A User's Guide to the Coroner's Court

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Introduction

An inquest may be the most traumatic event ever experienced – more traumatic perhaps than the death that is under investigation. For whilst the death leaves behind terrible feelings of loss and helplessness and can have devastating economic consequences for dependents, an inquest opens up and explores every aspect of the death.

There are, however, inquests which humanely explore how the person died and enable members of the family, or their representatives, to ask a wide range of questions about the events that led to the person's death. When this process is handled with care, it provides answers to difficult and frightening questions. It can be very comforting to a bereaved person. The most charged question asked by relatives is 'could the death have been prevented?'. A well conducted inquest can give an answer to this question.

The proceedings of the Coroner's Court often seem obscure and confusing, e.g. it is often unclear what the role of the Coroner's Officer is, who the Coroner is and what responsibilities he/she has.

The right of relatives to ask questions, to see documents and medical notes and to suggest the names of witnesses to the Coroner can be difficult to establish. As legal aid is only rarely available for inquests, the family often feel tragically ill-informed and disempowered before and during the inquest.

Many people who have been through an inquest remember it as a frightening experience, especially as there is so little information available prior to the Inquest.

The Guide seeks to provide comprehensive and well researched information for anyone going to a Coroner's Court. It is aimed at relatives or friends of the deceased, witnesses, "official friends", advice agencies and advocates. The Guide is not intended to provide legal advice for solicitors taking cases to a Coroner's Court, but it may assist solicitors with some of the factual detail that is so important in the conduct of a properly planned and executed inquest.

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The information contained in this booklet has been carefully researched. However, the answers to some of the questions are by their nature opinions and should be checked by a legal advisor if there is any doubt about interpretation of the controversial issues dealt with on the following pages.

Background

What is a Coroner?
A Coroner must be a barrister, solicitor or legally qualified medical practitioner of not less than five years standing. His or her duty is to investigate the cause of death of a person if there is reason to believe that the death was due to violence or was unnatural, sudden or of unknown cause. The investigation is known as an inquest.

The Coroner also has a duty to investigate and confirm the finding of "treasure trove".

When did the role of Coroner begin?
The office of Coroner was started in 1194.

Where does the Coroner sit?
In Southwark, the Coroner's Court is in Tennis Street, SE1. A list of other Coroner's Courts is given in the Municipal Handbook Vol. I.

Who appoints the Coroner?
The Coroner is appointed by a special committee of the Local Authority.

Who pays for the Coroner and the Coroner's Court?
The Coroner, Coroner's Officers and the Court are funded by the Local Authority through the Community Charge.

Court Staff
Coroner's Officers are appointed by the Local Authority and are police officers. Their role is to investigate the cause of death of the deceased, and to answer any questions relatives have about court procedures.

Is the Coroner Independent?
Coroners are completely independent of local and central government.

To whom is the Coroner accountable?
The Lord Chancellor. A Coroner may only be removed by the Lord Chancellor.

Availability of the Coroner
A Coroner, or his deputy or assistant, must be available at all times to attend to duties associated with inquests and Post Mortem examinations.

What is an inquest?
An inquiry into the circumstances and to determine the causes of sudden or unnatural deaths which are not the subject of criminal proceedings. Or an inquiry into the means by which someone who has died in prison or police custody came to his/her death.

Who can provide relatives with detailed information about the inquest and procedures of the Court?
The Coroner's Officers, the Coroner and the organisations listed in the appendix.

Are Inquests held in public?
All inquests must be held in public unless the Coroner decides that it would not be in the interests of national security to do so.

Jurisdiction of the Coroner
A Coroner will investigate the cause of death of a person whose body lies within the area of his/her jurisdiction, regardless of where the person has died.

Where can the Coroner's rules be obtained from?
The Coroner's Rules were published as a Statutory Instrument (S.I. No. 552) in 1984. They can be obtained from H.M.S.O.

Which Acts of Parliament govern the duties of Coroners and the procedures at an inquest?
The Coroner's Acts of 1844, 1881, 1892, 1926, 1954, 1980 and 1988.

Can expenses be paid to the family of the deceased if they have attended an inquest?
All witnesses are entitled to reasonable expenses in connection with the holding of an inquest. Sometimes expenses can be paid in advance.

Are the Press allowed full access to the court?
Yes, they have a right to sit through the entire inquest.

Can court proceedings be photographed?
No. This is unlawful and could lead to proceeding for contempt of court.

Can court proceedings be recorded with a tape recorder?
Only with the permission of the Coroner. The Coroner may make a recording which can be listened to at a later date.

After a Death

When is a death referred to a Coroner?
If a doctor attending a person who had died is not able to give a Death Certificate because he/she is uncertain about the cause of death, the doctor must refer the death to the local Coroner.

Who else may report a death to the Coroner?
Any person who is suspicious about the cause of another person's death e.g.
- Relatives
- Friends
- Carers
- Police
- A Registrar of Deaths, e.g. if the cause of death appears to be due to industrial deaths or poisoning.

If the relatives think an inquest should be held what should they do?
Representatives of the family should make their feelings known to the Coroner as soon as possible after the death.

