

A practical guide for families after a mental health homicide

Around 100 families a year will have a loved one killed by someone with mental illness.

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1. Introduction

This guide aims to provide practical information, support and assistance to families affected by mental health homicides in Britain.

There are on average 120 families bereaved as a result mental health homicides in the UK each year – around 20% of the total number of unlawful killings in the country each year – and the evidence shows that very many of these killings could have been prevented had the perpetrator received more timely and effective mental health care and treatment.

Losing a family member in a mental health homicide is an unexpected and deeply traumatic event, which not only affects the immediate family but friends, work colleagues and the wider community.

We are a registered charity with the Charity Commission and are members of the Victim's Service Alliance (a coalition of victims' charities across the UK). We work with NHS England, the Ministry of Justice and Victim Support amongst others.

In this booklet you'll find practical information and guidance on a whole range of issues – from funeral expenses, the Criminal Justice system and NHS Trusts, to dealing with the media and coping with the sudden loss of a family member.

It sets out what we do, how we can help, and what some other families have experienced when it has happened to them. It aims to give you an idea of what to expect, what you as an individual or family are entitled to, and how you should be treated along the way.

We hope the information provided in this guide is useful and answers some of the questions you may have. But if you have any specific questions or need any further information just get in touch.

There's a contact form on the website at <http://www.hundredfamilies.org/contact/> or just e-mail at info@hundredfamilies.org

2. What we do

Our work falls into three main areas

- **We Support Families**

We provide practical support, information, and advocacy throughout Britain for families who have lost loved ones as a result of killings by people with mental illness. Amongst other things, we can help answer your questions, try and secure useful information, liaise with the authorities and others, and tell you what to expect. There is no charge for any of these services.

- **We Work with Professionals**

We work with mental health professionals and others to help them understand the real impact of patient homicides and to encourage real learning so that avoidable tragedies can be prevented in future. We also work with the Criminal Justice System and the Health Service throughout the UK to try to secure meaningful improvements for victims' families and the way they are treated.

- **We Provide Evidence & Training**

We also provide research, training and evidence-based resources to mental health professionals, MPs and policy makers to try to prevent such killings from happening in future.

From the feedback we receive we know we are effective and well regarded by the people and the professionals with whom we work. We are currently seeing an increased demand for our services across the country and know there are many more people we could reach and support if we were able to expand our operations.

3. Who we are

We are a group of families who have all lost loved ones as a result of killings by people with severe mental illness. We all have direct and personal knowledge of what this feels like and the difficulties that families can face in the aftermath.

Some of us have had loved ones killed by a family member, others by complete strangers. We come from all parts of the United Kingdom.

Some of us have been recently bereaved, others have gone through the whole journey and seen the offender released. No other organisation has the depth of knowledge, built up over years, or personal experience of mental health homicides from a family perspective.

We are managed by a small group of officers and Trustees who have all lost loved ones as a result of a killing by someone with severe mental illness.



Julian Hendy
(Founder)



Simon Hendy
(Trustee)

Their father Philip Hendy was fatally stabbed as he went to pay his paper bill, by Stephen Newton, a psychotic man with a long history of violent offending, drug abuse and mental illness. Philip, 75, had never met or spoken to his attacker before. Days before the assault Newton's family had asked for him to be sectioned but nothing effective was done. He was found guilty of murder and sentenced to life imprisonment with a minimum tariff of sixteen years before he can be considered for parole. There was a poor independent inquiry into the case which found many problems in Newton's care, but which still

managed to claim the killing was not preventable or predictable, a view which is not shared by the family.



Len Hodkin

(Trustee)

I am a criminal defence solicitor who works and lives in London. On 10

October 2011 my mother Sally Hodkin was attacked and killed on her way to work in broad daylight by Nicola Edgington, a woman with a history of serious violence, mental illness and drug abuse. Edgington had previously killed her own mother in 2005.

Despite being sentenced to be detained ‘indefinitely’ under the Mental Health Act, she was released in 2009. Her original offence appears to have been forgotten by those treating her in the community and her care plan called on her to take herself to A&E whilst seriously psychotic. On 4 March 2013 Edgington was sentenced to 37 years imprisonment for the murder of Sally Hodkin.

When something like this happens it is inevitable that birthdays, anniversaries and Christmas are extremely difficult

to cope with as an individual and as a family. However, each year since my mum’s death we have held a memorial football match and annual golf day to remember her. These two events bring our friends and family together and often it is the only time we get to see them. It’s a great way to raise money and to remember what a wonderful lady our mum was. To date we have managed to raise over £30,000 for charitable causes.



Rosemarie Whittaker

(Trustee)

My sister Dot was fatally stabbed by

her stepson Shea in July 2010. The family knew Shea was mentally ill and were trying to support him. But the NHS failed us all. They didn’t seek any family history, which would have pointed them towards a diagnosis of paranoid schizophrenia. The case was supervised by someone who was not qualified and unable to recognise the signs of Shea’s mental deterioration. No risk assessments were carried out. In 2011 Shea was sentenced to indefinite detention under the Mental Health Act and is in a secure hospital.

3. Who we are (continued)

When a member of your family dies in these very painful circumstances, you feel so disempowered. You have to pick your way through the massive, and sometimes quite unfeeling, bureaucracy of the NHS and the criminal justice system at the same time as you are grieving for the person you loved and lost. Being in touch with hundredfamilies means there is always somewhere to go for support, whether you just want a quick chat with someone who understands what you're going through or you want a supporter to help you through the endless meetings and paperwork.



Don Philpotts

(Trustee)

Don is an IT Consultant; previously

Treasurer for a local Mind association. Harold Philpotts had a history of mental illness and had previously been sectioned, but did not believe he was ill. In January 2010 he bludgeoned his 10-year-old son, Ben, to death with a sledgehammer and then set fire to the house where his former partner Patricia lived. Harold was later found with a cigarette lighter, badly burned and smelling of petrol. He died a week later in hospital. Patricia had had serious concerns about her former husband's mental health. Although Harold had previously made threats towards his son and family, they were not acted on by mental health staff, who, contrary to all professional guidance did no risk assessment at all. The Independent Inquiry found many failings in his care but again held that the killing could not have been predicted or prevented. The family thought differently. In Don's opinion the current practices and indeed the law governing mental health are not fit for purpose and need to change to prevent future tragedies.



