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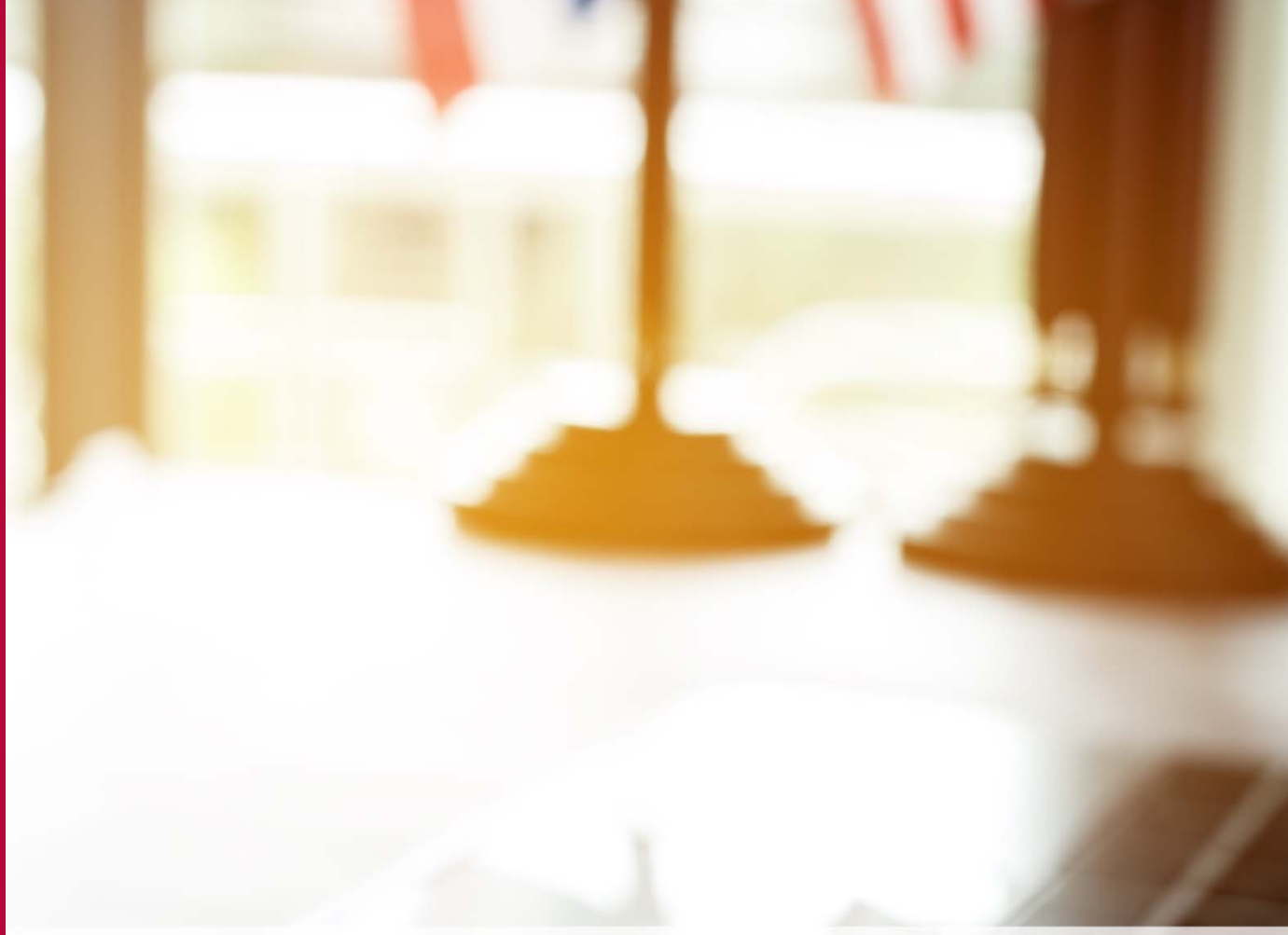
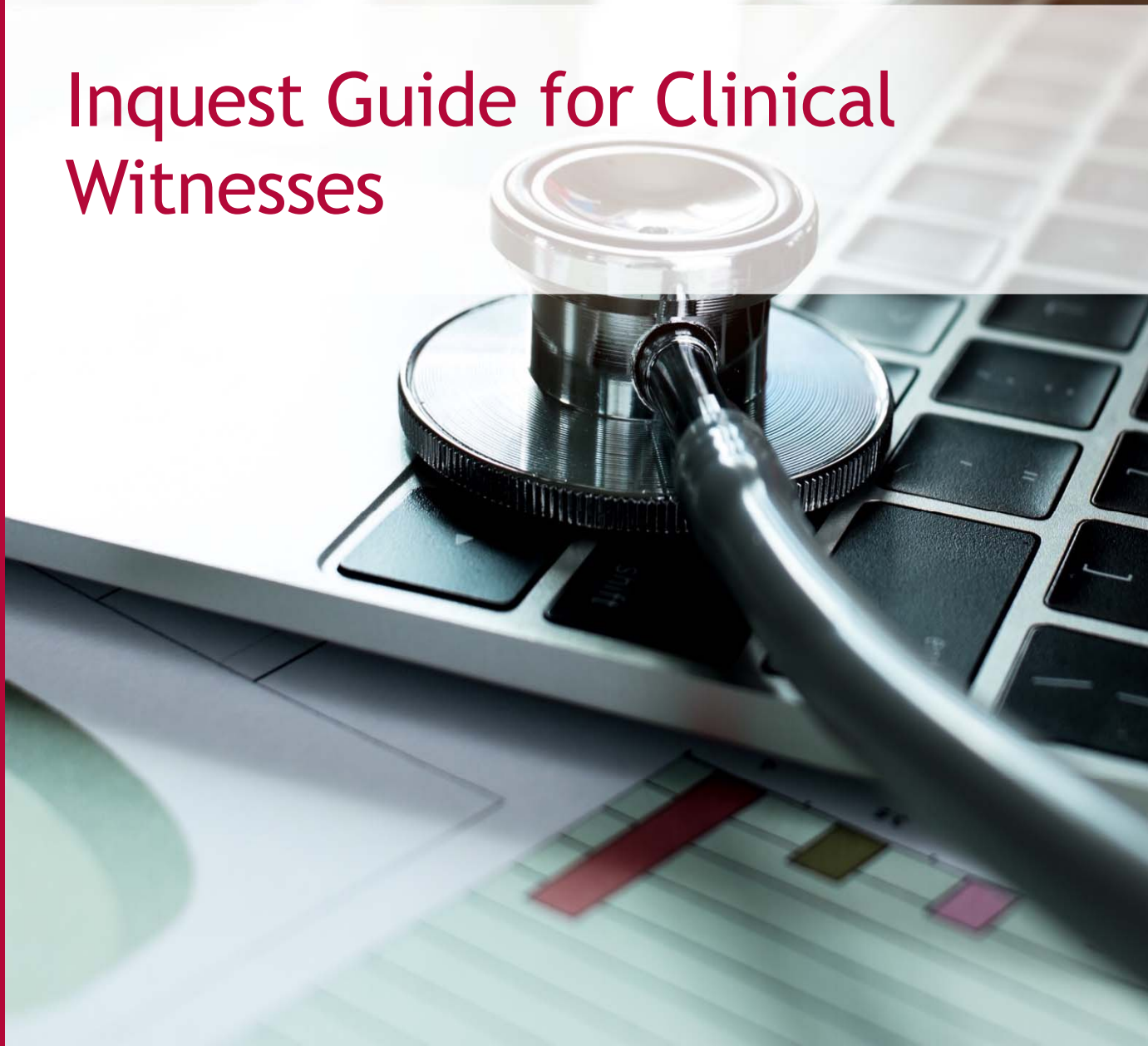