Why must a death be reported to the Coroner?
If the cause of death is uncertain or may be unnatural, the coroner must have the opportunity to investigate.

What is an unnatural death?
One which was due to actions or omissions that led to a clear event, which ultimately led to the person's death.

What type of diseases can lead to unnatural deaths?
In the UK; Legionnaires Disease and Typhoid Fever.

Why is an Inquest Held?
There are eight main reasons to hold an inquest;

a No Death Certificate because a doctor was not present at, or prior to death.

b No medical attention for an illness which occurred just prior to death.

c No medical examination either during a period of 14 days before death, or immediately afterwards.

d Death during, or immediately after, an operation, or following administration of an anaesthetic.

e Reasonable cause to suspect that a death was unnatural, due to violence, neglect, abortion or suspicious circumstances.

f No known cause of death.

g Death due to industrial disease or industrial poisoning.

h Death in the hands of police or prison officers.

Most other deaths are not reported to the Coroner.

See Appendix A

Can a coroner Investigate the Death of a Full Term Unborn Baby?
No. The Coroner can only investigate the death if the baby is born alive.

However, where there is a dispute about whether the death of a viable foetus occurred before or after birth, the Coroner may hold an inquest.

If an operation is likely to have lead to a person's death, is an inquest necessary?
Not if the cause of death is natural, e.g. if the death of an elderly person was due to a stroke, or if the chance of success was very low.

If a death is reported to the Coroner, is an inquest always held?
No. After initial examination of the evidence, a Coroner may decide that an inquest is not necessary.

He or she will send Pink Form A and a Medical Certificate to the Registrar confirming that the death is natural.

Viewing the Body

Can relatives view the body of the deceased at the Public Mortuary?
Yes. They can do so at any reasonable time. However, if the body is in a very bad condition, e.g. after drowning or a bomb blast, viewing the body might be highly traumatic.

Do relatives have a right to view the body at any time?
If the Coroner does not need the body, it must be released to the family, or their executors, at their request. If the Coroner requires the body there is no

right to either see or take possession of the body. However, it would be unreasonable to refuse access at any reasonable time.

Post Mortems

Are Post Mortems usually held after a death?
No. They are held very rarely, only when the cause of death is uncertain or unnatural.

Who carries out a Coroner's Post Mortem?
A pathologist sometimes known as a forensic pathologist.

Is a Post Mortem usually held before an inquest?
Yes. In virtually every case.

Is a Post Mortem ever held after an inquest?
Rarely, the Coroner or Jury will decide it is necessary, because the cause of death cannot be ascertained on the evidence available to the court.

A Post Mortem will not be held If;
- it would be dangerous because the body is highly infectious, e.g. death due to lassa fever.
- the body has suffered a great deal of decay.

Who carries out a Post Mortem examination?
A doctor who is qualified as a Consultant Pathologist.

Where is the Post Mortem carried out?
In the hospital where the person died or was taken immediately after death or in the public mortuary.

Can the family object to a Post Mortem being carried out in the hospital where the person died?
Yes. If they have no confidence in the hospital's impartiality. The family, the pathologist, or the hospital can object and, providing that having the Post Mortem elsewhere would cause no undue delay, the Coroner can direct a pathologist in another hospital or mortuary, e.g. at Greenwich or Lewisham Mortuaries, to carry out the Post Mortem.

If the deceased was murdered, can an accused murderer demand a second PostMortem?
Yes. It is in the interests of justice to allow this, because otherwise the accused could allege that the Post Mortem was not carried out properly, and the case against the accused wrongly dismissed for want of reliable evidence.

If the murderer is not caught, will there still be a second Post Mortem?
Yes. The Coroner will usually arrange for a second Post Mortem. Otherwise, the body could remain in the mortuary for a considerable period of time, i.e. until the murderer is found and the trial is over.

How is the body taken to a Hospital Post Mortem room?
Usually hospital porters will take the body from the ward to the mortuary.

If the body is removed from the deceased's home or hospital for a Post Mortem, who takes the body?
An undertaker, either paid for by the family of the deceased, or under contract to the hospital, will transport the body.

Is it possible to have an independent Post Mortem at a place suggested by the family?
Yes. If the Coroner agrees. The Coroner's pathologist will normally attend an independent inquest.

Where and how is the body stored pending a second post mortem?
The body should be kept deep frozen in the mortuary.

Who will do the independent Post Mortem?
Any Consultant Pathologist chosen by the family or suggested by the Coroner.

Is there a charge?
Yes, approximately £300 (1996 figure)

How is an independent Post Mortem arranged?
By request to the Coroner, if possible through a solicitor. Requests for independent Post Mortems are never refused.

Does the Coroner have the right to insist that a Post Mortem is carried out?
If the Coroner decides that a PM should be held, he/she will not issue a certificate to the 'Registrar of Deaths' until the Post Mortem has taken place. In this case, a Death Certificate cannot be issued, thus preventing burial or cremation.

Can the family refuse to allow a Post Mortem to be carried out?
Relatives must be informed if the Coroner has ordered a Post-Mortem. If for various reasons the family objects, they can challenge the Coroner's decision by seeking the opinion of a 'judge in chambers' and the Coroner would have to substantiate his/her reasons for wanting a P.M. If this approach is unsuccessful the family can apply for a Judicial Review. It would be necessary to demonstrate that the Coroner's decision was a breach of natural justice, i.e. because the grounds for wanting a post mortem were insubstantial or inadequate.