Sarah Mears
(Trustee)



Brian Moore
(Trustee)

Sarah's mother Jennifer Mills-Westley from Norfolk was living in Tenerife when she was fatally attacked by Deyan Deyanov, a mentally ill Bulgarian man, with a history of drug abuse and violence who had been released, just months before, from a mental health unit in North Wales. He had been admitted twice to the unit but each time was allowed to leave whilst still apparently unwell. Although his family raised concerns about his care they were not listened to by the local health trust. An internal investigation into the case has not been released to the family, although the resulting action plan clearly reveals a pattern of numerous failings in the case. After pressure from the family Welsh health authorities have published a highly critical independent investigation into the case.

"When a member of your family dies in these very painful circumstances, you feel so disempowered. You have to pick your way through the massive, and sometimes quite unfeeling, bureaucracy of the NHS and the criminal justice system at the same time as you are grieving for the person you loved and lost. Being in touch with hundredfamilies means there is always somewhere to go for support"

Rosemarie Whittaker

4. Practical information

- [a] Criminal investigations
- [b] Coroners' courts
- [c] Health Service Investigations
- [d] The Media
- [e] Criminal Injuries Compensation Authority

[a] Criminal investigations

Police Family Liaison Officers

Family Liaison Officers are police officers who are specially trained to deal with families after a serious crime. They are usually appointed on the day of the incident. Their job is to be a sensitive contact between the police investigation and the family.

Often police investigations need background information on the victim and may also need to take statements from family members. Many families will want to know exactly what happened to their loved ones, how the investigation is progressing and what will happen next.

Family Liaison Officers are generally friendly and approachable people who can help with information on the criminal and legal processes, particularly:

- During the investigation of the crime
- In dealing with coroners' courts, and
- In the run up to the trial

Sometimes they can also act as a spokesman for any statements the family might want to make to the press.

If necessary a separate Family Liaison Officer will be appointed for the families of both the victim and the perpetrator.

Although they aren't therapists and counsellors, many victims' families do find their help and support invaluable at a very difficult time. They are often the only people from any authority able to provide any useful information or support.

Victim Support Homicide Service

Since 2010, after every unlawful killing a case-worker from the Victim Support Homicide Service contacts affected families to see if they can offer practical help and support. They can assist with dealing with the legal proceedings, funeral arrangements, work, housing and benefit problems, and many other matters. Many families have found them to have been very helpful and our charity has regular contact with them.

Court Cases

- What happens at arrest & prosecution
- The difference between Murder and Manslaughter
- What can happen at the trial
- Unfit to plead
- Victim Impact statements
- Sentencing and victims' rights
- Indefinite detention to psychiatric hospital
- Mental Health Review Tribunals

Arrest

If the Police arrest a person with mental health problems in connection with a killing, the suspect will be given an examination by a psychiatrist to see if they are fit to be interviewed and whether they can understand what is going on.

Depending on the outcome of this examination the accused will either be questioned (or not) and then if formally charged, they will be sent to prison on remand or to a secure unit at a psychiatric hospital whilst the case is being prepared.

Further tests and investigations into the patient's mental state at the time of the incident will usually be carried out then.

If the accused is fit to stand trial, they will attend a brief hearing at a magistrate's court shortly afterwards, which will just confirm their identity and the offence they are actually charged with. The case will then be handed over to the Crown Court to be heard in due course.

Prosecution

When the Police have completed their investigation, they will pass their files to the Crown Prosecution Service (CPS) who will then decide if there is enough evidence to convict the offender. Typically they are just interested in proving who the offender was, and not why the killing occurred.

It's not unusual for this process to take up to a year – or more – before it comes to trial at the Crown Court.

Separate psychiatric reports for both the defence and prosecution will be carried out.

During this time there may be a number of court (case management) hearings which confirm that the legal preparation of the case is advancing and also ensures that the accused is being held in prison lawfully – they haven’t been forgotten about. These hearings are open to the public and the defendant may be present if they are deemed well enough.

Murder vs Manslaughter

The CPS decides whether the accused will be charged with murder or manslaughter.

In very broad terms murder is when someone knew what they were doing and they intended to do it. Manslaughter is when they didn’t know what they were doing or they had an ‘abnormality of mind’ (a mental health problem which limited their responsibility) or; they didn’t intend to do it.

The Trial

If the charge of murder stands – and the defendant pleads not guilty – then there will be a trial at a Crown Court looking at all the evidence, where witnesses will be heard and cross-examined. Based on that evidence a jury will decide whether the accused is guilty or not.

Typically such a trial can last for several days and can reveal much information about the defendant’s previous history and care.

If the charge is manslaughter – and the psychiatric evidence supports it – then typically the defendant will plead ‘guilty by reason of diminished responsibility’ which is usually accepted by the Crown.

In such cases there will be a much shorter hearing, often less than an hour, and only short reports will be read out in court. These will cover brief details of the killing itself, a brief history of the offender and evidence from psychiatric experts that the mental health problem was so severe that it limited the accused’s responsibility for the killing.

There is no in-depth investigation, no cross-examination of witnesses, and often not much substantial information emerges.

In cases where the plea of guilty to manslaughter is accepted, many families have felt let down by the short length of the hearing and at the lack of information heard in court – particularly if they have waited a long time for their day in court.

Unfit to Plead

In some cases where the accused is too ill to understand the proceedings, after considering the psychiatric evidence the Judge may find the defendant ‘unfit to plead’.

A jury will then decide on the basis of the available evidence whether the accused actually committed the act.

If they do find the accused did commit the act, the judge can issue an order for the defendant to be sent to a psychiatric hospital under certain restrictions, for treatment under the Mental Health Act.

In the defendant gets better in hospital, a decision will be taken by the Crown Prosecution Service whether they are fit to be sent back to court to enter a plea to the charge. (Sometimes this can be many years later).

Victim Personal Statements (formerly known as Victim Impact Statements)

The court proceedings often focus on the offender and the defending lawyers will usually put forward all sorts of arguments why they should be treated leniently. The voice of the victim, and the impact their violent death has had on the family, can often be completely lost in this process.

