

Attending a coroner's inquest

A guide for NHS staff

The coroner, who may be a doctor or a lawyer by profession, investigates the cause of unexplained deaths. If the death was expected and the cause is clear, an inquest will not usually be held.

The purpose of the coroner's inquest is to answer four questions about the deceased;

1. Who was deceased?
2. When did they die?
3. Where did they die?
4. How did they die? i.e. by what means did they come by their death?

In relation to deaths following medical treatment, the coroner usually requests statements so that s/he can understand what medical problems the deceased was suffering from, what treatment was given and what contributed to the death. The coroner uses the information in the statements to decide who to call as a witness to the inquest hearing to answer questions. The statements will be disclosed to the family of the deceased and to any other parties to the inquest.

The inquest

The coroner conducts an investigation and decides what statements to request and who to call to give evidence at the coroner's court. There are no 'sides' in an inquest and there is no 'prosecution' or 'defence'. It is an inquisitorial process which is designed for the coroner to find out the facts. The coroner does not award damages. If the family wish to make a claim for clinical negligence and damages, this is a separate process to the coroner's inquest and a coroner cannot determine 'negligence'. It is a public court and journalists often attend.

The coroner determines who is an "Interested Person" for the inquest e.g. family of the deceased, the NHS Trust or GP. Interested Persons are entitled to see the statements and documents, to ask the witnesses questions and to make legal submissions as to the conclusions (or verdict). In some cases, such as an investigation into a death in custody or where there is a particular public interest, the coroner will sit with a jury, who will then decide the conclusions.

Duty of Candour

A statutory duty of candour was introduced for NHS organisations from 27 November 2014, which sits alongside the existing contractual and professional duties of candour. This means you must be open and honest with patients if things go wrong and a patient has or could suffer harm.

If you are concerned about the care given to a patient, you should not wait until the inquest to disclose the information. A factual explanation with an apology would not normally constitute an admission of liability. Failure to comply with the duty of candour will be treated extremely seriously by employers, commissioners, coroners and regulatory bodies. If you believe there will be litigation or you are unsure, seek advice from your Trust's legal department immediately.

In addition, following recent changes to the law, it is now a criminal offence to:

- do anything that is intended, or is likely, to have the effect of distorting, altering or preventing any evidence or document that is given for the purposes of a coroner's investigation.
- intentionally suppress, conceal, alter or destroy a relevant document. A document is relevant if it is likely that a coroner conducting an investigation would, if aware of its existence, wish to be provided with it.

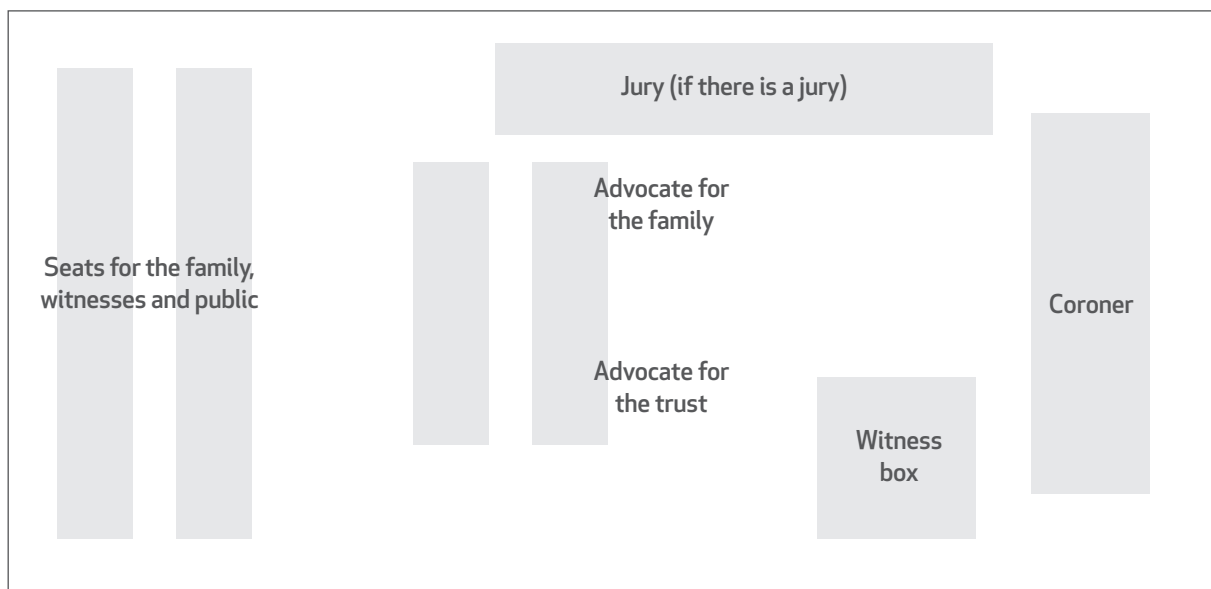
Therefore, if you are asked to provide a statement for an inquest, you should carefully consider all of the information which might be relevant for the coroner, enclose a copy of relevant documents and make reference to any event which you believe contributed to the death.

