

Care Homes Briefing

Number 57

Verdict : Neglect

The impact of an inquest into the death of a care home resident is often underestimated. The staff on duty at the time of the death and the home manager are likely to be called to give evidence at the inquest and the prospect of giving evidence in court is likely to be stressful for staff who may already be understandably upset at the death.

The potential adverse effect of the inquest itself on the business of the care home should also not be underestimated. Although an inquest is not a forum in which to attribute blame, inquest verdicts are often reported in the press under eye catching headlines such as that recently reported under the banner headline: *Care Home's neglect contributed to resident's death.*

The facts

In that particular case, the newspaper was reporting a verdict of accidental death to which neglect contributed. An elderly diabetic had collapsed 24 hours after receiving 10 times his usual dose of insulin from staff at a care home.

Neglect verdicts

A verdict of neglect by a care home is likely to be reported in the press, with the obvious consequent potential adverse impact on the home's business. Such a

verdict is often controversial and has been considered by the Courts on several occasions. The Courts have held that a neglect verdict may be returned by the inquest when the evidence demonstrates that there was a gross failure to provide basic care which caused the resident's death. In the case reported above, the gross failure was in connection with the administration of medication. Other cases have arisen where observations were not undertaken properly, or residents were not referred for appropriate medical attention.

Preparation for inquests

Adverse inquest verdicts can be very damaging to a care home's business. Local press reports will colour the community's view of the home, thus affecting future referrals. There may well be CSCI or HSE investigations (or prosecutions), or even police involvement. Proper preparation is essential and where criticism of the home is possible, legal advice should be obtained¹. Where the relatives of a deceased person are contemplating a complaint or litigation, they may also instruct lawyers to attend the inquest and use this as a "fishing expedition" to seek to obtain information to assist with that litigation. In such cases it is essential that the care home is represented to ensure that the inquest forum is not abused and the inquest is restricted to the remit of ascertaining who the deceased was, how, when and where the deceased died.

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September 2007

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Readers are advised to take specific advice before acting in reliance on the matters set out in this briefing.

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