Families affected by murder or manslaughter now have a right to make a Victim Impact Statement – about the effect the killing has had on them and their families – for the judge to consider when deciding on the sentence.

The Victim Impact Statement is usually put onto a police witness statement form and entered into evidence. Sometimes this statement will be read out in court after the verdict has been delivered or may

be referred to by the judge during sentencing.

It is impossible to put into words what the violent death of someone you loved has meant to you, but sometimes these statements can be very powerful documents. They can remind everyone in court and beyond that they are dealing with a real person who did not deserve to die, who was known and loved and is still missed terribly.

Sentencing

If convicted of murder, the sentence is always life imprisonment.

The judge will then have to determine the minimum period the defendant will have to serve before being able to be considered for parole.

Typically the judge starts at a tariff for life of 15 years imprisonment and will then consider any aggravating or mitigating circumstances which might raise or reduce this sentence. Any time the defendant has already spent in custody on remand will be taken off this sentence as ‘time already served’.

Families now have some rights to be kept informed in general terms about the defendant’s time in custody and any plans or conditions for their release.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/341367/adult-victims-code-leaflet.pdf

Victim Liaison Officers from the Probation Service carry out this work.

Indefinite Detention to Psychiatric Hospital

If a defendant is found guilty of manslaughter by reason of diminished responsibility, typically the judge will make a hospital order – sending the defendant to a high security or medium secure psychiatric hospital for treatment – for an indefinite period of time.

This can sound like a life sentence and a heavy punishment – and for some seriously ill people this will be certainly be the case.

But for others, once they receive effective and high quality treatment in a secure psychiatric hospital, they can often make substantial progress relatively quickly and can manage their symptoms much better.

A Mental Health Review Tribunal will then decide if they still need to stay in hospital. In some cases this can lead to their release from hospital within just a few years back into the community.

In these cases ‘indefinite’ actually means ‘until they are considered well enough to be released’, which is not the same.

The Ministry of Justice oversees this process and has to agree the release, based on information supplied by the hospital doctors. This normally

works well but we have seen cases where the information supplied to the Ministry has not been accurate, and the offender has been released inappropriately.

Mental Health Review Tribunals

Mental Health Tribunals judge whether patients in secure hospitals are being held appropriately and legally. If a patient gets better in hospital and no longer needs to be held in a secure facility they can apply to a Mental Health Review Tribunal to be released.

Under the Mental Health Act 2007 victims and their families now have rights to get information about the circumstances of a convicted perpetrator in hospital and any changes in their status. They also have the right to hear about any plans, applications or conditions for their possible release.

Families can also write to, or apply to appear in person before the Tribunal when they are deciding whether to release a patient. It’s an opportunity to give the families’ views about any possible release.

This is arranged via the Probation service (National Offender Management Service) who will act as intermediary. This is the theory.

There is no information currently available about how this has worked in

practice, particularly from the victim's family's point of view.

The practice appears to be different and many families we are in touch with typically report great difficulties in getting their concerns heard at Tribunals.

[b] Coroners' Courts

Coroners

Coroners are officials responsible for investigating violent, suspicious or unnatural deaths. They are usually doctors or lawyers, and their job is to try to establish the cause of death.

They are independent from the Police. In cases of murder, manslaughter or infanticide the Coroner will need to order a post-mortem – an invasive medical examination of the body to find out more about the cause of death.

This will be done in a hospital by a pathologist and is normally completed as soon as possible, usually within a few days.

If criminal charges have been brought against somebody for causing the death, it may also be necessary to have a second post mortem or further investigations. If this happens, the release of the body and the funeral arrangements will be delayed.

Only when the Coroner has enough information to make a decision on

the cause of death will the body be released for the funeral.

If the death was due to a violent act the Coroner will hold an Inquest – a legal inquiry into the causes and circumstances of a death.

Your Family Liaison Officer (or the Victims Support Homicide Service worker) should be able to put you in touch with the Coroners' office dealing with your case.

A guide to the Coroners Court can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/283937/coroner-investigations-a-short-guide.pdf

Post mortems

Families do not have the right to object to a post mortem ordered by the Coroner, but they are encouraged to tell the Coroner if they have any religious or other strong objections.

Families and the next-of-kin have the right:

- to be told in advance the date, time and place of the post mortem examination unless this is not practicable or would unduly delay the examination;
- to have their choice of medical representative present at the post mortem;

They may also:

- ask the Coroner for reasonable access to see the body, if they wish, before it is released for the funeral;
- ask the Coroner for a copy of the post mortem report, but a fee may be payable;
- ask the Coroner about a separate post mortem.

Any separate examination on behalf of the family would have to be at the family's own expense and by a pathologist of their choice. Other persons with an interest (such as defence lawyers) may have similar rights.

Coroners' Inquests

An inquest is a legal inquiry into the cause and circumstances of a death. It examines who has died, how they died and when and where the death occurred. It's not a criminal trial; the Coroner does not blame anyone for the death.

An inquest is usually opened reasonably quickly after the incident primarily to record that a death has occurred and to identify the dead person.

The Coroner then sends a form to the registrar of deaths to allow the death to be registered.

Where someone has been charged with causing someone's death, e.g. by

murder or manslaughter, the inquest is adjourned until that person's trial is over.

The Coroner will then need to decide whether to resume the inquest. If someone is convicted after a trial, there will not normally be a need to do so because the Coroner will accept the findings of the Court.

If the person accused of the crime is found not guilty, or if the perpetrator commits suicide, or is never found, then an inquest would normally follow.

If the full inquest is resumed, a date will be set and the people entitled to be notified will be told – but only if their details are known to the coroner. This can include the police, lawyers, medical experts and the family.

Inquests are open to the public – sometimes with a jury – and journalists are usually present.

Families and the next-of-kin have the right:

- to be told the date, time and place of the inquest;
- to question witnesses at the inquest, but the questions can only be about the medical cause and circumstances of the death.

Relatives can also ask a lawyer to represent them and ask questions, but

normally there is no legal aid available for this.

Inquests do not determine blame and the verdict will not identify someone as having criminal or civil liability. Possible verdicts include: natural causes, accident, suicide, unlawful or lawful killing, industrial disease, and open verdicts (where there is insufficient evidence for any other verdict).

