



Ministry
of Justice

Consultation on the standard of proof for the short-form inquest conclusion of unlawful killing

September 2026



Government of the United Kingdom

Ministry of Justice

Consultation on the standard of proof for the short-form inquest conclusion of unlawful killing

Presented to Parliament by the Lord Chancellor and
Secretary of State for Justice by Command of His Majesty

September 2026



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About this consultation

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Enquiries (including requests for the paper in an alternative format) to:	Coroners, Inquests & Inquiries Policy Team Ministry of Justice Post point 7.37 102 Petty France London SW1H 9AJ Email: unlawful.killing.consultation@justice.gov.uk
How to respond:	Please submit your response to be received by 7 December 2026 via: https://consult.justice.gov.uk/digital-communications/standard-of-proof-for-the-short-form-inquest-concl/ Alternatively, you can submit your response by email to unlawful.killing.consultation@justice.gov.uk or, by post to the address above.
Response paper:	A response to this consultation exercise will be published at: https://consult.justice.gov.uk/
Welsh Language:	A Welsh language consultation paper is available at: https://consult.justice.gov.uk/digital-communications/standard-of-proof-for-the-short-form-inquest-concl/
Impact Assessment:	An impact assessment has not been published alongside this consultation. This is because we do not believe that, if any change were to be implemented in light of this consultation, it would create a material impact on businesses, charities, voluntary organisations or local authorities. We welcome views in response to this consultation on the impacts of any change that may not be immediately apparent from the available data, including those affecting specific sectors or communities.

Equalities Assessment: An Equalities Statement is contained at the end of this document.

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Foreword

The coronial system plays a vital role in providing answers for bereaved families and strengthening public confidence in our justice system. Inquests must be, and must be seen to be, independent, impartial, and focused on establishing the truth without apportioning blame or attributing civil or criminal liability.

In November 2020, the Supreme Court’s judgment in *R (on the application of Maughan) v Her Majesty’s Senior Coroner for Oxfordshire [2020] UKSC 46* clarified that all short-form and narrative inquest conclusions should be determined on the civil standard of proof (i.e. on the balance of probabilities). This marked a change for the threshold applied to the short form-conclusion of unlawful killing which, until that point, had been determined at the criminal standard (i.e. beyond reasonable doubt).

There is a perception among some stakeholder groups that this change has created confusion and an “uneven playing field”, particularly in the accountability processes following deaths involving state-related intervention. In light of these concerns, and as part of a wider package of measures on police accountability, the (then) Home Secretary and Lord Chancellor commissioned a Rapid Review in October 2024 to examine two specific issues. The recommendations from the Rapid Review sit alongside a wider programme of police accountability reforms, including the independent End-to-End Review of the Police Accountability System which the Government has recently announced.

The first issue considered by the Rapid Review was whether the threshold for police misconduct cases involving use of force should be established at the criminal standard. The Government is taking forward separate action on this issue, and it does not form part of this consultation.

The focus of this document is instead on the second issue considered by the Rapid Review – in summary, whether, in light of the perceived impacts and wider implications of applying the civil standard of proof to the short-form inquest conclusion of unlawful killing, a return to the criminal standard should be considered.

The Review was undertaken by the Rt Hon Sir Adrian Fulford PC and Tim Godwin OBE QPM. Their report was published on 24 October 2025 and is available at [Policing accountability: rapid review - GOV.UK](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/1068442/policing-accountability-rapid-review-report.pdf). I am grateful to them both for the time and expertise that they committed to the Review, and for their recommendation that, for a number of reasons including the wider public interest, the Government should undertake this consultation as a next step in considering whether a return to the criminal threshold for unlawful killing would be appropriate.

Accordingly, this consultation is an opportunity for anyone with an interest in this issue to engage with the continuing discussion and to submit their views. We will use the responses we receive to inform further thinking on whether any change is appropriate and justified, also taking account of the paramount principles of justice, transparency, and fairness.

I encourage anyone with an interest in the coronial system and access to justice issues to engage with this consultation and share their views.

