1. INQUEST and The Royal British Legion welcome the Government’s decision to go ahead with the establishment of a Chief Coroner and their indication that they will implement the provisions of the Coroners and Justice Act 2009. This is a sensible move which puts fundamental reform of the inquest system back on track and will help ensure bereaved people are at the heart of an overhauled system.

2. Whilst welcoming the Government amendment insofar as it relates to the Chief Coroner and associated posts, INQUEST and The Legion are disappointed that the Government still intends to repeal s.40 of the Coroners and Justice Act 2009 (which contains provision for a new avenue of appeal against coroners’ decisions).

3. In our September 2011 joint proposal setting out a pragmatic way forward, INQUEST and The Royal British Legion did not push for immediate implementation of an appeal provision.

4. We envisaged s.40 would remain on the statute book until, at a time to be agreed in the future, the provision would be brought into force by the Secretary of State under s.182 of the Act so a full pilot and review of the appeals process could be undertaken by the Chief Coroner. This would enable a properly costed, informed decision to be taken about rolling out a new avenue of appeal across coroners courts in England and Wales. Terms of the pilot and review would be decided between the Chief Coroner and the Ministry of Justice and, under our proposal, an appeals process would not come into effect for several years.

5. INQUEST and The Royal British Legion believe that any future decision on this issue should be taken on the basis of rigorous, sound costings and careful consideration by the Chief Coroner. Leaving s.40 of the Coroners and Justice Act on the statute book would allow this to happen. Repealing s.40 in the heat of the current legislative debate would remove that option entirely and require fresh primary legislation. We nevertheless expect that the Chief Coroner will address any concerns he or she may have about appeals processes in the annual report which must be given to the Lord Chancellor.

6. The Chief Coroner will be best placed to make a judgment about if and how an appeals process could be established but INQUEST and The Royal British Legion think there are already compelling indications that the need for such a system exists.
7. Currently, the only avenue of appeal for bereaved families about the decision-making of coroners and their conduct of an inquest is through complicated and expensive judicial reviews or by persuading the Attorney General to exercise his or her power of fiat. Parliamentary Questions, Freedom of Information requests and discussions with the Ministry of Justice have revealed that the government has not analysed the cost of judicial review applications against coroners decisions (on the basis that the relevant information is held by the local authorities who fund the individual coroners’ jurisdictions).

8. Having a High Court judge as Chief Coroner (as envisaged by the 2009 Act) operating an appeals process would mean some legal issues that are currently resolved in the Administrative Court could be resolved by the postholder but in a much more cost effective and efficient way for both families and the public purse. We would also expect that appeals would increasingly prove unnecessary as a Chief Coroner spearheads reform from within and ensures best practice becomes the norm thereby both reducing the number of disputes and raising standards.

9. Far from creating a litigious culture and an endless right of appeal after inquests, the carefully-crafted framework in the Act has the potential to reduce the need for so many bereaved people to engage in expensive litigation.

INQUEST and The Royal British Legion
23 November 2011