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**LEGAL ADVICE AND HOW
TO FUND IT**

**WHAT CAN BE SAID IN
PUBLIC BEFORE AN
INQUEST**

LEGAL ADVICE AND HOW TO FUND IT

The Coroner's Act 1988 specifies who can be legally represented at an inquest. This includes family members and specifies which family members are automatically considered "properly interested persons" (see Section 8 on definitions). This representation can be done either by a solicitor or barrister. To be represented by a barrister they have to be instructed on your behalf by a solicitor (see Section 8).

Should I contact a solicitor?

If you are concerned about the circumstances of the death then you should consider seeing a solicitor who has specialist experience as soon as possible. Whilst you might have been told by the coroner/coroner's officer that it is not necessary, we would strongly advise you to get some advice from the organisations listed in the pack. It is not always necessary to have a solicitor but if you want to be legally represented at the inquest it is important. It can also help to have a solicitor to assist you in obtaining any paperwork related to your relative's death or the circumstances surrounding the death.

How can I find a solicitor?

You can find a solicitor by contacting the organisations listed at the back of the booklet. They may be able to suggest someone who has some experience in preparing for inquests. Many solicitors do not have expertise in inquest preparation and may give you inadequate advice or charge very high fees. It is important to find a solicitor with experience of inquests or of the circumstances in which your relative died. If you already have a solicitor you trust and have worked with before then you can suggest they contact the organisations listed for more specialist information and who would work with them to prepare for the inquest. The solicitor should have an understanding of the

importance of the inquest to you in finding out what happened.

What will my solicitor do before the inquest?

This depends on the nature of the death but in all cases the solicitor should inform the coroner that they are acting for you and that you are a "properly interested person" or wish to be recognised as such at the inquest. They should assist in the preparation of the inquest in ensuring that detailed statements from you and any other witnesses who you suggest are taken. Copies of these statements can then be disclosed to the coroner and, if appropriate, representations made that particular witnesses be called by the coroner at the inquest. The statement you give to your solicitor should not only deal, in considerable detail, with the circumstances surrounding the death but also set out clearly your concerns so that the coroner is in a position to address them. You should also inform the solicitor of any other information that could be relevant.

It is essential for your solicitor to keep in regular contact with the coroner's officer. S/he will be able to keep them informed about the arrangements for the inquest including the date, venue and order in which the witnesses will be called and the nature of any exhibits to be presented in evidence.

How can I help the solicitor?

If there are several of you in your family it is useful for one of you to be the main person to liaise with the solicitor. You should write down as much of what you remember being told about your relative's death as soon as you can and any background information that you feel might be helpful and relevant to your solicitor's understanding of your relative and the circumstances of the death. It may be difficult because you will be experiencing shock and distress about the death but it is helpful to do this as soon as you feel able and give it to your solicitor. It is also important for the family to compile their own account of the facts surrounding

the death and requests can be made to the coroner via the coroner's officer to call evidence that the family believe is relevant to the cause of death.

Do I need a barrister to represent me at the inquest?

A solicitor or a barrister can represent you at the inquest and ask questions of the witnesses on your behalf. Some solicitors have considerable experience of representing people at hearings and some do not. It is best to discuss this question with your solicitor and any of the organisations listed in this pack you have been in contact with. This is particularly relevant when there are lawyers acting for other parties and who will be representing them at the inquest.

If I have a barrister will I meet them before the inquest?

It is best practice for you and your solicitor to have a meeting (called a conference in legal jargon) with a barrister before the inquest. It is important that you let her/him know what your concerns are and what questions you want to be asked. It is a good idea to write down any points that you want to raise with them before the meeting.

You may be anxious that one or two meetings will not be long enough for them to understand your case but remember that they do this for a living and will have read very carefully the papers produced by the solicitor. What is important to remember is that you are instructing them and they are there to ask questions at the inquest on your behalf and as such you should not be hesitant about raising particular points with them. They will be able to advise you on whether these can be raised through questions at the inquest. If they tell you that some of the things you are concerned about cannot be put in questions to witnesses at the inquest it may be because of the law related to inquests that only allows quite a narrow look at the circumstances surrounding the death.

How much does it cost?

The cost depends on your circumstances. If you are on income support or extremely low income you will be eligible for solicitors assistance in the preparation of the inquest. There is no financial help for representation other than in "exceptional cases" or in deaths in police and prison custody where families are financially eligible (see below).

If the deceased had a dependent child under the age of 18 or any other dependant or spouse there is the possibility in some circumstances of taking further legal action. In those cases public funding may be available for some of the preparation for the inquest which would have been necessary in any event for the other legal action.

It is always worth discussing the matter with the organisations listed at the back of the booklet who may be able to find experienced solicitors and barristers who, depending on the circumstances, may be prepared to charge a low fee or in some cases act for you for free.

What is an "exceptional case"?

Most people will find this definition distressing as every sudden death is exceptional for those whose loved one has died. Since April 2000 the Lord Chancellor has had the power to grant public funding for representation at inquests in circumstances he believes to be exceptional and where the bereaved people are financially eligible. There are criteria for lawyers to understand how this definition works which are set out in the Funding Code which accompanies the Access to Justice Act 2000. This procedure is currently worked on a case by case basis and you should suggest your solicitor should discuss this with the organisation INQUEST if they are considering an application. In cases where someone has died in prison or police custody funding is now available in all cases where the family meet the financial eligibility criteria.

WHAT CAN BE SAID IN PUBLIC BEFORE AN INQUEST

What are the legal rules about what can be said in public before an inquest?

In relation to inquests there is no strict subjudice rule (see Section 8 definitions). The reporting of the matter in and of itself is not contempt. However, you need to consider with your advisors what is appropriate to say in public before the inquest.

In cases of deaths where possible criminal charges are to be considered and where papers have been given to the CPS it is inadvisable for anyone to make an in depth programme or write an article where a description of the events involved in the death is the primary focus. This is a matter of tactics rather than law. If the CPS did decide to prosecute, then this would be ammunition for lawyers defending those charged. They would then have the possibility of arguing that a fair trial is not possible because of the fact that there has been adverse publicity in the media. This would be detrimental to the concerns of the deceased's relatives or friends.

If a decision is made to prosecute then the matter becomes subjudice once an arrest is made. If civil proceedings are to follow an inquest then the matter becomes subjudice once it is set down for trial - not when proceedings are commenced. The same applies after an inquest where papers are referred back to the CPS.

So it is not a good idea to make a programme/write an article while an inquest or any other proceedings are imminent on the facts of the case beyond what is already in the public domain. However, it is still possible to speak about the general issues and concerns the death raises and the way you have been treated.