



CHIEF CORONER

GUIDANCE No.7

A CADRE OF CORONERS FOR SERVICE DEATHS

Introduction

1. The Chief Coroner has created a specialist cadre of coroners in England and Wales. Members of the cadre, who will be specially trained, will conduct investigations and inquests into the deaths of service personnel on active service. Active service also includes training and preparation for active service.
2. Many of these deaths will occur overseas, but the jurisdiction of the cadre will also extend to such deaths in England and Wales.

Deaths overseas

3. Since the decision of the Court of Appeal in 1983 in *R v West Yorkshire Coroner, ex parte Smith* [1983] QB 335 (the case of Helen Smith) coroners in England and Wales must hold an inquest into a death overseas if the body is returned to the coroner's district and the circumstances are such that an inquest would have been held if the death had occurred in England and Wales.
4. Under the *Queens Regulations* for each of the services, an inquest into the unnatural death overseas of any person who is subject to service law must be undertaken by the coroner who has jurisdiction over the point of entry into England and Wales.
5. In 1983 Home Office Circular No.79/1983 advised that in the case of a single service death overseas the coroner local to where the funeral is to be held should normally conduct the inquest. But in the case of more than one death the inquest should be held in the jurisdiction where the bodies first arrive (currently usually RAF Brize Norton in Oxfordshire, previously until 1 September 2011 at RAF Lyneham in Wiltshire). This policy was re-confirmed by the then relevant Minister of State at the Department for Constitutional Affairs, Harriet Harman MP, in the House of Commons on 23 October 2006.
6. Thus a body arriving at RAF Brize Norton was normally transferred under Section 14 of the Coroners Act 1988 from Oxfordshire to the jurisdiction where the next of kin live, for the purposes of both funeral and inquest. Under Section 14 of the 1988 Act the receiving jurisdiction was expected to consent to the

receipt of the body. Now that the provisions of the Coroners and Justice Act 2009 have come into force (on 25 July 2013) similar transfer provisions are available under section 2 and it is expected that requests for transfers will normally be agreed. In addition, under section 3 of the 2009 Act, the Chief Coroner now has the power to direct a coroner of the Chief Coroner's choice to conduct an investigation.

The Coroners and Justice Act 2009

7. Under section 17 of the Coroners and Justice Act 2009 the Chief Coroner has responsibility in England and Wales for the monitoring of and training for investigations into deaths of service personnel.
8. In his message to the Coroners' Society of England and Wales in September 2012 the Chief Coroner considered arrangements for service deaths in England and Wales:

'I am considering developing a number of specially trained coroner groups. The greater flexibility in the new Act over coroner areas and the possible movement of coroners by way of an extended transfer system, coupled with new training, provides the opportunity to develop and apply specialist groups of coroners. The groups could include a cadre of specially trained service death coroners who, if necessary, would travel to the area of the next of kin to investigate and hold the inquest. ... Great value is placed upon expertise in this area. It is expected, and rightly expected, that bereaved families of military personnel who die on active service for their country should be afforded the greatest consideration in the investigation into every single death.'

9. Early this year the Chief Coroner confirmed to Ministers of State in the Government his intention to create such a cadre, to be in place shortly after the commencement of the 2009 Act.
10. The purpose of a service deaths cadre is to provide a specialist, well-trained, experienced group of coroners to conduct where necessary investigations and inquests into service deaths. It is also hoped that under this scheme a sensible and flexible approach can be adopted in all service death cases. This would clearly be to the benefit of bereaved families, the military and the wider public.
11. The Chief Coroner has discussed forming a cadre with a wide range of interested persons and organisations. They include coroners, the Coroners' Society of England and Wales, the Ministry of Defence (MOD) Defence Inquests Unit, the Royal Military Police, the Royal British Legion, INQUEST, military personnel and others. He is grateful for their input and their support for the principle of a cadre.

THE SCHEME

12. The Chief Coroner's scheme for the service deaths cadre contains the following elements:
 - (1) There is now in place a specialist group of 11 senior and experienced coroners, selected by the Chief Coroner. Coroners in the group have been chosen in part to reflect their availability on a regional basis.
 - (2) All coroners in the group will receive specialist training under the direction of the Chief Coroner and the Judicial College. The first one-day course

will be held in November 2013 with a particular focus on service death investigations and inquests under the new Act, new Rules and Regulations governing coroners, all of which came into force on 25 July 2013.