The Coroner can also issue a 'Preventing Future Deaths' direction in cases where the inquest has shown failings in procedures, and that something needs to be done to prevent more deaths in similar circumstances in future. The Coroner can draw attention to this publicly and will write to the appropriate authorities.

Notes of Evidence at an inquest can be seen by the family or other properly interested persons, and copies may be obtained sometimes for a fee.

IN SCOTLAND

In Scotland the Procurator Fiscal is the public official responsible for the investigation of all sudden, suspicious and unexplained deaths. They are qualified lawyers and are employed by the Crown Office and Procurator Fiscal Service.

The Procurator Fiscal is responsible for investigating the circumstances and cause of death and, if

necessary, instructing a post mortem examination.

Where there are suspicious circumstances surrounding the death, the Procurator Fiscal will instruct the police to investigate and consider whether criminal charges should be brought. A post mortem examination will be carried out and the funeral can only take place when all the enquiries relating to the cause of death are complete.

As in England families have no right to object to a Post mortem, the consent of the next of kin is not required. The Post Mortem will be carried out as soon as possible, normally within a day or two of the death.

The Procurator Fiscal is supposed to ensure that families are updated and kept fully informed on any developments in the investigation.

Nearest relatives will be invited to meet with the Procurator Fiscal when there is the possibility of criminal proceedings or when a Fatal Accident Inquiry is being considered.

Victim Information and Advice (VIA) staff at the Procurator Fiscal's office should contact relatives if there is to be a prosecution, further investigations or a Fatal Accident Inquiry. VIA staff can provide information about the progress of the case and can help families get in touch with support agencies.

[c] Health service investigations

- Who does what? Mental Health Trusts and other Health bodies
- Different types of investigations
- What's a homicide inquiry? What do they do? Are they any good?
- When should they start?
- How can families be involved?
- The problem of Patient Confidentiality
- Problems around Anonymity
- Learning Lessons
- Are they accountable?
- Where can I find previous inquiry reports for my area?

Who Does What?

Mental Health Trusts are local NHS organisations responsible for providing specialist care and treatment for people with mental health problems in England that can't be treated by the GP alone.

This care is delivered both in hospitals and by community mental health teams. There are currently 73 mental health trusts across England. A list of them can be found here:

<http://www.nhs.uk/servicedirectories/Pages/MentalHealthTrustListing.aspx>

NHS Mental Health Trusts are supervised by NHS England and more than 200 Clinical Commissioning Groups (CCGs). The CCGs are local to your area. Both NHS England and the CCG are responsible for

developing and improving health services in the local area, ensuring quality, measuring performance and making sure that national priorities were integrated into local plans.

All of these NHS organisations should, in theory, be responsive to families' questions and needs.

Scotland, Wales, and Northern Ireland run their NHS services separately.

Official investigations by health trusts and authorities

If a recent mental health patient commits murder or manslaughter, a number of health service investigations will follow.

The local mental health trust will have to do an initial report and then

a full internal investigation into what happened and the quality of care that the offender received before the incident. As the Trusts are essentially investigating themselves these reports can be of variable quality and don't always identify all the problems.

NHS England are also required to hold a full independent inquiry to see if any lessons can be learned.

When these reports are done well, they can help answer many of the family's questions and provide much useful detail about what happened.

The current NHS guidance says families should be kept fully informed about these investigations, be able to contribute to them and receive copies of the full reports if they wish.

This doesn't always happen and much of our work helping families is to secure access to these investigations and reports to provide them with the information they need.

There's further information about these investigations below and at our website:

<http://www.hundredfamilies.org/help-for-families/>

IN SCOTLAND

Mental health services in Scotland are delivered by 14 regional NHS boards. A list of them is here:

<http://www.gov.scot/Topics/Health/NHS-Workforce/NHS-Boards>

Full Inquiries into mental health homicides in Scotland are exceptionally rare [only 2 in the last 8 years when at least 136 mental health patients have been convicted of a homicide] and there is little evidence that any Scottish health board is learning from these tragedies. We are actively campaigning to improve this.

IN WALES

Mental health services in Wales are provided by seven regional health boards. Contact details are given at the end of this booklet.

Inquiries into mental health homicides are undertaken on a case by case basis by Healthcare Inspectorate Wales.

<http://www.hiw.org.uk/>

IN NORTHERN IRELAND

Mental health services in Northern Ireland are provided by five regional Health and Social Care Trusts. A list of them is here.

<http://online.hscni.net/hospitals/health-and-social-care-trusts/>

There is separate guidance issued by the Northern Ireland Department of Health Social Services and Public Safety about inquiries following mental health homicides. It is broadly similar to the guidance in England.

Homicide Inquiries are commissioned by the local Health and Social Care Trust.

What is a Homicide Inquiry?

Who does them?

What do they do?

Are they any good?

Homicide Inquiries

If a patient has been in contact with mental health services in the six months before they killed someone, the government requires NHS England to commission an Independent Inquiry or investigation into the event.

They also have to commission an inquiry if it is thought that there were systemic problems within the trust, or, if someone working for the state was involved or somehow contributed to the death.

NHS England will first consider the mental health trust's own internal investigation report before agreeing to hold an independent inquiry.

There are usually different levels of independent investigation depending on the complexity of the case, and the quality of the Trust's internal investigation.

In some cases there may be different sorts of additional investigations, such as **Domestic Homicide**

Reviews (in cases where a killing has happened in a house between people who have lived together) or **Serious Case Reviews** (where the victim was a child, or a vulnerable adult).

This is an evolving area of investigation, with different practices around the country, so please contact us for more information.

Who does the inquiry?

The inquiry will be undertaken by people who don't work for NHS England or the local mental health trust. They should, in theory, be fully independent.

There are a number of organisations now that conduct these investigations.

Typically the inquiry team will include a consultant psychiatrist, and possibly someone with a background in nursing or social services.

The mental health professionals appointed to the panel will however inevitably come from other mental health trusts where patients have also committed murders. Some think this can lead panel members in some cases to be much more sympathetic to poorly performing mental health staff than to the families of the victims.

What do they do?

Homicide Inquiries examine the care and treatment of a mental health patient involved in a killing to see if the care was appropriate and of good quality. They investigate if local and national guidelines were followed and whether any lessons can be learned to help prevent such homicides happening again in the future.