Giving Evidence

Every witness called to a coroner's inquest gives evidence 'on oath'. Before the inquest starts, the coroner's officer will ask you whether you prefer to swear upon a religious book or whether you prefer to 'affirm' (where you promise to tell the truth without reference to religion). When you are called to the witness box you will be asked to take the oath or affirm by reading from a card out loud. Lying on oath is a criminal offence. Giving evidence at an inquest is not a test of memory! You are allowed to take any documents into the witness box which might be helpful to you. In particular, you should take a copy of your statement; the coroner will have a copy and will normally ask you questions based upon your statement. Sometimes s/he will ask you to read from your statement. Your statement will help you to give accurate information to the court, as it should contain all of the relevant dates and times of your involvement.

The coroner will begin by asking you to explain your name, position and qualifications. You will then be asked questions about your direct involvement in the care of the deceased. After that, the other interested persons can ask you questions e.g. the family (or their lawyer if they are legally represented). Lastly, the lawyer representing your NHS Trust will be able to ask you questions. When you have finished giving evidence the coroner will tell you. If you would like to leave the inquest at that point, you (or your lawyer) should ask the coroner for permission.

Every coroner's court is different, but the layout is usually like the following:



Here are our tips for attending an inquest:

1. Prepare a thorough, open and honest statement, which includes details of all aspects of the deceased's care which you believe are relevant, or contributed to the death. You should not omit facts which are adverse to the Trust, there is a duty on you to provide a full and honest account.
2. Consider going to see the court on a day before the inquest starts so that you can get used to the surroundings.
3. On the day you are called, arrive in good time.
4. It is a good idea to dress very smartly - this provides a professional reflection of yourself and the Trust.
5. Make sure you are familiar with the medical records so that you can easily find your notes and key documents e.g. observations chart, fluid balance chart, prescription chart. As a professional in court, you will be expected to know the details of the care you provided.
6. When giving evidence, speak slowly and clearly and address your answer to the coroner. The coroner will usually make notes; try to make sure that you pause to let the coroner keep up with you.
7. Think carefully about the question you are being asked and answer that specific question. If the coroner wants further information, they will ask you another question.
8. If you do not know the answer to the question, you must say so. The coroner should only expect you to give factual evidence about what you did, or what happened while you were present. Do not suggest 'what might have happened' or speculate. Remember, you are giving evidence on oath - you must be careful that the evidence you give is accurate.
9. Be honest and try not to be defensive.
10. Be sympathetic and helpful: remember that the family of the deceased may have been waiting a long time to ask their questions, and they may not be used to asking questions in court.

For more information, or to discuss another inquest related matter, please contact:



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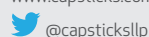
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