Alex Davies-Jones MP

Parliamentary Under-Secretary of State for Justice

Introduction

1. The Ministry of Justice is seeking views on whether it would be appropriate to consider a change to the standard of proof for the short-form inquest conclusion of unlawful killing from the civil standard (i.e. on the balance of probabilities) to the criminal standard (i.e. beyond reasonable doubt).
2. The consultation is aimed at anyone with a professional or personal interest in this issue, to inform our understanding of the ways in which the current framework is working and the implications of any potential change across the range of contexts in which the question of unlawful killing might arise at inquest in England and Wales.
3. Death investigation operates under separate jurisdiction in both Scotland and Northern Ireland. While this consultation is open to anyone, any changes arising from it would apply only to the coronial jurisdiction in England and Wales.
4. The consultation is for evidence-gathering purposes only and does not assume, or indicate, that any change will be made. We will carefully evaluate all responses before considering next steps.
5. In this document, we have used the phrase “standard of proof” to refer to the benchmark by which an inquest conclusion is determined. We have done so because this is the terminology which is most commonly used and most widely understood in this context. However, we acknowledge that some stakeholders (including the Chief Coroner of England and Wales and her predecessor, HH Tommy Teague KC) consider that alternative terminology such as “level of certainty” “degree of confidence” or “degree of conclusivity” (used by The Rt Hon Lady Arden of Heswall DBE in the *Maughan* judgment which is discussed later in this document), better reflect the underlying inquisitorial ethos and status of the coroner’s investigation.
6. For clarity, the issue considered in this consultation relates only to the short-form conclusion of unlawful killing in the coronial jurisdiction. It is not connected with the Government’s recent decision to exclude criminal offences related to unlawful killing such as manslaughter or death by dangerous driving from the Sentencing Act’s Progression model.
7. Copies of the consultation paper are being sent to:
 - Chief Coroner of England and Wales
 - Chief Medical Officer
 - Commissioner of the Metropolitan Police Service

- Coroner Services Committee
- Coroners Society of England and Wales
- Association of Police and Crime Commissioners
- Brake
- Department for Business, Innovation, Science and Trade
- Department for Digital, Culture, Media and Sport
- Department for Education
- Department for Transport
- Department of Health and Social Care
- Dr Georgia Richards
- General Register Office
- Health and Safety Executive
- Hillsborough Law Now
- HM Prison and Probation Service
- Home Affairs Committee
- Home Office
- INQUEST
- Independent Advisory Panel on Deaths in Custody
- Independent Office for Police Conduct
- JUSTICE
- Justice Committee
- Lady Chief Justice
- Local Government Association
- Ministerial Board on Deaths in Custody
- Ministry of Defence
- Ministry of Housing, Communities and Local Government
- National Medical Examiner
- National Panel of Coroner Services Managers
- National Police Chiefs' Council
- NHS England
- NHS Wales
- Northern Ireland Executive
- Office for National Statistics
- Police Federation
- Refuge
- Scottish Government
- StopWatch
- The Royal College of Pathologists
- Welsh Government
- Women's Aid

8. This list is not meant to be exhaustive or exclusive, and responses are welcomed from anyone with an interest in, or views on, the issue covered by this paper.