In these circumstances relatives should seek the help of a legal adviser.

Are There Different Types of Post Mortem?
In certain cases a Coroner may agree to a partial post mortem, but is usually unlikely to do so because in about $^{1}/_{3}$ of cases there is a contributory cause of death due to other pathology, not known about at the time of death.

Who may attend a Post Mortem?

- A relative or a relative's representative, e.g. a solicitor or doctor.
- A pathologist representing the family, who may investigate on behalf of the family.
- The G.P. of the person who has died.
- A representative from the hospital were the person died.
- A representative of the Health and Safety Executive, or similar body, if the death was caused by an accident or disease following the issuing of a 'warning notice' for the same.
- Any Government Department which has notified the Coroner that it wishes to attend.
- The Chief Officer of Police.
- Any legally qualified doctor representing any of the above.
- Any other person invited by the Coroner.

Are Pathologists With Particular Expertise Required For Some Post-Mortems?
For highly specialised investigations e.g. child deaths, a specialised pathologist is advisable. The Coroner or a Solicitor can advise on this.

Will the Coroner inform the family of the time and place the Post Mortem is to be held?
Yes. The Coroner is obliged to do so.

Can the family request that certain 'special examinations' are carried out?
Yes, but they will need a medical adviser to guide them.

What are 'special examinations' and why is body fluid or tissue preserved?
During a Post Mortem, the pathologist may collect body fluids or tissues for special examination and analysis. These samples must be preserved in case future analysis is required. A specialised pathologist maybe advisable for some investigations.

How long does it take to carry out 'special examinations' after a Post Mortem?
It can take a few weeks but depends on which tests were done.

Is a copy of the Post Mortem and 'special examination' report available immediately after the Post Mortem?
No. These reports can only be obtained with the consent of the Coroner, either before or after the inquest, or when the report has been completed if there was no inquest.

Can the deceased be buried after the Post Mortem, prior to the inquest?
Yes, if the Coroner agrees that this is appropriate and issues a Burial Order to the person disposing of the body. A Burial Order can be issued at any time once a decision to hold an inquest has been taken. The Coroner will only issue a Burial Order once a copy of the Certificate for disposal of the body is given to him/her by the Registrar of Deaths.

Should the family agree to release the body for burial after the first Post Mortem and before an inquest?
Only if they are satisfied with the Post Mortem report, or if, in the opinion of a Consultant Pathologist, a second Post Mortem is not necessary.

Can the body be returned to the family after a Post Mortem and prior to burial?
Yes. Providing the body has been released by the Coroner.

Can the deceased be cremated after the Post Mortem and prior to the inquest?
Yes. Providing the Coroner does not require the body for further examinations. He/she will issue a Cremation Form.

Taking a Body Abroad

Can the body of a person who has died be removed to another country?
Yes, providing that the permission of the Coroner, who has jurisdiction for the area where the body is being kept, is gained.

Medical Notes

If a death is referred to the Coroner, will the medical notes stay in the hospital or go to the Coroner immediately?
They should go to the Coroner as soon as possible after the death.

Will the Coroner have the medical notes prior to an inquest?
Yes, but sometimes only a day before.

Are the medical notes available immediately to the family?

a) *From the Hospital?*
Yes. Under the provisions of the Access Medical Records Act 1990.

b) *From the Coroner's Court?*
Yes. With the agreement of the Coroner.

If the hospital has not provided the notes, what can be done?
The Coroner can apply to the High Court for the issue of a subpoena to obtain the notes.

The Inquest – Background

Notification of an inquest?
The Coroner will give reasonable notice to all interested parties of the date, time and place of the inquest. This will usually be 7-10 weeks after the preliminary inquest.

Who will be invited?
Any person who in the view of the Coroner, has a legitimate interest in the investigation of the cause of death, e.g. family, insurance company representative, anybody who may have contributed to the person's death, a trade union representative, police officers,

representatives of Government Departments.

Anybody who wishes to give evidence must inform the Coroner before the inquest.

Is legal representation advisable at an inquest?
Yes. Bereaved relatives usually feel that the investigation into the cause of death has been much more thorough if they are represented by an experienced solicitor or barrister. A legal representative is not usually required at a 'Preliminary Inquest'. A list of solicitors and barristers who specialise in inquests can be obtained from organisations shown in appendix D.

What steps will a solicitor take to ensure proper representation?
The solicitor will take a full statement from the relatives, a list of witnesses to be called and a list of the relatives' concerns about the cause of death. All this information will be given to the Coroner before the inquest and should be in writing.

Is Legal Aid available to pay for legal representation?
No. But the 'Green Form' scheme will enable the family to get free advice from a solicitor if those who wish to give evidence are on Income Support. Legal representation can be very expensive. MIND, Inquest and AVMA can give advice on obtaining free legal advice.

Will the Coroner's Office consult with the legal representative of the family with respect to the date of the inquest and the witnesses to be called?
Yes, providing the solicitor has made her/his interest known.

