




**Hazards Conference 2018**

Keith Cundall, Senior Associate Solicitor, Irwin Mitchell LLP

## Discussion Points: 15mins or less!

A general discussion of the Coronial process from a Solicitors perspective including reference to:

1. Inquests and Coroners: what are they?
2. How an inquest is different but related to Criminal actions and Civil claims.
3. Is representation required and if so, what's the point?
4. Paying for representation.

## Ancient History:

Coroners:

Office established in 1194

Name derived from "Coronae" as in Crown. An office to protect the financial interests of the Crown.

Responding to "Hue and Cry".

## And now?

~98 Coroners in England & Wales covering 109 Coroner areas. Medical or legal background.

**Role:** "*to inquire into the causes and circumstances of a death*" (s.5 CJA 2009)

- To listen to the evidence and make findings of fact.
- To direct the jury, if convened.

## Cont...

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**How is this done:** 1. An inquest is held. 2. Focus on: who, how, when and where?

How? Meaning “by what means...” Usually a brief sentence.

Standard of proof? Balance of probabilities unless unlawful killing or suicide which are on the criminal standard.

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## Cont...

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**Inquest after all deaths?** No. Violent or unnatural deaths, or death in custody.

### Conclusions:

Accident, Misadventure, Open (but discouraged), Neglect...etc.

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## So, is a Coroner similar to a Judge?

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Not really, no.

### Inquest:

Fact finding inquiry into the cause of a death.  
“Cause” construed in a broad sense.

**NOT** the Coroner's function to attribute guilt or fault on a Criminal or Civil basis.

Warnings against self incrimination.

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## A death at work. Now what?

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### Potential Actions:

1. Civil Claim
2. Coronial Proceedings/Inquest
3. Action by the HSE/CPS

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## Civil Claim:

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Financial claims brought in respect of the consequences of death:

1. By the Estate of the Deceased (LR(MP) Act 1934).
2. By a dependant of the Deceased (FAA 1976)

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## Fatal Accident Act claims:

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Based upon dependency (s.1(3)FAA1976)

Claims typically advanced:

1. Bereavement award.
2. Loss of Deceased's income/pension.
3. Cost of the services the Deceased would have provided.

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## Estate Claims (LR(MP)A 1934)

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Typically include:

1. Award for pain and suffering unless death is instantaneous.
2. Funeral Expenses.
3. Loss of Earnings to date of death.
4. Death duties in certain circumstances.

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## How is relevant to the Inquest?

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Not about fault or blame: fact finding only...

...Don't believe a word of it!

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## The role of the solicitor...

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1. Ensure the early disclosure of relevant documents (pre-Inquest Review Hearing)
2. Support the family and protect the interests of the Deceased.
3. Gather evidence, both documentary and from cross examining witness to assist with: a) proving the Civil claim, b) pushing the HSE/CPS into action.
4. Regulation 28: Preventing future deaths.

## Notable cases with FACK's help...

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### **Elmer & Bibby –v- Sonae & Metso**

**Sillar:** Regulation 28- will it make a difference?

**O'Neill-** Overhead crane death.

**Pallier-** Prosecution and no Inquest. A rare occasion when this is welcome news for the family.

**Didcot-** the on going saga.

**Murtagh** (Cyanide) Suicide/Open Verdict