



Inquests: a guide for families

Depending on the circumstances of a loved one's death there may be a legal requirement for a Coroner to arrange an inquest following it. That generally happens when it appears that someone's death was caused by anything other than natural causes.

Losing a loved one is very stressful, even before the added stress that can be caused by having to deal with a legal process like an inquest while you are grieving. The purpose of this guide is to help you understand the basics around the inquest process.



The law in this area can be complicated so if you believe that your loved one's death could have been caused by an accident that was not their fault then you should ask for specialist legal advice.

Examples of situations where getting legal advice can help you get answers might be following a road traffic accident, an accident when on holidays or at work or if your loved one had a health condition and did not get the treatment they needed.

Each Inquest is different, and sometimes practice and procedure can vary between Coroners in different parts of the Country.

The idea of having an Inquest can be quite frightening but above all, a loved one's family should be at the heart of the process, to be able to understand how their loved one died.

Coronavirus

Coronavirus is usually considered a "natural" cause of death, so natural deaths due to Coronavirus do not have to be reported to the Coroner, and the Coroner will not get involved in investigating them. But where there are other unnatural features of a death from Coronavirus, such as where there is a suspicion that an employer failed to provide adequate PPE, a Coroner might arrange an Inquest. With the arrival of the pandemic in March 2020, there were swift changes to Coroners' practices.

Some significant changes have remained – the most important being that:

- **Inquest hearings can now be held "remotely" by Microsoft Teams**
- **Many inquests are dealt with "on paper" with no one needing to attend court in person (but able to join by Microsoft Teams), and with a Coroner reading out evidence in court**
- **Some simple inquests can be concluded within a few days or weeks of the death**

But the effects of the pandemic caused delays to many parts of Coroners' investigations, and even now many complex inquests have been delayed by 12–24 months, or longer. Arrangements vary between different local authority areas so you should contact your local Coroner's Office to see what is happening in your area.

What is an inquest? The 4 questions

An Inquest is an investigation into a death which appears to be due to unknown, violent or unnatural causes, or happened in custody or state detention, and is designed to find out the answers to 4 Questions: who the deceased was, and where, when and how (meaning by what means) they died. The "how" question is usually the most difficult. In some inquests, 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 Coroner will manage the investigation and the Inquest hearing. Coroners are legally qualified (Solicitors or Barristers) and some are also medically qualified. They appoint Assistant Coroners to help them, and have Coroner's Officers to carry out investigations. The Inquest is different to other legal processes because it is a fact-finding investigation, and no one is "on trial" – 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 their Conclusion, which will appear on the final Death Certificate and the death can then be officially registered.





When is an inquest necessary?

A Coroner must investigate deaths which appear to be of unknown, violent or unnatural causes, or where the death occurs in prison or other detention.

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.

An independent doctor, known as a "Medical Examiner" can be asked to give an initial view on whether a death needs to be reported to a Coroner. This is common when a death occurs in hospital. The Medical Examiner can also speak directly to a family after a death to discuss what happened. The Coroner may also decide, even if the death was due to natural causes, that it is in the public interest to hold an Inquest.

Conclusions (verdicts)

The Coroner will consider all the available evidence, and will decide the answers to the 4 Questions (who has died, where, when and how), and record what probably happened. Often it is not possible to be certain about the facts surrounding someone's death, and the Coroner does not have to be certain about something when reaching their conclusion: the Coroner need only find that something is true on "the balance of probabilities" – meaning "probably", or "more likely than not". This is called the "standard of proof".

The Coroner will give one of the following conclusions:

- **Natural causes**
- **Accident or misadventure**
- **Suicide**
- **Unlawful killing (or lawful killing)**
- **Alcohol or drug related**
- **Industrial disease**
- **Road traffic collision**
- **Neglect (usually contributing to another conclusion, eg "natural causes contributed to by neglect")**
- **A "narrative" conclusion – where nothing from the list above is suitable, the Coroner may give a brief, factual description of how the person died without anything to suggest blame**
- **Open conclusion – where there is insufficient evidence to decide how the death came about and it is not possible to 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, contributed to by neglect"). "Neglect" is a very narrow legal concept, and is not the same as negligence. To prove neglect, there needs to have been an extreme failure to provide basic care to someone who needed it and who would have survived if it had been given. An example might be a healthcare professional seeing that someone needed resuscitation but not giving it. 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.

