

Legal and Financial Support for Families following a Sudden Death

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THE ROLE OF THE SOLICITOR



Expectations of today?

- + Meet other agencies / professionals
- + Find out about different approaches
- + Expand knowledge
- + Look at what further support is available
- + Are we doing it right?
- + Signposting
- + Practical tips
- + How to be with bereaved people & how to help
- + Current practices



AIMS OF PRESENTATION

- + Explore what bereaved families are facing
- + Provide outline of what can be done for them
- + Look at what lawyers actually do & the redress the law can provide
- + Comment on current landscape and recent developments & impact on families

Unexpected deaths

- + Deaths certified by a coroner
- + Infant deaths by selected causes

Sudden Deaths in GB

- + Road Collisions
- + Accidents at work
- + Miscellaneous accidents (theme parks, drownings, fires)
- + Suicides
- + Terrorist attacks
- + Homicides
- + Infant mortality

Sudden Deaths in GB

- + Road Collisions (1775 reported deaths in 2014, rise of 4%)
- + Accidents at work (142 worker deaths in 2014/15 – 9% lower)
- + Miscellaneous accidents (theme parks, drownings, fires)
- + Suicides (6122 suicides in 2014 - highest men age 45 – 49)
- + Terrorist attacks (32,727 people killed by terrorists worldwide in 2014 – 12.3% rest of world)
- + Homicides – 518 deaths in 2014 / 15
- + Infant mortality (cot deaths / children under 1 year) – 0.04% of all babies

The Ripple Effect



The Ripple Effect

- + Parent
- + Child
- + Sibling
- + Friend
- + Grandparent
- + Wider family

Immediate issues for families following the death of a parent or child

- + Emotional
- + Financial
- + Practical
- + Legal

All families are different



21st Century Families

- + Who is who?
- + Who gets and needs support?
- + Who can legally make decisions?

When do lawyers get involved?

- + At any stage
- + To deal with specific issues (Probate, interim payments)
- + Inquest representation
- + Civil Claim

+ Families want justice

Incident 1

- + Serious road collision involving 13 year old boy
- + In collision with car overtaking the school bus he's just got off
- + Witnessed by mum, brother & step dad as well as friends and neighbours
- + Step father attempted resuscitation at scene
- + Died of injuries at scene

Incident 2

- + Married female aged 40 driving along dual carriageway with daughters aged 3 and 5.
- + Farm vehicle towing a trailer pulls out across her path to turn right leaving her nowhere to go and she collides with the side of the trailer.
- + Mum dies of her injuries at the scene.

What are the immediate concerns?

+ Discuss!

Incident 1

- + Emotional
- + Financial
- + Practical
- + Legal

Incident 2

- + Emotional
- + Financial
- + Practical
- + Legal

Stress

- + Worries about money, other family, child care, elderly relatives
- + Physical symptoms (may cause major health problems)
- + Fight, flight or freeze
- + Emotional effects – memory, concentration, anxiety, depression, despair

Media

+ Some thoughts....

- Judgemental
- Sensational
- Untrustworthy
- Unhelpful
- Trial by Media
- Intrusive

Social Media

- + Twitter
- + Facebook
- + Instagram
- + Many others!

THE CIVIL SYSTEM

- + Different courts & burdens of proof
- + Insurance compensates in most cases
- + 3 year time limit unless under a disability / child

Is someone to blame?

- + Individual(s)
- + Company
- + Local Authority
- + MIB
- + CICA



CIVIL CLAIM OR CICA?

THE CIVIL COURTS

- + *“the object is to place the injured party as nearly as possible in the same financial position as he or she would have been in but for the [incident]”*

THE CICA

- + *“it is not the function of a Scheme funded by the taxpayer to make good each and every potential loss which a victim might conceivably suffer ”*

Support for families

- + Specialist advice and information about legal process
- + Interim payments
- + Support through criminal / inquest process
- + Appropriate signposting to agencies
- + Rehabilitation
- + Continuity following the exit of the FLO
- + Security & options for the future

FATAL CLAIMS – WHO CAN BRING A CLAIM

- + Spouse / Civil partner?
- + Cohabitee of more than 2 years?
- + Children?
- + Parents?
- + Grandchildren?



WHAT CAN BE AWARDED?

In Fatal cases

- + Bereavement Damages - £12980.00
- + Dependency Claim for financial losses suffered by dependents of deceased
- + Claim for funeral expenses of paid by dependants
- + Loss of income into household
- + Cost of care
- + Pain, suffering and loss of amenity of the deceased (general damages for the period they survived)

Relevant Factors

- + Life expectancy of deceased and surviving partner / spouse
- + Intelligence of children and family background likely to affect period of dependency i.e. longer if remain in education
- + Strength of relationship /marriage – beware medical notes!
- + Current economic climate – longevity of employment of deceased / length of job search period and likelihood of prospects of employment if unemployed at time of death

CURRENT DEVELOPMENTS AND IMPACT ON FAMILIES

DO YOU NEED A SOLICITOR?



THE JACKSON REFORMS

- 1st April 2013
- New funding regime for court proceedings
- No win no fee still exists but in different form
- Better ratio between costs and damages

IMPACT

- + Many cases now not brought but important to individual litigant – justice?
- + Expansion of fixed costs but not small claims limit... yet!
- + Recent court fee hike – even harder to keep costs proportionate
- + In PI and Fatal claims, costs paid at the end of a case – firms carrying disbursements including court fees
- + Many firms going out of business or being “acquired” – less choice for claimants but promotes specialism across the profession so claimants should benefit

IMPACT

- + Management of cases and use of experts dictated by the courts
- + Claimants have to shop around as lawyers offering different deals re success fees and insurance policies
- + Is it an improvement or just a horrible mess?

TO END ON A POSITIVE NOTE....

- + Be aware of potential issues facing families
- + Don't make decisions for them
- + Find out what specialist organisations, charities and lawyers can help
- + Do signpost at the earliest opportunity
- + Families and individuals will be looked after
- + A lot can still be achieved through the civil route



**THANK YOU
FOR
YOUR
ATTENTION!
ANY QUESTIONS?**

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