



Irish Nurses and Midwives Organisation Working Together

Coroner's Inquests

**The largest Professional Union
for Nurses and Midwives in Ireland
representing over 45,000 members**

1. Introduction

This leaflet sets out some important information in relation to role of the coroner, the inquest process, and the supports that members should expect from their employer. This leaflet does not amount to legal advice and further information should be sought in individual cases.

2. Role of the Coroner

The coroner is a state official who must be either legally qualified or medically qualified, or both, and who makes legal determinations in relation to the cause of death. The central role of the coroner is the investigation and certification of death in circumstances where there is some question or lack of clarity concerning that death, in essence where there are sudden or unexplained deaths.

In many cases the coroner needs to do little more than satisfy themselves that no further inquiry is necessary, however, where necessary they have powers to facilitate a broader investigation or inquest.

The investigation will generally take the form of a post mortem, whereas the inquest is a formal exercise where the coroner, with or without a jury, hears sworn evidence to establish the cause of death without apportioning blame. The object of an inquest, associated as it is with the role of the coroner, is to establish answers to four basic questions:

- *Who* is the deceased?
- *How* did the deceased die?
- *When* did the deceased die?
- *Where* did the death occur?

The process establishes the facts surrounding the death, places these on the public record and answers the relevant questions.

While the coroner may make recommendations to prevent the reoccurrence of such deaths, neither the coroner nor inquest process may establish or apportion any blame for the death which occurred.

3. In what circumstances must a death be reported to the Coroner?

There are wide range of cases in which a report must be made to a coroner, and these are determined in law and by local practice. Essentially any sudden or unexplained death must be reported, and even in cases of suspected natural causes where the person has not been seen by a medical practitioner for a month prior to death. For our purposes, most notably, a range of circumstances where deaths are directly or indirectly the result of any surgical or medical treatment, or any procedure, must be reported to the coroner. Further, any death suspected as arising from negligent or violent processes must be reported.

4. How does the Coroner respond?

As mentioned the coroner need not investigate or hold an inquest in every case, and if they are satisfied following informal inquiries that nothing untoward has occurred they may direct the issuing of death notification certificate. However, they may conduct further investigations in the form of a post mortem examination, and if satisfied that the cause of death was natural causes may then issue a Coroners Certificate. However, in other circumstances the coroner may decide to hold an inquest.

In most instances the coroner has a discretion as to whether to convene an inquest, however, one must be convened where death is suspected to have occurred in violent or unnatural circumstances or suddenly, and is of unknown cause. An inquest may sit with or without a jury, but a jury must be involved, where:

- Death may be due to homicide (or a suspicious death);
- Death occurred in prison;
- Death was caused by accident, poisoning or disease requiring notification to be given to a Government Department or inspector;
- Death resulted from a road traffic accident;
- Death occurred in circumstances which may be prejudicial to the health or safety of the public;
- The Coroner considers it desirable to hold an inquest with a jury.

5. The Inquest Process

The inquest seeks to establish the facts surrounding the death, and to answer the four questions. In theory, the inquest is an inquisitorial process, in that it is not one side versus the other, and instead is an inquiry into the circumstances surrounding the death without the attribution of blame.

The inquest involves the coroner hearing evidence from witnesses, and these may include those involved in the care of a person prior to and at the time of their death. The coroner is the person who determines from whom evidence may be taken.

Evidence may be given in writing or orally, or both. Written evidence normally takes the form of a deposition, and advice should be sought prior to making such a submission to an inquest. If directed to attend an inquest to give oral evidence then a refusal to attend, or a refusal to answer questions if in attendance, may amount to contempt of court. Again, advice should be sought prior to attending to give oral evidence.

Having heard the evidence the coroner, or jury as the case may be, returns a verdict which establishes the answers to the foregoing questions, and essentially the cause of death. The verdict may be relatively brief, or take a more extensive narrative form. Common verdicts associated with cases where nurses and midwives may be called to give evidence include: Accidental death; Death by misadventure; Medical misadventure; Suicide/Self inflicted death; Want of attention at birth; Stillbirth; Death by natural causes; Open verdict.

While recommendations may also be made, again no blame may be attributed.

6. Giving evidence at an Inquest

The primary purpose of the inquest is to establish the circumstances of the death, and as such in theory it should be an uncontentious exercise for a witness whereby they give an account of relevant matters, and indeed this is what occurs in most cases. However, some cases may be more contentious where different witnesses

have differing accounts of what occurred. Additionally, the facility for certain persons to ask questions can give rise to a degree of contention.

Questions may be asked of witnesses by the coroner. Also, any person who has a proper interest in the inquest (a properly interested person) may personally examine a witness or be legally represented by a solicitor or barrister. Properly interested persons include:

- the family and next-of-kin of the deceased;
- personal representatives of the deceased;
- representatives of a board or authority in whose care the deceased was at the time of death e.g. hospital, prison or other institution;
- those who may have caused death in some way e.g. driver of a motor vehicle;
- representatives of insurance companies;
- (Where death resulted from an incident at work) -
 - representatives of trade unions;
 - employer of the deceased;
 - inspector of the Health and Safety Authority
- others at the discretion of the coroner.

Such persons may not call evidence, but they may question witnesses on matters relevant to the death, and this has led some nurses and midwives to experience sustained and difficult questioning where there is a conflict of fact, or where a family are trying to establish that the death was associated with some want of care.

7. Preparing for the Inquest

Preparation is crucial and is essentially divided into two categories, personal preparation, and appropriate engagement with your representative.

Personal Preparation:

- Read all the notes carefully;
- Ensure you have a chronological account of what occurred, when it occurred, why it occurred, who was there, and what happened afterwards;

- Remember look at the person asking questions, then direct your answer to the coroner;
- Do not engage in any argument with the person asking questions, ask for a break if necessary and try to remain calm;
- Tell the truth and remain focused on what occurred.

Preparing with your Representative:

- Your employer is obliged to provide you with a competent and impartial legal representative at the inquest;
- You must have time to consult with your representative before the inquest, and you must seek their advice before making any written submission;
- Ask your representative if there is any conflict between you and anyone else they are representing (your colleagues or the employer), if there is, seek another representative from your employer;
- Ask your representative for advice on the type of questions you will face, and how to best deal with the process;
- Ask your representative are they sure they can legally represent your best interests at the inquest.

If you encounter any difficulties with accessing a representative from your employer, or with the conduct of the representative, please contact your INMO Official immediately, who will in turn seek an alternative representative from your employer.

8. Conclusion

The clear majority of inquests are uncontentious and do not give rise to any concerns. However, understanding the process, preparing well, and knowing what to expect from your representative are your best protections. Finally, if you have any concerns contact your INMO Official.

Prepared by: Dr Edward Mathews, Director of Regulation and Social Policy, Irish Nurses and Midwives Organisation, May 2017.