



BRIEFING PAPER

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Challenging coroners' decisions

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Summary

This briefing paper deals with the law in England and Wales.

Means of challenge

There is no right of appeal as such from an inquest. However, it is sometimes possible to challenge a coroner's decision, or the outcome of an inquest, by way of an application under section 13 of the Coroners Act 1988, or an application for judicial review.

Anyone seeking to challenge a coroner's decision or the outcome of an inquest should take specific legal advice as quickly as possible to establish whether there are grounds to do so, and the relevant time limit.

Proposed new system of appeal never implemented

Section 40 of the Coroners and Justice Act 2009 provided for a new system of appeal against some decisions and determinations made in connection with investigations and inquests into deaths. This section was never brought into effect and has now been repealed.

Complaint about conduct of coroner

It is sometimes possible to complain to the Judicial Conduct Investigations Office about the conduct of the coroner.

Ministry of Justice guide

In January 2020, the Ministry of Justice published an updated version of its [Guide to Coroner Service for Bereaved People](#). This provides bereaved people with an explanation of the coroner investigation and inquest process as well as links to other organisations that may also provide help and advice. It includes information about challenging a coroner's decision and making a complaint.

1. Challenging a coroner's decision

There is no appeal as such from an inquest. However, it is sometimes possible to challenge a coroner's decision or the outcome of an inquest. The grounds for doing so are complex. Broadly, a challenge may be made by way of:

- an application under section [13 of the Coroners Act 1988](#); or
- judicial review.

Anyone seeking to challenge a coroner's decision should take specific legal advice as quickly as possible as there may be time limits involved.

1.1 Section 13 applications

[Section 13 of the Coroners Act 1988](#) (as amended) provides that, if the High Court is satisfied either:

- that the coroner is refusing or neglecting to hold an inquest or an investigation which ought to be held; or
- where an inquest or an investigation has been held, that it is necessary or desirable in the interests of justice that an investigation or another investigation be held (whether because of fraud, rejection of evidence, irregularity of proceedings, insufficiency of inquiry, the discovery of new facts or evidence or otherwise),

then the High Court may order an investigation into the death to be held by the same or another coroner, order the coroner to pay such costs as appear just, and quash the determination or finding of the original inquest, if one took place.

The Attorney General must make the application to the High Court or authorise a third party, by way of a fiat (consent), to do so. Before any such application can be made, the Attorney General must be satisfied that there is sufficient admissible evidence to persuade the Court that the test set out in section 13 is met.¹

The Attorney General takes decisions on whether to apply to the High Court for an inquest as part of their public interest function, independently of Government and strictly on the basis of the evidence.²

It is the High Court, and not the Attorney General, which makes the decision as to whether or not to order a new investigation.

Principles governing applications

It is not necessary to show that a fresh inquest would have a different outcome.

¹ Gov.UK News story, [Attorney General applies for fresh inquests for victims of Hillsborough disaster](#), 10 December 2012 [accessed 4 March 2020]

² Ibid

When considering the Attorney General's application for fresh inquests for the victims of the Hillsborough disaster, Lord Chief Justice Lord Judge, set out the general principles governing applications under section 13 of the Coroners Act 1988:

The single question is whether the interests of justice make a further Inquest either necessary or desirable. The interests of justice, as they arise in the coronial process, are undefined, but, dealing with it broadly, it seems to us elementary that the emergence of fresh evidence which may reasonably lead to the conclusion that the substantial truth about how an individual met his death was not revealed at the first Inquest, will normally make it both desirable and necessary in the interests of justice for a fresh Inquest to be ordered. The decision is not based on problems with process, unless the process adopted at the original Inquest has caused justice to be diverted or for the inquiry to be insufficient. What is more, it is not a pre-condition to an order for a further Inquest that this court should anticipate that a different verdict to the one already reached will be returned. If a different verdict is likely, then the interests of justice will make it necessary for a fresh Inquest to be ordered, but even when significant fresh evidence may serve to confirm the correctness of the earlier verdict, it may sometimes nevertheless be desirable for the full extent of the evidence which tends to confirm the correctness of the verdict to be publicly revealed.³

No time limit for application

Section 13 does not specify a time limit. In a 2019 case, the High Court ordered that a fresh inquest should be held, even after the passage of 53 years.⁴

1.2 Judicial review

There are grounds, based upon public law principles, on which a coroner's decision or the outcome of an inquest may sometimes be challenged. These are concerned with the fairness of the procedure and whether the coroner properly exercised his/her powers.

If a coroner has acted unreasonably, outside his/her powers or by not doing something which (s)he was obliged to do, it may be possible to seek judicial review of the coroner's actions (or inactions). Judicial review is a discretionary remedy.

There is a time limit for bringing an application for judicial review (normally no later than within three months of the decision to be challenged).

This is a complex area of law on which legal advice should be considered.

³ [HM Attorney General v HM Coroner for South Yorkshire \(West\) \[2012\] EWHC 3783 \(Admin\)](#), at paragraph 10

⁴ [Frost v HM Coroner for West Yorkshire \(Eastern District\) \[2019\] EWHC 1100](#)

1.3 Coroners and Justice Act 2009 section 40 - repealed

Section 40 of the Coroners and Justice Act 2009 provided for a new system of appeal against some decisions and determinations made in connection with investigations and inquests into deaths. This section was never brought into effect and has now been repealed.

2. Complaints about coroners

Complaints about a coroner's personal conduct (as opposed to complaints about a decision made by a coroner) may be made to the [Judicial Conduct Investigations Office](#) (JCIO).

A JCIO publication, [The Coroners Complaints Procedure \(JCIO4\)](#) includes information about the relevant procedure and gives examples of potential personal misconduct, including the use of insulting, racist or sexist language, or unreasonable delays in holding an inquest or replying to correspondence.

3. Guide to Coroner Services

In January 2020, the Ministry of Justice published an updated version of its [Guide to Coroner Services for Bereaved People](#). This provides bereaved people with an explanation of the coroner investigation and inquest process as well as links to other organisations that may also provide help and advice. [Section 8](#) deals with challenging a coroner's decision and making a complaint.

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