Section 1 The purpose of a coroner's investigation

- 1.1 Coroners are independent judges who specialise in death investigation. Anyone with concerns about a death can report it to a coroner, and medical practitioners are under a statutory duty to do so in specified circumstances which are set out in The Notification of Deaths Regulations 2019.
- 1.2 If the coroner suspects that the cause of a reported death was violent, unnatural, unknown, or that it occurred in custody or other state detention, they are under a statutory duty to open an investigation. The statutory purpose of the investigation is to establish four key facts – who the deceased person was; when they died; where they died; and how they came by their death.
- 1.3 Where the coroner considers that an investigation into a death engages Article 2 of the European Convention on Human Rights (ECHR) (usually where a death involves a state organisation), they must also investigate the broader circumstances of the death. Ultimately, however, the scope of any investigation is a matter for the coroner as an independent judge.
- 1.4 Once an investigation has been opened, it will culminate in an inquest (i.e. a public court hearing) unless the coroner is satisfied – before reaching an inquest – that the death resulted from a natural cause and that there is no public interest in holding an inquest. In those circumstances, they must discontinue the investigation without holding an inquest.
- 1.5 All deaths in custody or other state detention, including deaths from natural causes, must be investigated by the coroner and must have an inquest. Unless the death was from natural causes, the inquest must be held with a jury.
- 1.6 Inquests are designed to be neutral, independent and focused on uncovering the truth about the circumstances of a death. To support this purpose, the proceedings are inquisitorial (i.e. fact-finding) rather than adversarial and, by law, the coroner or jury cannot apportion blame or find civil liability or criminal liability on the part of a named person.
- 1.7 Coroners operate within a clear statutory framework set out in the Coroners and Justice Act 2009, and the underpinning Coroners (Investigations) Regulations 2013 and the Coroners (Inquests) Rules 2013.

- 1.8 In addition, the Chief Coroner issues guidance to support coroners in applying these principles consistently and fairly. For further detail, see the Chief Coroner's Guidance, Advice and Law Sheets - Courts and Tribunals Judiciary.

Section 2 The role of a jury in an inquest

- 2.1 Inquests are usually heard by a coroner sitting alone and, where this is the case, the coroner is responsible for making a determination which answers the four statutory questions of who has died and when, where and how they died; and for providing other information about the deceased person which is required for registering their death.
- 2.2 However, an inquest must be held with a jury if, as set out above, a death occurred in custody or other state detention; or is thought to have resulted from an act or omission of a police officer; or was caused by a notifiable accident, poisoning, or disease. In addition, a jury may be called in any case in which the coroner thinks there is sufficient reason to do so. An inquest is likely to be held with a jury in cases which potentially involve a determination of unlawful killing. Where a jury is called the coroner will complete the particulars required for the registration of the death, but these must be confirmed by the jury for them to stand.

Section 3 The relationship between an inquest and related investigatory processes

- 3.1 The coroner's investigation and inquest operates independently of any related investigatory processes including, where relevant, a criminal trial, civil proceedings, a misconduct hearing, or an investigation by, for example, the Health and Safety Executive or an Accident Investigation Branch.
- 3.2 However, where criminal proceedings are anticipated or underway in connection with a death, the coroner is required by law to suspend their investigation and inquest for the duration of those proceedings, at the request of the prosecuting authority or the Lord Chancellor (as appropriate), unless they consider there is an exceptional reason not to do so. In addition, the coroner is likely to suspend their investigation until any other relevant investigatory processes, for example, those carried out by the Care Quality Commission, Independent Office for Police Conduct or Health and Safety Executive, have been completed. This is primarily intended to avoid duplication of investigation.
- 3.3 Following the conclusion of any related processes, the coroner will decide whether or not to resume their investigation, including the inquest hearing. They may not do so unless they consider there is sufficient reason. In practice, this is likely to turn on whether they consider that the four statutory questions (who has died and when, where and how they died) have already been satisfactorily established by the related proceedings. Where the coroner does resume their investigation, they will usually request the findings from any other related processes as evidence.
- 3.4 Where an inquest is not resumed and concluded, no formal inquest conclusion will be recorded.
- 3.5 It is important to note that the coroner may decide to resume their investigation in cases where no criminal charges have been brought, or where a criminal prosecution has resulted in an acquittal. This reflects the distinct fact-finding purpose of the inquest, which cannot and does not seek to determine criminal liability.

