

briefing

Writing a statement for the Coroner

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The purpose of the inquest

Remember when preparing for an inquest it is not a trial and no one will be found "guilty" or held accountable in negligence. It is an enquiry led by the Coroner into who died; when and where they died and how they came about their death. The statement may be read out in court or you may be required to give evidence on oath on the basis of

the statement so you should always tell the truth even if it is awkward or embarrassing. It is a criminal offence to say anything which you know to be false or do not believe to be true. If in doubt seek advice.

Why statement writing is important

You need to take some time and thought over any statement that you prepare for any purpose. It's worth remembering it will be a reflection of your professional standing. It is evidence of your work and professional activities. Statements are also an important source of information for others to understand what has happened. If they are drafted shortly after an incident while events are fresh in your memory a statement could be seen as important evidence about an incident. As well as helping the Coroner, good statement writing helps others with risk management and governance issues to the benefit of the organisation, patients and staff.

It is also worth remembering that the process of pulling together the information and writing a statement is an excellent way of helping you remember what happened. If you are ever questioned about it later, a well-written statement will become an excellent "aide memoir".

The content of the statement

The Coroner is generally seeking factual evidence of your involvement. The inquest has a limited remit.

You should refer to the relevant documents and records before you start preparing your statement to refresh your memory or acquaint yourself with the deceased's history. You may be called to give first hand evidence of your involvement or care of the deceased. Alternatively, you may be asked to comment as the "leader of the team" which was involved with the deceased. If so, you should make it clear what you know from your own knowledge and what you understand to be the case from your team and from the notes. There is nothing wrong in including matters in the statement which come from other people as long as the statement makes it clear that this is what you are doing.

Please bear in mind the following points:

- Assume no medical or specialist knowledge on the part of the reader or the Coroner. You should explain all business, medical or industry terms and abbreviations.
- Focus on the factual issues and prepare your statement on the basis of a chronological outline of the facts.

Matters of opinion

If you have concerns about any care provided, its quality, or the conduct of others, or systems, you have a professional obligation to bring these to the attention of the relevant managers and to invoke internal governance procedures. Indeed you should have done that already rather than leaving it until close to the inquest.

Such issues can sometimes be of interest to the Coroner but often they may not be relevant to the inquest process given its limited remit.

It will be appropriate in such circumstances to seek advice through the appropriate channels within the organisation and to seek legal advice. This will ensure that the matters are properly addressed, investigations and action put in place, if appropriate, and, where required, issues addressed with the relations through the proper internal channels in line with best practice.

You should seek advice on the appropriate drafting of your statement if this is the case.

Sometimes it is right that you should give a view as to matters of opinion. Although it is a fine line, it may be appropriate for you to comment that an appropriate, course of action, diagnosis or care turned out to be wrong but that

is different from saying that it was bad, inappropriate or negligent. If you have concerns then you should make sure they are addressed through your governance procedures.

You may be asked or feel able to comment on what you might have done given the circumstances and if you are a senior professional you may give your opinion as to what is generally appropriate care or treatment options. These issues are often best left to giving oral evidence in court and if you are asked, but if in doubt seek advice.

Who will see my statement?

Although it is prepared for the Coroner, you must assume others outside the organisation might get to see it. This is likely to include the family and other interested persons who may be present at the inquest. As a good rule of thumb, it is always safe to assume that managers, advisers or lawyers might get their hands on your statement at some stage. You must treat your statement as though it is a public document and may come into the public domain. Please write accordingly and be prepared to back-up what you write. It is possible it could get into the hands of the press!

The essentials of writing a good statement

It is vital the statement has a logical order with a start, middle and ending and that it covers all the relevant information. Be honest and do not be influenced by others. The statement should be easy to read and a reflection of your professional standing. You might find the attached template helpful. The statement should use numbered paragraphs, be typed and prepared on 1.5 line spacing. There are certain formalities in respect of a proper heading and a statement of truth at the end which are always helpful.

1 The heading

- 1.1 At the head of the statement you should put your name, position, qualifications (with dates), today's date and where you work. Make sure that includes contact details though you do not need to put your home address.

2 Terms of reference

- 2.1 Explain the purpose of the statement, why you are writing it and who has asked you to prepare it. You should make it clear that it is to assist the Coroner and help at any inquest into the death of the name individual.

3 Evidence

- 3.1 Explain your methodology. What documents you have read and references to any other sources of information and help in preparing the statement.

4 Isolate the facts

- 4.1 As soon as you are asked to prepare a statement get any notes and records and read them carefully. It's why we make notes – it's not a memory test! If you make separate notes of an event – make sure they are filed away with the records: do not throw them away. If it is a long and detailed series of events, create your own 'factual matrix' so you do not miss anything out and you get it down in the right order. A chronological account of the facts is usually best. Be clear and avoid ambiguity.

Make it clear what is taken from the records and what is constructed from your memory or from standard practice at the time.

5 Avoid lapses of memory

- 5.1 Sometimes it might be "convenient" for us to forget something. Do not go there. Honesty is the best policy. If it happened put it in the statement. Experience tells us that if something is deliberately omitted it is almost

always spotted by someone else. If that happens then you are made to look silly and unreliable (at best) and deceitful (at worst). Lawyers and advisers have a nasty habit of getting to the truth.

If you have concerns about anything that happened or you are worried about what might happen then seek help and advice before writing. It is rarely as bad as you think.

