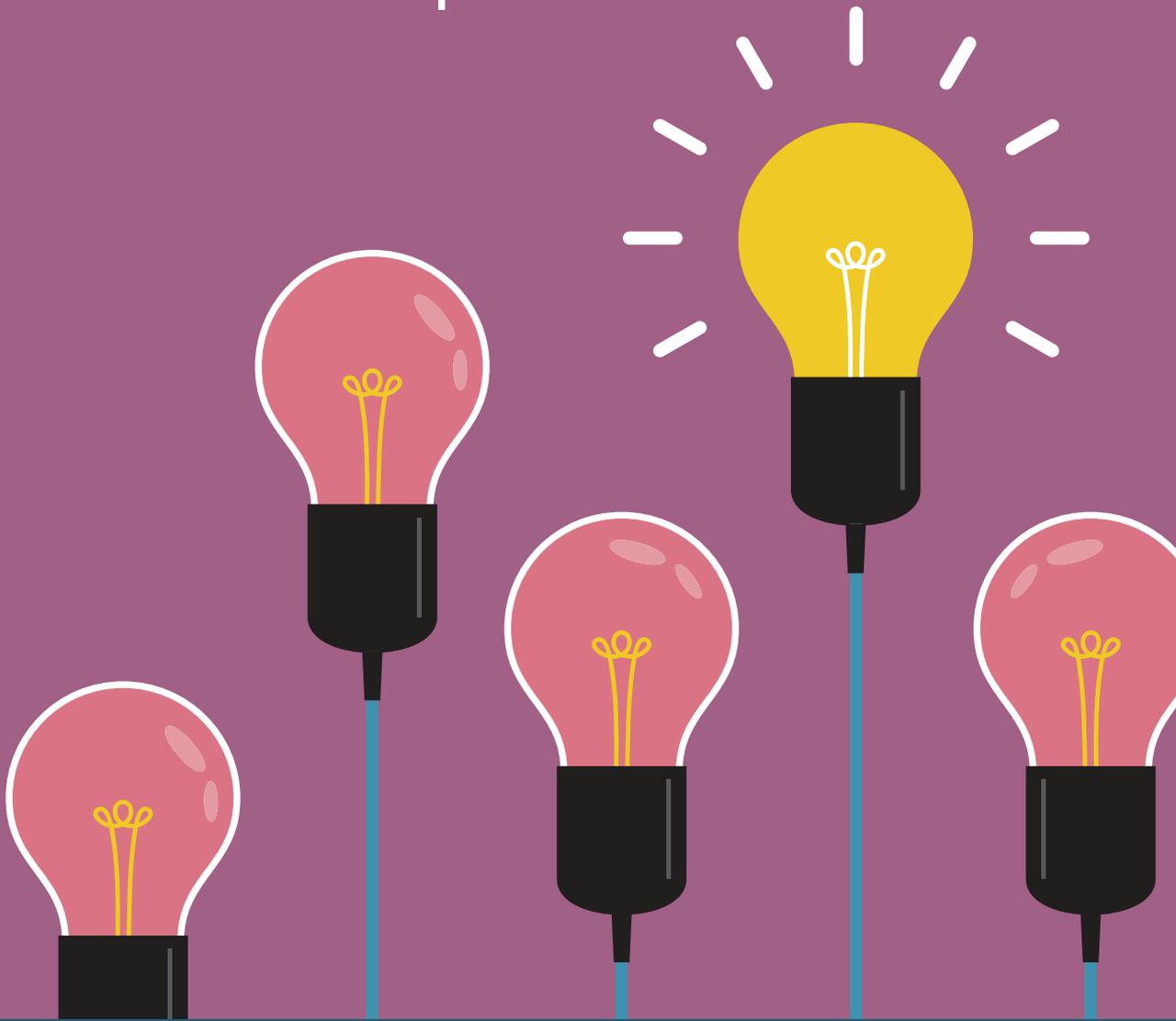


GUIDE:

Inquests



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1. What is an inquest?

An inquest is an independent legal investigation into an otherwise unexplained death. An inquest will be held when a person has died in a sudden, violent or unnatural way, or in the custody of the state, or where the cause of death is unknown after a post mortem examination.

1.1 The role of the Coroner

The inquest is led by a Coroner, who essentially acts like a judge. The Coroner's duty is to consider who the deceased was, when and where they died, and how and in what circumstances the death occurred. It is often said that the Coroner must be 'full, frank and fearless' in their investigations.