Section 4 Inquest conclusions

- 4.1 At the conclusion of the coroner's investigation and inquest, they (or the jury, where applicable) will reach a conclusion as to the cause of the deceased person's death. Where appropriate, this can take the form of the relevant "short-form" conclusion (for example, "suicide", "unlawful killing", "accident" or "natural causes") as set out in the Notes to Form 2 in the Schedule to the Coroners (Inquests) Rules 2013, as amended by the Coroners (Inquests) (Amendment) Rules 2021 which reflect the change to the standard of proof for short-form conclusions of suicide and unlawful killing, as confirmed by the Supreme Court's decision in *Maughan* (see below). These short-form conclusions provide consistency across the system and support the compilation of national statistics.
- 4.2 Alternatively, coroners or juries can record a narrative conclusion. This is a factual statement that describes the circumstances of the death in more detail than a short-form conclusion. Narrative conclusions are often used where none of the available short-form conclusions fully fit a case and offer flexibility in complex cases. In some instances, a narrative conclusion may amount to the substance of a short-form conclusion (for example, unlawful killing) even if that short-form is not explicitly recorded. As a further alternative, a short-form conclusion may be combined with a short narrative explanation to add context.
- 4.3 For this reason, short-form conclusions remain important for consistency and transparency, while narratives provide additional context where needed. Like short-form conclusions, narrative conclusions do not attribute blame or liability but aim to provide a clearer understanding of how the death occurred.
- 4.4 Prior to the case of *Maughan*, all short-form, narrative and combined conclusions were determined on the civil standard of proof (i.e. on the balance of probabilities) with the exception of the short-form conclusions of suicide and unlawful killing which, historically, were determined on the criminal standard of proof (i.e. beyond reasonable doubt).
- 4.5 This reflected the gravity of these two particular conclusions, which were seen as closely aligned with criminal liability. As Lady Arden noted in the Supreme Court's *Maughan* judgment, it was once the duty of a coroner's jury, when returning a conclusion of murder, manslaughter or infanticide, to name the individual responsible for the offence or as an accessory before the fact. This practice was amended by section 56 of the Criminal Law Act 1977, which prohibited coroners from finding of any person guilty of murder, manslaughter or infanticide. This has since been

replaced by section 5(3) of the Coroners and Justice Act 2009 which explicitly prohibits coroners from determining any question of criminal liability on the part of a named person, or civil liability.

The *Maughan* judgment

- 4.6 In October 2017, the Senior Coroner for Oxfordshire, sitting with a jury, held an inquest into the death of James Maughan, who had died in HMP Bullingdon.
- 4.7 The Senior Coroner decided that the jury could not safely reach a short-form conclusion of suicide because they could not be sure beyond reasonable doubt (i.e. to the criminal standard of proof) that the deceased had intended to take his own life. Instead, the Senior Coroner asked the jury to make a narrative statement about the circumstances of the death on the balance of probabilities (i.e. to the civil standard of proof).
- 4.8 The jury's statement concluded that, on the balance of probabilities, James Maughan had intended to take his own life. His brother began judicial review proceedings to establish that the jury's conclusion was unlawful, arguing that the Senior Coroner had been wrong to instruct the jury to apply the civil standard of proof when considering whether the deceased had taken his own life.
- 4.9 The Divisional Court dismissed the application for judicial review, determining that the standard of proof in all inquest conclusions of suicide (whether narrative or short-form) was the civil standard. The applicant appealed the Divisional Court's decision. The Court of Appeal upheld the Divisional Court's judgment but, in addition, determined that the criminal standard of proof should continue to apply for inquest conclusions of unlawful killing.
- 4.10 The appeal was taken to the Supreme Court, which handed down its judgment in November 2020. By majority, the Supreme Court dismissed the appeal and determined that the standard of proof for all inquest conclusions, whether narrative or short form (and including the short-form conclusions of suicide and unlawful killing) was the balance of probabilities (i.e. the civil standard).
- 4.11 The judgment argued that this is consistent with the legal principle of applying the civil standard in other non-criminal proceedings and does not create criminal liability or increase the risk of prosecution, beyond that which already exists in any related civil proceedings. The judgment also noted the illogicality of applying different standards to short-form and narrative conclusions, as both serve the same fact-finding purpose. It also made the point that an inquest would normally be suspended

pending the conclusion of any associated criminal proceedings, thereby reducing the risk of apparently conflicting outcomes.

