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Inquest after a road death

What is an inquest?

An inquest is a public inquiry held into any unnatural death. If there is a criminal prosecution for causing the death, the inquest will be adjourned, and is rarely resumed as the criminal trial will investigate the death.

In 2007, over 80% of road deaths involved an inquest.

Why is it held?

The objective of an inquest is to establish how a person '*came by their death*'. There are four key questions to be answered

- who died?
- when did they die?
- where did they die?
- how did they die?

Inquests do not apportion blame, Coroner's Rules expressly forbid coroners from deciding on criminal liability by a named person or civil liability.

Who is the coroner?

Inquests are held by coroners, who have responsibility for a geographic area. Coroners are legally or medically qualified and receive training. Considerable variation exists in practice between coroners. They are assisted by coroners' officers who are the first point of contact for the family of a victim.

Although coroners do not apportion blame, they can request that the Criminal Prosecution Service (CPS) review the case to see if a criminal charge is supported by evidence. They can also make reports on issues in respect of a particular road or danger spot - to ensure that similar deaths are prevented.

What happens soon after the death?

Within days of the death, the coroner will open the inquest and issue an interim death certificate. The coroner will normally at the same time authorise the release of the deceased for burial or cremation.

When is the full inquest held?

The inquest will then be adjourned for the collection of evidence. The timescale for holding the full inquest depend on such factors as the time it takes to prepare the police report, the availability of witnesses, as well as the number of other scheduled inquests. While some inquests are held within 3-4 months, most occur between 6-12 months after the death.

If a driver is charged with causing the death, then the inquest will be adjourned. After the criminal trial is completed, coroners may resume the inquest but this is very rarely done.

What happens at an inquest?

The way in which an inquest is conducted depends on the individual coroner but the general order is as follows:

1. **Identification.** The coroner will begin by asking for evidence relating to the identification of the victim to be presented and this may be in written form.
2. **Post mortem report.** This is followed by the pathologist's report of the medical causes of death. The toxicology test findings will be reported as every road fatality is tested for evidence of alcohol or drugs. The pathologist may not always attend but some coroners do request that they do. Families often ask pathologists about the timing of the death and if their loved one was conscious before they died.
3. **Witnesses.** Coroners have discretion in which witnesses they call. Witnesses should be allowed to see their statement before the

inquest to refresh their memory. Anybody who testifies at an inquest must swear an oath or make a declaration to tell the truth. Non controversial evidence can be submitted in statement form, without the need for the witness to appear in person.

4. **Police.** The Collision Investigation will be asked to report on their findings. This will include presentation of the site photos and plans. The first officer to attend the crash scene and the Senior Investigating Officer may also be called as witnesses.
5. **Driver.** Most drivers will attend voluntarily but a coroner may summon a driver to attend. Foreign drivers cannot be required to return from abroad. Drivers will be asked to state their version of events. However, the coroner will explain to the driver that he/she does not have to say anything that may be incriminating.
6. **Questions.** After the witness has given their statement, the coroner will ask questions and then allow time for others to ask questions. Drivers can be asked questions by the bereaved family, but these should be factual and not include any accusations.
7. **Verdict.** The coroner will then end the inquest by stating whom the deceased was, when, where, and by what means the death occurred, and conclude with either a short form verdict, which is almost always accidental death, or give a narrative verdict which is more descriptive. There may be a break before the verdict to allow the coroner time to compose his summary.

What if families do not wish to hear the post mortem details or see any photos?

Families can request to leave the room while the medical evidence is presented and/or the photos of the crash scene are shown. Please inform the coroner's officer if this is desired.

Will there be a jury?

The Coroners' Rules 1988 oblige coroners to empanel juries at inquests into deaths that have occurred in prison, custody, at work, involve a police officer, or if further deaths in similar circumstances could be prevented. Road deaths rarely involve juries. The vast majority of people killed in work-related crashes are members of the public and the inquests into their deaths are held without juries.

How long does an inquest last?

Inquests usually last at least one to two hours, but complicated cases can take longer, sometimes days.

Role and rights of bereaved families

All bereaved families should be provided by the coroner's office with the Ministry of Justice (MOJ) leaflet '*When Sudden Death Occurs, Coroners and Inquests*'. RoadPeace contributed to this leaflet, and the rights of bereaved families are listed as follows:

- Families should be informed of the time, date and place of the inquest.
- An inquest is a public enquiry so anybody is entitled to attend. Any family member or friend can therefore attend.
- Families can be legally represented at the inquest if they so desire.
- Families can obtain copies of the inquest proceedings on payment of a fee.
- In very limited circumstances where it can be maintained that the coroner has not applied the law correctly there can be an appeal to the High Court.

Families may also:

- Contact the Police and/or the Coroner's Officer to discuss the case in advance.
- Ask whether they will be required to give evidence.
- Ask for the list of witnesses called, and ask for any other witnesses to be called.
- Inform the coroner's officer in advance (in writing) of any matters which they consider should be investigated or questions which they wish to be answered.
- Ask to see the witness statements.
- Request a copy of the post mortem report. This can be done at any time.
- Request an adjournment if the driver or key witness does not attend or if unexpected developments occur or unexpected evidence is given.
- Bring new information to the attention of the coroner's officer, even on the day of the inquest hearing.

Families can make these requests, although a coroner is not obliged to agree to them. However, they may agree to a reasonable request made in good time. Requests should always be put them in writing and a copy kept for the record.

Role and rights of driver

Very few coroners do not ask the driver to attend the inquest. If a driver does not attend the inquest, the family can ask for an adjournment and for the driver to be summonsed (this means they are commanded to appear at the reconvened inquest). Even if they attend, drivers have to be told that they are not obliged to answer questions which may be incriminating.

