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BEFORE THE INQUEST

Who decides who will give evidence?

It is up to the coroner to decide who will give evidence. You can, individually or through your solicitor, suggest to the coroner witnesses who may be helpful and important. It is important that your solicitor informs the coroner as soon as possible that she/he is instructed by you to prepare for the inquest and that they keep in regular contact than others with the coroner. Some coroners are more open to suggestions on which witnesses to call. In the end it is the coroner who makes the decision, subject to any challenge that may be possible if the decision is unreasonable. Many coroners will release a witness list of who they propose to call to give evidence in advance of the inquest.

When will I be told the date of the inquest?

You should be informed of the date of the inquest as soon as it is set. Again this is why it is useful for you and/or your solicitor to establish an early relationship with the coroner's office so that she/he is informed as early as possible. Also if you are having a barrister to represent you then the solicitor should ask the coroner to ensure that enough notice is given and that the coroner's office liaises with your solicitor about the date to ensure your barrister is available. Although this is good practice some coroners are not open to such co-operation and you should be prepared.

Can I speak to the coroner?

It is more common that you will speak to the coroner's officer, although some coroners will speak directly to bereaved people or their solicitors.

AT THE INQUEST

Will there be any private place to wait at the inquest?

It is not usual that there is a private place for friends and family to wait or to talk with their legal representatives. Some coroner's courts (or where a town hall/county court is used) have waiting and/or interview rooms and some coroners may consider making one available for the family and their lawyers. At other courts this is not the case and you need to be prepared for having to wait in the same place as the people you may think were responsible for the death, which can obviously be very distressing.

What should I wear and bring with me to the inquest?

You should wear clothes you feel comfortable in. The coroner, lawyers and witnesses will often be smartly dressed. You may find it a comfort to bring a photograph of your relative with you as the inquest can often be very impersonal and sometimes disparaging remarks are made about the person who has died.

Will my expenses be paid?

If you are called to give evidence you may be paid some expenses for having to miss work to come to the inquest and also travelling expenses. This will only apply if you have been summoned to give evidence.

Who has the right to attend?

Anyone – an inquest is a public hearing. You may want to bring a friend or family members to support you during the inquest.

Will the press and public be there?

Because the inquest is a public hearing anyone can attend and that includes the press (see Section 7).

Can I leave the court if I want to during the inquest?

Yes, you can leave whenever you want (apart

from if you are giving evidence at the time) and come back whenever you want. If you feel upset or angry with any of the evidence you may want to leave. If you choose to do so, you should leave quietly. Coroners are used to people coming in and out of the court. Some coroners will mention in open court when post mortem evidence or other distressing evidence is coming up to allow you the opportunity to leave.

Will anything personal and private be said at the inquest about my friend or relative and their family?

The inquest is there to inquire into the circumstances of the death, and there may be evidence that the coroner considers relevant to the investigation that may reveal private matters about the person. If there are matters, which are not strictly relevant to the inquest, you can ask that they are not made public. It is a matter in the end for the coroner to decide. Some coroners will be sympathetic and sensitive to your concerns but others may feel such information is relevant.

Will the suicide note be read out during the inquest?

It is unusual for a suicide note to be read out in its entirety.

What will happen at the inquest?

The coroner will begin the inquest and if there is a jury will swear them in. The coroner will outline to them what their duties are and that they are there to establish the answer to the questions: who the person was, where they died, when they died and how they came by their death. The coroner will also usually explain two important Coroners Rules 36/42 that the inquest is not held to establish any criminal or civil liability – that it cannot blame anyone for the death and that the coroner and/or the jury must not name anyone in delivering their verdict.

The coroner will then call the witnesses. She/he will usually begin by questioning the witnesses and by taking them through the

witness statement they will have given. There will then be the opportunity for barristers representing any interested person to also question the witnesses. If the witness is “your” witness (either yourself, another family member, a pathologist you employed, or another expert) your barrister will ask questions last.

In some cases, the coroner will warn the witnesses that they do not have to answer questions if they feel their answer might incriminate them in a criminal offence.

Once all the evidence has been heard, your barrister and/or legal representatives for other “properly interested persons” may request the opportunity to address the coroner on the law in relation to possible verdicts to leave to the jury. If there is a jury they will be asked to leave the court until the legal submissions have been made.