- 4.12 With regard to unlawful killing in particular, the Court was concerned that public confidence could be undermined, and bereaved families could be left without answers, if the application of the higher criminal standard were to result in an unlawful killing conclusion not being found.
- 4.13 The Supreme Court's decision was intended to remove inconsistencies across the inquest process. However, some stakeholder groups have expressed concern about its wider implications and, in particular, the way in which a short-form conclusion of unlawful killing interacts with the outcomes of any other investigations that take place in relation to a death – for example, professional misconduct proceedings or a homicide trial. The reasons for this are discussed further below.
- 4.14 As set out above, the Supreme Court judgment also confirmed that the civil standard of proof should apply to short-form inquest conclusions of suicide. For the avoidance of doubt, this consultation and the preceding Rapid Review do not consider, and have no bearing on, the standard of proof for suicide. They also do not concern or have any bearing on the short-form conclusion of lawful killing (see Section 5 for more information on this), nor do they consider any change to the standard of proof for narrative conclusions.

Section 5 Unlawful killing conclusions

- 5.1 A coroner or jury may reach a short-form conclusion of unlawful killing where the evidence heard in an inquest indicates that the death resulted from one of the specified criminal offences of murder, manslaughter (including gross negligence or corporate manslaughter), or infanticide. In common with all other inquest conclusions, a finding of unlawful killing cannot assign criminal or civil liability or apportion blame to a named individual. Instead, it reflects the factual findings of the coroner or jury, based on the evidence heard during the inquest.
- 5.2 The short-form conclusions available to coroners and juries also include the conclusion of lawful killing. This may be found where the inquest evidence indicates that a death resulted from a use of force that was legally justified – for example, in self-defence or during the lawful exercise of powers by a public authority. Again, like other inquest conclusions, a finding of lawful killing does not indicate criminal liability, civil liability or blame, but instead reflects the coroner’s or jury’s factual finding.
- 5.3 The short-form conclusions of unlawful killing and lawful killing are distinct and separate, and the coroner’s or jury’s decision not to find one of them in a relevant case does not necessarily result in the other being found. This is because, in some cases, the evidence may not support either conclusion, and the coroner or jury may instead return a narrative conclusion or another short-form conclusion altogether. The conclusion reached in any inquest must be based on the specific facts of the case.
- 5.4 Neither the *Maughan* case nor the Rapid Review specifically scrutinised the standard of proof for lawful killing, and it does not form part of this consultation.
- 5.5 The Government’s annual Coroner Statistics publication¹ includes the number of short-form unlawful killing inquest conclusions in each calendar year. The annual number since 2015 is set out in the table below, together with the total number of inquest conclusions in each year:

¹ [Coroners statistics 2025](#)

Inquest Conclusions: Unlawful Killing (2015–2024) Table 1

Year	Unlawfully Killed	Total Conclusions
2015	141	35,473
2016	221	40,467
2017	109	33,945
2018	94	30,732
2019	135	31,284
2020	61	30,936
2021	101	32,322
2022	98	35,643
2023	59	39,469
2024	89	39,586
2025	91	39,118

5.6 As the table shows, unlawful killing conclusions constitute a small proportion of all inquest outcomes each year. However, they arise in a range of circumstances including in relation to police contact, healthcare provision, custody and other detention, and in the workplace. There is no single public dataset that records unlawful killing conclusions by setting or manner of death.

