



EMPLOYMENT AND CIVIL NEWSBRIEF

▼ CORONERS REFORM OFF THE AGENDA

With the spotlight focussed on the inquest into the deaths of Princess Diana and Dodi El Fayed it is difficult to imagine a time when there has been more press attention on the Coronial process. Nevertheless it is a process which is often misunderstood.

The purpose of an inquest is to establish the facts and give an explanation of a death which is at least in part, attributable to an unnatural cause. The proceedings are directed towards ascertaining the following matters;

- Who the deceased was.
- Where the deceased died.
- When the deceased died.
- How the deceased died.

Sir Thomas Bingham described the duty of the Coroner in the case of *Jamieson [1994]* as

“the public official responsible for the conduct of inquests, whether he is sitting with a jury or without, to ensure that the relevant facts are fully, fairly and fearlessly investigated.”

The inquest is not a trial although it is a court of record. The proceedings are inquisitorial and not adversarial. This is often misunderstood, particularly by grieving relatives of the deceased.

Not all inquests involve a jury, in fact the majority do not. There are certain

circumstances in which a jury must sit with a Coroner. They include most notably deaths occurring in prison or police custody or deaths resulting from injuries caused by a police officer in the execution of his duty. The jury will be between 7 and 11 in number and are randomly selected members of the public unless it is a Royal Inquest where the jury members are members of the Queen's Household. It has been an unusual feature of the Diana inquest that the High Court ruled that the jury should not be members of the Queen's Household for fear of a public perception of bias.

Public funding for representation at inquests is not normally available. However there is an exception where representation at the inquest serves a wider public interest. Again this often applies to cases where a death occurs in police custody.

The process is currently governed by the Coroners Rules 1984 and the Coroners Act 1988. The current system has been subject to criticism and reform is considered by many observers to be well overdue. A draft bill has even been produced providing reform.

Amongst the suggested reforms are the following key proposals;

- Introduction of new rights for bereaved people to appeal matters which are of concern to them.
- Appointment of a Chief Coroner to provide national leadership.
- Creation of a Coronial Council for advisory purposes.
- Modernisation of the investigative process by removal of archaic boundary restrictions.

Inquests can often involve large companies with significant resources at their disposal. Such companies have little difficulty securing the necessary legal representation. It has been suggested that the Coroner should decide if families should be granted public funding and his decision should bind the Legal Services Commission.

There was no mention of the introduction of a bill for coronial reform in the latest Queen's speech which outlines the legislative programme for the forthcoming year. This remains a disappointment for many as a bill was promised in the draft legislative programme earlier in the year.

CHRISTMAS SHOPPERS BEWARE

With the biggest retail season of the year in full swing, Christmas shoppers should be aware of their rights in order to avoid the ploys of less reputable high street and online retailers.

Retailers may refuse to repair or refund goods after a one year shop guarantee has expired, claiming instead that the manufacturer is liable. Not so. Retailers remain liable for the durability of the products sold and should replace or repair them if they do not work within a reasonable time. Extended warranties have become commonplace but such warranties do not replace your legal rights. Think carefully about what benefits you get from such warranties. Expensive electrical goods should be expected to last several years. If you purchase such

a warranty you can cancel it within 45 days and get a full refund.

Any statements or signs which states that there is "no return on sale of goods" is illegal. If you buy a product which is faulty or not as described you have a right to a refund or exchange.

Any internet mail order company which applies a "re-stocking fee" upon the return of goods is breaking the law under the Distance Selling Regulations. You have the right to change your mind up to 7 days after receipt of the goods without charge.

You can seek redress through the Small Claims Court if the value of the goods is less than £5,000. If the goods are worth more than £5,000 you may wish to obtain legal advice.



Employment

Whether acting for a large international firm or a local sole trader, you can be assured that we offer unrivalled expertise and comprehensive services. From simple contractual advice to TUPE guidance and from preliminary contentious action to representation before the Employment Appeal Tribunal, we are proud to say that we can be there to address all your Employment needs. All the lawyers in the team are specialists in their field and full members of the Employment Lawyers Association.



Civil Disputes and Accident Claims

We have a well established Civil Litigation department at Hatch Brenner which is headed by Rosemary Escott, partner. For Personal Injury cases we can offer a free initial consultation when we can advise on a range of funding options (including no win — no fee) ensuring each individual client's circumstances are taken into account. We also have specialist legal advisers dedicated to providing an efficient and comprehensive service covering a wide range of commercial disputes including arbitration/mediation/ADR, County and High Court litigation.



Richard Cassel

Head of Employment Department. Richard specialises in all aspects of employment and discrimination law. He is a highly regarded advocate appearing in the Employment Tribunals on a regular basis, and less frequently in the Employment Appeal Tribunal. Richard has been a Part-Time Chairman of the Employment Tribunals since 1993 and has a considerable

experience of Tribunal practice and procedure.
Contact Tel: 01603 214205

Sally Davenport

Sally joined the employment team at Hatch Brenner in 2006. Originally from Cheshire, Sally took a Modern Languages degree at Oxford University, and worked in international banking before pursuing her legal career. She worked as a commercial litigation solicitor with Theodore Goddard, one of the largest London law firms, before moving abroad with her family and developing her own business as a legal translator. Sally is fluent in Spanish, German and French. Since returning to the UK she has completed a Masters Degree in Employment Law at the University of East Anglia with distinction. She is a Fellow of the Chartered Institute of Arbitrators and is an advisor at a local Citizens Advice Bureau.

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Rosemary Escott

Head of Civil Litigation Department. Rosemary is a Personal Injury specialist in fatal and serious injury claims, arising out of road traffic accidents, accidents at work, clinical negligence and sexual abuse. Member of the Law Society's Specialist Personal Injury Panel since 1995.

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Mark Fitch

Experienced in a wide range of disputes; enjoys particularly professional negligence claims, contested probate matters and claims against the police. He qualified as a mediator in 2005 becoming one of the youngest members of the Mediators in East Anglia Group.

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Colin Cook

Colin was previously a partner at a firm in Chancery Lane in London where he dealt with a wide range of personal injury claims for both Claimants and Defendants.

He deals with all aspects of personal injury including road traffic accidents, accidents at work, criminal injuries, trips and slips. He is an

Accredited Senior Litigator of the Association of Personal Injury Lawyers.

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John Cushing

John is well-placed to assess landlord and tenant claims from both perspectives, having acted for either side in a vast number of possession actions, rent collection matters and damages claims. He also deals with other property-related matters including boundary and neighbour disputes, building disputes, and professional negligence claims. He is highly experienced in debt collection, and regularly appears before the district judges in the local county courts.

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