Inquest Guide for Clinical Witnesses



Section 1: When does the Coroner hold an inquest?

The Coroner has a duty to investigate a death where:

- The cause of death is unknown.
- The death occurred in custody or state detention, which will include deaths in prison or police custody and deaths while the deceased was detained under the Mental Health Act.
- The death is violent, including self-harm.
- There is reasonable cause to suspect that the death is unnatural. This will include deaths that were more than minimally contributed to by medical treatment or a procedure, for example:
  - The death was due to a recognised complication of medical treatment.
  - The death was more than minimally contributed to by shortcomings in the medical treatment.

Section 2: What is an inquest?

- An inquest is a fact-finding inquiry to establish **who** has died, and **how**, **when** and **where** the death occurred.
- We usually know who has died and when and where the death occurred. For that reason, inquests usually focus on **'how'** the person died. This goes beyond establishing the medical cause of death and the Coroner will scrutinise the circumstances surrounding the death.
- It is not the Coroner's role to apportion blame and the Coroner's Conclusion will not name any individual or organisation as being negligent or criminally liable for the death. However, during the evidence at the inquest the Coroner will scrutinise the medical treatment that the patient received and will seek to identify any shortcomings in care which more than minimally contributed to the death and this may feel like apportioning blame.

Section 3: The Inquest Hearing

- Most inquests are heard and decided by a Coroner. A small number of cases each year are heard and decided by a jury. Most often this is because the person died while they were detained or in custody or they died due to an accident at work **and** the cause of death was not natural.
- All parties will enter the courtroom at the start of the day. All witnesses will be present and sit in the public gallery and are permitted to do so throughout all the evidence.
- The Coroner will come into the courtroom once everyone is present. You are expected to stand up when the Coroner comes into or leaves the courtroom.
- At an inquest, the Coroner will lead the inquiry.
- The Coroner decides which witnesses should attend, and in what order they are called.
- Every witness will be asked to swear on oath or an affirmation before giving evidence.
- Witnesses are expected to take their witness statement into the witness box and any other relevant documents. Please make sure you **print your statement** as it will look more professional.
- The Coroner will ask questions first. The family or their legal representative are also able to ask questions. If there is a jury then each member of the jury can also put questions to the witness. Your own representative will usually ask you questions last. The Coroner should ensure that no inappropriate questions are put to the witnesses.
- Once you have given your oral evidence the Coroner may release you from oath. At this point, take a seat and wait until the next natural break to leave, if you wish to do so before the end of the inquest. If you are not released from oath, you will need permission from the Coroner before leaving the court and you should not discuss your evidence with anyone while you are under oath.
- The inquest will take place in a public court. Anyone can attend and journalists can generally print what they hear in court. Photographs are not allowed within the court building. A reporter from local media or television may approach you at the end of the inquest and they can take photographs outside the court building, although this is relatively unusual. If you are approached by the press, you organisaation should have prepared a press statement and you should refer the press to your comms team, if possible.

Section 4: Court day Checklist

- Plan your journey and plan to arrive early.
- Dress smartly (as though you are attending a job interview).

- Be prepared. Familiarise yourself with your statement, the medical records, investigation report and any other relevant documents in advance of the inquest including relevant local and national policies and guidance.
- Ensure you are familiar with the recommendations and action plan set out in any internal investigation and that you can answer questions about changes to practice that have been implemented as a result of the death.
- Print a copy of your statement and any other documents you wish to refer to when giving oral evidence. Please be mindful that a witness should be prepared to show to the Coroner anything they take into the witness box to refer to.
- Be aware that the family and press will be present. This is a solemn day and you must behave professionally and respectfully at all times. Remember that you may be seen or overheard by the family and press both inside and outside the courtroom.
- You may wish to express condolences to the family. You can speak to the family before or after an inquest, if they want to speak to you. Each situation and relationship is different and the right approach will vary from case to case. Trusts should not wait until the day of the inquest to express sympathy of offer apologies.

Section 5: Giving Oral Evidence

- Do not sit down while giving oral evidence unless invited to do so by the Coroner. Some Coroners prefer witnesses to stand when giving evidence.
- Witnesses give evidence under oath or affirmation; you will be asked to select one or the other. This means that you have promised to tell the truth and the uppermost thing in your mind should be giving an answer that is truthful.
- Some Coroners will ask you to take the court through your witness statement and other Coroners will lead you through your statement.
- Give a full straightforward factual account, not speculating or guessing and sharing the story of what happened logically from beginning to end in plain English.
- Take your time, concentrate, speak clearly and slowly.
- Call the Coroner Sir or Ma'am.
- Be honest, helpful, professional, and compassionate.
- Avoid medical jargon. Explain medical terminology to assist the court and help those attending to understand.
- The Coroner will ask you questions first, followed by the family and any other interested parties and then lastly your legal representative.
- Allow your legal representative or the Coroner time to interrupt if an inappropriate question is put to you.
- Listen to the question and only answer that question.
- Do not try to predict the next question.
- Do not attempt to fill any silences.
- Ask for clarification if you do not understand the question.
- If you do not remember something then say so. Do not guess or speculate. Do not be afraid to answer a question with 'I do not know/cannot remember'. If you need to refer to the clinical records in order to answer a question then do so.
- If you feel the question asked is outside of your expertise then you should state this clearly, "I am afraid that I cannot answer that question, it is outside the sphere of my expertise".
- If asked a question in a confrontational manner, do not become defensive, answer as calmly and as simply as possible.
- Address your answers to the Coroner.
- You can express condolences to the family, either at the start or at the end of your evidence.
- NHS Resolution has produced a useful film which provides an illustrative scenario of what a well prepared witness looks like, you can watch this here.