Section 6 The Rapid Review

- 6.1 The Rapid Review was commissioned in October 2024, by the (then) Home Secretary and Lord Chancellor, as part of a wider package of measures on police accountability. It was established in response to stakeholder concerns, particularly around the use of the short-form unlawful killing conclusion in cases involving state-related deaths such as those occurring in police custody or following the use of force by public authorities.
- 6.2 The Review also examined questions about the standard of proof applied in police misconduct proceedings involving use of force. The Government has taken forward separate work on that issue, and this consultation does not consider it.
- 6.3 The Review focused on whether applying the civil standard in inquest conclusions of unlawful killing raised legal, operational or public confidence issues. It examined the consistency of unlawful killing inquest outcomes in comparison with other legal processes, including criminal trials and misconduct proceedings which operate under the higher, criminal standard of proof.
- 6.4 In particular, the Review looked at how the application of different standards of proof in related investigations can lead to confusion and concern. For example, someone involved in a death might be acquitted of homicide or manslaughter in a criminal trial which requires proof beyond reasonable doubt; but an inquest into that death could nevertheless conclude that it was an unlawful killing, based on the lower civil standard. While these legal processes serve different purposes, the contrasting outcomes can arguably create a perception of inconsistency and uncertainty about accountability. In addition, some contributors to the Review raised concerns about the impact on those in high-risk roles, such as firearms policing, fearing that repeated scrutiny under different rules could harm confidence, morale, and recruitment.
- 6.5 The Review also noted that inquests remain an important tool for examining serious concerns and identifying risks to life. The reviewers concluded that changing the standard of proof for a specific short-form conclusion would not affect the coroner's ability to provide detailed findings through narrative conclusions, or to issue a Prevention of Future Deaths Report in cases where they consider this to be necessary.
- 6.6 Separately, the Government has recently commissioned an independent End-to-End Review of the Police Accountability System, chaired by Dame Lynne Owens DBE QPM and Jason Beer KC. The Review is distinct from this consultation and its work

forms part of the wider programme of reforms relating to accountability, transparency and public confidence. The Review will examine the timeliness, efficiency and effectiveness of the systems for holding police officers to account and will consider how those systems interact with the wider criminal, coronial and civil justice systems. Further details are available at [End-to-end review of the police accountability system – GOV.UK](#).

Section 7 Consultation questions

- 7.1 This consultation is seeking views and information to inform further consideration of whether the standard of proof for short-form inquest conclusions of unlawful killing should be changed from the **civil standard** (“on the balance of probabilities”) back to the **criminal standard** (“beyond reasonable doubt”).
- 7.2 Inquests play a vital role in providing answers for bereaved families, ensuring public accountability, and helping to prevent future deaths. The standard of proof applied in these proceedings has implications for the individuals and families involved, for public confidence in the coronial system, and for the participation of individuals and public bodies in that process.
- 7.3 As set out in Section 6, the consultation follows a Rapid Review commissioned by the Government in 2024. The Review recommended that there should be wider public and stakeholder engagement on the question of whether the civil standard of proof remains appropriate for unlawful killing inquest conclusions, to inform any decision on the issue.
- 7.4 While the Review heard concerns about how the current standard is perceived in cases involving state bodies, particularly policing, its report emphasised that any change would obviously apply to all inquests where an unlawful killing conclusion might be considered. This includes, but is not limited to, deaths in custody, healthcare settings, workplaces, and other contexts which may involve public or private services and institutions.
- 7.5 Through this consultation, the Government seeks to:
- better understand the positive and negative impacts of any change to the standard of proof for different sectors and communities; and
 - inform consideration of broader implications for the integrity and effectiveness of inquest process.
- 7.6 The consultation is for the purposes of gathering views and information only and does not assume, or indicate, that any change will be made. It also does not presume that the current approach is inappropriate. We will carefully consider all responses before determining next steps.

Questionnaire

We would welcome your views, and any supporting information, in response to the following questions.

You can respond in any one of the following ways: by completing the online questionnaire (which includes free-text boxes for each question), by emailing your answers in a document or in the body of an email, or by sending a hard copy response to the postal address provided. Please do not submit your response via more than one route. Full details are set out later in this document under 'How to respond'.

Question 1.

Do you think the standard of proof for the short-form conclusion of unlawful killing at inquest should be changed from the civil standard ("on the balance of probabilities") back to the criminal standard ("beyond reasonable doubt")? Please explain the reasons for your response.

Question 2.

If the standard of proof for unlawful killing conclusions were to be changed, what impacts, positive or negative, do you anticipate for sectors which are most likely to be involved in relevant cases (e.g. policing, healthcare, prisons, workplaces)? Please provide examples or evidence where possible.

Question 3.

