

**SLATER  
AND GORDON  
GROUP**

# **Investigations and inquests: what to do when things go wrong**

**CMM Dorset Care Conference  
7th January 2019**

- Interview under caution by the local authority on suspicion of committing an offence under S3 of the HSWA 1974 (protection of people other than employees)
- Other potential offences – Breach of Reg 12 (safe care and treatment) – up to and including corporate manslaughter/manslaughter by gross negligence – not in this case as no break out of legionella
- Provider accused of failing to adequately monitor temperatures
- Fundamental misunderstanding of the potential evidence
- Lengthy letter of representations sent following the interview
- No further action taken - -prosecution avoided

# Fire Regulations

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- Large fire widely publicised – staff at varying levels all interviewed under caution in a personal capacity including Registered manager, deputy manager, the handyman, area manager and others
- Lengthy detailed investigation
- Fire consultants reports conflicted
- Interviews were far reaching and upsetting
- Company charged with breaches of fire regulations
- Received one of the largest fines ever given

# Inquests

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- Lengthy inquest into how a lady managed to get to a prohibited area
- Jury at the Inquest stated accidental death
- Local authority still chose to interview the owner on a personal basis under caution for manslaughter by gross negligence
- Inquest conclusion could have been unlawful killing had the jury believed there was any breach of the duty of care
- The defect in the door locking mechanism was a latent defect which could not have been foreseen
- Inquests are common in the care sector and it is important to ensure your full cooperation and to have representation as a “Properly Interested person” where appropriate