After all the witnesses have been questioned, the coroner sums up the evidence. Your barrister and any other barrister do not have the right to sum up the evidence as they see it.

Then the coroner will decide on the verdict or, in the case of a jury inquest, address the jury on possible verdicts open to them.

The coroner will then address the court on the verdict or the jury will retire and consider their verdicts (see section below).

It is vital to understand that the inquest is not like an ordinary court of law. The coroner is prohibited from deciding any issues of civil or criminal liability on the part of a named individual. The inquest is purely a fact-finding mission. As a result it is often frustrating for the family if the coroner decides to take an unnecessarily restrictive view on his/her role in simply establishing the facts surrounding the death and many questions can be disallowed on the basis that they are not relevant.

VERDICTS

The coroner, if sitting without a jury, returns the verdict. In a jury inquest the coroner will leave the jury a number of verdicts to consider depending on the evidence heard at the inquest.

These are the verdicts laid down in the Coroners Rules/Act:

- natural causes;
- industrial disease;
- dependence on drugs;
- non-dependent drug abuse;
- want of attention at birth;
- killed himself/herself whilst the balance of his/her mind was disturbed/suicide;
- attempted/self induced abortion;
- accident/misadventure (which means the same);
- stillbirth;
- Open verdict – this means that the cause of death cannot be established and doubt remains as to how the deceased came to their death.

In some cases “contributed to by neglect” can be added (the law is incredibly limited on when this can be applied and neglect does not mean the same in law as it does in everyday language). “Systemic neglect” can also be considered in these circumstances where evidence showed that insufficient action was taken to prevent a death.

The rare verdict of unlawful killing may be returned if the death was due to an unlawful act or gross negligence.

All of these verdicts have to be established to the test within the balance of probabilities except for suicide and unlawful killing, which have to be proved beyond reasonable doubt

When does the coroner use the verdict “killed him/herself”?

When it is believed, on the basis of the factual evidence, that the person intended to kill him or herself.

For this verdict to be returned there has to be evidential proof, for example a suicide note, beyond reasonable doubt, that it was definitely the person’s intention to take their

own life. If they did something that resulted in their death but there is not enough evidence that they intended to die then this verdict will not be returned.

What verdict is used if there is insufficient evidence that somebody had intended to kill him/herself?

Misadventure/accidental death or an open verdict.

Would the verdict “killed him/herself” have to be supported by a suicide note?

No, but that is a piece of evidence which could show intent.

What does accidental death/misadventure mean?

This means that the person died as a result of actions by themselves or others that went wrong or had unintended consequences.

What does open verdict mean?

This means that there is not enough evidence to return another verdict.

What does unlawful killing mean?

This verdict means that the person was killed by an “unlawful act” by someone or some others or as the result of their “gross negligence”. These are both legal terms that are clearly defined in the criminal law.

If I think an institution (such as a prison or hospital) has neglected my relative, will that be reflected in the verdict?

There is a real difference between the meaning of “neglect” in common speech and what that means in law. This is a complicated area and you should discuss this with your solicitor or one of the organisations at the end of the pack.

As indicated above, it is rare for the words “contributed to by neglect” to be added to one of the verdicts already mentioned. This will reflect a degree of neglect but again it does not blame any individual or any institution.

Can the coroner make recommendations to prevent a further death occurring due to the same cause?

Under Rule 43 of the Coroner's Rules, after the verdict the coroner may announce that he or she will write to the person or authority that has the power to take action to prevent the recurrence of similar fatalities. This is often referred to as recommendations. The coroner is the only person entitled to make any comment in court after the verdict. It is worthwhile talking to your legal representative about this before the inquest so the coroner is aware that you know she/he has that power. Some coroners will allow your lawyers to raise matters they think should be addressed under Rule 43.

Can the jury make any recommendations?

No. But they can write a narrative verdict incorporating their concerns as long as they do not criticise anyone in person.

Can the coroner's recommendations be enforced and will I find out what response they received?

No. You should receive a copy of any Rule 43 points made and your lawyer can request the coroner sends you a copy of any reply she/he receives.

How does the inquest finish?

The coroner and jury (if there is one) sign a document (Form 22) – known as the inquisition – giving the result of the inquest, which records the answers to the questions: who the person was, where they died, when they died and how, i.e. the medical cause of death.

AFTER THE INQUEST – FURTHER ACTION

What happens after the inquest?

