and if so does this help in any way?

Helen Morrell, Family Support Manager, Missing People: It is something we are really keen to improve on, we are establishing group counselling services for families to talk and family forums, because we are really conscious some families need connectiveness in what is a quite a unique and rare experience. When it happens people feel very isolated.

Nigel Adams, MP, Lead Chair: Do you feel that there could be any negative financial issues, would there be a huge cost for the Ministry if something was put in place?

Martin Houghton-Brown, Chief Executive, Missing People: There are inevitable set up costs in any new procedure or system, I wouldn't want to be naive about that, but the reality is the estimated costs of the Mental Capacity Act are relatively small to individuals, and although there is a cost associated with making an application to the Court of Protection, it is a relatively small sum, and certainly in comparison to the liability to the families. It is a small sum of money, and it is clear to me, given that we have a Court of Protection, and there are other methods by which we could approach this, including rules around guardianship and trusteeship, that plugging into existing processes would be the most pragmatic way of taking things forward.

If the Court of Protection could be empowered to take this on as an additional part of their portfolio - again we would gain better value for money out of the Court of Protection - and it would require some policy development time for the training and equipment, individual applications would cost a matter of a couple of hundred pounds.

Nigel Adams, MP, Lead Chair: Thank you. I have been incredibly impressed with my dealings with you, and know how hard Holly has worked putting this together.

Can you tell us who you are, and what the ABI does?

Tim Humphries, Policy Advisor, Association of British Insurers: I am Tim Humphries, Policy Advisor for the Association of British Insurers (ABI), and I work primarily on property insurance issues. The ABI is the trade body for the insurance industry, and we have about four hundred members representing all the big insurers; we don't represent the brokers.

Jonathan Evans, MP: You have heard the difficulty some families have had, struggling with issues around insurance. It seems the insurance companies themselves could do with some guidance that the ABI give to its membership, or benefit from some sort of guidance, perhaps the Ministry of Justice might give to the industry itself?

Tim Humphries, Policy Advisor, Association of British Insurers: Yes, from the response we got. Just to give you a bit of background, we sent a questionnaire round our members based on questions provided by the charity Missing People with a view to getting some thoughts on the questions they raised, and one of the main conclusions was that insurers - because they are such emotive issues, because they are quite rare, someone might be dealing with the issue for the first time - then industry-wide guidance would be welcomed by the membership.

Jonathan Evans, MP: Where would you be looking for that guidance?

Tim Humphries, Policy Advisor, Association of British Insurers: I think the Data Protection Institute has been mentioned, the Ministry of Justice, perhaps to bring it all together, because I think insurers would like to know they can act in a certain way as regards data protection in these set of circumstances which are quite rare, and I think they would like to be provided with that reassurance. I think there are also some insurers out there, certainly one insurer mentioned they have got a policy, I have not seen that, but obviously that would be one option, to look at what is out there, draw together something that can be used for insurance and perhaps other financial institutions.

Jonathan Evans, MP: In terms of individual instructions that can be given to insurance companies, the response you have had from the ABI makes it clear that you are dealing with anyone missing who is over the age of eighteen.

One of the things that has been raised in the context of someone missing, is where you are dealing with the police, or involved in the investigation, somebody who knows the circumstances and background, an involvement with the police might reassure an insurance company that they ought to be engaged in a dialogue, and the data protection ought in a sense be alleviated.

Tim Humphries, Policy Advisor, Association of British Insurers: That's right. We have got experience of insurance fraud, and we know it costs the industry a lot of money and ultimately that costs honest policy holders. Obviously that's a concern, data protection is another concern, we need to get the balance right, we need to listen to the evidence that we have heard today. We need to be aware that insurers can be flexible; we have shown good practice in certain circumstances. We can be flexible, it is a question of getting the right balance, making sure we can protect people's confidentiality where appropriate, and we don't open the door to increased fraud and yet we provide a good service to the relatives of the people who find themselves in these situations.

Caroline Nokes, MP: Do you think a guardianship mechanism would be helpful to insurers in these situations?

Tim Humphries, Policy Advisor, Association of British Insurers: That is something that came out of the responses. I was interested to hear about the Australian model, which I wasn't aware of, obviously a lot of our members do visit Australia, so we can get some good feedback from them on how it works, whether there are any consequences they weren't aware of prior to the measures being introduced. We can definitely look at that. To sum up we would say we would support further consultation and would look into it with our Australian colleagues.

Caroline Nokes, MP: This might be an unfair follow up question, but do you have any views on the suitability of 90 days?

Tim Humphries, Policy Advisor, Association of British Insurers: No, because I haven't got anything that specific, the feedback was quite broad in response to the questions provided by Missing People.

Nigel Adams, MP, Lead Chair: Thank you. Could you introduce yourself and give us an indication of the Bureau role.

Sean Sutton, Head of the NPIA Missing Persons Bureau: Sean Sutton, Head of NPIA Missing Persons Bureau (the 'Bureau'). I am in some respects indebted to Martin. I could have been one of those people that said, actually I should not be appearing today in relation to giving evidence in relation to something we don't have a lot of information on! That being said, it has been very enlightening for us to this point, even saying it is on the periphery of what we do: our job is to identify bodies and match them to missing persons reports who are still outstanding. The Bureau has about 5,000 people who are still currently listed as missing, so if we are looking at the potential of how many people would come under this legislation, we could at least start with that, but I suspect that is the tip of the iceberg. It is a fair number, and obviously among those would be children, and under 18 guardianship wouldn't apply in those cases. It is a relatively big issue from our perspective. We have a duty of care to keep police updated with good practice, so that this kind of information is signposted, we are aware that families find these things distressing, and I think my Chief Executive in earlier evidence in session one, described the police as "the Social Service of last resort" and I thought it was a useful description of the way police are often asked for indicators of this kind. It would be down to us to incorporate clear signposts to family members for the police to be able to advise quickly in respect of what to do next.

