



INQUESTS – A FACTSHEET FOR FAMILIES

This is a brief introduction as to what to expect at an Inquest and designed to give an overview about the purpose and process of a Coroner's Inquest. More detailed information is available from the Ministry of Justice Guide to Coroner Services.

The law in this area can be complex - if you believe that a person's death was someone's fault (after an accident, or treatment which has gone wrong) then 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 some are also medically qualified. They appoint Assistant Coroners to help them.

What is an Inquest?

An Inquest is an investigation into a death which appears to be due to unknown, violent or unnatural causes, designed to find out **who** the deceased was, and **where, when** and **how** (meaning by what means). In some inquests, for example where the person has died whilst in custody or state detention, the scope of the inquest can be widened to include the broader circumstances leading to the death – but the Coroner decides on the scope of the inquest. The "how" question is usually the most difficult.

Coroners are responsible for making enquiries where the cause is unknown and the investigations are done on their behalf by a Coroner's Officer. It is different to other Courts because there are no formal allegations or accusations and no power to blame anyone directly for the death. At the end of the Inquest, the Coroner will give his/her Conclusion and this will appear on the final Death Certificate. The death can then be officially registered.

When is an Inquest necessary?

There are other situations from those given above 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 the attending doctor cannot immediately certify that the death is obviously natural and/or expected it must be referred to the Coroner.

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 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 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)
- Alcohol
- Drug related
- Industrial Disease
- Road Traffic Collision
- Neglect (usually contributing to another conclusion, eg natural causes)
- Open Conclusion – where there is insufficient evidence to decide how the death came about and reach any other conclusion. This is a conclusion in itself, and does NOT mean that the case is "left open".

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 conclusion can only be challenged by a Judicial Review in the High Court.

Some Inquests 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 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 spot, 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 the investigation, the Coroner will request a statement from family members, doctors, or anyone who may have relevant information and the Coroner 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 sometimes 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 the family or by other interested persons. Interested persons have the right to legal representation, including families. However families are likely to have to fund their own legal representation.

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 decides as to 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. The Inquest is "Opened and Adjourned for further investigations".
3. If the 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 the Post-Mortem shows an Inquest is not necessary after all, the family are informed, and the process concludes. For example, if the post mortem determines the person died of natural causes.

(After Post-Mortem, the family can usually then make funeral arrangements)

5. If an Inquest is necessary, the 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 Review (all interested persons, including family, are invited) to discuss relevant issues, review evidence, identify witnesses required and to fix a timetable.
6. When investigations are complete, the Inquest date is fixed, witnesses notified to attend to give evidence and answer questions.
7. Inquest hearing (in public). Coroner gives Conclusion.
8. The Coroner will complete the necessary paperwork and the death can then be registered.

If the issues are more complex, some steps may be repeated (e.g. Pre-Inquest Hearings) or take longer. If the Coroner's decisions are controversial, the family is likely to be consulted – if in doubt, speak with the Coroner's Officer.

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 informed 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 very rare. You can instruct a doctor to attend to represent you at the Post-Mortem – but this is also quite rare, and you will have to pay any fees incurred.

A body cannot be released to a family until after the Coroner gives permission. He/she will try to release the body 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 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 – this is often referred to as the interim death certificate.
- 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 the 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. If you want legal representation some will help you for free but won't be able to 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 if some issue of Human Rights may be involved, then see a specialist lawyer. In such cases, often the lawyer will represent you at the Inquest as part of the negligence claim.

If the lawyer says he/she 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/she addresses all the important issues from the family's perspective and helps 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). The Coroner's Officer 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 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 this varies so check with the Coroner's Officer. 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 and the Police file will usually be sent to him/her.

Useful Contacts

The Coroners' Courts Support Service (coronerscourtsupportservice.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)

Penhaligons Friends (penhaligonsfriends.org.uk)

This factsheet was prepared by Enable Law solicitors, who are accredited specialist Clinical Negligence, Serious Personal Injury and Inquest solicitors in the South West of England. You can read more about Enable Law on their website www.enablelaw.com or contact them at contact@enablelaw.com or 0800 0448488.