

# Has someone you know gone missing?

## A brief guide to Coroners and Presumption of Death procedures

Factsheet 12

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**Whilst most people return or are found quickly, if someone is missing for a significant period of time, or there is reason to believe that a missing person is dead, consideration may be given to undertaking legal proceedings to have them formally declared dead. This will primarily be to enable family to deal with the person's estate/belongings. Additionally, in England and Wales, consideration can be given to asking a Coroner to apply to hold an inquest if the circumstances indicate that a Coroner's investigation should be conducted.**

The information provided here is meant as a guide only and formal legal advice should be sought from a solicitor if required.

### **Presumption of Death**

If it is suspected that a person has died (e.g. in incidents such as plane crashes), or there is no evidence of the person having been alive for a period of at least 7 years, then it is possible to apply to the Court to have them declared dead.

#### **Who can apply?**

Anyone can apply. However, if the person applying is not the spouse, civil partner, parent, child or sibling (full or half) of the missing person, then the Court may refuse to hear the application unless it is satisfied that the person has 'sufficient interest' in the outcome of the application.

#### **What is the process?**

You will need to gather the relevant information, including details of what has been done to try and locate the person or what evidence there is that they may have died, and complete an application for the Court. A hearing will be scheduled, and you will need to advertise details of the application in the local paper, as well as informing other members of the family. The hearing will provide an opportunity for others to raise any objections to the application. If this occurs, or the judge requires further information, a second hearing may be scheduled.

#### **What will happen if the Court declares the person to be presumed dead?**

If the Court is satisfied that the person has died, or that there has been no proof of life for at least 7 years, they will issue a Declaration of Presumption of Death. This can

then be used to apply for a Certificate of Presumed Death from the General Registry Office.

### **Coroner's Inquest**

In England and Wales, if there is reason to believe a missing person may be dead, and the circumstances of death would, if a body is found, require reporting to a Coroner, then a request to hold an inquest without the body may be considered.

#### **When would a Coroner be used?**

If death occurs in any of the following circumstances, the doctor may report it to the Coroner:

- After an accident or injury
- Following an industrial disease (a chronic ailment that occurs as a result of work or occupational activity, e.g. asbestosis, skin diseases, etc)
- During a surgical operation
- Before recovery from anaesthetic
- If the cause of death is unknown
- If the death was violent or unnatural
- If the death was sudden and unexpected.

Anyone who is concerned about the cause of a death can inform a Coroner about it, but in most cases, the death will be reported to the Coroner by the doctor or the police.

#### **What happens once a death is reported to the Coroner?**

The Coroner may be the only person to certify the cause of death. The Coroner will decide whether there should be further investigation into the death and the Registrar cannot register the death until they have been notified of the Coroner's decision.

#### **What is an inquest and when would one be held?**

An inquest is a legal enquiry into the medical cause and circumstances of death. It is held in public – sometimes with a jury – by a Coroner, in cases where the death was:

- Violent or unnatural
- Took place in prison or police custody
- The cause of death is still uncertain after a post-mortem.

Coroners hold inquests in these circumstances even if the death occurred abroad, if the body is returned to Britain. If a body is lost, the Coroner can hold an inquest by order of the Secretary of State if the death is likely to have occurred in or near a Coroner's area of jurisdiction.

If an inquest is held, the Coroner must inform:

- The married or civil partner of the deceased
- the nearest relative (if different from above)
- the personal representative (if different from above).

### **What happens if someone has died but no body has been found?**

If there is no body, the Coroner can apply to the Secretary of State to hold an inquest under s.15 of the Coroner's Act 1988. The decision of whether to apply to hold an inquest is one for the Coroner, based on their belief that the person is likely to be dead and that sufficient time has elapsed.

At present, it is unclear as to what is regarded as 'sufficient time' and this is open to each Coroner to interpret.

### **What is the process when applying for an inquest in the absence of a body?**

- I. The Coroner must apply to the Secretary of State in writing, stating that they believe the person to be dead and that they are dead in circumstances requiring an inquest; The Home Office requires copies of witness statements detailing the deceased's last sighting, frame of mind, etc and any other documentary evidence to support the case, i.e. bank statements
- II. The Coroner has to evidence why they believe the missing person's body may be within their district, even though no body has been found, in order to hold the inquest

- III. The Coroner believes death occurred in or near their district but the body no longer exists or cannot be retrieved
- IV. If a request to hold an inquest without a body is granted, then the inquest will be held as normal.

### **If an inquest is held, can I deal with the missing person's assets?**

Once the inquest has been held and a verdict that the person is likely to be dead has been reached, the death certificate may be obtained. It is the death certificate that will allow you to deal with the missing person's assets and liabilities.

### **What happens if the request to hold an inquest without a body is refused?**

If the inquest is refused, there is still the possibility of applying for them to be declared presumed dead (see the section on Presumption of Death).

### **Further information and advice**

The charity Missing People can provide additional information and advice. They have a more detailed guides regarding the procedures for applying to have someone declared presumed dead depending on which area of the UK you or the missing person lived in, available from their website at [www.missingpeople.org.uk/how-we-can-help/families-and-friends/ways-we-can-help-you/881-legal-and-financial-help.html](http://www.missingpeople.org.uk/how-we-can-help/families-and-friends/ways-we-can-help-you/881-legal-and-financial-help.html)

Email: [116000@missingpeople.org.uk](mailto:116000@missingpeople.org.uk)  
Tel: 116000

Additionally, the full Coroner's Act 1988 is available from the National Archives website at <http://www.legislation.gov.uk/ukpga/1988/13/contents> . Sections 8 and 15 are provided here for reference purposes.

If you require more information, other factsheets can be downloaded from the UK Missing Persons Unit website: <http://missingpersons.police.uk>.

To enquire about the content of this document or request the information in an alternative format, please contact the UK Missing Persons Unit on 0800 234 6034 or email [ukmpu@nca.gov.uk](mailto:ukmpu@nca.gov.uk)

The information in this guide is not definitive and should be utilised in conjunction with police guidance and independent legal advice.