On the other hand, if you genuinely cannot remember something - say so clearly. Do not leave a gap in your evidence.

6 Statement of truth

6.1 You should conclude your statement with the following acknowledgement:

"I believe that the facts stated in this statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth."

You should sign and date it.

7 Some basic points

- Make sure it's legible. Get it typed, avoid pen and pencil.
- Check the spelling, grammar and punctuation.
- Make sure it looks neat and tidy.
- Avoid abbreviations and 'NHS Speak' (e.g. SCBU, SB etc).
- Write in plain English so everyone can understand and explain any complicated or medical terms.
- Watch confidentiality – avoid unnecessary and irrelevant issues or details. Avoid references to other patients.
- Avoid gratuitous personal comments.
- Read it before you sign it! Especially if someone else writes it out.

Changing the statement

We are all human and you may remember something later and want to make a change to the statement. Normally these will be factual inaccuracies. That is fine. Just make sure it's clear and explain why you are making the change. Its best done by an 'addendum' or supplementary statement which you should sign and date. Do not cross out whole chunks of the statement and scribble over the original. Bits that are crossed out or illegible simply invite unwanted (and unnecessary) questions.

Word processing a statement will avoid making alterations to the main body of the statement because you have made a mistake. If you do need to make a minor alteration make sure it is clear and initialled or signed.

What happens to the statement?

Be prepared for it to go for analysis by managers or advisers as well as the Coroner. In the unlikely event that you are involved in future legal proceedings you will probably be given a chance to revise and reconsider before a final statement of your evidence is prepared.

Take a copy!

Always do this and insist upon it, even if someone else writes it down for you. Always agree this before you sign it. It is your statement and if you are asked for more comment later you will need it to refer to!

General

A helpful tip is to re-read the statement after you have finished. Put yourself in the shoes of a third party who does not know anything about this matter and ask yourself:

- Does this statement tell the story about what happened?
- Does the sequence of events flow naturally?
- Can someone who has no knowledge of this matter pick up my statement and will it make sense to him or her?
- Is each and every point relevant and helpful to the Coroner?

It is good practice to check the contents of your statement and in serious cases with defence organisations or with your legal adviser prior to submitting it to the Coroner. There should be a central point of contact between your organisation and the local Coroner – check and make sure you liaise through them. Do not liaise directly with the Coroner yourself and make sure you follow local procedures.

Mills & Reeve on-line inquest support

You will find this guidance and a lot more information and guidance documents on our free on-line support page.

There is also a set of videos with top tips on what to do and others tell their stories of who they got through the process. All designed to make it a little bit easier for you.

Follow the link or type in:

<https://www.mills-reeve.com/foresight/inquests/information-on-inquests>

Recent Feedback

“I’m most grateful for your support during the Inquest. It was outstanding.”

Executive Director Forensic Services, NHS Client

“I feel genuinely privileged to know that you are on our team and offer my heartfelt thanks”

Dr Stephen Merron, Consultant Anaesthetist, University Hospital North Midlands NHS Trust

Contacts

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Appendix One

Witness statement template

Set out details of employer or organisation involved

Statement of [] to assist the Coroner with the death of []

I, [], am [set out details of your job or role] [address of employer or organisation]

1 Personal details

1.1 Outline your full name, business address, occupation, position and name of your employer. Any relevant experience and qualifications you have obtained and how long you have worked for the trust. Explain when you qualified (if appropriate). Add any more relevant information about yourself and your experience and any particularly relevant experience to comment on the matters in hand. There is no need to give your home address.

2 Terms of Reference

2.1 Explain the purpose of the statement and why you have been asked to provide it and by whom. For example, you may have been asked by the Coroner/your solicitor or legal department/solicitor/complaints manager to provide a statement to the Coroner into the death of a particular patient. You may be responding to a complaint. If you have been asked to consider any particular issues you should outline them here. If it is a factual account only which you have been asked to provide, then you should say so. Outline your understanding that the statement will be provided to the Coroner or to whoever to assist with their enquiry.

3 Evidence and Methodology

3.1 Outline what documents and other references you have referred to in preparing the statement. Have you used any medical records, other records and documents or any personal notes? Have you spoken to any staff about the event and if so, why and on what basis? Are you relying upon your memory of events? If you can actually remember events then say so – and why. There is nothing wrong, however, in relying upon the notes you have made about a particular individual or incident, this is one reason why you might have been taught to make full and contemporaneous notes.

4 Factual Outline

4.1 In chronological order, set out what happened when you were involved with the matter, starting from your first relevant contact and finishing with your last involvement or relevant facts you learnt afterwards. Keep your narrative short but accurate. For instance you may include the following things:

4.1.1 Why you were involved with the deceased.

4.1.2 Any specific role you may have had with management, care or liaison with the deceased.

4.1.3 What contact did you have and why?

4.1.4 If you are a health and care professional what treatment and care did you provide. What treatment the deceased received generally

4.1.5 Matters you observed when interacting with the deceased

This list is not exhaustive.

- 4.2 Include the date and time of events wherever possible making reference to any contemporaneous records or notes.
- 4.3 If you have been asked to provide answers to specific questions or to provide any comment or observations that are within your experience and expertise you should set these out clearly. You should do this in a separate section
- 4.4 Conclude your statement as follows:

“I believe that the facts stated in this statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.”

Signed:

Dated: