

INQUESTS -A FACTSHEET FOR FAMILIES

This is a brief introduction to what to expect at an Inquest, designed to give an overview about the purpose and process of a Coroner's Inquest.

The law in this area can be complicated, and if it is believed that a person has died because of someone else's fault (after an accident, or treatment which has gone wrong), you should take specialist legal advice.

Each Inquest is different, and practice and procedure vary between Coroners in different parts of the Country. Coroners are legally qualified (Solicitors or Barristers), and usually appoint Assistant Coroners to help them.

WHAT IS AN INQUEST?

An inquest is an investigation into a death which appears to be due to unnatural causes, designed to find out who the deceased was, and where, when and how (meaning by what means and in what circumstances) the person came by their death. The "how" question is usually the most difficult.

The inquest is managed by the Coroner, who conducts a fact-finding investigation. It is different to other Courts, because there are no formal allegations or accusations, and no power to blame anyone directly for the death. After the Inquest, the death can be officially registered.

WHEN IS AN INQUEST NECESSARY?

An inquest is held in cases where the death was, or appears to have been, violent or unnatural, or the cause is unknown. There are other situations where an inquest may be held, including where the death occurs in prison or other detention, or where the Coroner believes it to be in the public interest to hold an inquest.

If, when the death occurs, a doctor cannot immediately certify that the death is obviously natural and/or expected, then the Coroner will become involved.

If there is a possibility that a medical procedure contributed to or caused the death, the death should be referred by the doctor to the Coroner, regardless of the timescales involved.

The Coroner may also hold an inquest if the death was due to natural causes and an inquest is considered by the Coroner to be in the public interest.

CONCLUSIONS (VERDICTS)

At the end of the Inquest, the Coroner can give the following conclusions (verdict) about the death:

- Natural causes
- Accident or misadventure
- Suicide
- Narrative, which enables the Coroner to describe briefly the circumstances by which the death came about

- Unlawful killing (or lawful killing)
- Miscellaneous (drug dependence, industrial, stillbirth)
- Neglect
- Open, meaning that there is insufficient evidence to decide how the death came about – the case is left open in case further evidence appears.

The Coroner can combine some of these conclusions together (for example, "natural causes, aggravated by neglect"). "Neglect" is a very narrow legal concept, and is not the same as negligence. If "neglect" is likely to be relevant to a death, legal representation is usually advisable.

The Coroner's verdict can only be challenged by judicial review in the High Court, but this is rare.

Most Inquests these days have a "narrative" conclusion – a brief, factual description of how the person died, without anything to suggest blame.

PREVENTION OF FUTURE DEATH (REGULATION 28)

Following the inquest, the Coroner can write a report in cases where the evidence suggests that further avoidable deaths could occur and that, in the Coroner's opinion, preventative action should be taken. The report will be sent to the person or authority which may have the power to take the appropriate steps to reduce the risk, and they have a mandatory duty to reply within 56 days. These reports, formerly known as Rule 43, are now routinely published on www.judiciary.gov.uk. This means that, for the first time, the public will have access to these reports.

Examples might be where several deaths have occurred at a notorious accident blackspot, or where some existing system or service (local authority, medical) has broken down in some way. The Coroner can refer a doctor or doctors to their regulatory body if the Coroner considers that it would prevent a recurrence of the incident that caused the death.

WHAT HAPPENS AT AN INQUEST?

An inquest is held in public and is a formal process. Unlike a criminal court case, there is no prosecution and defence. However, the witnesses may be represented by lawyers. The Coroner decides who to call as a witness. As part of his investigation, the Coroner will request a statement from family, doctors or anyone who may have relevant information, and may call that person as a witness at the inquest. If you are called as a witness, the Coroner may ask you to read through your statement, or may take you through the statement in court, and you may be asked questions.

For obvious reasons, an Inquest can become emotionally charged.

GIVING EVIDENCE AT AN INQUEST

Written evidence (statements or reports) is often accepted, without the author having to give evidence in person. If a witness is required to attend, their evidence is given under oath, which means that witnesses are under a legal obligation to tell the truth at an inquest.

The Coroner will usually ask questions of witnesses giving evidence in person. Questions can also be asked by family members, or by other interested parties. Interested persons have the right to legal representation, including families.

The Coroner is not allowed to apportion blame – the Coroner's court is one of investigation and inquiry, to find out what has happened.

INQUEST PROCESS, STEP BY STEP

1. Reportable death occurs, referred to Coroner.
2. Coroner considers information and considers whether an inquest is required. The Coroner can either request more information (and opens a preliminary "Investigation", or decide there and then that an Inquest is required. Inquest is "Opened and Adjourned for further investigations".
3. If Investigation or Inquest is opened, usually a Post-Mortem Examination (also called an autopsy) is performed to establish the probable medical cause of death.
4. If Post-Mortem shows an Inquest is not necessary after all, family informed and process concludes.
(After Post-Mortem, family can usually then make funeral arrangements)
5. If Inquest is necessary, Coroner reviews and decides:-
 - 5.1. If a referral to Police/CPS is needed, for possible criminal prosecution.
 - 5.2. If no criminal issues, fixes timetable and calls for evidence.
 - 5.3. If needed, arranges a Pre-Inquest Hearing (all interested persons, including family, invited) to discuss relevant issues, review evidence, identify witnesses required, and fix a timetable.
6. When investigation is complete, Inquest date fixed, witnesses required to attend and give evidence, and answer questions.
7. Inquest hearing (in public). Coroner gives conclusion (verdict).
8. Register death.

