



INQUESTS - FAQs

Will there be a prosecution?

If the prosecuting authorities think that the death was caused by the dangerous or reckless actions of someone other than the deceased person, they will investigate and may bring charges. Prosecuting authorities include the police, the Health and Safety Executive, and local authorities.

If there is a prosecution, will I have to go to Court?

If you were a witness to the event, you may be called by the prosecution to give evidence in the criminal trial. That may take place at the Magistrates' Court or the Crown Court. If you were not a witness, you may still attend the trial, and the police Family Liaison Officer will usually inform you of when it is to be held. If you are not a witness, you may be offered the opportunity to make a written personal statement, but you will probably not have the chance to say anything, even if the deceased was a member of your family.

What is an Inquest?

An inquest is an investigation carried out by a Coroner into the identity of the person who has died, and how, when and where that person met his or her death. The basic rule is that the Coroner will investigate all deaths by "unnatural causes". An inquest is always opened when someone has died in a road traffic crash, in custody or on the railways. If there is also a police prosecution, the Coroner will establish the identity of the deceased person, the medical cause of death (the injuries) but after that the inquest may be adjourned until the police prosecution has finished.

Will the family be able to attend and ask questions at the inquest?

Yes. You or your legal representative will be allowed by the Coroner to ask the witnesses some questions. You must remember however that the Coroner is only concerned to establish the circumstances of the death and not if someone was at fault for it, and therefore some of the questions that you and the deceased's family will most want to ask may not be allowed. Even so, the inquest is often a very useful opportunity to establish facts that are needed for the civil case and it is therefore often wise to have a solicitor representing you and the family at the inquest.

Is Legal Aid available for inquests?

Not usually. Legal aid is available to investigate deaths in custody and if there is a public interest element.

Otherwise, if you want legal representation, you will have to pay for a lawyer to represent you at the inquest. If you propose bringing a civil claim as a result of the death, Park Woodfine Heald Mellows will attend the inquest without charge (save for expenses).

What is the post mortem (autopsy)?

As part of the Coroner's inquest into how someone died, there is post mortem, a medical examination of the deceased. You or your representative may ask to be informed of the date of the post mortem, so that you may have your own pathologist (doctor) present.

Will I have to give evidence at the inquest?

If you were a witness to the events leading to the death or saw the deceased shortly before his or her death, it is possible that you will be called by the Coroner to give evidence. Sometimes the Coroner will be content to read out any statement you may have given to the police.

Can I/the deceased's family make a claim for compensation?

To bring a claim for compensation (a civil claim) you have to prove that someone else was at fault and caused the death or injury. A prosecution does not have to be brought, nor does it have to be successful, because the rules for proving fault in a civil claim are different to the criminal rules. That is why the inquest is such a useful opportunity to obtain evidence at an early time when memories are still fresh.

Who brings the claim?

If the deceased person left a valid will, he or she will usually have specified someone to act as their personal representative (sometimes called an "executor" or "executrix"). If the deceased person has not left a will (if they were a child, for example) then a close relative can apply to the Probate Registry to be the personal representative ("administrator" or "administratrix"). We will be able to tell you how to go about that. Once a personal representative is appointed, he or she may bring a claim on behalf of all the members of family who have suffered injury or financial loss as a result of the deceased's death, and on behalf of the deceased's estate.

What can be claimed?

There are a number of possible claims, and the following only sets out the main ones. Where the deceased person was the breadwinner of the family, the family members can claim what is known as a "dependency", that is whatever money the deceased provided to the family regularly (such as housekeeping, money for bills, and school fees) before he or she died, for their upkeep and maintenance. This may be a very large sum of money, particularly in the case of a man or woman with young children.

There is a "bereavement award" for the spouses of deceased persons, or for parents of a child, which is presently at £11,800.

If the deceased suffered pain before death, compensation may be claimed for that, and if his or her property was damaged or destroyed (a car or its contents, for example) compensation will be payable for that too.

Do I need a lawyer?

You are entitled to represent yourself or the family in both the Coroner's Court and the Civil courts (the High Court and the County Court). However, the law is complex and, even without the strain of having recently been bereaved, it is often difficult for lay people to do themselves justice when in courts of law. No amount of money can compensate the family of a person killed in an accident but a solicitor with experience of working in the Coroner's Court and the Civil Courts is usually more able to make sure that the family receives a measure of justice than if there is no legal representation.

When should I see a solicitor?

As soon as possible. There are time limits for bringing claims for personal injury or death, usually three years in the case of an adult, and three years from when an injured child reaches the age of 18.

However, attendance at an inquest and the early gathering of evidence are often essential to a successful claim, so it is worth contacting us prior to the inquest date being set.

For more information about Personal Injury or Inquests, please contact Ian Pears on 01604 233200 or email ipears@pwhmlp.com