

Part 3

Participation Benefits for Bereaved Families

The previous chapter described how the empirical research for this book was carried out, and the rest of the book will now set out the experiences of those interviewed within the context of different key aspects, with particular focus on the benefits offered by ensuring fair and effective participation for families. This part of the book looks at what benefits might be experienced by bereaved families if they are supported to participate in an inquest following a death in custody.

Chapter 4 considers what are set out in law as the benefits offered to families in relation to participating in an inquest following a death in custody – described as their legitimate interests. It begins with a brief introduction to the theoretical understanding to why a right to participate in a process that affects you is important, and what it needs to constitute in order for people to feel that their participation is effective. This highlights that an opportunity to see the process for yourself (rather than just be presented with an outcome) and influence the process, or at least be confident that your views or input were taken into consideration when a final outcome was being decided, are both key to what constitutes an effective right to participate. This is set within the framework of an inquest following a death in custody, and the author identifies where there are current gaps to how much influence families can have on the process. The rest of this part then looks at how the participation of families in an inquest following a death in custody can benefit the families themselves. The legal framework establishes that families can participate in order to ensure their legitimate interests are protected. Although ECtHR case law does not necessarily go beyond the need for families to access redress – which may be in the form of compensation – domestic law does set out three legitimate interests as identifying State culpability, finding the truth about how and why a death occurred and knowing lessons have been learned. The author carried out interviews with relevant parties with expertise, and these support the understanding that these three factors are important benefits for families who participate in inquests. However, the interviews also identify further factors that families themselves see as benefits of participation – including receiving an apology, seeing those responsible for a death punished or just knowing there is a public record of any failings.

In addition, the author wanted to look at the impact of participation on the grief process of families, which is considered in Chapter 5. It is clear that participation can have a positive impact on grief and reduce the likelihood that a family moves into complicated grief. But this requires families to be provided with

timely information about the facts surrounding a death, and being offered the opportunity to ensure the deceased is fairly represented during the inquest, and in press accounts of the death. The author believes that decision-makers (especially coroners) should have a greater understanding on what the right to participate means in practice, to ensure families can effectively influence the process. And they should also be aware of how participation can have benefits to families beyond those established in case law – especially in relation to a healthy grief process. Recommendations relevant to these issues will be set out in Chapter 11.

The next chapter looks at what are described as the legitimate interests, which are the legally defined benefits for families if they participate in an inquest following the death of their loved one.