

Representing Families at Inquests: A Practical Guide

21 November 2019

**Hard Day's Night
Hotel, Liverpool**

#AvMAInquets

CPD: 6 hours
(APIL accreditation to be confirmed)

SRA competencies: B

The important work conducted by AvMA's inquest service is the basis for this conference, which is designed to be a comprehensive guide to the practice and procedures when representing a family at an inquest.

Leading legal experts will take you through the preparation process, helping you to understand the complex issue of disclosure, management of expert evidence and Article 2. An update funding issues and post-inquest remedies will also be discussed.

The event is aimed at intermediate to advanced level solicitors, junior barristers and healthcare professionals.

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CONFERENCE PROGRAMME

Chair: Lisa O'Dwyer, Director Medico-Legal Services, Action against Medical Accidents

08:45 REGISTRATION & REFRESHMENTS

09:20 CHAIR'S INTRODUCTION

09:30 AN UPDATE ON AVMA'S PRO-BONO INQUEST SERVICE

LISA O'DWYER, Director Medico-Legal Services, Action against Medical Accidents

09:50 PREPARATION FOR INQUEST

- Client care and managing the family's expectations
- Taking the family's evidence: What did the family witness? What were they expecting to happen? What are their concerns? Drafting the statements and giving evidence
- Looking at funding options
- The post-mortem: Challenging the post-mortem; second post-mortem; secondary examination of tissue samples.
- What to do when the coroner doesn't open an inquest

ROSS MCWILLIAMS, Associate Solicitor, Irwin Mitchell Solicitors

10:30 PREPARING FOR THE PRE-INQUEST REVIEW

- Things to consider:
 - Scope of inquest
 - Requesting witnesses
- PIR Advocacy tips for the solicitor practitioner

RACHEL YOUNG, Barrister, Ropewalk Chambers

11:00 REFRESHMENTS

11:15 DISCLOSURE

- Obligations to disclose and management by coroners
- Typical documents to consider on disclosure
 - Medical records – what records can be asked for and which ones are required
 - Other reports to consider
 - Use of hospital policies and guidelines
 - Duty of candour letters
- Serious Incident reports
- Obtaining disclosure of statements used to prepare SIR – is there an obligation to disclose?

LESLEY HERBERTSON, Partner, Potter Rees Solicitors

12:05 EXPERT EVIDENCE

- When should a coroner appoint an independent medical expert? The art of persuasion and when to ask for a court-appointed expert
- Instructing the expert: Considerations for the coroner's court, not civil claim. Timing of the report. How to manage your expert evidence: Issues for consideration when disclosing expert evidence

NB: Programme and timings may be subject to change

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- How to deal with causation when there is no clear cause of death: a discussion of the principles arising from R (on the application of Chidlow) v HM Senior Coroner for Blackpool and Fylde Divisional Court [2019] EWCH 581
ANA SAMUEL, Barrister, Complete Counsel, & Assistant Coroner, Birmingham & Solihull

12:35 ARTICLE 2

- Jamieson vs Article 2
- When is Article 2 engaged? A look at the cases of De Souza Lopes de Sousa Fernandes v Portugal (2018) 66 EHRR 28, Parkinson R (Parkinson) v Kent Senior Coroner [2018] EWHC 1501 (Admin), [2018] 4 WLR 106; Maguire and discussion around systemic failings or simple negligence
- Private hospitals: Can an Article 2 investigation extend to a private hospital where care was funded by NHS?
- Benefits of an Article 2 inquest: Coroner's narrative conclusions and language used
SAM HARMEL, Barrister, King's Chambers

13:05 LUNCH

13:55 FUNDING FOR INQUESTS

- Legal Help and Legal Aid
 - An overview of Lord Chancellors Exceptional Funding Guidance; what difference has the 2018 changes to the guidance made in practice? To what extent is the discretion to waive the requirement for financial means testing being exercised?
 - Wider public interest determinations: what are these?
 - Who is a family member for LAA eligibility purposes?
 - Maximising your chances of an LAA being successful: What is the LAA looking for in an application for legal help & legal aid for inquests?