Can families ask the driver questions?

Bereaved families and other interested parties can ask questions of the driver or any other witness, as long as they are relevant to the inquest. As noted above, the driver does not have to answer incriminating questions but the questions can still be asked.

Support at the inquest

A few coroners have trained volunteers who can provide practical support to relatives and witnesses. You can also contact RoadPeace to see if one of our befrienders can attend the inquest with you.

Preparing questions for an Inquest:

Legal representation

Families will want to know what happened when someone has died. Although the inquest may not provide full information about the circumstances of the death, this may be the only opportunity to find out as much as possible, since it is the only chance to formally question witnesses. There is no opportunity for the family to do so in any criminal proceedings.

Families may wish to obtain legal representation since a solicitor can ask questions on their behalf and should be able to speak more authoritatively to the coroner on matters of law. However, there are few lawyers who have the specialist knowledge of inquests and they are also usually expensive. Families may be able to have their legal representation funded as part of any pending civil case.

Families can sometimes be entitled to free representation through a trade union, their motor or home insurance. Some solicitors will employ barristers to represent families at inquests.

Whether families choose to represent themselves or to have a solicitor, preparation is crucial. It is advisable to make a list of questions and provide this to the coroner's officer in advance. But also bring it with you to the inquest. If there are any fresh developments, or unexpected evidence is produced, families should not be afraid to ask for an adjournment to consider it, although the coroner does not have to grant the request.

Get well prepared for the inquest and prepare a list of questions, as long as you like, which you want to ask witnesses to ensure that the whole truth (if possible) comes out. Don't be afraid or overawed by any witness, or the Coroner (who was very good in our case); they are there simply because it is their job—you are there for a very much more serious reason!

Bereaved father

Who can attend an inquest?

Inquests are open to the public and the press. Inquests are sometimes held in small rooms and the victims are often seated quite close to the driver. Bereaved families can take friends and family members for support.

Inquests and the media

Local press normally attend inquests, or they use other agencies in their place. The press cannot be prevented from attending, as it is a public enquiry.

The press can be useful allies or add distress. If families want publicity, we suggest that they contact the local press beforehand. It is often worth preparing a statement to hand out afterwards and this can include different versions for different outcomes. The press is more likely to print what the family wants if it is made easy for them, but the family should not expect to control what the press report.

What other powers do coroners have?

Coroners can make reports to other organisations bringing to their attention matters which may require action to prevent further deaths. These organisations are now legally required to respond within 56 days and explain what action, or why no action, is being taken.

Will families receive anything after the inquest?

Families can obtain copies of documents after the inquest for which a charge may be made (£1.10 per page recommended cost). Coroners are required to provide bereaved families with a copy of any reports they write to other authorities and any responses received.

What happens if the driver pleads guilty to a criminal charge and the evidence is not heard in the criminal court?

When a driver pleads guilty, there is no hearing of the evidence and the case proceeds to sentencing. Families can ask the coroner to reconvene the inquest in order to review the evidence, but this is very rarely done at present. Coroners are not allowed to come to any conclusion that is inconsistent with the results of the criminal proceedings.

What are the possible verdicts?

Coroners can choose from the following verdicts: 'accidental death', 'unlawful killing', 'death by misadventure', or 'open verdict'. It has been traditional to use accidental death with road deaths and most coroners still do. Some coroners have begun using verdicts of "road crash" or "road traffic collision" or short narrative verdicts – describing the cause of death in a few sentences and not classifying it as an accident. Families can inform coroners if they prefer a narrative verdict but coroners do not need to respect this.

Can the verdict be appealed?

In some very rare circumstances, as a result of a judicial review by the High Court, a verdict may be quashed and a new inquest ordered.

How to complain about a coroner?

According to the Ministry of Justice's Code for Victims, the complaint process should start with a letter sent to the coroner. Families should ask for a meeting with the Coroner to discuss their complaint. If that fails, then complaints can be made to the following address: The Office for Judicial Complaints, 4th Floor, Clive House, Petty France, London, SW1H 9EX.

Families may consider sending copies to the Lord Chancellor and also their MP. It is important for families to specify that they wish the letter to be recorded as a complaint.

Inquest checklist for bereaved families:

Before the inquest: have you...

1. received notice of the time and date of the Inquest? If not, contact the coroner's officer.
2. requested to see the witness statements and collision investigation report before the inquest?
3. requested to see the witness list before the inquest? Are you satisfied that everyone who should be called as a witness has been? If not, you can ask for the inquest to be delayed until key witnesses are summoned.
4. arranged for someone (possibly solicitor or legal clerk) to attend and take notes for you?
5. prepared a list of questions to be asked at the inquest and notified the coroner's officer? It is useful to give them a copy of the questions you would like to have answered in advance of the inquest.
6. asked to see a copy of their Charter.

At the Inquest

1. Have all the witnesses attended?
2. Has the driver attended the inquest? If not, you can ask for an adjournment.

After the inquest

Contact the coroner's court if you have any complaints or queries. You may ask for the transcript or notes of evidence and how the coroner will be following up on any report.

Coroner reform

The coroner system is being reformed under the Coroner and Justice Act (see <http://www.justice.gov.uk/about/coroners.htm>) A Charter for Bereaved People has been drafted, but it is for the reformed system. Contact RoadPeace for more information.

Further contacts

Inquest, a national charity providing free independent legal advice on contentious deaths and their investigation(020 7263 1111).

www.inquest.org.uk

Liberty, Your rights-the Liberty Guide to Human Rights, Inquest Procedure,

<http://www.yourrights.org.uk/yourrights/rights-of-the-bereaved/investigations-into-deaths/inquest-procedure.html>