The inquiry panel

In cases where a full independent mental health homicide investigation has been ordered, the Inquiry panel typically:

- reviews all available documentation,
- talks to witnesses (but only if they agree),
- writes a detailed account of the case (usually as a timeline of what happened when) and
- makes comments and judgements about the quality of the care received by the perpetrator.

The hearings are held in private.

Often Independent Inquiries don't discuss the victim or what happened to them in any detail – they are mainly concerned with what happened to the perpetrator.

The inquiry panel will write a report – which is usually published – and which will typically include

recommendations for improvements in services.

If done properly, Inquiries can provide extremely useful information to the families of victims trying to understand what happened to cause their loved one to lose their life.

Are they any good?

The quality of Independent Inquiries has been hugely variable, and the NHS is currently trying to ensure a more consistent approach.

Some are excellent and do a robust and thorough analysis of the background and causes of the incident. They provide much useful information in a fair and open way, which can go a long way to help families and support real change.

Others are less good and just seem to accept the trust's own internal investigation without much serious questioning or analysis at all.

When should they start?

Official government guidance says the independent investigation should start 'as soon as possible' after the incident. European law says such investigations should be 'prompt'.

Typically this is after the Court Case has been completed, although in many cases there is no reason why the investigation can't at least start beforehand.

Some investigations don't start as quickly as they should. Some NHS bodies know they have to cooperate but often don't appear to want to be fully engaged. They upset the staff, they cost money and they bring unwelcome media attention. Very often they highlight failings that should have been dealt with already – which can be highly embarrassing.

(The right of victims' families to know what happened doesn't seem to feature very highly on their agenda.)

NHS Guidance from April 2015 requires Independent Investigations to be completed within six months of being commissioned, although few recent inquiries have met this deadline (for a variety of reasons).

Consequences of delays

Delaying the inquiry process means

- documents, recall of the events and witnesses will all be more difficult to find, diminishing the quality of the evidence so the inquiry will not be as thorough and robust as it should be
- potentially unsafe practices and treatments are being tolerated for longer than is absolutely necessary
- lessons aren't being learned, and
- patients, their families, NHS staff and the wider public are all put at unnecessary risk.

How can families be involved?

Because NHS investigations invariably treated victims' families so poorly in the past, after lobbying by this organisation and with strong support from a few innovative people in the NHS, the current 2015 NHS guidance stresses that families should now be fully consulted and involved in the investigation process if they want to be.

They should be given the opportunity to ask questions, receive answers, receive updates and receive full copies of the Trust internal and the Independent investigations.

This is still a relatively new process, but the signs are that some NHS bodies are becoming aware of the needs of victims' families, whilst others appear to be ignoring the guidance (or at least dragging their feet).

So what can families do if they have concerns, are being ignored, or want to be better involved in the investigation process?

- Write to the Chief Executive of the Mental Health Trust.
- Write to the Independent Investigations Manager for NHS England in your area. (We can put you in touch.)

If you are unsure about doing this for yourself, we are very happy to do this for you. We have a network of contacts and know the right people to talk to.

Families could ask

- if the case is being investigated
- if the perpetrator was a recent patient of the mental health trust
- how the trust is planning to keep the victim's family involved
- who the contact person will be.

You might want to quote from the National Patient Safety Agency (NPSA) Good practice guidance above and ask them how they are meeting their responsibilities.

You should keep copies of any letters, and ideally make a note of any phone conversations you have with the Health Authorities.

Letters from the victims' families should bring an urgent response from the health authorities.

If not, you might want to think about contacting the local press to tell them of your difficulties. They are bound to be interested.

The problem of patient confidentiality

One of the biggest difficulties we come across is Health Trusts refusing to give out information to victims, claiming they are forbidden to do so on the grounds of 'Patient confidentiality.'

This is actually nonsense, as trusts now have an official duty to be open and honest with families after a serious incident (the Duty of Candour) but is still remarkably common.

They claim they need the offender's consent to see his medical files in order to begin the investigation. This also is not actually true – it is good practice to ask the offender for permission, but the records can still be released, and the investigation can begin even if they refuse permission (as it is in the public interest and the notes are needed for an official investigation important for the effective and safe running of the health service).

Many mental health trusts still haven't grasped this and still refuse to disclose information to the victims after their loved ones died. This is often distressing, as what it actually means is that they consider the offender's rights to be far more important than the victims'.

This is something we are trying to change.

The problem of anonymity

Perpetrators and victims

Although homicide inquiries are supposed to be rigorous, transparent and open to public scrutiny, in many cases health authorities do everything they can to conceal the identity of the perpetrator. They do so out of an overriding concern for the rights and welfare of the killer over those of the victim and their families.

Many investigations don't even bother to name the victim. If they do – they might just use the initials, but not always the right ones. Many victims' families find this practice grossly insulting.

It's also completely pointless.

In many cases the identities of the perpetrator and the victim will already be well known from press reports of the incident, of the inquest and around any legal proceedings.

Medical professionals

Although medical professionals used to be routinely named and identified in these reports, this doesn't usually happen now.

It's sometimes argued that anonymity is used to encourage mental health professionals to report incidents that otherwise wouldn't come to light. But homicides are usually pretty obvious

events and to our knowledge none have been investigated following a tip off from an anonymous health professional.

It's hard to see how this argument can apply to mental health homicides, yet it is repeatedly and routinely used by a large number of Health Authorities.

Some clinicians claim it's to avoid undue blame being placed on the mental health professionals. Others argue it's just a way of avoiding responsibility.

Repeat offenders?

Anonymising mental health professionals also means there is no way of telling whether certain people attract a repeated pattern of problems and/or feature in more than one independent homicide inquiry report.

There are at least two cases in the West of England where the same consultant psychiatrist was involved in two separate local homicide inquiries of patients in their care.

Scrutiny

European law requires independent inquiry reports to “have a sufficient element of public scrutiny”. We argue that anonymising and obscuring the identities of all those concerned means there can be never be *any* proper or adequate public scrutiny.

And the lack of public scrutiny can cause serious problems.

Learning lessons

There is little evidence that mental health authorities are truly learning from their mistakes – lessons are not being learned.

There have been several hundred independent homicide inquiries since they became a government requirement in 1994. They have made thousands of recommendations for improvements in services.