If a case of medical negligence is to be brought, could the Legal Aid cover the legal costs at an inquest?
The Legal Aid Certificate could cover a substantial element of legal costs associated with an inquest.

If detailed information about expenditure is given to the Legal Aid Office they may allow extension so that the solicitor can take notes at an inquest and advise the family of the deceased. Green Form finance can be used to get Counsel's advice.

Will there be a jury at an inquest?
A jury may be summoned at the discretion of the Coroner in certain circumstances to inquire into the cause of death. A jury consists of 7-11 people and must be 'sworn in'.

In what circumstances are juries summoned?
A notifiable disease or accident, violent or unnatural death, poisoning, a sudden unexpected death with no known cause, a death in prison or police custody or due to an injury inflicted by a police officer, or other unusual circumstances where the public interest would be served and other fatalities prevented.

Opening an Inquest

The Preliminary Inquest

When is a preliminary inquest held?
An inquest must be held as soon as practicable after the death. A preliminary inquest enables the body to be formally identified and available medical evidence examined. The inquest is then completed at a later date when the full medical evidence, scientific test results and police enquiries are complete.

Legal representation is not usually required at a preliminary inquest.

Must the Coroner give a definite date for resumption of the inquest?
Yes, and if an inquest is not held on that specified day, it may be quashed on the grounds that it effectively ended on the day that it should have been resumed. Normally, the same Coroner must resume the inquest.

Will an Interim Certificate of Death be issued for probate and Social Security purposes?
Yes, providing the causes of death listed in appendix A do not apply. The Interim Certificate temporarily replaces the Death Certificate and can be given to an insurance company as proof of death.

Adjournments

What reasons may require adjournment?
The need to complete enquiries into the death, summon a jury or witnesses (including a Health and Safety Inspector and police officers where necessary) or where decided by the Coroner for any other reasonable cause.

Will a 'notification of adjournment' be conveyed to the Registrar of Deaths?
Yes. If the person has died through murder, manslaughter, infanticide, a road traffic accident or assisted suicide, a Certificate will be issued for the Registrar within five days of adjournment.

Will documents submitted to the court prior to the adjournment be made available to interested parties?
Yes, all documents should be made available by the Coroner. However, details of police and Coroner's Officers' investigations may not be released.

If a doctor who treated the deceased is not present in court, will there be an adjournment?
Yes, particularly if the relatives feel the doctor was in some way responsible for the death.

The Full Inquest

What is the purpose of the inquest?
To find:

a) Who the deceased was.
b) How, when and where the person died.
c) To ensure that the statutory requirements of the Registration Act are complete, i.e. so that the death can be properly registered.

What procedure is followed in the Coroner's Court?
The Coroner initially describes court procedures, the purpose of the inquest and outlines the case. He then swears in each witness and examines them.

Is the Coroner's Court inquisitorial or accusatorial?
It is inquisitorial. Each person giving evidence is sworn in and examined by the Coroner. There is no accused person and nobody can be found guilty for the death.

Witnesses

What happens if a witness to the death is accused of murder or manslaughter of the deceased by another court?
The inquest is usually adjourned.

Who decides which witnesses to call?
The Coroner. He/she will call any person that can shed light on how, when and where the person died.

Is a witness obliged to attend?
Yes, and can be forced to attend or risk fines or imprisonment.

Will the Coroner agree to call other relevant witnesses?
Yes, in common law every person who is able to give evidence is bound to attend. The family of the deceased can suggest to the Coroner which witnesses should be called.

Can an interested party propose him/herself to the Coroner as a potential witness?
Yes. A request must be made to the Coroner, preferably before the inquest.

Can a witness be subpoenaed?
Yes. The Coroner can apply to the Crown Office for a subpoena to force a witness to attend to give either written or oral evidence.

Giving Evidence

In what order is evidence normally given?
Normally in strict order of events and begins with a close relative who gives some history of the events prior to the death.

The usual order is:
Family
Other Witnesses
Medical Evidence
Police Evidence
Pathologists Evidence

Can an independent expert sit with the Coroner?
Yes, in certain cases, but he/she must not participate except to give the Coroner expert advice, e.g. an anaesthetist.

Is the evidence recorded?
Yes. The Coroner takes written evidence and the proceedings are usually taped.

Who can examine witnesses?
The Coroner examines witnesses first after they have been sworn in. Witnesses can then be examined by any other interested party with the consent of the Coroner, e.g. family of the deceased, their solicitor, insurance company, a person who may have contributed to the death, or the Chief Officer of Police. A witness' legal adviser, if she/he has one, will examine last.

Must a witness give information to the Coroner even if it would incriminate him/herself?
No. A Coroner must advise a witness who has taken the oath not to give evidence that would self-incriminate, e.g. in a criminal or medical negligence case held after the inquest.

Written Statements

Is documentary evidence admissible?
Yes. Any person may submit documentary evidence. The Coroner will announce this evidence at the beginning of the inquest and release the name of the author, a brief account of the contents and supply copies on request to interested parties. The Coroner can also obtain any relevant document in connection with the death which the family feel is relevant. (See Rule 37- Appendix B)

Are copies of statements from witnesses and related documents made available to the family?
If the owner of the document agrees.

