



CHIEF CORONER

## GUIDANCE No.22

### PRE-INQUEST REVIEW HEARINGS

#### Introduction<sup>1</sup>

1. The status of the pre-inquest review hearing (PIR) is now enshrined in Rule 6 of the Coroners (Inquests) Rules 2013. It allows the coroner to hold a PIR ‘at any time during the course of an investigation and before an inquest’.
2. PIRs should be held in more complex investigations where there is a need for issues to be aired prior to the inquest and which cannot easily be dealt with by email.<sup>2</sup>
3. The purpose of a PIR is to ensure that the case is managed effectively, efficiently and openly. Before the 2013 Rules were introduced, it was intended that PIRs should provide the opportunity for the scope, issues and conduct of an inquest to be established.<sup>3</sup> Families and other participants could raise issues, particularly contentious issues, on these and other key topics so that surprises could be avoided.<sup>4</sup>
4. Normally there should only be one PIR, although there may be more when necessary. PIRs should not, however, be used in the guise of regular ‘mention’ hearings, for which there should be no justifiable need.
5. The three essential elements of a PIR are:
  - (1) An agenda in advance
  - (2) The hearing
  - (3) Rulings (with reasons)

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<sup>1</sup> My thanks to Nigel Meadows, Senior Coroner for Manchester City, and other coroners for their valuable input into this Guidance.

<sup>2</sup> See generally, *Brown v HM Coroner for Norfolk* [2014] EWHC 187 (Admin) at [38]-[42].

<sup>3</sup> See *R (Coker) v HM Coroner for Inner London South District* [2006] EWHC 614 (Admin) and *Briefing Note on Coroners’ Reform*, Department for Constitutional Affairs, 2006.

<sup>4</sup> *The Fundamental Review of Death Certification and Investigation*, 2003, Chapter 9, paras. 20-21.

## (1) The agenda

6. In advance of the PIR the coroner should send out to all (potentially) Interested Persons an agenda for the hearing. The agenda should be sent out in good time, whenever possible at least 14 days in advance.
7. The agenda, which will be tailored to the individual case, should list the issues to be raised by the coroner at the PIR. They will often include some of the following topics:
  - Identity of Interested Persons
  - Scope of the inquest
  - Whether Article 2 engaged
  - Whether jury required
  - Matters for further investigation
  - Provisional list of witnesses
  - Disclosure
  - Jury bundle
  - Date of next PIR hearing
  - Date of inquest; length of inquest
  - Venue for hearings
8. Other agenda items may include:
  - Anonymity of witnesses
  - Special measures for witnesses (including video links and screens)
  - Public to be excluded for part of inquest (national security)
  - Public interest immunity
  - Apparent bias
  - Need for an interpreter
  - CCTV evidence
  - View of the scene
  - Other matters
9. In some cases it may be helpful if the coroner sets out a provisional view on one or more items on the agenda. If the coroner is able to indicate a provisional view, especially on an issue which is unlikely to be hotly contested, it should be made clear that this is an indication only and no final decision has yet been made. A provisional view gives Interested Persons the opportunity to consider the issues in advance of the hearing. In an appropriate case they should be invited to respond to the agenda in advance in writing, expressing agreement or opposition.

For example, the coroner could state:

*My provisional view, subject to representations, is that a jury may be required. Applying the low threshold test<sup>5</sup>, there is reason to suspect that the death resulted from an omission of a police officer: see section 7(2)(b)(i), Coroners and Justice Act 2009. Alternatively, if the threshold test is not met, I may be minded to exercise my discretion under section 7(3). The family have asked for a jury and*

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<sup>5</sup> See *R (Fullick) v HM Senior Coroner for Inner London North* [2015] EWHC 3522 (Admin) at [34]-[37].

*the facts bear a resemblance to the mandatory provisions in section 7(2)(b)(i), such that I may have 'sufficient reason' to summon a jury.<sup>6</sup>*

*My provisional view, subject to representations, is that the scope of the inquest will include the following: [provide list, as appropriate]. Please give thought to this list.*

*I attach a provisional list of witnesses, stating whether I propose to call or read them. [Note: the coroner should take the lead on the list of witnesses for the inquest.]*

*But these are only provisional views, not final views. I would like to hear what Interested Persons have to say before I make any decisions.*

10. The coroner should ensure that Interested Persons, particularly those unrepresented, have sufficient disclosure of relevant statements and documents before a PIR so that they can address the agenda on an informed basis. For example, Interested Persons should not be placed in the position of having to discuss a witness list without having received any witness statements, although in some cases it may be necessary to hold an early PIR in order to manage effectively the future disclosure of materials by Interested Persons.
11. Unrepresented bereaved families may require additional help in order to understand the process of the PIR. It may be necessary, for example, to explain the difference between seeking to identify the key issues and coming to a final conclusion, the difference between a provisional view and a final view on an issue.

## **(2) The hearing**

12. As in the case of inquest hearings, details of a PIR should be published in advance on the coroner or local authority website: see Chief Coroner's Guidance No.9 *Opening Inquests*, paragraphs 40-44.
13. Where possible, the press should be notified in advance of any non-factual issue likely to be of particular interest to them, such as applications for anonymity of witnesses or reporting restrictions.
14. All Interested Persons should have had the agenda and sufficient disclosure well in advance.
15. Where possible, video-conferencing (or telephone conferencing) should be made available at PIRs for those who wish to use it.
16. No evidence should be called at a PIR and no witness (including representatives from investigating agencies) should be asked or required to attend. The coroner should take care not to appear to be expressing a view about any aspect of the evidence which will be the subject of decision at the inquest.
17. The hearing should follow the agenda (subject to late amendments or additions).

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<sup>6</sup> See *Shafi v HM Senior Coroner for East London* [2015] EWHC 2106 (Admin) at [68]-[70].

18. A PIR hearing must ordinarily be held in public: Rule 11(3). The coroner may direct that the public (but not Interested Persons) be excluded from a PIR if the coroner 'considers it would be in the interests of justice or national security to do so': Rule 11(5).
19. The PIR must be recorded and the recording kept: Rule 26. Transcripts should not be obtained routinely.

### **(3) Rulings**

20. Where a decision is required, a clear, brief ruling should be given at the hearing. Alternatively, where the coroner needs time to consider, rulings should be provided to Interested Persons in writing within seven working days of the hearing.
21. After the hearing (or later rulings) all of the coroner's decisions should be summarised in writing so that they can be circulated to Interested Persons. This avoids any possible misunderstandings in the future and provides the coroner's office with a useful aide memoire.
22. A ruling on a contested issue should be accompanied by brief reasons justifying the coroner's decision. Reasons may be unnecessary where there is agreement between Interested Persons and for most 'housekeeping' decisions.

### **In practice**

23. In practice the coroner should
  - Decide whether one (or more) PIR hearing is required
  - Draft an agenda for the hearing
  - Send the agenda out to Interested Persons in good time
  - Conduct the hearing in public
  - Make decisions at the hearing or within seven working days thereafter
  - Give reasons for decisions on contested issues
  - Summarise decisions in writing and circulate to Interested Persons

**HH JUDGE PETER THORNTON QC  
CHIEF CORONER**

**18 January 2016**