

Weighing up the law

This month, **Sailesh Mehta** examines fire deaths and coroners' inquests



ABOUT 200,000 deaths are reported to coroners annually (about 35% of registered deaths per annum) with about 30,000 inquests opened per year and an average process time of under 30 weeks.

Investigations and post-mortems

Any death that is sudden, violent, or unnatural (such as an accident, suspected arson, suicide, or murder) must be reported to a coroner. Every death as a result of fire therefore falls under this requirement. The coroner is an independent judicial officer — and will be a lawyer or doctor.

The coroner will first gather information to decide if there is a need to open an inquest. Usually the police (and in the case of fire, the fire brigade) will be asked to assist. In the usual fire death cases, the police and the fire services will already have started an investigation. Any statements and exhibits obtained — such as photographs, cause of fire expert reports etc. — are likely to be disclosable to the defence if there is a prosecution. Those advising potential defendants will have to make finely calibrated decisions about the extent to which they assist in the investigation.

The coroner will authorise a post-mortem examination by a pathologist soon after death. This will establish the cause(s) of death. The coroner and the fire services will be particularly interested in whether the fire had a causal connection to the death. The pathologist's report will be given (subject to the coroner's discretion) to any 'interested parties.' This usually includes the next of kin, anyone who may in some way be responsible for the death, insurers, or lawyers acting for an interested party. The fire services should appoint a liaison officer who can keep the family members updated about the stage of their investigations and of the coroner's inquiry.

Inquests and public inquiries

If the post-mortem examination shows that the death was not from natural causes, then the coroner is likely to hold an inquest and the death cannot be registered until after the inquest has been held.

This is a fact-finding inquiry by a coroner, with or without a jury, into the circumstances surrounding a death. It produces a verdict, but it is not a trial. The majority of inquests are heard by a coroner sitting alone — less than 5% of inquests require a jury.

The coroner will decide which witnesses to call and what they are to be asked. These will often include police and fire officers, and in fire cases, can include witnesses, business owners involved in the building, and 'responsible persons'. Lawyers' examination of witnesses' evidence will be strictly controlled by the coroner. Sometimes witnesses are reminded that they do not have to answer a question if it might tend to incriminate them. The inquest does not say who is responsible for a death. It is not the coroner's role to probe for any potential criminal offence or negligence.

In the case of a major incident involving multiple fatalities, is not unusual for an inquest to be opened and then adjourned to allow a public inquiry to take place. This has happened in relation to the Grenfell Tower deaths.

Some inquests can take much longer than the norm and are conducted like a quasi-inquiry, with lawyers assisting the coroner. The inquest into the death of six people after a fire at Lakeland House led to wide-ranging recommendations from the coroner. The second Hillsborough inquest was even more wide-ranging, with a direct causal connection between the evidence heard, and the verdicts reached that led to criminal proceedings.

It is not entirely uncommon for criminal proceedings to run in tandem with an inquest. Often, the inquest will be first in time simply because the inquest can be quickly set up and verdicts recorded while a criminal investigation is on-going. It will usually be a matter of convenience as to which occurs first. In relation to the Grenfell fire, the criminal investigation continues while the Inquiry proceeds — the inquest, however, has been opened and adjourned ■

Sailesh Mehta is a barrister at Red Lion Chambers. For more information, see page 6.