Can a transcript of the inquest be made available to the family?
Interested parties may listen to tapes of the inquest and take notes. A written transcript may be made available by the Coroner, but a fee is usually charged.

Can copies of statements made to the police, which are in their possession, be made available to the family?
Yes, with the consent of the person who made the statement.

Are copies of police custody records available?
Yes. During the inquest or if applied for within 12 months of the detention.

Are witness statements obtained by Coroner's Officers in the course of their investigation available to the family of the deceased?
Not usually. Witnesses may, however, request a copy of their own statement.

Can copies of documents concerning a person's death in police custody be obtained?

Yes, through the Treasury solicitors.

Can statements prepared before an inquest be obtained by an interested party?

There is no right for interested parties to receive or have sight of documents in the hands of other parties prior to the inquest. Parties attending the inquest do not submit formal statements of their position.

Documents submitted to the Coroner, e.g. Post Mortem Reports and notes and documents of evidence, may be provided to interested parties prior to the inquest.

Are copies of all documents made public at an inquest available to an interested party?

Yes, to a person with a genuine interest, except those which were submitted by the police as witness statements or reports.

Can the Coroner refuse access to documents?

Yes, in certain cases. Access to information prior to an inquest is governed by the Coroner's Rules (HMSO no 552) which can be used in court to gain access to documents which have not been released.

How long does the Coroner keep court documents for?

At least fifteen years.

Asking Questions

Will the Coroner encourage interested parties to ask questions?

Yes, most Coroners will encourage a spokesperson for the family to ask questions of witnesses, if the family is not legally represented.

If the coroner does not allow a spokes person for the family to ask question she/he can be challenged using the Coroner's Rules.

Evidence

What rules of evidence apply?

Normal rules of evidence are followed but are enforced less strictly than in criminal courts.

Is hearsay evidence admissible?

Yes, in certain circumstances, because the inquest is an enquiry into the cause of death.

Can documents which belonged to the deceased be admitted as evidence?

Yes, e.g. personal diaries, suicide notes, but the Coroner will use his discretion with regard to reading out only relevant passages.

Can a witness refuse to give evidence after having been sworn in?

Yes.

a) If the evidence would incriminate the witness, or
b) If the evidence would breach a confidence between the witness and his/her solicitor concerning a matter that is pending litigation.
c) If the evidence would harm public interest or national security.

Can the unmarried partner of the deceased ask questions of witnesses?

Yes.

Can children give sworn evidence?

Young children cannot, unless it can be demonstrated that they understand the nature of the oath. A woman police officer's interview with the child may be submitted as unsworn evidence.

Can every witness be examined by the bereaved family or their representative?

Yes.

Jury Cases

Is there always a Jury at an Inquest?

No, only in cases where there might be public interest or public good served by having a Jury, e.g. if a death occurred in circumstances, the continuance or possible recurrence of which is prejudicial to the health and safety of the public or any section of the public.

It is mandatory to have a Jury if the death occurred in police custody, prison, a police station or was caused by a disease related to health and safety.

How are they involved in the inquest?

The Jury hears the evidence, may ask questions and will give a verdict at the end of the inquest after hearing the Coroner sum up the case.

The Coroner will give the Jury in his final summing-up a number of verdicts to consider, which are in keeping with the evidence heard. However, the Jury can give any verdict, even if perverse, and this must be accepted by the Coroner if it is a majority verdict. Coroner must give the Jury an appropriate range of verdicts to consider.

Can the family ask for a Jury?

Yes. A request should be put to the Coroner explaining the reasons why the family believe that a Jury would be appropriate.

What are the benefits of a Jury?

The cause of death will be looked at by lay people who are likely to ask detailed questions. This will aid the investigation of a person's death and they will consider the issues completely independently.

Closing Statements

Can the bereaved family or their representative make a closing statement about the facts of the case?

No.

Can a legal adviser or representative address the court on interpretation of the law?

Yes. It is wise to do so especially if the family believe lack of care/negligence led to the death.

Can a legal adviser or representative suggest what verdict would be appropriate and what rider, if any, may be added to the verdict?
Most Coroners would not welcome such advice, but it may be asserted.

Can the Coroner enter the jury room while they are making their decision?
No. That would be improper.

Must the jury's verdict be unanimous?
No. Up to two jurors may dissent from the majority verdict. If more than two jurors dissent from the majority verdict, the Coroner will dismiss the jury, and a new inquest will be held.

Must the Coroner accept the jury's verdict?
Yes, if it is unanimous.

How is the verdict reached if there is no jury?
The Coroner will decide on the verdict, and announce it after he has heard all of the evidence. He will not sum up.

Can a jury make recommendations to help prevent further deaths occurring in similar circumstances?
No, they cannot add a rider to their verdict, but they can express an opinion.

When the Coroner sums up will he/she advise the jury which verdicts are lawful?
Yes. The Coroner must describe the possible acceptable verdicts and make it clear that their verdict must not appear to pass judgement on the question of criminal or civil liability or on any named person. She/he must also explain to the jury that the burden of proof for their verdict is based on the balance of probabilities.

