



CHIEF CORONER

GUIDANCE No.11

JURIES IN RAILWAY CASES: SUICIDES AND ACCIDENTS

Introduction

1. This Guidance is intended to provide a more consistent approach to the question whether a jury is required in a railway death case. The Guidance will consider suicides, accidents and work-related accidents. In particular attention will be drawn to the change in the regulations about suicides.

Juries: general provisions

2. Section 7 of the Coroners and Justice Act 2009 sets out when a jury is required for an inquest. It is not the purpose of this Guidance to cover all aspects of section 7 but to focus on the provisions relating to notifiable accidents.

Notifiable accidents

3. Section 7(2)(c) of the 2009 Act provides that an inquest **must** be held with a jury if the coroner has reason to suspect that the death was caused by 'a notifiable accident'. An accident is 'notifiable' if notice is required to be given under any Act to either 'a government department' or 'an inspector or other officer of a government department': section 7(4)(a) and (b).
4. Once an accident is 'notifiable' it is a legal requirement that it must be reported. In relation to railways and other guided transport systems the reporting must be to the relevant health and safety enforcing authority which is the Office of Rail Regulation (ORR). This covers the mainline railway, the London Underground network, other metro systems, tramways, light rail systems and the heritage sector.

Suicides

5. Does a possible suicide on the railway require a jury for the inquest? This Guidance suggests that as a result of statutory changes in 2013 the answer will usually now be No, a jury will not normally be required. The reason for this is that a possible suicide is now excluded from being a notifiable accident.
6. On 1 October 2013 the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR 2013, SI No.1471 of 2013) came into

force. These Regulations revoked and replaced the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR 1995).

7. RIDDOR 2013 requires the reporting of a death arising out of 'a work-related accident': regulation 6. A work-related accident means 'an accident arising out of or in connection with work': regulation 2(1).
8. Under RIDDOR 2013 an 'accident' no longer includes 'an act of suicide which occurs on, or in the course of operation of, a relevant transport system', as was the case under the provisions of RIDDOR 1995. These words have been deleted. The effect of this change is that suicides are no longer reportable accidents under RIDDOR 2013.
9. This is confirmed by the Guidance on the application of RIDDOR 2013 for railways etc which is published by the ORR (October 2013). The 2013 Guidance states¹:

Suicides are not reportable under RIDDOR 2013. It is possible that the cause of death may not be known until after a verdict from a coroner (or the Procurator Fiscal's verdict in Scotland). If, however, there is any suspicion of a suicide, the death should not be reported.

10. This means that if on the basis of the evidence available at the outset of an investigation or during one a coroner suspects suicide rather than an accident (see below), the death is not reportable and the inquest can therefore be held without a jury.
11. Although coroners will exercise their own judgment, the 2013 Guidance suggests that there will be suspicion of a suicide where there is, for example, a suicide note, a clear statement of suicidal intent, behaviour demonstrating suicidal intent, previous attempts of suicide, prolonged depression or instability (see 2013 Guidance, paragraph 4.4). Consequently, it will not be mandatory in such cases, as it was before, to hold an inquest with a jury in accordance with section 7(2)(c), Coroners and Justice Act 2009.

Accidents vs work-related accidents

12. An accident on the railway will continue to be notifiable (and therefore require a jury) if it is specifically 'work-related': see paragraph 7 above. As the ORR Guidance suggests²: '*The fact there is an accident at work premises does not, in itself, mean that the accident is work-related.*' The Guidance suggests that it is work-related if the following plays a significant role in the accident³: (i) the way the work was carried out, (ii) any machinery, plant, substances or equipment used for the work, or (iii) the condition of the site or premises where the accident happened.
13. Examples of work-related accidents on railways are likely to include an employee straying on to tracks or being struck by a train while carrying out maintenance or repairs or a non-employee tripping on an obstruction or slipping

¹ Office of Rail Regulation, *Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013: Guidance for railways, tramways and other guided transport systems*, paragraph 4.3.

² *Ibid.*, paragraph 1.23.

³ *Ibid.*,. See also Health and Safety Executive guide to RIDDOR 2013, *Reporting accidents and incidents at work*, p2.

on a slippery surface. It will not be work-related, for example, simply because a train or tram driver is just doing his job properly⁴ or a passenger slips running for a train or falls because of drink or collapses ill on to the tracks.

Summary

14. In summary a coroner will normally be required to summon a jury where the coroner has reason to suspect that there is an accident on the railway so long as it is 'work-related'. This is a 'notifiable accident'.
15. But a coroner will not normally be required to summon a jury where -
 - (a) the circumstances point in the direction of suicide, or
 - (b) the circumstances point in the direction of an accident and the accident is not work-related.

Further considerations

16. Where the coroner, for the purpose of deciding whether to summon a jury, is unable to form a preliminary view whether the death may be suicide, accident or accident work-related, the coroner may wish to err on the side of summoning a jury. But this is a judicial decision for each coroner in each case.
17. Although a coroner will keep an open mind about the decision (as envisaged by Rule 32, Coroners (Inquests) Rules 2013), in practical terms the coroner's decision should usually be made well in advance of the inquest so that arrangements can be made one way or the other.
18. Coroners should give interested persons the opportunity to make representations about jury or no jury, particularly at a pre-inquest review hearing. The High Court has held that (particularly in complex cases) coroners should determine the scope of the inquest before considering whether to summon a jury and consult the family of the deceased before making a discretionary decision⁵.

Coroner's discretion

19. Even if the incident does not amount to a notifiable accident, a coroner still has a discretion to summon a jury in a potential suicide or accident case if the coroner 'thinks that there is sufficient reason for doing so': section 7(3) of the 2009 Act. The above analysis suggests that the mere fact that the driver of the train or tram is at work is not of itself a sufficient reason. Something extra is required.

**HH JUDGE PETER THORNTON QC
CHIEF CORONER**

5 December 2013

⁴ Insofar as the decision in *R (Anieto) v HM Coroner for Brighton and Hove* [2003] EWHC, not a railway case, may suggest otherwise, it may not in the future be followed or it may be distinguished on its particular facts.

⁵ *R (Paul) v Deputy Coroner of the Queen's Household* [2007] EWHC 408 (Admin).