







Relevant Legislation

- The Coroners and Justice Act 2009
- ▶ The Coroners (Inquests) Rules 2013
- ▶ The Coroners (Investigations) Regulations 2013
- ▶ The Coroners Allowances, Fees and Expenses Regulations 2013



CJA 2009 Schedule 5



- ▶ **Section 1(2)** A senior coroner who is conducting an investigation under this part may by notice require a person, within such period as the senior coroner thinks reasonable:
 - ▶ (a) To provide to the senior coroner, about any matter specified in the notice, in the form of a written statement,
 - ▶ (b) To produce any documents in the custody or under the control of the person which relate to a matter that is relevant to the investigation, or:
 - (c) To produce for inspection, examination or testing any other thing in custody or under the control of the person which relates to a matter that is <u>relevant</u> to the investigation



The Coroners (Inquests) Rules 2013 PART 3 - Disclosure



- ▶ Disclosure of Documents at the Request of an Interested Person
- ▶ 13. (1) Subject to rule 15, where an interested person asks for disclosure of a document held, the coroner must provide that document or a copy of the document or make the document available for inspection by that person as soon as is reasonably practicable.
- ▶ (2) Documents to which this rule applies include
 - ▶ (a) any post-mortem examination report;
 - (b) any other report that has been provided to the coroner during the course of the investigation;
 - (c) where available, the recording of any inquest hearing held in public ...
 - (d) any other document which the coroner considers relevant to the inquest

The Coroners (Inquests) Rules 2013 PART 3 - Disclosure



- Managing Disclosure
- ▶ 14. A coroner may -
 - (a) disclose an electronic copy of a document instead of, or in addition to, a paper copy;
 - (c) disclose a redacted version of all or part of a document; or
 - ▶ (c) make a document available for inspection at a particular time and place



The Coroners (Inquests) Rules 2013 PART 3 - Disclosure



- Restrictions on Disclosure
- ▶ 15. A coroner may refuse to provide a document or a copy of a document requested under rule 13 where
 - (a) there is a statutory or legal prohibition on disclosure;
 - ▶ (b) the consent of any author or copyright owner cannot reasonably be obtained;
 - (c) the request is unreasonable;
 - ▶ (d) the document relates to contemplated or commenced criminal proceedings; or
 - (e) the coroner considers the document irrelevant to the investigation

The Coroners (Inquests) Rules 2013 PART 3 - Disclosure



- Costs of Disclosure
- ▶ 16. A coroner may not charge a fee for any document or copy of any document, disclosed to an interested person before or during an inquest (1).
 - (1) Fees may be charged for disclosure <u>after</u> an inquest has been commenced in accordance with the Coroners Allowances, Fees and Expenses Regulations 2013



Specific Definitions



Interested Person

- ▶ At section 47 (Chapter 7) of the CJA 2009 it states that an interested person means
 - ▶ (a) a spouse, civil partner, partner, parent, child, brother, sister, grandparent, grandchild, child of a brother or sister, stepfather, stepmother, half-brother or half-sister;
 - ▶ (b) a personal representative of the deceased;
 - (c) a medical examiner exercising functions in relation to the death of the deceased;
 - (d) a beneficiary under a policy of insurance issued on the life of the deceased;
 - (e) the insurer who issued such a policy of insurance;
 - (f) a person who may by any act or omission have caused or contributed to the death of the deceased, or whose employee or agents may have done so ...