The recommendations are supposed to help Mental Health Trusts learn from their mistakes to ensure the likelihood of such killings is as low as it could possibly be.

But the same problems, and the same recommendations keep appearing over and over again.

Among the most common areas of concern are:

- Failure to keep decent and accurate records,
- Failure to do adequate care planning,
- Failure to do adequate risk assessments,
- Failure to listen to the family,
- Failure to treat drug problems,
- Failure to follow up missed appointments,
- Failure to ensure patients take their medication.

Despite the same recommendations appearing regularly over the last fifteen years, Mental Health Trusts are not still acting on them effectively. They are failing to learn from their mistakes.

And this is despite any amount of Government and professional guidance saying that they should.

It's difficult to understand after so many repeated warnings why the message is still failing to get through.

Are mental health services accountable?

According to the NHS Constitution when things go wrong the responsible NHS organisation should acknowledge the fact, apologise, explain what went wrong and put things right quickly and effectively.

But in Mental Health Services it rarely seems to work out like that.

Some homicide inquiries (generally the less independent ones), will document a whole series of serious failings yet still conclude the killing wasn't predictable or preventable.

There is little evidence anybody is ever responsible or held to account for the failings.

A Freedom of Information request to the General Medical Council – the doctor's watchdog – revealed

that despite hundreds of mental health homicides since 1993, not one psychiatrist has ever been disciplined by them following a homicide by a mentally ill patient.

Inquiry reports go out of their way to foster a ‘no-blame culture’; which can mean that any criticism at all is rare and that incompetence, neglect, and grossly inadequate performance are often routinely tolerated without any sanction whatsoever. We argue there should be a ‘fair blame’ policy – not just for clinicians and lower grade staff, but also for NHS managers and planners as well.

The frequent use of anonymity and claims of patient confidentiality mean many inquiries operate under a suffocating blanket of secrecy, which frustrates transparency, openness or any form of adequate public scrutiny.

And because many inquiries are delayed and only appear many years after the original killing, health authorities can claim everything has changed in the mean-time, action plans and targets have been drawn up (on paper), the same staff are no longer involved in delivering services, and that the public has nothing to worry about.

Typically, the well-worn phrase “lessons have been learned”, might offer a comforting sound bite for the press, but will carry little weight with the families of the next victims.

If lessons had indeed been learned, the same failings wouldn’t appear in inquiry reports over and over again.

This refusal to be properly open and accountable is not without consequences.

Lack of accountability arguably

- has a highly negative effect on public attitudes to mental health service managers and professionals.
- will encourage those who claim mental health services are negligent in protecting their patients and the public, and
- will inevitably increase stigma towards the mentally ill

Previous inquiries in your area

A list of inquiries can be found here: <http://www.hundredfamilies.org/the-victims/> or contact us for more information.

[d] The Media

Some things for families to consider

A murder is always newsworthy – but not all homicides get the same range of coverage – some make the national news, others just feature in the local press and others are barely covered at all.

Families should think about contacts with the media.

You don't have to talk to them – but sometimes it can be useful. They are in a position to ask questions of authorities that ordinary members of the public often cannot reach.

The media are likely to be interested in a murder case on a number of different occasions – particularly if there is a trial and a subsequent investigation by the health authority.

This interest might come

- Immediately after the incident
- If someone is charged
- If there is a court case
- If a health authority inquiry is launched
- If the health authority inquiry is published

After the incident

The confused immediate aftermath of a murder is the period when families are most likely to be contacted by journalists, who often have very little information from which to write their story.

Inevitably some will get their facts wrong which can be distressing to victims' families. But the problem won't be corrected until the journalist knows about the inaccuracies.

If families do have something they want to say (or correct), writing a short press statement can make it

more likely their views are reported accurately – whilst also helping the journalist do their job to cover the story properly.

Although there are exceptions, many journalists are sympathetic to victims' families, and few enjoy knocking on victims' doors uninvited.

If the killer is not found

If someone has been killed and the killer not found, then it can be very useful for families to engage with the media to ask the public for information.

Typically in such cases the police would organise a press conference where family members can make a statement, or answer questions. Usually local TV crews, radio and newspaper reporters will attend.

If necessary the family liaison officer, or a police press person will be able to help with drafting the statement. Such press conferences, whilst often extremely difficult emotionally, can sometimes be very effective.

Photographs

Sometimes it can also be helpful to release a photograph of the victim to the press – the clearer the better. This can help people remember there was a real victim in the case who was not just a name or a statistic.

Photos are usually distributed to the press through the Police Press office.

It's likely the same photo will be used whenever the media cover the story in future, so families might want to choose one with some care.

The Police may also issue their own press statements, which will record the bare facts of the incident as they understand them, and which may cover significant developments in the investigation.

These are given out to the press and are usually published in the news section on the force's own website.

Lifestyle Magazines

It's also not unusual after the incident for families to be contacted by local press agencies offering to write an article for magazines such as *Take a Break*, *Chat*, *Woman* or similar. They may or may not offer a small fee.

They would want to send a journalist to interview you, who would then write the story as if you had written it yourself. They would also want access to several photographs of the victim.

Some people find this helpful – others less so.

If someone is charged

Once someone is charged the media will usually report the fact and give some very basic information about the accused. The defendant is 'innocent

until proven guilty' and under the Contempt of Court Act nothing in the press report can be seen to prejudge or influence the case in any way. If they do they'll be subject to heavy penalties.

Typically at this time, the press may run 'tribute' pieces – about the life and background of the victim, with contributions from families and friends – but they won't discuss the actual circumstances of the killing itself.

Court Cases

Depending on the circumstances of the case, there may well be press interest at the time of the trial.

The media can usually report anything that happens in open court – statements by the judge, prosecution and defence lawyers, and any witnesses. There may be some restrictions however if children are involved. If a victim impact statement (*see Court Cases, page 11*) is read out prior to sentencing this may also be reported.

When the case is over journalists might approach families for their reaction. In some cases Family Liaison Officers can read out statements written by the family on their behalf if necessary. The police may also issue a press statement and if there is a conviction, may also release a photograph of the defendant – usually a custody mug-shot.

