

## **New standard of proof for suicide at England and Wales inquests**

Louis Appleby<sup>1</sup>, Pauline Turnbull<sup>1</sup> (0000-0003-0708-0608), Nav Kapur<sup>1,2,3,4</sup>, David Gunnell<sup>5,6</sup>, Keith Hawton<sup>7</sup>.

<sup>1</sup> National Confidential Inquiry into Suicide and Safety in Mental Health (NCISH), Centre for Mental Health and Safety, School of Health Sciences, University of Manchester, Manchester, UK.

<sup>2</sup> NIHR Greater Manchester Patient Safety Translational Research Centre, University of Manchester, UK, Manchester, UK.

<sup>3</sup> Manchester Academic Health Science Centre (MAHSC), University of Manchester, UK, Manchester, UK.

<sup>4</sup> Greater Manchester Mental Health NHS Foundation Trust, Manchester, UK.

<sup>5</sup> Centre for Academic Mental Health, Bristol Medical School, University of Bristol, Bristol, UK.

<sup>6</sup> National Institute of Health Research Biomedical Research Centre, University Hospitals Bristol NHS Foundation Trust, Bristol, UK.

<sup>7</sup> Centre for Suicide Research, Department of Psychiatry, University of Oxford, UK.

Louis Appleby, Professor of Psychiatry

Pauline Turnbull, Project Director

Nav Kapur, Professor of Psychiatry and Population Health

David Gunnell, Professor of Epidemiology

Keith Hawton, Professor of Psychiatry

Correspondence to: P Turnbull: [p.turnbull@manchester.ac.uk](mailto:p.turnbull@manchester.ac.uk)

Word count: 792

In May 2019 the Appeal Court in England and Wales handed down a ruling on the determination of suicide at inquest that is likely to affect the national suicide rate and influence policy priorities.[1] In fact, the crucial decision, upheld by the Appeal Court, was taken by the High Court in July 2018.[2] This stated that the standard of proof required for a suicide conclusion (previously "verdict") should be the civil standard - balance of probabilities - rather than the previous criminal standard - beyond reasonable doubt. The lowering of the threshold is expected to lead to an increase in deaths recorded as suicide.

The standard of proof has been the subject of debate for several years. Suicide prevention charities, in particular, have campaigned for the civil standard, arguing that it will give a more accurate picture of the extent of the problem, reducing the under-estimation that a higher standard makes inevitable.[3] Higher figures, they believe, will also bring higher political priority. In addition, the criminal standard is widely seen as stigmatising, a throwback to a time when suicide was a crime - decriminalisation occurred only in 1961.[4] The Government response has been cautious, an opposing argument being that a suicide conclusion could add to the distress of bereaved families, especially those whose religion or culture viewed suicide as taboo. The Parliamentary Health Committee in its 2017 inquiry into suicide prevention called for change.[5]

Ironically, the case that produced the change was brought by a family opposing the lower standard, not supporting it.[2] This concerned a death by hanging in an English prison. At inquest the coroner allowed the jury to come to a narrative conclusion that it was "more likely than not" that the deceased had intended to take his own life, effectively a suicide determination on the balance of probabilities. A legal challenge followed and the case reached the High Court where judges decided that, while the higher standard had been widely applied, it had no legal justification. The Appeal Court has now agreed, though the Ministry of Justice will take a further appeal to the Supreme Court.

What will be the effect on reported suicide rates in England and Wales? First, suicide numbers will probably rise and will be hard to compare to previous years. There will be an equivalent effect on important groups such as mental health patients, whose suicide rate has been falling,[6] as well as eligibility for research and serious incident investigation.

These increases, however, could be less than anticipated. This is because there is already an adjustment to official statistics whereby deaths in which intent is unclear ("open" conclusions, recorded as "undetermined") are viewed as probable suicides and included in national figures.[7] In 2017 this amounted to an additional 924 cases, raising the suicide rate by 24%.[8] It is possible that many of the deaths that will now meet the standard for suicide would have been recorded as undetermined.

Second, any increase may not be uniform across the population and new prevention priorities may arise. Uncertainty over the person's intent is often the reason a death does not meet the criminal standard. Any rise may therefore be greater in groups whose suicidal intent can be harder to ascertain, for example young people or those who die by self-poisoning,[9] a method more associated with women.[8] Provisional figures for 2018 show that the number of suicides did rise, most clearly in young people,[10] although the rise began before the new standard of proof came in.[11]

Even so, if under-estimation is less and the figures more accurate, there is an unarguable public health benefit and the change should be welcomed. Yet the effect on inconsistency of inquest outcomes, a longstanding problem limiting comparisons over time and between areas, is harder to predict. Coroners are independent legal officers and their use of conclusions varies.[12] Allowing more ambiguous cases to be considered as suicides may add to that inconsistency.

Most important, what will be the impact on bereaved families? Some will find the greater chance of a suicide conclusion unwelcome, because of religion, guilt or perhaps insurance. Others will see it differently, already bewildered by the current process that may result in a decision that cause of death is undetermined, after the family has accepted that the circumstances suggest suicide.[13] Most families are looking for accuracy, a true reflection of what happened, and that may include an acknowledgement of the despair their loved one was feeling.[14]

Everyone in this debate has aimed to be on the side of families but there is no single family viewpoint, except on one thing. Families agree that inquests, whatever they conclude, should be more supportive, less legalistic, with fewer delays.[13] The standard of proof is only one part of a system that needs reform.

### **Competing interests**

We have read and understood BMJ Group policy on declaration of interests and declare the following interests: none.

### **Authorship and contributorship**

LA conceived the idea for the editorial, wrote the initial draft, and is the guarantor. PT performed the initial search of the literature. All authors contributed to the final version of the manuscript. We thank Sharon McDonnell and Stephen Habgood for helpful comments on an earlier version of this editorial.

### **Patient and public involvement**

Suicide prevention charities campaigned for the change in the law discussed in this article. An earlier version of this manuscript was reviewed for comment by people who have been bereaved by suicide.

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