

Shared Insights: Coroners' Question Time, part 2

23 November 2021

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Introduction

In our second Coroner's Question Time we were delighted to be joined by three experienced Coroners, Zak Golombeck, Area Coroner for Manchester City, Ivan Cartwright, Area Coroner for Leicester City and South Leicestershire and Gordon Clow, Assistant Coroner for Nottingham and Nottinghamshire.

Most Coroners appreciate that clinical staff are facing unprecedented pressure and at risk of burnout. However, Coroners are also under pressure from the Chief Coroner to clear the backlogs of inquests that have built up during the pandemic and for hearings to return to normal.

The extent of the backlogs varies between jurisdictions depending on how effectively those jurisdictions have been able to embrace technology to facilitate remote hearings – but jury inquests have been particularly difficult. It is anticipated that these backlogs will take up to 18 months to clear in some jurisdictions.

Issues considered by the panel

- An outline of the current backlog and the pandemic recovery plan implemented in their jurisdiction.
- Their jurisdiction's approach to the message from the Chief Coroner that inquest hearings should now be returning to normality.
- What allowance is being made by Coroners in respect of care and governance issues that arose because of the pandemic.
- What allowances Coroners can make for clinical witnesses to try to minimise avoidable disruption to clinical recovery and make reasonable adjustments where clinical staff have reached burnout.

Summary of Practical Tips

Coroners are being told to return to normal now, with a focus on clearing the backlogs and pressure to move back to face to face inquests rather than remote inquest hearings. The panel gave a number of tips for organisations to work effectively with their local Coroner over the winter months to support a return to Business as Usual:

- Coroners will not make allowances for the pandemic when considering whether the care was substandard. Normal standards will be applied without variation - Coroners will not be looking at the law in a different way unless told to do so by the Chief Coroner or Parliament.
- That said, it is certainly understood that Coroners are dealing with witnesses who are working under extreme pressures. It has been powerful and helpful to hear evidence from clinicians about the day to day pressures they have faced as a result of the pandemic to put any shortcomings in care into context and this may mitigate criticism of individual clinicians. It is worth thinking about setting that context out in witness statements and reports submitted to the Coroner but this must be done carefully so that it does not anger families by appearing to read like a list of excuses for poor care.
- Communication is key.

- If you need an extension of a report ask for it in advance – avoid retrospective relief from sanction! Provide as much notice as possible so that the Coroner's Officer can manage the family's expectations a few weeks before the deadline expires, so that there is a realistic expectation as to when the report will be available.
- If a clinician is unwell let the Coroner know immediately – it may be possible for their evidence to be read out under R23 or for another witness to give overview evidence in their place . This will not always be possible and will be considered on a case by case basis – but the Trust should ensure that it is proactive in communicating any issues as soon as possible and suggesting possible alternatives.
- Make submissions on the witness list, R23 and Position Statements to narrow the issues in dispute and assist the Coroner with early and effective case management. Some cases will be capable of resolution as a documentary inquest – if you think that is the case then make submissions early in the process to that effect.
- Where Trusts are being asked to provide statements or reports but not being given Interested Person (IP) status and so do not receive disclosure, under s46(2)(m) of the Act there is scope to request IP status on the basis of sufficient interest, which will allow disclosure.
- Ensure that your witnesses are well prepared – that they have a copy of the relevant documents in good time and have thought about the questions that will be put to them at inquest before giving evidence.
- Work with your local Coroner to agree a SOP or Memorandum of Understanding setting out agreed timescales and notice periods for provision of written reports, disclosure bundles and notice of hearing dates and witness lists.

Resources

We have set out below a range of resources which you can share with witnesses to ensure they are well prepared:

- You can view Browne Jacobson's Mock Inquest films [here](#) and [here](#). These were produced in partnership with Dr Robert Hunter, HM Senior Coroner for Derby and Derbyshire, and aim to help clinical witnesses prepare for giving evidence remotely and to illustrate how best a witness can help the Coroner and the family during a remote inquest hearing.
- For further guidance on giving evidence remotely read our checklist [here](#).
- We held a previous Shared Insights session on supporting staff at inquests – the infographic is on the Shared Insights hub [here](#)
- Our next Mock Inquest course commences in February 2022 and includes a module on mental health. To book a place [click here](#) or for further details contact Nicola.evans@brownejacobson.com.
- NHS Resolution Inquest resources can be found [here](#).
- Witnesses may find it useful to watch NHS Resolution's films [Giving evidence at inquest: a well prepared witness](#) and [How to prepare for an inquest](#), and also to read NHS Resolution's leaflet entitled [Inquests: Guide for Health Providers](#).

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