Health Authority Inquiries

Health authorities don't usually welcome press coverage of mental health homicides and often make plans well in advance with their communications teams on how they will handle the press.

Typically at the beginning they'll either say they can't comment because of 'patient confidentiality' or because an 'inquiry is underway'. The press may cover the start and publication of an inquiry – but only if they know about it. Sometimes there will be no coverage at all.

Where families have not been fully involved with the investigation or dispute the findings, it can be useful to let the press know, as they can often be useful in focussing the Trust's attention in trying to get answers.

If you need help or support, or have any other questions about dealing with media inquiries, please get in touch!

[e] Criminal Injuries Compensation Authority

What is the Criminal Injuries Compensation Scheme?

The Criminal Injuries Compensation Scheme is a government funded scheme designed to compensate blameless victims of violent crime in Great Britain.

The Criminal Injuries Compensation Authority (CICA), administer the Scheme and decide all claims. The rules of the Scheme and the value of the payments awarded are set by Parliament and are calculated by reference to a tariff of injuries. Although the size of the award varies to reflect the seriousness of the injury, it will never fully compensate you for what you have suffered or lost – it is just society's way of recognising that you have been a victim.

Getting help with your application

You do not need a paid representative such as a solicitor or claims management company to apply for compensation.

Free independent advice may be available from Victim Support (*see Contacts*) or other charitable organisations. You can also get advice from your local Citizens Advice service, a law centre, or from

a welfare rights organisation. If you belong to a trade union, they may be able to help.

We are also hoping to be able to provide a free support and advice service for CICA claims in the very near future

What payments are available from the Scheme?

The CICA will considers claims for:

- a fatality caused by a crime of violence including bereavement payments,
- payments for loss of parental services and
- financial dependency and funeral payments.

Not all claims for compensation will be successful; you must be eligible under the rules of the Scheme.

You must apply as soon as it is reasonably practicable for you to do so. If you were an adult at the time of the incident, this should normally not be later than two years after it occurred.

Applying for a payment

You can apply for compensation online at:

<https://www.gov.uk/claim-compensation-criminal-injury>

The application process should take no longer than 20 minutes. If you have no access to online services or need help to complete your application, Customer Service Centre advisors on 0300 003 3601 can help. The team is available from 08:30 to 17:00 except Wednesday when they are open from 10:00 to 17:00.

Applying on behalf of children

If you are the parent, or person with parental responsibility for a child, you can complete an application on their behalf. You will be asked to provide your details and proof of your relationship to the child.

Applying on behalf of an adult who cannot apply themselves

If you have the authority to act on behalf of a person who lacks the capacity to make their own application, you can apply on their behalf. The CICA will seek evidence that you are entitled to act on their behalf.

If your loved one was killed outside of the United Kingdom

If you are a UK citizen and were affected by a result of a crime of violence in another country which is part of the European Union (EU), CICA can help you apply for compensation from that country.

Please call their EU Assistance Team
on 0300 003 3061 or email

eucat@cica.gsi.gov.uk

Details of compensation schemes in
other countries can be found on the
EU Judicial website.

If a member of your family was
killed outside the EU, you may be
able to apply under a similar scheme
operated by the country concerned.

Please contact the Foreign and
Commonwealth Office for more
information. Details can be found on
www.gov.uk.

5. Legal Advice

Bringing an Action for Negligence

The current state of the law is broadly unsympathetic to those “outside” the hospital gates who fall victim to the actions of patients who have failed to receive adequate or any care and treatment. All health authorities certainly do owe a duty of care to those in their care and are potentially liable if that duty is breached and the damage is foreseeable. However in the situation where a “patient” goes on to kill a member of the public outside the institution itself, the duty to local members of the public has not yet been recognised in English law.

It is arguable that the health authority owes a duty to the local community (certainly to provide adequate healthcare) and by implication, owes a duty to protect their safety from dangerous individuals undergoing treatment. It has been argued that members of the local community are entitled to rely on the Health Authority to provide a safe and secure system of care for the mentally ill. In itself this may lead to legal argument as to whether there was an “unsafe system” or whether the system itself was safe and it was only individual negligence/incompetence that caused the incident.

In considering any such claim for negligence, the degree of “proximity” (closeness) between the treatment (or lack of it) and the incident of an unlawful killing, will be very relevant. Should such incident occur a matter of days or weeks after the release or “escape” of the perpetrator, it is currently unlikely that a Court would attach any liability to the failure of the Health Authority to adequately treat the perpetrator – they will argue that the “gap” in the foreseeability of an assault is too wide for the bereaved to be able to attribute the death directly to any failure by the Authority.

It is therefore accordingly likely that a successful claim for negligence will have to focus on the foreseeability of a serious assault committed upon the release of the perpetrator from care and treatment. A valid comparison may be sought to be made with the negligent escape of poisonous gas or a negligently-caused flood, whereby the perpetrator may well be currently held liable for the damage caused in the locality.

Again the current state of the law is unsympathetic to those in the community who have been assaulted by patients who themselves have failed to receive appropriate care and treatment.

The State has an obligation to protect the life of its citizens and to take appropriate steps to safeguard lives (Article 2 ECHR).

It has already been broadly established that the National Health Service is “The State” for these purposes. Cases such as *Osman* have determined that the State may be liable for a breach of Article 2 where they have failed to take such steps where they know or ought to have known that there is a “real and immediate risk to an identifiable individual”.

The key words for the sake of current legal argument are “identifiable individual”. Currently the Courts have not engaged Article 2 where the “victim” is not an “identifiable” one. However there are indications that the Court is prepared to hear argument on the point.

Funding to bring a claim

The availability of funding to bring what may well be a claim with uncertain prospects of success, will in practical terms be a crucial issue. Yet again the position is uncertain. Certainly a purely privately-funded legal case will be very expensive to bring and also carries the risk of a huge costs order made against the losing party. It is definitely not a practical option for most who are affected by the kind of incident giving rise to a possible claim.

A claim funded by another individual or organisation is permissible, although certain rules apply to the question of liability for legal costs and (for example) a “down-payment” may be required by the Court.

5. Legal advice (continued)

Since 1st April 2013 the rules relating to “no win no fee” cases have changed.