- (3) The use of the group for investigations and inquests will extend only to 'service deaths' as defined by Section 17(2) of the 2009 Act, relating principally therefore to death on active service (including training and preparation for active service).
- (4) Consideration will be given by the Chief Coroner to each service death as and when it occurs. The coroner concerned with the death should inform the Chief Coroner within 24 hours of the death being reported.
- (5) In most cases of deaths overseas, repatriation will be made to the jurisdiction of the Oxfordshire coroner or, when the death occurs in hospital, the Birmingham and Solihull coroner, both of whom are members of the cadre.
- (6) Where the next of kin wish the investigation and inquest to be conducted in their coroner area and the investigation and inquest can take place there, the investigation (including the inquest) will be transferred to that area. The senior coroner of the receiving area will be expected to accept the transfer (under section 2, Coroners and Justice Act 2009).
- (7) If the coroner there is a member of the specialist cadre or is sufficiently experienced and agrees to conduct the investigation (subject to the Chief Coroner's consent), the local coroner will so act.
- (8) Where the coroner in the next of kin's coroner area does not conduct the transferred investigation under (7) above, the Chief Coroner will nominate a coroner from the cadre to conduct the investigation (and inquest) in that coroner area (under section 3 of the 2009 Act). The Chief Coroner will give the coroner in the next of kin's coroner area written notice that he has given this direction (section 3(4)).
- (9) In practice much of the paperwork for the investigation will be carried out by the nominated coroner in his/her own jurisdiction. But he/she will travel to the next of kin's coroner area for the inquest, pre-inquest hearings and to meet family representatives where appropriate. In suitable cases pre-inquest hearings may be conducted by video link (where available).
- (10) The nominated coroner's own local authority will be expected to appreciate the importance of this work so that he/she can be released from his/her area for the process and that in his/her absence a deputy or assistant coroner will have the opportunity 'to step up' and act in the coroner's absence.
- (11) The cost of the investigation will be borne by the local authority for the next of kin's coroner area (where the inquest will be held): see regulation 19(2), Coroners (Investigations) Regulations 2013. This local authority will have the advantage of a visiting specialist coroner while the local coroner is freed up to do other work. And, in any event, it is hoped that the relevant local authority will appreciate the national importance of the

deployment of specialist coroners to other coroner areas in these circumstances.

- (12) If the visiting nominated coroner is a salaried coroner he/she will receive no extra payment. But a standard daily fee should be paid by the hosting area to the visiting coroner's local authority (not the coroner) in order to compensate them for the temporary loss of their coroner. The Chief Coroner is looking at alternative ways of making up for coroner time lost in the nominated coroner's area, for example when the nominated coroner has to conduct a long inquest or a number of inquests. It is hoped that arrangements can be made in due course for lost time to be compensated by a 'backfill' provision to that area within, say, a period of 12 months, of 'free of charge' temporary coroners where available. Judge Advocate judges and CPS employees, for example, when properly trained as assistant coroners, may be able to leave their own work for a period each year without charging for their services. If backfill arrangements can be made, there will be no need for the hosting area to pay any fee.
- (13) If the visiting coroner is fee paid he/she will be paid a standard daily fee by the hosting area. The extra cost will be absorbed by the host area because it will release the full time coroner to conduct other local work.
- (14) Where there are two or more deaths in theatre overseas they will normally be investigated, as now, in the Oxfordshire coroner area.

Defence Inquests Unit

13. The Chief Coroner and coroners in the specialist cadre will continue to work with the MoD Defence Inquests Unit (DIU). The MoD established the DIU in 2008 to coordinate and manage all defence related inquests into the deaths of service and MOD personnel, who die on, or as a result of, injuries sustained while on operations, and those who die as a result of training activity.
14. In 2008 the MoD published *Boards of Inquiry and Coroners' Inquests Information for Bereaved Families*. This includes information about the two forms of inquiry, the service inquiry (formerly called the board of inquiry) and the coroner's inquest. The role of the DIU is set out in the MoD publication *The Armed Forces Covenant: today and tomorrow*. This explains the DIU's role in assisting coroners so that they complete service death inquests fully, thoroughly and as quickly as possible, helping coroners to understand complex military issues and aid their understanding of a particular incident.

Royal British Legion

15. The Royal British Legion have agreed to continue to offer support and advice (including legal advice) to bereaved families during the process through their Independent Inquest Advice service.

Scotland

16. The Chief Coroner's remit does not extend to Scotland, but a new law is now in force under sections 12 and 50 of the Coroners and Justice Act 2009 whereby the Chief Coroner may recommend to the Lord Advocate that it may be appropriate for the circumstances of a service death to be investigated in

Scotland under the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 (as amended). This allows for possible transfers to Scotland of investigations into the deaths of service personnel from Scotland, who die on active service abroad, particularly where the family of the deceased wish the transfer to take place. It will not allow a fatal accident inquiry to be carried out where the person was injured abroad and subsequently died on return to England or Wales.

17. The Chief Coroner has met with the Lord Advocate to confirm the arrangements and a protocol for the 2009 Act provisions has been agreed between the Chief Coroner, The Ministry of Justice, the Ministry of Defence, the Crown Office and Procurator Fiscal Service and the Scottish Government.

**HH JUDGE PETER THORNTON QC
CHIEF CORONER**

26 July 2013