

## Inquests in Jersey

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### Introduction

**An inquest is a form of investigation or inquiry which is held, in certain circumstances, into a person's death. It is not about the apportionment of blame, although factual findings at an inquest can have an important bearing on subsequent civil or criminal proceedings. An inquest may be of interest to a number of different classes of individuals and corporate entities who may be entitled to be represented in the proceedings.**

### What is an Inquest?

An inquest is an independent legal investigation into a death, which occurs suddenly or unexpectedly. Not only will an inquest take place if a person experiences a violent or unnatural death but also if the death occurs in prison, police custody, psychiatric facility or children's home.

In the event of the death of a very elderly person, or someone who has a long term illness, the death may still be reported to the Viscount if the deceased had not been visited by a doctor within 14 days preceding the death, as in such circumstances the doctor is unable to issue a death certificate.

### Role of Viscount

In the UK, an inquest is led by a Coroner. In Jersey the functions of the Coroner are undertaken by the Viscount or Deputy Viscount ("the Viscount"). The Viscount also has a number of other important, and diverse, functions, principally in enforcement and the administration of bankruptcies.

The Viscount presides over an inquest. Their first role is to determine whether or not the inquest is one which requires a jury to be summoned, or whether the Viscount will sit alone. In most cases, the Viscount will sit alone.

The Viscount has broad discretion to decide which issues will be investigated, which documents will be taken into account, which witnesses will be called, and when the inquest will be held and for how long.

Interested parties to the inquest will ordinarily have the opportunity to make representations to the Viscount prior to the inquest as to any issues they think the Viscount should consider.

### Purpose and Scope of Inquest

The purpose of an inquest is not to assign blame. The inquest is to determine the answer to four questions:

- Who was the deceased?

This will usually involve a consideration of their date and place of birth, the names of their parents, their marital status, occupation, address, and children, if any.

- When the deceased died.
- Where the deceased died.
- How the deceased came by their death.

It is this last question which is usually the more contentious. The scope of the inquest is, therefore, relatively narrow. However, if the death involves a public authority and/or the deceased died in prison or a mental healthcare setting, the Viscount is required to conduct a more detailed examination of the circumstances of the death and may call a jury to assist in making findings of fact.

### Who can Participate?

The Viscount decides, depending on the circumstances of the death, the scope of the inquest and who should be called as witnesses. The Viscount will notify the family as to the date of the inquest.

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Other people or entities may also be properly described as ‘interested person’. Medical professionals often wish to be represented where the death occurred unexpectedly during or following medical intervention.

Employers may wish to be represented in circumstances in which the death occurred at work. Any person or entity. Believing themselves to be an interested person, should notify the Viscount that they wish to be considered as such for the purposes of the inquest. Members of the press may attend to report on proceedings.

### **The Investigation**

The Inquest process begins when the Viscount is notified of a death, usually by a doctor or the Police. The Viscount may request a pathologist undertake a post-mortem to try to ascertain the cause of death in medical terms.

The Viscount will consider releasing the body of the deceased as soon as the Viscount, the pathologist, the Official Analyst, and the Police, are satisfied that no prejudice to the investigation will be caused. If the body is to be buried, the Viscount can give authority for this before the inquest is opened. If the body is to be cremated, or if the body is to be removed from the Island, the inquest must be opened before authority can be given and the body released. Cases where the suspected cause of death is unlawful killing will often result in the body not being released for some considerable time.

Depending on the circumstances of the death, the Viscount may open the inquest and then immediately adjourn the inquest so that additional investigations can be carried out. These may include obtaining independent reports and witness evidence. The results of these additional investigations will then feed in to the inquest but will not necessarily determine the outcome.

In particularly complex inquests, the Viscount may decide to hold a pre-inquest review to ensure that all interested persons are aware of the nature and scope of the inquest and are able to make any representations on those issues that they wish.

### **The Hearing**

The inquest hearing is ordinarily held at the ‘H. V. Benest Room’ at Morier House, in St. Helier.

The Viscount may call witnesses to give live evidence and will usually lead the questioning of the witness. Interested persons may be permitted to ask questions of a witness, but no cross-examination of any witness is permitted.

At the conclusion of the hearing, the Viscount (or jury, if one has been empanelled) can deliver one of a number of ‘short-form’ verdicts, such as natural causes, accident or misadventure, neglect, or unlawful killing.

A ‘narrative verdict’ may be given. In a narrative verdict, the Viscount will read out a statement giving details of what they have found to be the factors which contributed to the deceased’s death.

If, during the inquest, the Viscount has identified a specific issue which (if changed) may prevent a similar death or injury from occurring again, the Viscount may decide to issue a letter to an institution or organisation to highlight the issue and encourage changes to be made.

At the conclusion of the process, the Viscount reports the verdict to the Bailiff who, if satisfied, orders its registration by the Judicial Greffe.

### **Challenging a Verdict**

Decisions made in the course of the inquest proceedings may be challenged by judicial review proceedings. This will only be available in exceptional cases. It is possible for the Court to order a fresh inquest be undertaken to consider the circumstances of a death, although this would be extremely rare. In order for Court to make such an order an application has to be made by the Attorney General.

This briefing is only intended to give a summary of the subject matter. It does not constitute legal advice. If you would like legal advice or further information, please contact us using the contact details below:

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