It is now possible to bring a claim for damages for personal injury with “Qualified One-Way Costs Shifting” (QOCS). The losing party is not liable for costs and only becomes liable to pay their opponent’s costs if they turn down a reasonable offer of settlement (i.e. if the matter goes to trial and the Court awards a sum equal to or less than, the offer previously made). This option would appear to hold out some hope of practical application to these cases.

In any event the Claimant will have to meet any expenses upfront, which will be in the region of £2,000-3,000 in a typical case.

With a conventional “no win no fee” case the main problem is now to be able to secure “After the Event” insurance against having to meet the other side’s legal costs if the case is lost.

The insurance market fluctuates in terms of the products offered and there is no easy answer here save to try to “shop around” for a suitable policy. The main problem (*as above*) is the sheer uncertainty of the law in this area, and an insurer may not feel that such a case is a “good risk” without some persuasion.

If you are considering taking legal action, please get professional advice.

However, we have set up a network with direct access to solicitors and barristers who will provide a free assessment of any possible claim. Please contact us for more details.

In addition, in some cases we might be able to facilitate payment for your legal expenses if you are unable to meet the costs. This is done through a third party. If your claim is unsuccessful you will not have to repay anything. However, if your claim is successful the third party will usually expect around 25-30% of any damages awarded.

6. Support and other services

The largest ever survey of families who have experienced murder or manslaughter found that 100% reported suffering either physical or mental health problems as a result. It's our experience that being depressed, being anxious or suffering panic attacks are not unusual experiences in the aftermath.

Some help will be available from your GP, but many families report that talking to a skilled neutral person about what happened and how you are feeling can be helpful.

Where the offender has been a recent previous mental health patient, the mental health trust can help pay for counselling for victims' families, independent of the services they offer.

This doesn't always happen but we can speak to mental health trusts and NHS England on your behalf if you would like to explore this.

7. How you can support us

We do not receive any Government funding and rely solely on donations from our members, supporters and members of the public. There are currently two ways of helping us:

- Making a donation
- Becoming a supporter

Donations

If you would like to make a donation there are a number of ways you can do this. We have a Paypal link on our website. You can send us a cheque or you can subscribe and become a member. There are others ways to donate or help raise money for Hundred Families should you wish to do so.

Our bank details

Account Name:	Hundred Families
Sort Code:	08-92-99
Account No.:	65721515

JustGiving

Just Giving is an easy way to help raise money and remember your loved one. It is easy to set up on line and you can choose Hundred Families to benefit from your donations. You simply register and set up a giving page at:

<https://www.justgiving.com/signin?returnUrl=http://home.justgiving.com/startfundraising>

Gift Aid

Did you know if you are a UK tax payer, Hundred families can claim gift aid from the HM Revenue & Customs on your subscriptions and donations, helping us make your gift go even further at no extra cost to you? All you need to do it complete a Gift Aid Declaration Form (*see page 39*) A Gift Aid declaration does not commit you to making donations to Hundred Families in the future, but will enable us to claim 25p for every £1 donation that you do make.

By Text

You can donate by text.

To donate £5 (for example) just text
HUND43 £5 TO 70070.

You can also add Gift Aid if you are a
UK tax payer.



Sell your unwanted goods on eBay
and raise funds for Hundred Families.
eBay for Charity allows you to list an
item on eBay and donate 10-100%
of the final sale price to Hundred
Families.

This service needs to be set up
through Hundred Families PAYPAL
account



Do you know about easyfundraising?
It's a shopping portal and every
time you buy something through it
a contribution is made to Hundred
Families. The goods don't cost any
more to you, as the donation comes
out of the shop's advertising budget.
There are a variety of high street
names and travel companies to choose
from. It does not cost you anything.
It is a fantastic and easy way to raise
money for us without having to do
anything except buy the things you
were going to buy anyway. All you
have to do is sign up!

There are lots of other ways you can
help raise money for us, including
events, at memorials or even in your
will. Please contact us for further ideas
or information.

There's a contact form on the website
at [http://www.hundredfamilies.org/
contact/](http://www.hundredfamilies.org/contact/) or just e-mail at
info@hundredfamilies.org

Supporting Us

We're currently launching our Supporters programme for any family member, friends or neighbours to become Hundredfamilies supporters by paying just a pound a month.

You'll get a newsletter, invitations to events and a free entry into our annual Christmas Raffle, and your support will all go to help provide funds to help us carry on our work throughout the country.



BECOME A SUPPORTER

Hundred Families relies on donations to support families affected by mental health homicides across Britain. We want to encourage as many people as possible to become supporters – families, friends and neighbours – so we suggest a monthly subscription of £1.

We are a Registered Charity – Charity Number 1161287

☐ I would like to become a supporter.

(Please print)

Mr/Mrs/Miss/Dr/ Other (please state)	
First Name:	Last Name:
Address:	
Town/City:	
Postcode:	

Telephone:
Email:

Please send the form either: scanned by e-mail to info@hundredfamilies.org or by post to:

Hundred Families,
29 Gledhow Wood Avenue,
Leeds, LS8 1NY

Our bank details

Account Name: Hundred Families
Sort Code: 08-92-99
Account No.: 65721515



Make a Donation

- ☐ I would like to make a donation to Hundred Families and enclose a cheque for £_____ made payable to Hundred Families.
- ☐ I would like to make a regular monthly/annual donation to Hundred Families, please send me standing orders forms.

Gift Aid it

Did you know that if you are a UK Tax payer, Hundred Families can claim Gift Aid from HMRC on your subscriptions and donations; helping us make your gift go even further at no extra cost to you? If you would like Hundred Families to benefit from Gift Aid on your donations please complete the Gift Aid Declaration below. This declaration does not commit you to making donations to Hundred Families in the future, but will enable us to claim 25p for every £1 donation that you make.

- ☐ I would like Hundred Families to claim Gift Aid on any donations that I have made within the last four years and on all donations I make in the future until further notice. I confirm that I pay sufficient UK income/capital gains tax to cover any tax that Hundred Families will reclaim from any donations that I make.

- ☐ I am not a UK Tax payer / I do not wish to participate in the Gift Aid Scheme.

(Please print)

Name: _____

Address: _____

Town/City: _____

Postcode: _____

Date: _____

Signature: _____

Please fill in full, ensure your name and address details are completed above in order for this Gift Aid declaration to be valid.

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