The Verdict

What happens at the end of an inquest?
The Coroner will draw all the facts of the case together and give his view of how the person died. If there is no Jury he will give his verdict immediately.

What verdicts may be given?
The Coroner has the right to give any verdict he or she wishes. However, the following verdicts are most commonly used:

a) Natural Causes
Industrial Disease
Dependence on Drugs
Want of Attention at Birth

In these verdicts, but no others, the following rider can be used; "and the cause of death was aggravated by lack of care/self neglect"

b) - Killed him/herself whilst the balance of his/her mind was disturbed.
- Attempted/self induced abortion.
- Accident/misadventure (which mean the same)

c) - Unlawful killing (murder, manslaughter, infanticide). But the alleged killer must not be named.

d) - Stillbirth.

What does the rider "lack of care" mean?
It means the same as neglect, e.g. failure to provide medical attention or basic care that would have sustained life.

Cases of neglect are dependant on the evidence indicating that there was a clear and direct casual connection between the conduct so described and the death.

Coroner's Recommendations

Can the Coroner make recommendations to prevent a further death occurring due to the same cause?
Under Rule 43 of the Coroners' Rules, after the verdict, the Coroner may announce that he or she will write to the person or authority who has the power to take action to prevent the recurrence of similar fatalities. (Appendix B).

How does the inquest finish?
The Coroner and jury (if there is one) sign a document (Form 22) giving the result of the inquest.

Suicide

When does the Coroner use the verdict "killed him/herself"?
When it is believed, beyond reasonable doubt, on the basis of factual evidence, that the person intended to kill himself or herself. The term suicide is not used. (Its literal meaning is "self murder").

What verdict could be used if there was insufficient evidence that somebody had beyond reasonable doubt killed him/herself?
Accidental Death or an Open Verdict.

Would the verdict that the deceased had killed him/herself have to be supported by a suicide note?
No.

Can a suicide note be given to relatives?
Yes. A copy will also be retained in the court.

If a person suffering from paranoid hallucinations jumped to their death while fleeing from a fantasised assailant, would a verdict that the person had killed him/herself be used?
No. A verdict of Accidental Death or an open verdict would be more probable.

What happens after an inquest?
The Coroner will send any details required by the Registrar of Deaths.

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

A Burial Order, or
A Cremation Certificate, or
Permission to Send the Body Abroad.

Appeals

If a Death Certificate has already been signed by a doctor, is it too late to challenge the given cause of death?
No, an urgent appeal should be made to the Coroner to consider whether the given cause of death was correct, and whether an inquest should be held.

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 him/her addressed to the persons in charge of the burial ground. The exhumation is carried out at night or early in the morning. Identification of the body is carried out by the Funeral Director or member of the family.

If a Coroner refuses to hold an inquest, can his/her decision be overruled?
Yes. If his/her refusal is found by the High Court to be against the interests of justice.

Is there any appeal against the verdict of a Coroner?
Yes, through the High Court. If they accept that there has been a 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 judgement quashed. The exercise of this power depends on the courts view that it would be necessary and desirable in the interests of justice, e.g. if substantial new evidence is produced.

Who can make an application to quash an inquest or hold one after the refusal of a Coroner?
An interested party including the family of the deceased, or a person who feels unfairly blamed by the verdict of the Coroner.

To whom is the application made?
A statement and application (a "memorial") verified by a Statutory Declaration is sent to the Attorney General or Solicitor General.

What will the Attorney General do?
Firstly, the matter will be discussed with the Coroner. If the Attorney General agrees that it is appropriate he/she, or the applicant, can make, by 'originating summons', a request to the High Court (Queen's Bench Division) for leave, for the court to consider whether to quash the Coroner's verdict.

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, by a person with "sufficient interest", e.g. the family of the deceased, or a person who might be charged with causing the death.

How is an application for Judicial Review made?
Application for leave to apply for Judicial Review is lodged in the Crown Office at the Royal Courts of Justice on Form 86A, and this is considered by a judge in the Queen's Bench Division.

After the Inquest

Can the verdict and findings of an inquest be used in other courts as evidence?
Not in criminal proceedings, but they can be used in cross examination if properly 'proved', e.g. by the Coroner attending the trial, or by providing a sworn statement.

Can proceedings for medical negligence be brought following an inquest?
An inquest provides an excellent opportunity to explore the issues of accountability following a death. In addition the associated costs of investigation, e.g. the Post Mortem, expert pathological investigations, collection of evidence, the hearing and the summoning of witnesses are all borne by the state. This evidence can be submitted afterwards at Medical negligence proceedings.

Could a claim of psychological shock be brought on behalf of the bereaved family using evidence submitted at an inquest?
Yes, if the shock is medically recognised.

Can a claim be brought under the Fatal Accidents Act of 1976?
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.

Hospital Complaints

Can a complaint against a hospital which cared for the deceased be investigated before the inquest?
Yes, but the result of the investigation should not pre-empt the decision of the inquest by giving a definite cause of death, as this might interfere with the proceedings of the inquest and could lead to proceedings for contempt. The Coroner could refer such a case to the Attorney General, who has the power to institute proceedings before the Divisional Court.

Appendix A

Hospital Deaths

If a doctor in attendance when the patient dies is sure of the cause of death AND IT IS NATURAL, he/she should give a Death Certificate. It is not necessary to report a case to the Coroner merely because the patient has been in hospital less than 24 hours, if the cause of death is known and is natural. This in no way modifies the obligation to report ALL doubtful cases, or violent, or unnatural deaths to the Coroner. The Registrar of Deaths cannot accept a Death Certificate when the doctor in attendance has not seen the deceased within 14 days prior to death. A P.M. must not be offered to relatives of the deceased as an alternative to having the death reported to the Coroner.

Deaths in the following circumstances must be reported to the Coroner:

Abortion — if not natural or if there is any doubt. All maternal deaths following abortion should be reported.

Accidents — in any way contributing to the death, e.g. injuries to the aged and falls in hospital.

Alcoholism — although it is not necessary to report chronic alcoholism, addiction and related disease, e.g. cirrhosis, acute alcohol poisoning and/or consequential disease and falls leading to death, should be reported.

Anaesthetic Deaths — whether the patient dies on the operating table or in bed makes no difference to the necessity to report the case, even if the death occurs months later e.g. cerebral anoxia.

Blood Transfusion — if the death may be due to errors in cross matching, or if the wrong blood was given.

Coma on Admission to Hospital — whilst this in itself is not an automatic reason for referring the case to the Coroner, even if the diagnosis is clear and death is natural, it may well be advisable to report such cases to the Coroner. If there is the slightest doubt that the cause originates from a traumatic or other unnatural cause e.g. blood in the CSF which might be the result of a head injury, or a drug induced coma, the case should be reported to the Coroner.

Complaints should the Doctor in attendance consider that there is any possibility of a serious complaint about the treatment or otherwise of the deceased person, he/she should ensure that the fact is mentioned in his/her report to the Coroner who will then decide if the body should be removed to another place for a PM, other than the hospital in which the patient died.

Detained Mental Patients (Mental Health Act) but not voluntary patients or non-mental patients in a mental hospital. There is no need to inform the Coroner merely because it is intended to cremate the the body of a voluntary patient who has died naturally.

Drugs therapeutic or addition.

Electro-Convulsive Therapy (ECT) if the death occurs during treatment, or may have been due to the anaesthetic used prior to the treatment.

Industrial Disease industrial pulmonary disease and the 'proscribed' diseases e.g. asbestosis. Deaths possibly ascribable to any new unscheduled industrial substance should also be notified.

Investigatory Procedures all deaths which are related to investigatory procedures e.g. INTRA-VENOUS PYELOGRAM, BIOPSIES, CV LINES, CARDIAC PROCEDURES etc.

Life Supporting Machines where any patient is artificially kept alive on a respirator or allied machine, any discontinuation of the life support, subject to all the usual safeguards, should be reported to the Coroner. The Coroner is unable to authorise cessation of life support.

Operations if it seems that the operation has caused or contributed to the death or if it occurs within 14 days of the operation or longer if there is any possible association between the operation and death.

Poisoning accidental, suicidal or homicidal or due to food poisoning.

Prisoners when a person serving a prison sentence, or is being held in police custody, and has been transferred to hospital for treatment and died, the Coroner must be informed.

Section 136 (Mental Health Act) if it seems that the person died in the custody of the police during removal from a public place to a hospital or police station.

Service and Industrial Disability Pensioners if the disability may have caused the death.

Stillbirths where there is doubt as to whether the child was born alive.

Unconscious Patients those patients admitted unconscious or in a coma who do not regain consciousness before death, unless from natural causes.

Unknown Cause of Death

Violent and Unnatural Deaths if not covered by the above list. In any case where there is reasonable cause to suspect this, the Coroner should be informed, e.g. neglect of any kind or by any person. If the person is dead on arrival in casualty in a criminal case or suspected criminal case, the body should not be undressed etc.

Appendix B

Rule 37

(1) Subject to the previous provisions of paragraph (2) to (4), the coroner may admit at an inquest documentary evidence relevant to the purposes of the inquest from any living person which in his opinion is unlikely to be disputed, unless a person who in the opinion of the coroner in within Rule 20 (2) objects to the documentary evidence being admitted.

(2) Documentary evidence 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.

(3) Subject to paragraph (4) before admitting such documentary evidence the coroner shall at the beginning of the inquest announce publicly:

(a) that the documentary evidence may be admitted, and

(b) the full name of the maker of the document to be admitted in evidence, and

(c) that any person who in the opinion of the coroner is within Rule 20 (2) may object to the admission of any such documentary evidence, and

(d) that any person who in the opinion of the coroner is within Rule 20 (2) is entitled to see a copy of any such documentary evidence he/she likes.

(4) If during the course of an inquest it appears that there is available at the inquest documentary evidence which in the opinion of the coroner is relevant to the purposes of the inquest but the maker of the document is not present and in the opinion of the coroner the content of the documentary evidence is unlikely to be disputed, the coroner shall at the earliest opportunity during the course of the inquest comply with the provisions of paragraph (3).

(5) A coroner may admit as evidence at an inquest any document made by a deceased person if he is of the opinion that the contents of the document are relevant to the purposes of the inquest.

