

## INQUESTS

### WHY HOLD AN INQUEST?

The purpose of holding an inquest is to determine a number of facts about a deceased person. These include the identity of the deceased, the cause of death and also the circumstances surrounding both the death and the cause of death. The formal purpose of an inquest is not to gather evidence for pending criminal or civil proceedings, but an inquest is useful when proceedings are being considered, as any potential evidence which is to be used in the case will be discussed in detail. An inquest may also be beneficial to the relatives of the deceased as questions will be asked to which previously they may not have been able to get answers. For many relatives the satisfaction that a 'day in Court' will give is of great value.

### INQUISITORIAL PROCEDURE

The inquest is an investigation conducted by the Coroner. He decides how he will perform his duties. He usually delegates much of the pre-hearing investigatory work to his "officer", who takes statements from relevant witnesses.

### WHEN IS AN INQUEST HELD?

If the Coroner is informed that there is a dead person within his area and there is reasonable cause to suspect that the person died from one of a number of causes or in a number of circumstances, then the Coroner is obliged to hold an inquest.

These circumstances are:-

- (1) a violent unnatural death.
- (2) a sudden death of which the cause is unknown.
- (3) certain Acts of Parliament require an inquest, eg. if there is an industrial accident or the death appears to be the result of industrial disease.

### WHO ATTENDS AN INQUEST?

There are certain people who must be informed that an inquest is due to take place. They are called "interested persons". These people include any spouse, near relatives or personal representatives of the deceased.

### LEGAL REPRESENTATION

Relatives can be legally represented. Legal Aid is rarely available for representation at the hearing itself, but it may be possible to get Legal Aid for preparation work if a claim for damages is contemplated.

### WILL THERE BE A JURY?

Only in limited circumstances ie: if the person died in prison, if the person died in police custody or through an injury caused by a police officer in the execution of his duty or if the death was by an accident or poisoning, notice of which must be given to a government department or to the Health and Safety Executive. Finally a jury will also be called if the death was in circumstances, the possible recurrence of which is prejudicial to the health and safety of the public.

All other inquests are conducted by the Coroner alone.

### WHO WILL BE CALLED AS A WITNESS?

The decision of whom to call as a witness rests entirely with the Coroner although he may consider suggestions put forward by the family or others. It is for the Coroner to decide the nature of the evidence required and who can give that evidence, though he must act fairly and in a way which will lead to a complete and proper inquisition.

### WHAT IS THE PROCEDURE AT THE HEARING?

The Coroner will examine each witness in turn,

usually going through their statements and asking additional questions. He invites the "interested persons" or their representatives to cross-examine if they wish. Uncontroversial evidence may be read out in the witness' absence if everyone agrees.

## THE VERDICT

The verdict returned by an inquest is in reality a set of answers to set questions. These are:-

- (1) Name of the deceased.
- (2) Injury or disease causing death.
- (3) Time, place, circumstances at or in which injury was sustained.
- (4) Conclusion as to death.
- (5) Registration of particulars.

The common usage of the word 'verdict' in fact refers to answer number 4 - the Conclusion as to death. Possible Conclusions the inquest may arrive at are natural causes, industrial disease, dependence on drugs, want of attention at birth, suicide, attempted/self induced abortion, accident, misadventure, lawful killing, open verdict, unlawful killing and a still birth. This list was drawn up for the purposes of standardising statistics.

Coroners now often give a descriptive conclusion rather than one of these brief labels.

## CAN THE CORONER MAKE A FINDING OF NEGLIGENCE?

The law is currently confused. Rule 42 of the Coroners Rules say that the Coroner may make no finding of criminal or civil liability. However, the impact of the Human Rights Act has been to reduce the effect of that rule, so that now the Coroner may express his verdict in a way which does imply a finding of negligence in certain circumstances.

## THE IMPACT OF THE HUMAN RIGHTS ACT 1998

The Human Rights Act gave effect to the European Convention on Human Rights in English law.

A number of Convention rights have a bearing on Inquests, including the right to life (Article 2) and the right to a fair trial (Article 6).

The application of these rights is taking some time to work its way through but in a number of ways, practice has changed eg. in the expression of the conclusion and in disclosure of documents before

the hearing.

Major reforms of the system will take place shortly following comprehensive review of the process.

## THE PRESS

The Coroners' Court is open to the public and the press and it is likely that reporters will be in Court.

Lees Solicitors LLP provide this fact sheet free of charge

### ***For further information contact***

David Tweedie

*(Member of the AvMA Referral Panel and  
the SRA's Clinical Negligence Panel)*

44/45 Hamilton Square  
Birkenhead  
Wirral  
CH41 5AR

T: 0151 647 9381  
F: 0151 649 0124  
email: dtt@lees.co.uk

90/92 Telegraph Road  
Heswall  
Wirral  
CH60 0AQ  
T: 0151 342 6273

52A Grange Road  
West Kirby  
Wirral  
CH48 4EF  
T: 0151 625 9364

LEES SOLICITORS LLP offer a free initial consultation and home visits in appropriate circumstances.