The Coroner's conclusion will appear on the death certificate.

Prevention of Future Death Reports (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, action could or should be taken to reduce the risk of, or even prevent, future deaths. The report will be sent to the person or authority which may have the power to look into the situation further and make changes, 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 the public can access 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 doctors or other professionals 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 legal Court process. It is a fact-finding investigation, to answer the "4 Questions" and establish what happened, to consider if any lessons might be learned which might prevent a similar death, to record a conclusion and to allow the death to be registered. No one is on trial – least of all the deceased. There is no prosecution and no defence (as there would be in a criminal trial) but there might be lawyers representing the Interested Persons (IPs) and asking questions on their behalf.

IPs will include close family of the deceased, as well as anyone who might have played a part in the circumstances of the death. That could be the driver of a car in a road traffic accident (and their insurers) or the treating doctor if the death happened in hospital.

The Coroner investigates the death, and as part of the investigation will request a statement from family members, witnesses, Police, doctors, or anyone who may have relevant information about the "4 Questions". Any of these people may also be asked to be a witness at the inquest. The Coroner will also collect any other relevant evidence (for example, medical records, policies, documents, photographs, plans) as needed. 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 ask you questions. During the Inquest you may also be asked questions by the other IPs or their lawyers (if they choose to have legal representation). For obvious reasons, an Inquest can become emotionally charged.

The Coroner is not allowed to assign blame – the Coroner's job is to investigate how the death happened, and record answers to the 4 Questions.

The inquest hearing

The hearing is always held in a Coroner's court, in public. Press and public may attend. Since 2020, hearings can be attended via Microsoft Teams rather than in person, or both, and this is now very common. The Coroner's Office will make sure everyone knows how the Inquest Hearing will take place.

Giving evidence at an inquest

Written evidence (statements or reports) is very often accepted "on paper", without the author having to come to the Inquest hearing and 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.

A witness giving evidence in person, can be asked questions by the Coroner and by other Interested Persons (including families). Interested Persons have the right to hire a lawyer to act for them but have to pay for this themselves – see below. If you are considering hiring a lawyer, before you appoint them ask them to tell you what it will cost you. An experienced inquest lawyer will be willing to discuss this with you.



Inquest process, step by step

1. Reportable death occurs – referred to Coroner.
2. Coroner considers information and decides whether an Inquest is needed. Advice can be taken from the "Medical Examiner" who is a local independent medical professional. The Coroner can either request more information (and open a preliminary "Investigation") or decide there and then that an Inquest is required (an Inquest is "Opened and Adjourned for further investigations").
3. If an Investigation or Inquest is opened, often a Post-Mortem Examination (also called an autopsy) is performed to establish the most likely medical cause of death.
4. The Post-Mortem may show that an Inquest is not necessary after all (for example, finds that the person died of natural causes). The family are informed, and the process ends. (After Post-Mortem, the family can usually then make funeral arrangements).
5. If an Inquest is necessary, the Coroner reviews what evidence is needed to investigate the death and decides: –
 - 5.1. If a "fast track" inquest can be arranged quickly. That generally happens when the evidence is readily available (usually on paper only) where there is no controversy and where all interested parties are in favour of dealing with the inquest quickly.
 - 5.2. If a referral to Police/Crown Prosecution Service is needed for possible criminal prosecution. If there are no criminal issues, the Coroner fixes a timetable and calls for evidence. In more complex cases, and if needed, the Coroner 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 Coroner reviews again. A final decision is made about what arrangements are required for the hearing (eg in person, or by Teams, or a mix). Once an Inquest date is fixed, witnesses are notified to attend to give evidence and answer questions. If the evidence is uncontroversial and no one is needed to give evidence in person, all documents are disclosed to Interested Persons, and a hearing can take place more quickly.
7. Inquest Hearing takes place (on paper, in person or by Teams, or a mix). The Coroner considers all the evidence and, applying the "balance of probabilities" gives their Conclusion. The death can then be registered.
8. If the issues become complicated or controversial as the investigation unfolds, some steps may be repeated (e.g. Pre-Inquest Hearings) or take longer, and the family is likely to be consulted – if in doubt, speak with the Coroner's Officer.