The Coroner has broad discretion to decide which issues will be investigated, which documents will be taken into account, which witnesses will be called, and when the inquest will be held and for how long. The participants to the inquest will (usually via their lawyers) make representations to the coroner as to how they think the inquest should be progressing.

1.2 What will the inquest examine?

There are two types of inquest. Those that involve a public authority, such as the police, prison, mental healthcare authority or armed forces, are usually considered to be 'Middleton' or 'Article 2' type inquests – so-called because they trigger the investigative duty contained within Article 2 of the Human Rights Act which pertains to the "right to life". Where the death involves a private actor such as a death in the workplace, or following non-systemic negligence) these are known as 'Jamieson' type inquests. Article 2 inquests generally involve a more detailed examination of the circumstances and what happened in the lead up to the death and involve a jury, whereas 'Jamieson' type inquests tend to be shorter and only before the Coroner.

1.3 Who can participate in an inquest?

The participants in the inquest are known as 'Properly Interested Persons' or IPs. Who is given IP status will obviously depend on the circumstances of the death and it is ultimately a decision for the Coroner to make. It is common for the relevant police force, NHS Trust, or Ambulance Service to be IPs depending on their involvement. The family of the deceased will always be granted IP status at an inquest, as the process is for their benefit. The Coroner may also appoint any other 1 individual or institution that he/she believes has a 'sufficient interest' in the inquest.

1.4 How is an inquest different to a criminal trial or civil claim?

Inquests are different to criminal or civil proceedings in that an inquest is a 'fact-finding' exercise only – it cannot make determinations on liability, will not hand down any sentence or punishment to any party involved, and will not award compensation to the family of the deceased. An inquest verdict can however conclude that the actions of any relevant person 'contributed towards' the death, and/or offer criticisms of institutions that should have handled the situation differently.

If there is to be any criminal prosecution in relation to the death, the inquest will always be adjourned until the prosecution has concluded. If new evidence comes out of the inquest, then the case can be referred back to the Criminal Prosecution Service to make a fresh decision as to whether any charges should be brought. The family may wish to pursue a civil claim following the death of their loved one. A civil claim will usually be brought soon after the death but 'stayed' by the Court until the conclusion of the inquest. It is important that you speak to a solicitor as early as possible after the death as time limits are very strict.



2. The inquest process

The inquest process can vary depending on the complexity of the circumstances around a death. A relatively straightforward inquest may conclude in the space of a day, whilst more complex inquests, for example into a death in police custody, may take a year or more, including a hearing which lasts several weeks.

2.1 Early stages

The process begins when an individual (usually a doctor or the police) 'notifies' the coroner of a death. The Coroner will open the inquest.

A post mortem will be carried out by a pathologist to try to ascertain the cause of death in medical terms. This will usually happen within a few days of the death. The pathologist carries out a detailed examination of the body and organs, making notes of any physical or medical signs which may point to what caused the death. This could include anything from bruises and physical injuries to abnormalities in the deceased's heart. This will be passed to the Coroner who will issue an interim death certificate to the family so that they can make arrangements for the funeral and obtain letters of administration so that they can deal with the estate.

2.2 Other investigations

Depending on the circumstances of the death, the Coroner may decide to adjourn the inquest so that other investigations (for example by the Police, Independent Police Complaints Commission, Prison & Probation Ombudsman, or Health & Safety Executive) can be carried out. This may include, where necessary, obtaining other expert reports and/or medical analyses. The results of these investigations will then feed in to the inquest but will not necessarily determine the outcome.

2.3 Progressing the inquest

In a more complex inquest the Coroner will usually hold one or more Pre-Inquest Reviews 'PIRs' in order to ensure that the parties are on track for the final hearing.

A Coroner will usually rule at an inquest alone, however in certain circumstances a jury will sit in order to determine issues of fact (similar to a criminal trial). In certain circumstances the Coroner has the discretion to appoint a jury; however in some circumstances (such as a death in police custody) a jury is required by law.

2.4 The hearing and possible outcomes

The Interested Persons will, via their lawyers, make representations. Live evidence may be given by those who were involved in the events around the death. This could include police officers and paramedics who attended the scene, witnesses to any relevant events, and medical and forensic experts including the pathologist who carried out the post mortem. The Interested Persons' lawyers will be able to ask questions of these witnesses in order to test their evidence in order to better understand what went on.

Whether by Coroner or by jury, an inquest can deliver one of a number of 'short-form' verdicts, such as natural causes, accident or misadventure, neglect, or unlawful killing. If unable to determine any of these, the inquest can deliver what is known as a 'narrative verdict'. The Coroner/jury will read out a statement giving details of what they have found to be the factors which contributed to the deceased's death.

If the Coroner identifies a change which an institution (such as police force, prison or hospital) could effect in order to prevent similar deaths happening again he/she can issue a 'Prevention of Future Deaths Report'. The institution will then be required to update the Coroner in the future and demonstrate how they have implemented the required changes. This can be a positive outcome of the inquest process which many families value greatly.



3. Do I need a solicitor to represent me/my family at an inquest?

Inquests are in theory designed to be non-adversarial in nature and accessible to the family of the deceased. Unfortunately this is not always true in practice. Institutions such as the police or NHS will always be represented by a team of very capable and expensive lawyers. This can make the process very daunting for families, given the complexity of evidence that is often involved as well as the sensitive nature of the investigation. Families will also still be grieving for their loved one which makes the process all the more upsetting. Therefore an experienced solicitor can be invaluable in steering the family through this difficult and unfamiliar territory.

3.1 How much will it cost?

If you wish to privately instruct a solicitor rates will vary depending on the length and complexity of the inquest. Conditional Fee Agreements are generally not available for an inquest as it is not a claim for damages; however this may depend on the likelihood of a civil claim being pursued and the recoverability of inquest costs from the Defendant. A solicitor will be happy to advise you on this at the outset.

3.2 Is Legal Aid available?

Legal Aid is generally only available in 'Article 2' type inquests, for example where a death has occurred in prison or police custody or involves the state in some other way.

Inquest solicitors who have a relevant franchise with the Legal Aid Agency, such as those working at Saunders Law, are able to act under a publicly funded scheme known as 'Legal Help' to carry out the majority of preparatory work in an inquest. This might include liaising with the coroner, examining documents and evidence, and advising the family.

In order to obtain representation at the Inquest hearing itself (and pre-inquest hearings) a solicitor will need to obtain 'Exceptional Case Funding' from the Legal Aid Agency. This can be difficult and is subject to strict requirements, including a detailed analysis of the finances of the family. Saunders Law are experienced in obtaining exceptional funding from the Legal Aid Agency.

3.3 The need to act fast

Whether you are seeking Legal Aid or private instruction, it is crucial that you act fast and contact a specialist solicitor as early as possible once an inquest is opened. Certain opportunities will be lost if they are not seized upon fast, such as securing evidence which has been overlooked, or having a second post mortem carried out. A solicitor will also be able to advise on any potential civil claims arising out of the death. The time limits for bringing a claim are very strict; therefore families should seek advice on this as soon as possible, rather than waiting until the end of an inquest.

3.4 Overturning a Coroner's decision

It is possible to have a Coroner's decision overturned in some exceptional circumstances. Decisions made in the course of inquest proceedings may be challenged by judicial review. If a family is seeking an entirely fresh inquest this can be done by asking the Attorney General to exercise a special power known as a 'Fiat' to overturn the verdict and referring the matter to the High Court to order a new inquest. Time limits are very strict, so again do not delay in contacting a solicitor.



Saunders Law - How we can help you

At Saunders Law we have a dedicated team of solicitors with experience in seeking justice for families whose loved ones have died in unexplained circumstances, and we regularly act on behalf of families in inquests into deaths in police custody, prison, or mental healthcare settings.

We are also experts in representing Interested Persons at inquests in a range of other settings including health and safety issues or deaths in the workplace. We do not act for police forces, prisons or public authorities.

Losing a loved one is always a deeply troubling experience but this is made far worse when the circumstances of the death are unclear; navigating through an inquest whilst trying to come to terms with the loss of a loved one is something that no family should have to suffer alone.

If you have a relative who has died and an inquest has been opened, or you think one should be opened, or you are an Interested Person in another capacity, contact Saunders Law without delay for a free discussion about how we can assist you. Please contact us on **0207 632 4300**.



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Please note, this guide is intended as a broad overview of a complex process and is not intended to be, nor should it be, relied upon in place of legal advice appropriate to your circumstances. This guide was written in May 2017.



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Saunders Law is a central London law firm, practising from offices facing the High Court in the Strand.

The practice traces its roots back to 1974 and is the successor practice to Saunders Law Limited. Our partners pride themselves on being accessible to the firm's clients, and they have a "hands on" approach to legal work and to the supervision of staff working on our client's cases.

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