Specific Definitions



Senior Coroner

- ▶ The CJA 2009 Schedule 3 Part 1 indicates that the relevant authority for each coroner area must appoint a coroner for that area. That coroner is known as the 'senior coroner'
- Document
- ▶ At Part 1 Rule 2 of the Coroners (Inquests) Rules 2013 'Document' is defined as 'any medium in which information of any description is recorded or stored'
- Relevancy
- As we have seen, there is an emphasis on 'relevant' evidence being obtained by the coroner (CJA 2009) and being provided to interested persons (CIR 2013). However, relevance is ultimately a question for the coroner and he/she will exercise their discretion in that regard



Standard Documents for Disclosure

- GP records
- Hospital records (clinic notes, nursing notes, test results bloods, micro-biology, histo-pathology, radiology)
- Other third party records
 - ▶ District Nurse records
 - Community psychiatric records
 - ▶ Community Midwife records
- Also
 - ► RiO notes
 - ► Complaint letters and responses
 - Minutes of meetings

Serious Untoward Incident Reports Also known as Serious Incident Reports or Root Cause Incident Reports Other related documents to consider requesting Detailed timeline of events Copies of all witness statements obtained for purposes of preparing the report All versions of the report to include the final version All internal memoranda regarding the investigation and creation of the report

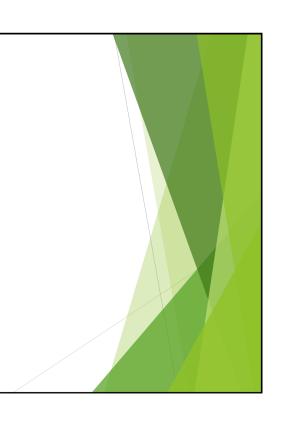


Additional Documents

- Mortality and morbidity meetings
- ► Health and Safety Reports
- ▶ Internal Audit Reports (e.g., infection control within a hospital)
- CQC reports
- ▶ Police/Transport Police Reports
- NHS Resolution early notification scheme

Additional Documents

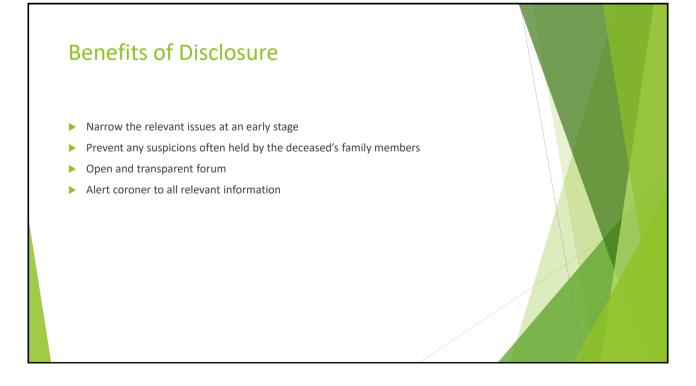
- ▶ Healthcare Safety Investigations Branch (HSIB) Maternity Reports
- ► Hospital Policies/Protocols/Guidelines
- Duty of Candour





Failure to Disclose

- See CJA 2009 Schedule 6, Section 7
- (1) It is an offence for a person to:
 - ▶ (a) distort or alter evidence
 - ▶ (b) prevent any evidence from being given or produced
- (2) It is an offence for a person:
 - ▶ (a) intentionally to supress or conceal relevant document
 - ▶ (b) intentionally to alter or destroy such a document
- ▶ (3) For the purposes of subsection (2) a document is a 'relevant document' if it is likely that a person conducting an investigation under this Part of this Act would (if aware of his existence) wish to be provided with it.
- ▶ (6) A person guilty of an offence under subparagraph (1) or (2) is liable on summary conviction to a fine, not exceeding level 3 on the standard scale, or to imprisonment for a term not exceeding 51 weeks, or to both





Practical Tips

- ▶ Check that all interested persons are working from the same material
- ▶ Interested persons can request disclosure before, during or after in inquest
- Application to be designated as an interested person after an inquest and seek disclosure of material
- Coroners must retain documents in connection with an investigation or a post-mortem report for 15 years
- ► Hearings must be recorded and interested persons can obtain a copy of the recording of the inquest as noted above

Summary



- ▶ Changes to legislation have put deceased families at the centre of the inquest process
- ▶ Two-step nature of disclosure benefits all
- ▶ Move to transparency results in less suspicion
- Relevance and scope of inquest
- Families can influence what documents are disclosed





