

**A GUIDE TO THE CORONER'S
INQUEST SYSTEM**

**Nigel S. Meadows
H.M. Coroner
Plymouth and S.W. Devon**

Introduction

Members of the public are only likely to come into contact with the Coroner and his office in traumatic or sad circumstances where usually a relative has died suddenly and unexpectedly. Having to deal with a bereavement is hard enough but also having to cope with the involvement of the Coroner, his officers and possibly an Inquest, can also be a mystifying and sometimes worrying experience. Many people not directly related to or connected with the deceased may also become involved with the Coroners Office and ultimately an Inquest. It is intended that this guide will be a help to all interested persons and other members of the public who from time to time may come into contact with the Coroner's Office in Plymouth and South West Devon. The law governing the duties and responsibilities of Coroners is complex and is derived from both statute and case law. By necessity this cannot be an exhaustive exposition of the law.

Who is the Coroner?

The Coroner has to be either a Solicitor, Barrister or a Registered Medical Practitioner of at least five years standing. They are appointed by the relevant Local Authority, and are independent judicial officers.

Who are the Coroner's Officers and what do they do?

It is impossible for a Coroner to carry out all of his functions entirely on his own. Generally, he receives information through and makes his enquiries by means of his Officers. The Devon & Cornwall Constabulary employ two full time Coroner's Officers for the Plymouth & South West Devon District. In the vast majority of cases they receive the initial reports of death from the Police, Medical Practitioners etc. Under the Coroner's supervision they make appropriate enquiries and obtain additional information. They liaise with the family of the deceased and all the other appropriate agencies or individuals. They also help to organise Inquest proceedings and deal with day to day administrative matters.

Deaths

The Coroner has jurisdiction to inquire into violent or unnatural death, sudden deaths when the cause is unknown, and deaths in prison. As long as the body is now lying within his area, the Coroner has jurisdiction to hold an Inquest into such a death which occurs outside England and Wales. The Coroner has power to order the exhumation of the body of a person buried within his jurisdiction. In the case of a sudden death from an unknown cause, the Coroner may order a post routine examination of the body. If this shows that death was from natural causes the Coroner is not compelled to hold an Inquest.

When does the Coroner have to hold an Inquest?

When a Coroner is informed that the body of a person ("the deceased") is lying within his jurisdiction and there is reasonable cause to suspect that the deceased:-

- (a) has died a violent or unnatural death;
- (b) has died a sudden death of which the cause is unknown, or
- (c) has died in prison or in such a place or in such circumstances as to require an Inquest under any other Act

What is the purpose of an Inquest?

It is an inquiry to examine witnesses on oath who can give any relevant evidence or information in order to establish who the deceased was, and how, when and where the deceased came by their death.

The law specifically precludes the Coroner or indeed the Jury, if there is one, from expressing an opinion on any other matter. Nor should the verdict be framed so as to appear to determine the questions of civil or criminal liability which involve the naming of any individual, company or Local Authority.

The Inquest is an inquiry in order to establish material facts. Consequently there are no parties or sides or any form of pre-formed allegations. No individual, Company or Local Authority is on trial in respect of any civil or criminal liability. The Coroner will only permit witnesses to be questioned and evidence obtained in relation to the relevant and material issues that the Inquest is concerned with.

The law governing the scope and conclusions of the Inquest in certain circumstances has been changed by the impact of the Human Rights Act 1998. This is a developing and changing area of the law.

Is an Inquest in public or private?

As a general rule all Inquests are held in public to which the press and all members of the public are entitled to be present and witness the proceedings.

Apart from the Coroner who else is entitled to question witnesses?

Any person who satisfies the Coroner that he is within the categories listed below will be entitled to examine any witness at any Inquest either in person or by Counsel or by a Solicitor:-

- (a) a parent, child, spouse and any personal representative of the deceased
- (b) any beneficiary under a policy of insurance issued on the life of the deceased
- (c) the insurer who issued such a policy of insurance
- (d) any person whose act or omission or that of his agent or servant may in the opinion of the coroner have caused, or contributed to, the death of the deceased
- (e) any person appointed by a trade union to which the deceased at the time of his death belonged, if the death of the deceased may have been caused by an injury received in the course of his employment or by an industrial disease
- (f) an inspector appointed by, or a representative of, an enforcing authority or any person appointed by a government department to attend the Inquest
- (g) the Chief Officer of Police
- (h) any other person who, in the opinion of the Coroner, is a properly interested person

Legal Aid

Legal aid available to pay for advice and representation at an Inquest in limited circumstances. I will provide on request the Legal Services Commission guidance on exceptional funding for Inquests. You will need to obtain legal advice about this.