MALCOLM BRYANT, Head of Exceptional and Complex Cases, Legal Aid Agency

- Crowd Justice Funding: What is it? What does it cover? How does it work for inquests?
LAUREN WATSON, Legal Partnerships, Crowd Justice Funding
- Private funding and/or CFA's: when to use a CFA? What should the risk assessment cover?
DOMINIC WOODHOUSE, National Training Manager, PIC

14:55 LEARNING FROM INQUESTS

- Preventions of Future Death reports (PFD); follow up by Chief Coroner and how this information can be used better
- Challenging the Action Plan; Ensuring that actions are followed through
- Coroners ability to refer to CPS following unlawful killing conclusion or new evidence comes to light re wilful neglect; concealment of documents & perverting the course of justice
- Referral to NMC/GMC
- CQC: When will the CQC be considered a properly interested party?

CHARLES AUSTIN, Barrister, Complete Counsel

15:35 REFRESHMENTS

15:55 THE CORONER'S PERSPECTIVE ON HEALTHCARE INQUESTS

- Coroner's training to handle healthcare inquests
- Putting the bereaved at the centre of the process
- Do families need representation at healthcare inquests?
- Changes to the process: Potential widening of the Coroner's jurisdiction to investigate late-term stillbirths; suicide verdicts and the effect of the decision in R (Maughan) v HM Senior Coroner for Oxfordshire and others [2019] EWCA Civ 809
- How can clinical negligence lawyers help the coroner?
- Coroner's conclusions: e.g. exploring how coroner's view the use misadventure and accidental death conclusions. Advocates handling of witnesses: when have you gone too far?

FIONA BORRILL, Area Coroner, Manchester City

16:35 THE INQUEST AND SUBSEQUENT CIVIL CLAIMS

- Managing admissions of liability at the door of the inquest hearing
- Seeking to recover the costs of the inquest as a head of damage in a civil claim which settles pre-inquest
- Fullick v Commissioner Police Metropolis: Proportionality and importance to the client
- Demonstrating attempts to settle post inquest to protect on future costs and proportionality
- Using Article 2 to bring a claim: The extent to which Article 2 can be used especially when the Fatal Accident Act does not apply
- Smith v (1) Lancashire Teaching Hospitals NHS Foundation Trust (2) Lancashire Care NHS Foundation Trust and (3) The Secretary of State for Justice [2017] EWCA Civ 1916

PATRICK SADD, Barrister, Outer Temple Chambers

17:15 CHAIR'S CLOSING REMARKS

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Delegate booking form

Representing Families at Inquests: A Practical Guide (387)

21 November 2019, Hard Day's Night Hotel, Liverpool

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Head of training:

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DELEGATE DETAILS

Title:

First Name:

Surname:

Job Title:

Email*:

* Confirmation of booking and online conference documentation will be sent by email

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Please specify any special or dietary requirements:

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Where did you hear about this event?

REGISTRATION FEES

Discounted fees when paying at the time of booking

AvMA Lawyers' Service members £255 + VAT = £306

AvMA Lawyers' Service junior rate £205 + VAT = £246

Private sector / standard rate £355 + VAT = £426

Private sector / standard junior rate £305 + VAT = £366

NHS / voluntary sector / charity rate £125 + VAT = £150

Junior rates:

Discounted rates for junior solicitors and barristers available to those of 3 years PQE or less

Fees for paying by invoice, with payment due within 30 days or by the date of the event (whichever is earlier):

Add 15% to the fees above

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PAYMENT

Cheque Payment

I enclose a cheque for £ _____ made payable to AvMA

Bank Transfer

Please send payment to:

Account name: Action against Medical Accidents

Bank: Co-operative Bank

Sort code: 089299 **Account number:** 65583630

SWIFTBIC: CPBKGB22 **IBAN:** GB66CPBK 089299 65583630

Please quote **ref: /firm's name** when making payment

I agree with the terms and conditions of booking

Signature:

Date:

TERMS & CONDITIONS

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*Fees include refreshments, a light lunch and online conference notes.

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will be sent on. Delegates who are unable to attend due to circumstances beyond AvMA's control and who have not cancelled in advance will still be liable for the full fee and course notes will be sent on. No refunds will be given. Delegate name changes may be made at any time at no extra charge.

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