

Part 5

Achieving Fair and Effective Participation

This book has explained the existing challenges with the law, policy implementation and differing practice around England and Wales in relation to family participation in an inquest following a death in custody. The previous two parts of the book have set out the benefits offered when families are able to participate fairly and effectively: this last part sets out both the main challenges to ensuring such participation and proposed solutions to combat those challenges.

The specific issues identified by the author reflect those previously highlighted by organisations and academics working to support families in these situations. Firstly, although the law ensures each family has the right to be legally represented, the lack of equity in funding for said representation is a gap in the law that leaves families struggling to find and pay for adequate legal support. Secondly, policy directives to relevant police and prison investigative agencies require them to provide families with access to all relevant evidence related to an investigation; but in practice there can be delays before families are given the documents, if they even receive them at all without the intervention of their legal representation forcing disclosure. Thirdly, although family access to the inquest process is legally protected, in practice lack of information about the process as well as a lack of support provided to families prevents them participating fully. This problem relates as much with the approach taken by individual decision-makers as any lack in legal protections. Access to information depends on decisions taken by coroners, their officials and other State agencies; and although there are examples of good practice, many decision-makers do not take a process value approach which would ensure positive engagement with families. Even where families are able to participate effectively with the support of INQUEST and legal representatives, they often feel they have had to fight for their rights, which leaves them with negative perceptions about the process as well as the State actors involved. Some great work has been done to challenge existing laws and policies to bring in change to increase a families' opportunity to participate effectively and fairly. This has improved legal protections as well as requiring decision-makers to follow certain policy directives in a top-down approach attempting to force good practice from a central governance structure. This author takes an alternative approach by starting from the ground up, looking at why participation is important, what benefits are possible to families and the wider system and how these benefits can be achieved. The author believes if decision-makers understand why participation is important, they will be more likely to change their approach and make decisions by framing how to support or maximise participation. Chapter 10 relies on the experiences gathered during the interviews to describe the practical challenges.