

**CARRIE DEES**  
**LITIGATION MANAGER**

North Cumbria University Hospitals **NHS**  
NHS Trust

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**WHAT I'LL BE COVERING...**

- Compensation claims
- Inquests
- Importance of Documents and Statements
- Giving evidence
- What can go wrong
- Questions

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**COMPENSATION CLAIMS**

- Limitation period (Adults and Minors)
- Date of Knowledge
- Comments on allegations made
- Comments on experts report obtained (either by the claimant or by Trust/NHS Resolution)

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### INQUESTS

- Purpose of an inquest -
  - Coroners under duty to investigate all deaths reported to them;
  - Not all will result in a formal inquest hearing;
  - The 4 "W's" (Who, When, Where, Why(How))
  - Not a trial - Fact Finding Exercise;
  - Not to apportion blame - looking to establish the Medical Cause of Death;
  - Public Hearings (press etc can attend)

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### DUTY OF CANDOUR

- Created legal duty for healthcare professionals to inform people if believe treatment or care has caused death or serious injury
- However current NHS Contract already contains a contractual duty of candour to inform of any patient safety incident that results in moderate or severe harm - completed 10 working days
- It is now a criminal offence to:
  - Distort, alter or prevent any evidence or document that is given for the purpose of a coroner's investigation;
  - Intentionally suppress, conceal, alter or destroy a relevant document. A document is relevant if it is likely that a coroner conducting an investigation would, if aware of its existence, wish to be provided with it.

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### DOCUMENTATION

✓ Do's & Don'ts ✗

- Name, date and time;
- Legibility;
- Appropriate detail;
- Contemporaneous;
- Fact Vs Opinion
- Relevant and professional; never record what you would not be happy with reading out at in court.
- Alterations/additions;
- Electronic systems
- **YOUR DOCUMENTS AND NOTES ARE YOUR BEST FRIEND IN ANY LEGAL MATTER**

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**STATEMENTS**  
Assessing the Risk

- Ask yourself the following questions:
  - Have I done anything wrong?
  - Am I being treated as a suspect?
  - Could my own practice be called into question as a result of submitting a statement?
  - Could I be affected negatively by this?

If YES – seek advice from your professional body on the content of your statement before disclosing to the coroner.  
If NO – prepare your statement for the coroner.

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**STATEMENTS**  
✓ Do's & Don'ts ✗

- Not to be handwritten;
- Do not blame others;
- Do not express opinions (unless asked specifically by the coroner);
- Formal typed document providing a detailed chronology of your role;
- Factual summary of your involvement with the patient;
- Summary or closing statement (if required);
- Final check – always double check your statement before signing it and review each paragraph carefully;
- End with a statement of truth "This statement is true to the best of my knowledge and belief" before signing and dating the statement.

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**POLICE REQUESTS FOR STATEMENTS**

- Normally acting as on coroner's behalf to assist with his investigation;
- Requests for statements in a timely manner on a time and date to suit you;
- Interview under caution:
  - You are a suspect,
  - Do not answer any questions or submit any statement until you have obtained independent legal advice support (duty solicitor or Defence union etc);
  - If have been interviewed under caution, do not accept any caution without legal advice as it could affect your registration.

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### GIVING EVIDENCE - PART 1

- Escorted to the witness box;
- Swear oath/affirmation;
- Read statement aloud (free to explain/expand);
- Questions by coroner;
- Questions by family/legal representatives

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### GIVING EVIDENCE – PART 2

- Direct comments to coroner/judge;
- Take your time, speak slowly and clearly;
- Consider your answer, pause for thought/breath;
- Concise relevant answers to questions;
- Ask for clarification or repeat if required;
- If unsure or do not know – say so;
- Be honest;
- Watch the pen!

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### WHAT CAN GO WRONG

- ❖ Coroners – Regulation 28 Letter to Trust;
- ❖ Finding of Neglect against the Trust (referral to GMC, NMC etc.);
- ❖ Civil or criminal proceedings;
- ❖ Adverse press interest;
- ❖ Referral to Police/CPS (rare and has to be clear criminal act)

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