If the issues become complicated, some steps may be repeated (e.g. Pre-Inquest Hearings) or take longer.

POST-MORTEM/AUTOPSY

A Coroner will usually arrange a Post-Mortem to try and find out the medical cause of death. It is very rare for an Inquest to go ahead if this has not taken place. You will be told about this.

A family cannot usually object – this is a Coroner's legal obligation. Some Post-Mortems can be done non-invasively, such as by MRI scanning, rather than by other means, but this is still rare. You can instruct a doctor to attend to represent you at the Post-Mortem – but this is rare.

A body cannot be released to a family until after the Coroner gives permission. He will try to release it quickly, but this is not always possible.

Body tissue taken for analysis at Post-Mortem can be reunited with the body later, or disposed of in a suitably respectful way – you will be asked to decide on this.

PRACTICALITIES

If an Inquest is to take place, it can be months (or even years) before the final hearing, depending on the complexity of the legal and medical issues. Most Coroners aim to complete most Inquests within 6-9 months of the initial report of the death.

In the meantime:-

- The Coroner can issue a Certificate of Fact of Death which can be used to notify asset holders.
- The funeral can be arranged as soon as the Coroner confirms the Post-Mortem is complete.

- A Grant of Probate can be obtained.
- The death cannot be finally registered until after the Inquest has been completed.

ASKING QUESTIONS AT THE INQUEST

As a family, an Inquest can be an intimidating process. The Coroner will try and help a family as much as possible, but it can be very difficult to make sure that all the right questions are asked.

The Coroner asks questions first of each witness. After that, any interested person (or their lawyers) can ask more questions – but questions must be relevant to the Inquest and its scope; not, for example, about blame.

LEGAL REPRESENTATION FOR FAMILIES

Legal Aid is very rarely available, so you may have to pay for a lawyer. Some will help you for free, but cannot do that for everyone. You may have Legal Expenses Insurance (for example attached to household policies) or Union membership which may help with legal fees.

If there may be a negligence claim relating to the death (road traffic accident, mistake in hospital), or some issue of Human Rights may be involved, then see a specialist lawyer quickly. In such cases, often the lawyer will represent you at the Inquest as part of the negligence claim.

If the lawyer says he will charge you, make sure you know how much.

Inquests can involve very specialist legal issues, so always instruct a specialist lawyer. Ask if the lawyer is a member of one of the Accredited Specialist Panels (AvMA, Law Society, APIL), and if they have experience of Inquests and Coronial Law.

SOME TIPS FOR FAMILIES

1. Try to appoint one family member or family friend to be a spokesperson for the family. Try to agree who this should be – divisions within the family can be distracting.
2. Write to the Coroner in advance of the Inquest, setting out your main concerns. Try to be objective, but firm. Doing this will help the Coroner make sure he addresses all the important issues from the family's perspective, and help you work out in advance exactly what those issues are.
3. Ask the Coroner, well in advance of the Inquest, to disclose relevant documents to you. The Coroner does not always have to do this, as some documents can be very upsetting. If you have a lawyer representing you, disclosure will usually be made to the lawyer.
4. Keep in touch with the Coroner's Officer, who will be your main contact (you will rarely get to see or speak to the Coroner). He/she will usually give you all the practical information you need.
5. The Inquest can be extremely upsetting and emotionally charged. But for some people, it can be very helpful, as an important part of the grieving process. Think about taking a friend, outside the family, along for support before, during and after the Inquest.
6. Children at Inquests – usually children under 18 are not allowed to be at the inquest hearing, or give evidence. In some cases the Coroner may permit this, but if you want children to attend, you should ask the Coroner's Officer well in advance.
7. Press can be present at the Inquest. You don't have to talk to them afterwards if you don't want to. But sometimes it may be just what you want. It is usually best to give yourself some time for reflection after the Inquest and before talking to the press.

CRIMINAL PROSECUTION

If there is a criminal prosecution about the death, this takes precedence over the Coroner's Inquest which is put on hold in the meantime.

If there is a criminal conviction, often the Inquest is completed without a formal hearing, with the conclusion given as "unlawful killing".

If there is no criminal conviction, the Coroner becomes involved again and will usually hold an Inquest. He will usually be sent the Police file to help him.

Useful Contacts

Penhaligons Friends (penhaligonsfriends.org.uk)

AvMA (avma.org.uk)

Bereavement Advice (bereavementadvice.org)

Cruse (cruse.org.uk – St Austell)

General Register Office (for births & deaths) (gro.gov.uk)

Cornwall Coroner (cornwall.gov.uk ... advice and benefits ... death and cremation)

Inquest (inquest.org.uk)

Guide to Coroner Services, Coroner Investigations (Ministry of Justice) (gov.uk/government/publications)

Child Bereavement (childbereavementuk.org)

The Coroners' Society (coronersociety.org.uk)

www.coronerscourtsupportservice.org.uk (not currently operating in Devon and Cornwall)

This factsheet was prepared by Mike Bird, who is an accredited specialist Clinical Negligence and Inquest solicitor, and is an Assistant Coroner.

ENABLE LAW, SPECIALIST LAWYERS

We specialise in claims for injuries from accidents or medical accidents, and regularly advise and represent families at Inquests. We have over 40 specialist lawyers in 6 offices (5 in the South West, 1 in London). Our Lead Inquest Specialist is:-



Mike Bird
Partner

Mike is an Assistant Coroner, so has experience from every angle. He has been involved in hundreds of Inquests, and also specialises in Clinical Negligence cases, mainly cases involving death or serious injury. AvMA, APIL Specialist Panels.

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