Section 6: Giving Evidence Remotely

- You may be permitted by the Coroner to give your evidence remotely, via Teams or a similar platform. You can watch our mock inquest training video here, which recreates an inquest where the family and witnesses are participating remotely.

- The same rules apply whether attendance is in person or remote. By joining via video link, your video room becomes an extension of the court room. You must treat the remote hearing as seriously and formally as you would if you were in court and follow all rules of court etiquette.
- Dress smartly (as though you are attending a job interview).
- The room you give evidence in should be quiet, private and secure and all doors should be closed.
- Steps should be taken to ensure that you will not be interrupted during the inquest. For example, it would be appropriate to place yourself on "DO NOT DISTURB" and for a clearly worded note to be displayed on the door that states "DO NOT ENTER – INQUEST HEARING IN PROGRESS".
- Test your internet connection in advance to ensure you have access to all systems and documentation you will need during the inquest (especially if you be attending remotely from home or off site).
- You will need to be on video when called to give your evidence. At all other times (e.g. during breaks or when others are giving evidence) you will be asked to mute your audio and switch off video.
- If you encounter a technical issue do not panic! Just let the Coroner or your legal representative know as soon as possible.
- For further guidance on giving evidence remotely read our checklist here.

Section 7: Inquest Conclusions

- At the conclusion of the evidence, the Coroner (or jury, if there is one) will make findings of facts and will return a Conclusion.
- The following are examples of *short form conclusions*:
  - Natural Causes.
  - Accidental/Misadventure Death.
  - Suicide.
  - Unlawful Killing
  - Drug/alcohol related
  - Road Traffic Collision
  - Industrial
  - Open Conclusion
- Alternatively, the coroner can record a *Narrative Conclusion*, which is a brief, neutral, factual statement (usually one or two short paragraphs) addressing the issues which are central to the cause of death.
- Finally, the Coroner can make a finding of Neglect if he or she finds that there has been a gross failure to provide basic medical treatment and that this has more than minimally contributed to the death.
- You can read more about this in the Chief Coroner's Guidance on Conclusions.

Section 8: Regulation 28 / Preventing Future Deaths

- Coroners have a duty not just to decide how somebody came by their death but also, where appropriate, to report about that death with a view to preventing future deaths. A bereaved family wants to be able to say: '*His death was tragic and terrible, but at least it shouldn't happen to somebody else.*'
- The Coroner has a legal duty to send a PFD Report if they have heard evidence which gives rise to a concern that there is a risk of deaths occurring in the future.
- The report will be sent to the person or authority which may have the power to take the appropriate steps to reduce the risk. A response must be submitted to the Coroner within 56 days.
- The PFD report and the response are public documents. They are often copied to the CQC and other regulators.
- Reports to Prevent Future Deaths are published here.
- Providing evidence of organisational learning at inquest is important. As a witness, you will need to be aware of any organisational learning that has taken place such as extra training or change in policies in order to prevent further deaths. You are likely to be asked about this when giving oral evidence. If the Coroner is satisfied that the organisation has already identified a problem, and 'fixed' or improved it, a coroner would not usually send a PFD report.

- You can read the Chief Coroner's guidance on Reports to Prevent Future Deaths here.

Section 9: Further guidance and resources

- NHS Resolution have produced their own guidance and training resources for how witnesses may prepare for an inquest which you may find useful. You can read this here.
- MPS have also produced their own guidance on what to expect when attending an inquest and how they can assist their witnesses. You can read this here.

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