

In recent years the law has developed to require all deaths where a Deprivation of Liberty Safeguards (DoLS) authorisation was in place, to be referred to the coroner. This is because such patients are deemed to be detained by the state, which triggered the automatic requirement for an inquest to be held. In practice, this had an unintended effect and led to a large increase in the number of natural deaths referred to coroners, particularly by NHS Trusts, Care Homes and GPs. Further, where the death is not a natural one, a jury is currently required.

Now, the long awaited amendment has arrived and the law will change. From Monday 3 April 2017 the Coroners and Justice Act 2009 will be amended so that people subject to authorisations under DoLS will no longer be considered to be 'otherwise in state detention' for the purposes of Section 1 of the Coroners and Justice Act 2009. This means that coroners will no longer be under a duty to investigate a death solely because a DoLS authorisation was in place. Such deaths will only be reported to the coroner if the cause of death is unknown, or where there are concerns that the death was violent or unnatural. This effectively brings the position in line with deaths which do not involve DoLS, and the circumstances where a jury will now be required will be rare. The practical effect of this change will be to reduce the number of referrals to the coroner, and the number of associated witness statements and inquests.

Therefore it will be important for all doctors and Care Home staff involved in death certification and referrals to coroners, to be trained about this change before 3 April 2017. Your coroner will expect the referrals from 3 April to comply with the new law, and families will want accurate information as to whether the death can be registered. It will be beneficial to talk to, and work with, your local coroner's officers.

Key Points

- All 'DoLS' deaths which occur prior to 3 April 2017 must still be reported to the coroner, and an automatic inquest will be held (even where the death is natural). These deaths must be dealt with under the 'old' law, and will require a jury if the death is not natural.
- DoLS deaths which occur from 3 April 2017 onwards, do not need to be automatically reported to the coroner; the usual considerations as to the circumstances of the death apply.
- It is the date of death, not the date of reporting to the coroner or the date of the inquest, which is relevant.
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