(6) Any documentary evidence admitted under this Rule shall, unless the coroner otherwise directs, be read aloud at the inquest.

Rule 43

A coroner who believes that action should be taken to prevent the recurrence of fatalities similar to that in respect of which the inquest is being held may announce at the inquest that he is reporting the matter in writing to the person or authority who may have the power to take such action and he may report the matter accordingly.

From: Coroners' Rules S.I. 1984, no. 552, HMSO.

Appendix C

Reference Books

1. *Jervis on Coroners*
   by Paul Matthew and J C Foreman
   (Sweet and Maxwell, 11th Edition 1993)

2. *Coroners' Rules and Statutes*
   by Giles Kavanagh (Sweet and Maxwell, 1985)

3. *Casebook on Coroners*
   by Knapman, PA and Powers MJ
   (Barry Rose, 1989)

4. *Coroners' Rules*
   S.I. no. 552, HMSO

5. *Coroners' Act 1988*
   ISBN 010 541 3887, HMSO

Articles

1. *Surviving Inquests*
   by Tim Owens, Solicitors Journal, Oct 1991

2. *Deaths in Custody*
   by Tim Owens, New Law Journal, 1991

3. *Families Hit By Wall of Silence*
   by Alistair Brinkley, Legal Aid News, Oct 1993.

4. *Legal Reforms Must Be Made*
   by Louise Christian, Legal Aid News, Oct 1993

5. *Inquests : Redressing The Balance*
   by Kevin Cerealis and Deborah Coles, Solicitors Journal, April 1994

Useful Publications

1. *The Work of the Coroner, Some Questions Answered,* A Home Office Guide.
   (reprinted 1996) Tel: (0171) 273 3776

2. *(i) A Short Guide to Inquests*
   (ii) Inquests – "Victims Without a Voice"
   (iii) Basic Guide to Inquest Preparation for Solicitors
   From Inquest, Alexandra National House, 330 Seven Sisters Road, Finsbury Park, London N4 2PT
   Tel: (0181) 802 7430/7450

3. *What to Do After a Death*
   Booklet by Department of Social Security and the Central Office of Information (March 1995)

4. *Deaths at Work – Accidents a Corporate Crime, 'The Failure of Inquests and The Criminal Justice System'*
   by David Bergman, London Hazards Centre, Inquest and Workers Educational Association, 1991

5. *Death in Custody – International Perspectives*
   Ed. Alison Leibling and Tony Ward
   (Whiting and Birch, 1994)

6. *Deadly Silence – Black Deaths in Custody*
   by the Institute of Race Relations, 1991
   Tel: (0171) 837 0041

7. *Racial Discrimination and Deaths in Custody*
   Report to the United Nations Committee on the Elimination of All Forms of Racial Discrimination, Feb 1996
   Produced by Inquest

Appendix D

Useful Organisations

1. Coroner's Courts
Listed in the telephone directory under Court – Coroner's Courts.
Refer to the Municipal Handbook, Volume 1, under Burials and Cremations – available in local libraries for detailed information about court procedures.

2. Inquest, Alexandra National House, 330 Seven Sisters Road, London N4 2PT.
(0181) 802 7430/7450
Legal advice, emotional support, campaigning and information.

3. Community Health Council
Listed in the telephone directory, or phone ACHCEW on (0171) 609 8405 for your nearest CHC
Advice, advocacy and support when an inquest is connected with a hospital death.

4. AVMA – Action for Victims of Medical Accidents, Bank Chambers, 1 London Road, Forest Hill, London SE23 3T2.
(0181) 291 2793
Advice about legal action following a negligent death or injury in the NHS.

5. Women in Prison, 3 Aberdeen Studios, 22 Highbury Grove, London N5 2EA (0171) 226 5879.

6. Hospital Bereavement/Relative Liaison Officers
Phone your local hospital and ask to be put through.

7. Victim Support
Listed in the telephone directory.

8. Legal Action Group, 242 Pentonville Road, London N1 9UA (0171) 833 2931

9. Public Law Project, Charles Clore House, 17 Russell Square, London WC1 (0171) 467 9800

10. National MIND, Legal Department, 15/19 Broadway, London E15 4BQ (0181) 519 2122

Bereavement Counselling

The following organisations will be able to provide support, or put you in touch with local organisations or those dealing in specific areas. You can also visit your GP and ask if the practice could refer you to a bereavement counsellor.

1. National Association of Bereavement Counsellors, 20 Norton Folgate, London E1 6DB. (0171) 247 0617. Referral Line: (0171) 247 1080

2. London Association of Bereavement Services, 356 Holloway Road, London N7 6NP. (0171) 700 8134

3. Cruse, 126 Sheen Road, Richmond, Surrey TV9 1UR. (0181) 940 4818

Solicitors Who Specialise in Inquests

The following organisations will give names and addresses of solicitors who specialise in inquests.

1. Inquest Lawyer Group, c/o Inquest, Alexandra National House, 330 Seven Sisters Road, London N4 2PT. (0181) 802 7430/7450

2. AVMA – Action for Victims of Medical Accidents, Bank Chambers, 1 London Road, Forest Hill, London SE23 3T2 (0181) 291 2793

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