Also it has become apparent to me, that the whole issue of guardianship can't really be separated from what we call "proof of life" in criminal investigations. In respect of the guardianship issue over missing persons, there is some indicator at least that the person may never turn up again and may have lost their life. So we do have clear procedures in criminal investigations, where, for example, you call a murder a "no body murder" but you would be looking to use proof of life techniques to prove the fact that someone is not living, rather than proving their death. It may seem a weird, strange difference, but in actual fact there is quite a difference, and I thought it might be a useful analogy.

The best practice that we utilise for the police service; we put that in the formal guidance for the police service. We are doing the addendum for this area of work for the 2010 guidance and are very interested in the progress of

this particular Inquiry, and will incorporate that hopefully during the course of the summer.

Jonathan Evans, MP: I am interested in your observation about guardianship linked to the area of presumption of death, but from my perspective, guardianship/power of attorney/provision or procedure where there isn't one, is something that is different. In a presumption of death scenario you would be a little bit like the executor deciding where the assets then subsequently move to. It is a question of protecting and preserving the assets and that is not a procedure that I would identify as one that has the presumption of death? Do you take that point?

Sean Sutton, Head of the NPIA Missing Persons Bureau: Yes I do, that is why I used the term proof of life rather than presumption of death. From my perspective, if you go through search procedures, obviously in a criminal investigation you have PACE, you have the Data Protection Act, Detection of Crime and Investigation, so you can use those to identify where there is proof of life, and if you can use those type of techniques in the civil area, you can almost say this person is not looking after their affairs as you might expect now, we can prove that, we need something to put in place now, which is why we use proof of life rather than proof of death, and I think they are distinctive things.

Jonathan Evans, MP: I am a bit reluctant to have anything which says before you get guardianship you have to get involved in a proof of life debate?

Sean Sutton, Head of the NPIA Missing Persons Bureau: That is a good point.

Jonathan Evans, MP: In a way, it might be helpful, might it not, for police, if there were some established method that assisted in ensuring that part of the practicalities that arises in some cases, there is a procedure that people can adopt, and don't have to get involved in the stuff police have to potentially get involved in?

Sean Sutton, Head of the NPIA Missing Persons Bureau: Certainly, we can talk with our ACPO colleague, the lead for missing persons, to gain their view, and certainly they were talking about it in terms that the law needs to facilitate the administration of the affairs of a missing person, and the ACPO lead believes this probably would need to take place in the first few months of the person going missing and should be dealt with by a separate court.

Baroness Sherlock: At the moment, if a family member goes to the police and wants some evidence that a family member is missing, what would the police do?

Sean Sutton, Head of the NPIA Missing Persons Bureau: Difficult for me say, we aren't the police ourselves, but obviously if you file a report to the police someone has gone missing, that would be a matter of record, so I am sure they could give you at least that: this person made a report on a missing person.

Baroness Sherlock: Nothing more? That is interesting, because in some of the evidence we heard earlier, there is an indication that MOJ think families should do their own negotiation with the banks and insurance companies and authorities, one thing they would need to do is produce some evidence a person has gone missing, and you say you don't expect the police to do anything other than file a report? There might be a completely different set of circumstances?

Sean Sutton, Head of the NPIA Missing Persons Bureau: The issue of duty of care to guard against fraudulent applications, and this is going to be an element of course.

Baroness Sherlock: I am trying to draw out whether the procedures are appropriate. Thank you.

You mentioned the description by your Chief Executive; the police is the "Social Service of last resort". Does your organisation think that is the right

place? If they are the last resort, what should be the Social Service of first resort?

Sean Sutton, Head of the NPIA Missing Persons Bureau: Very good question!

Baroness Sherlock: Thank you.

Nigel Adams, MP, Lead Chair: I presume your organisation has relationships with missing persons bureaus and organisations abroad. What, if anything, have you learnt from the way they deal with practical affairs of families of missing people?

Sean Sutton, Head of the NPIA Missing Persons Bureau: Our Australian counterpart.

Nigel Adams, MP, Lead Chair: America has a huge amount of missing people. Have you done any work at all with the American organisations?

Sean Sutton, Head of the NPIA Missing Persons Bureau: We haven't, because as I said earlier, this is the periphery of our area of responsibility and we have been looking at the Missing People charity as a lead, we do work closely with them, and we are very glad they are there to take up that role.

Nigel Adams, MP, Lead Chair: We appear to have reached an early conclusion, just coming up to 3.00pm. Can I just finish by thanking everyone who has given evidence this afternoon, it has been extremely useful. It has given us a sense of how difficult it is dealing with this issue of practical affairs when there is no specific procedure in place in law, such a horrendous situation to be in.

A week today, the Inquiry will continue, and we will be examining evidence relating to cross-matching unidentified bodies with missing person reports. Thank you very much.

(From the Shorthand Notes of
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