Collection of evidence

Since an Inquest is an inquiry the Coroner collects the evidence. He receives reports and statements. He can generate further enquiries. If you have not been approached directly by the Police or any other investigating agency and feel that you have relevant information do not hesitate to let the Coroners Office know. You may well be interviewed and a statement taken.

When is a Jury required?

There are some circumstances in which the summing of a Jury is compulsory:-

- (a) Deaths in prison
- (b) Deaths in industrial accidents
- (c) Deaths occurring in circumstances the continuance or possible recurrence of which is prejudicial to the health or safety of the public
- (d) Deaths occurring in Police custody or resulting from an injury caused by a Police Officer in the purported execution of his duty.

A Jury is comprised of between 7 and 11 members taken from the Crown Court Jury List. The Coroner may accept a majority verdict providing not more than two Jury members disagree.

Provision of information prior to the Inquest

There is nothing to stop any interested person asking the Coroner for information or documents prior to the Inquest. As a general rule there is no right to see any of the evidence or information collected by the Coroner bearing in mind that the disclosure of information prior to the Inquest could possible prejudice the outcome. Also the Coroner has to be fair to all interested persons so that giving disclosure to one may have to lead to it being given to everyone else. In practice I work on the rebuttable presumption of providing Pre-Inquest disclosure to all properly interested persons who want it to assist them in preparing for and dealing with the Inquest unless there is good reason not to do so.

The Inquest itself

This is invariably held in public in the best and most convenient facilities available to the coroner. Witnesses can be compelled to attend if necessary provided they are within the United Kingdom. The Coroner will decide what evidence is to be called and in what order. There are no strict rules of evidence. It is not an adversarial forum. The Coroner questions the witnesses first and then interested persons have the right to ask questions. When sitting with a Jury it is the Coroner's duty to direct the Jury on the law and sum up the evidence. However, the findings of fact made are entirely made by the Jury alone. An interested person cannot address the Coroner nor the Jury on the facts. However an interested person can address the Coroner on the law.

The Coroner is required to take a note of the evidence and any interested person is entitled following the conclusion of the Inquest to obtain a copy of the notes of evidence and any exhibits upon payment of the statutory fee involved. The Coroner has a discretion to admit documentary evidence relevant to the purposes of the Inquest from any living person which in his opinion is unlikely to be disputed unless there is any objection by any interested person. Such documentary evidence if so objected to may be admitted if in the opinion of the Coroner the maker of the document is unable to give oral evidence within a reasonable period. Invariable in practice a great deal of uncontentious documentary evidence is admitted in many Inquests which saves time, expense and most importantly

distress and inconvenience to relatives of the deceased. In practice the Coroners Officers will keep interested persons in touch with developments and the evidence which is likely to be produced at the Inquest so that matters do not come as a surprise.

No witness at an Inquest shall be required to answer any question, the answer to which, in the opinion of the Coroner, may incriminate the witness as to the commission of any criminal offence. Where it appears, to the Coroner that a witness has been asked such a question the Coroner is required to inform the witness that he may refuse to answer.

The Verdict

There is popular misconception that the verdict is the short conclusion often reported in newspapers. In fact, the technical meaning of the verdict is all the information required by the Inquisition. The name of the deceased, the injury or disease causing death, the time, place and circumstances at or in which the injury was sustained. Other relevant registration particulars, for example, whether the deceased was male or female and finally the conclusion as to death. There are a number of potential common conclusions as to death. For example, natural causes, industrial disease, accident or misadventure, suicide, unlawful killing. There is no exhaustive list because there are only suggested short form conclusions. A Coroner or a Jury can also return what is known as a narrative conclusion which is a factual statement of the events causative of death. The evidential test against which all conclusions have to be set is on the balance of probabilities (ie. the civil standard of proof) except in the cases of suicide and unlawful killing where the test is beyond reasonable doubt (i.e. the criminal standard)

Appeals

There is no automatic right of Appeal against findings and conclusion of an Inquest. The proceedings are, however, subject to challenge by way of:-

1. Judicial Review.
2. An application to quash the original Inquest and order a new one under s.13 Coroner's Act 1988 on the grounds of fraud, rejection of evidence, irregularity of proceedings, insufficiency of inquiry, the disclosure of new facts or evidence or otherwise where it is necessary or desirable in the interests of justice that another Inquest should be held.

This is a very complex area of the law and you would need to obtain legal advice.

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