Post mortem/autopsy

Sometimes the cause of death is immediately clear, but if not, the Coroner will arrange a Post-Mortem to try and find out the medical cause of death. The family will be told about this.

A family cannot usually object to a Post Mortem as it is a Coroner's legal obligation to find out the medical cause of death. 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 rare, and you will have to pay any fees incurred. A body cannot be released to a family until after the Coroner gives permission. They 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 factual, legal and medical issues. Most Coroners aim to complete Inquests within 6–9 months of the initial report of the death, but this can be much quicker in straightforward cases (within a few weeks), or can take even longer in complex cases (especially since the Coronavirus Pandemic).

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 (or Letters of Administration) can be obtained. These are the legal documents which are sometimes needed to deal with financial aspects after someone has died. If the person left a Will, an Executor is usually named in the Will.**
- **The Coroner's conclusion is recorded on the death certificate, which is then registered and made final.**



Asking questions at the inquest

A Coroner will try to be as helpful and supportive as possible but the Coroner's role has limits and may not be able to cover all a family's questions. It is always a good idea for a family to send in a list of questions or concerns to the Coroner in advance.

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

Legal representation for families

Legal Aid is only available in exceptional circumstances, and in practice is very rarely provided, so you may have to pay for a lawyer. Some lawyers 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 if 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 claim.

If the lawyer says they 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. Ask the Coroner, well in advance of the Inquest, to share all relevant documents with 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.
3. Write to the Coroner in advance of the Inquest setting out your main concerns. Try to be objective, but firm and clear. Doing this will help the Coroner make sure they address all the important issues from the family's perspective and helps you work out in advance exactly what those issues are. Email is usually fine.
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. This is particularly important since the start of the Coronavirus pandemic, because practical arrangements will vary.
5. Attending remotely via Teams can be difficult. Make sure you can attend from a quiet place, free from distractions, with reliable connectivity. Test your kit and if in doubt, talk to the Coroner's Officer.
6. The Inquest can be extremely upsetting and emotionally charged. But for some people, it can be very helpful, and an important part of the grieving process. Think about taking a friend for support before, during and after the Inquest.
7. 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 so if you want children to attend you should ask the Coroner's Officer well in advance and be ready to explain why.
8. Press can be present at the Inquest. You don't have to talk to them afterwards if you don't want to but you can if you want to. 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, it 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 afterwards, without a second investigation, with the Inquest conclusion reflecting the criminal conviction.

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 as part of the Inquest investigation.





Useful contacts for advice or support

Enable Law (enablelaw.com)

Penhaligons Friends (penhaligonsfriends.org.uk)

Cornwall Bereavement Network (cornwallbereavementnetwork.org.uk)

Cornwall Coroner The Cornwall Coroner – Cornwall Council

General Register Office (for births & deaths) (gov.uk/general-register-office)

The Coroners' Courts Support Service (coronerscourtsupportservice.org.uk)

The Coroners' Society (www.coronersociety.org.uk)

Cruse (www.cruse.org.uk)

Bereavement Advice (bereavementadvice.org)

Child Bereavement (childbereavementuk.org)

Inquest (inquest.org.uk)

AvMA (avma.org.uk)

Association of Personal Injury Lawyers (APIL) (apil.org.uk)

Office of the Chief Coroner – Courts and Tribunals Judiciary
(judiciary.uk/courts-and-tribunals/coroners-courts/office-chief-coroner)

This factsheet was prepared by law firm Enable Law, who are accredited specialist Clinical Negligence, Serious Personal Injury and Inquest solicitors in the South West and South 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.

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