



RIDOUTS

MASTERCLASS

WELCOME TO “INQUESTS”

THE WEBINAR WILL BEGIN AT 10AM

11 JULY 2023

RIDOUTS

INQUESTS

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OVERVIEW

- The purpose of an inquest
- When will an inquest be heard
- Preparing for an inquest
- Interested Persons & witnesses
- Attending a hearing
- Conclusions
- Impact



THE PURPOSE OF AN INQUEST (1)

- Answer four questions:
 - Who?
 - When?
 - Where?
 - How?
- And in Article 2 cases – the wider circumstances



THE PURPOSE OF AN INQUEST (2)

- An inquiry to establish fact
- Not to apportion blame
- Not to suggest civil or criminal liability



WHEN WILL AN INQUEST BE HELD?

The deceased died:

- a violent death
- an unnatural death
- the cause of the death is unknown
- whilst in custody or state detention (Article 2)



BE PREPARED (1)

- There are benefits to becoming involved in the inquest process early on.
- Adverse findings can have a negative impact on your business. Being prepared can help to achieve a good outcome.
- If there is a negative outcome you can take steps to address this.



BE PREPARED (2)

“Care home resident was 'unlawfully killed', rules coroner”

“Coroner slams care home after pensioner died of 'inexcusable failures' by staff”

“Dehydration 'contributed to care home death”

“Coroner rules care home's neglect contributed to resident's death”

“Care home 'at fault' after Alzheimer's sufferer died choking”

“Coroner criticises care home following death of pensioner”

PREPARING FOR AN INQUEST (1)

- **Conduct investigation** about the circumstances, if possible with someone independent of the circumstances
- **Seek early legal advice** – ideal position is to engage solicitor for preparation and counsel to conduct advocacy.



PREPARING FOR AN INQUEST (2)

Legal advice

- Lawyers review & analyse documentation to identify issues.
- If managed properly, reduces risks further down the line.
- Act as point of contact with the Coroner's office.



PREPARING FOR AN INQUEST (3)

Lawyers appointed by your insurer

BENEFITS	WEAKNESSES
<ul style="list-style-type: none">• You don't pay legal fees.	<ul style="list-style-type: none">• Conflict of interest.• Lawyers appointed by insurers act for the insurers & do what insurers want, not necessarily what providers want.• Insurers only care about claims they may be liable to settle.• Insurers not concerned about ongoing reputational risk to providers.

PREPARING FOR AN INQUEST (4)

- Request Interested Person status - engage with the process.
- Witness statements - draft statements with lawyer with evidence in support.



INTERESTED PERSON (IP) STATUS

- If Coroner does not appoint IP, person/company can apply
- Family, medical practitioner, care home/hospital, CQC, police
- IPs right to actively participate in proceedings:
 1. Receive disclosure/provide disclosure
 2. Ask witnesses questions



WITNESSES (1)

- Decided by Coroner **BUT** you can make suggestions/supply statements for whomever you think is best placed to provide evidence.
- Providers can support individuals with witness statements but ownership of witness statement lies with person making it.



WITNESSES (2)

- Attendance at hearing only required by those whom Coroner decides need to give live evidence
- Other statements read and/or may not form part of the hearing bundle.
- Familiarise yourself with the contents of the statements and evidence in support.



THE HEARING (1)

Pre-Inquest Review (PIR) Hearing

If issues of law or procedure need to be determined:

- Decide witnesses
- Scope
- Length
- Jury
- Progress report



THE HEARING (2)

- Support your staff in the process
- Witnesses should know their evidence
- Witnesses called
- Swear oath or take affirmation



THE HEARING (3)

- Coroner ask questions first; Interested Persons second; Jury third (if engaged)
- Questions only – no cross examination
- Be helpful and respectful to the Coroner – stick to the facts
- Defend yourself, explain where you have reason to



CONCLUSIONS (1)

Short form

E.g. Natural Causes, Accident, Unlawful Killing, Suicide
Or/ Open (if there is insufficient evidence)

Narrative

Longer sentence describing the circumstances of the death



CONCLUSIONS (2)

No civil or criminal liability **BUT** negative wording – e.g.

‘A’ died from an accidental overdose of his medication, he had not been provided with full instruction on how to take his medication

Or

‘B’ died as a result of jumping from the roof of the hospital. She had clearly been distressed in the lead up to her death. Her carers were not providing the constant supervision she required.



CONCLUSIONS (3)

- Neglect Rider
 - a gross failure to provide basic care to a person,
 - who is in a dependent position, and
 - the deceased's condition was known or should have been known such that action was required
- Failure had a clear and direct causal connection to the death



IMPACT

- Media interest
- May prompt CQC action – individual service & wider organisation
- Local Authority action / safeguarding
- May lead to civil claim or police investigations re-opening
- Regulation 28 Report - Prevention of Future Deaths Report



PREVENTION OF FUTURE DEATH (PFD) REPORTS

- Regulation 28 / Schedule 7
- Duty to issue
- Can be addressed to one or multiple parties
- Duty to act or respond within 56 days



PFD REPORTS – THE RISKS

- Reputational damage - publicly available/ press attention
- Can distress service users & families
- Can form the basis for allegations of criminal or civil liability
- Regulatory enforcement action can follow
- Time and cost



WHAT HAPPENS IF THERE IS A NEGATIVE OUTCOME?

- Don't ignore it / handle press and public relations carefully
- Prepare for regulatory scrutiny
- Prepare for threats of claims, but don't assume they have merit
- Learn lessons



WHAT IS A GOOD OUTCOME?

- No criticism (proceedings / narrative / PFD report)
- Minimal cost and effort
- No bad press



KEY TAKEAWAYS

- Purpose of an inquest is to establish fact /not to blame.
- Benefits in becoming involved in the inquest process early on – for example, requesting IP status.
- Adverse findings can have a negative impact on your business but there are ways to help achieve a good outcome
- If there is a negative outcome you can take steps to address this.



QUESTIONS?





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