The coroner will send any details required by the registrar of deaths. She/he will also write to the relevant authorities under Rule 43 if she/he deems that appropriate. The coroner's office will advise you of where to get a copy of the death certificate.

If it has not already been done, she/he will also send:

A burial order, or a cremation certificate, or permission to send the body abroad.

Can any claim be brought after the inquest?

After the inquest the relatives may not wish to investigate further the circumstances surrounding a death. However, as has already been said, the role of the inquest is not to decide who was to blame. If the family want to make a civil claim they should seek advice from a solicitor, if they have not already done so, who will be able to advise them on the merits of any potential claim.

The surviving spouse, the parent of a legitimate child (under 18 at the time of death), or the mother of an illegitimate child can bring an action to claim the statutory bereavement allowance of £7,500. Supplemental claims can also be made for the funeral and other out of pocket expenses. There may be other avenues to pursue but these are very limited and again you should discuss this with a solicitor or one of the relevant organisations listed in Section 8.

What can I do if I am unhappy with the conduct of the inquest and the verdict?

You have very limited options to take action after the inquest but if you are concerned you should talk to your legal representative or one of the organisations listed in the pack.

If you were not previously legally represented you should consider getting legal advice at this stage as these procedures are

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complex and require an up-to-date and in-depth knowledge of the law.

We have set out some of the ways you can seek to address any problems, but each case is unique and you definitely need to seek advice.

If a coroner has refused to hold an inquest, can her/his decision be overruled?

Yes. It can be challenged by judicial review. You need to speak to a solicitor about this.

What is a judicial review?

It is a legal procedure where a judge can review decisions made by the coroner and decide whether they are appropriate and/or correct. It is held in the divisional court. Where it is felt there has been an insufficient inquiry into the death or a failure to call relevant witnesses, are some examples of where a judicial review has been taken.

Is there any appeal against the verdict of a coroner?

Not as such. It is possible that if the divisional court accept that there has been fraud, rejection of evidence, irregularity of proceedings, an insufficiency of inquiry, or if it is in the interests of justice, a new inquest can be ordered and the previous inquest quashed. The exercise of this power depends on the court's view that it would be necessary and desirable in the interests of justice.

Who can make an application to quash an inquest or to hold one after the refusal of a coroner?

Any interested party including the family of the deceased. Again this is a complex legal process and legal advice should be sought.

Can a verdict be overturned or amended if it appears that the coroner made an error in the interpretation of the law?

Yes, by judicial review. This must be done as soon as possible after the verdict has been given and within three months. It should be undertaken by a person with sufficient interest, e.g. the family of the deceased, or a

person who might be charged with causing the death.

Can a verdict be overturned or amended if new evidence is found that was not available at the original inquest?

Yes, by applying to the Attorney General for his permission. This is a process similar to a judicial review and you should discuss this with your solicitor.

If evidence comes to light sometime after a death that suggests a death was unnatural or the cause of death uncertain, can an inquest still be held?

Yes, if the coroner agrees there are reasonable grounds. The death certificate will be amended if new evidence reveals at the inquest that the original cause of death was wrong.

Can a body be exhumed if new evidence comes to light that suggests an inquest is necessary because a death was unnatural or the cause uncertain?

Yes. The coroner must issue a warrant signed by her/him, addressed to the persons in charge of the burial ground. The exhumation is carried out at night or early in the morning. A funeral director or a member of the family carries out identification of the body. In practice this is exceedingly rare.

Should I discuss these points with my solicitor?

Yes, these are complex legal processes and you should discuss it with your solicitor who should also consider obtaining advice from a barrister with expertise in the law on inquests on whether the case is possible to pursue, and whether public funding will be available.

Will anyone be prosecuted after the inquest?

This is exceedingly rare.

Can I get a transcript of the inquest?

Yes. Anyone who is a "properly interested person" can obtain a copy of the transcript of

the inquest by asking the coroner's office. The difficulty is often the cost and the manner in which the evidence was recorded. Many coroners' courts have tapes of the evidence and you have to pay for these to be transcribed by a typist, but some coroners' courts only have the notes made by the coroner.

Is there anyone I can write to if I want to make a general complaint about an inquest?

There is no formal complaints procedure but you can write to:

The Home Office Coroners Section;

The Lord Chancellors Department;

The local authority that funds the coroner.