What might be the potential advantages or disadvantages of applying a different standard for the short-form conclusion of unlawful killing and a narrative conclusion amounting to a finding of unlawful killing?

Question 4.

In your opinion, how might the application of different standards, as set out in Question 3, affect the consistency or fairness of inquest outcomes?

Question 5.

How might a change to the standard of proof for unlawful killing conclusions affect public confidence in the inquest system?

Question 6.

How might any change affect the experiences of bereaved families or communities affected by deaths involving state agencies, in particular?

Question 7.

Please let us know if you consider that the proposal could have adverse equality impacts, what these might be and how might they arise.

Question 8.

If the standard of proof for unlawful killing conclusions were to be changed, do you think the standard of proof for lawful killing conclusions, or any other short-form conclusion, should also be reconsidered? Please explain the reasons for your response.

Question 9.

Do you have any additional comments?

Thank you for participating in this consultation.

About you

Please use this section to tell us about yourself

Full name	
Job title or capacity in which you are responding to this consultation exercise (e.g. member of the public etc.)	
Date (if posting a hard copy)	
Company name/organisation (if applicable):	
Address	
Postcode	
Electronically submitted responses will receive an automatic acknowledgement. If posting a hard copy, would you like us to acknowledge receipt of your response, if so please tick this box	☐ (please tick box)
Address to which the acknowledgement should be sent, if different from above (if posting a hard copy)	

If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.

Contact details/How to respond

Please send your response by 7 December 2026 to:

Email: unlawful.killing.consultation@justice.gov.uk

Online: <https://consult.justice.gov.uk/digital-communications/standard-of-proof-for-the-short-form-inquest-concl/>

Post: Coroners Inquests & Inquiries Policy Team
Ministry of Justice
Post point 7.37
102 Petty France
London SW1H 9AJ

Complaints or comments

If you have any complaints or comments about the consultation process, you should contact the Ministry of Justice at the above address.

Extra copies

Alternative format versions of this publication can be requested from unlawful.killing.consultation@justice.gov.uk.

Publication of response

We aim to publish a response to this consultation within three months of the consultation closing. The response paper will be available on-line at <https://consult.justice.gov.uk/>.

Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond, as requested above.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), the General Data Protection Regulation (UK GDPR) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Ministry of Justice.

The Ministry of Justice will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Impact Assessment, Equalities and Welsh Language

Impact assessment

We have not carried out an economic impact assessment as any change which may result from our consideration of the issue set out in this document should have no impact on business, charities or the voluntary sector. Data from 2015–2024 shows that unlawful killing conclusions remain very low—averaging under 0.5% of all inquests annually. There is no evidence that the change in the standard of proof following the *Maughan* judgment had any operational or financial effects on public bodies or the private sector. However, we welcome views on any impacts not evident from the data, including those affecting specific sectors or communities.

Equalities

Under the Public Sector Equality Duty set out in section 149 of the Equality Act 2010 (the Act), Ministers and policy makers are required to consider the equalities impacts of potential policy proposals in relation to the following:

- (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- (b) advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) fostering good relations between persons who share a relevant protected characteristic and persons who do not share it.

Proportionate Equality Analysis should be used to consider likely impacts on people who are grouped into one or more of the nine protected characteristics listed in the Act:

1. Age;
2. Disability;
3. Gender reassignment;
4. Pregnancy and maternity;
5. Race;
6. Religion or belief;
7. Sex;
8. Sexual orientation;
9. Marriage or civil partnership (*only in relation to the first aim of the PSED*).

Summary: In preparing this Equalities Statement, consideration has been given to the impact of any change in the standard of proof from the civil standard to the criminal standard for short-form conclusions of unlawful killing at inquest, and to the impact of no change.

On the basis of known evidence, we have concluded that any future decision on this issue, whether to maintain the status quo or to implement a change, would continue to meet the standards set out in section 149 of the Act which requires Ministers and the Department, when exercising their functions, to have ‘due regard’ to the nine ‘protected characteristics’ set out in the Act. However, as we have said previously in this document, we are keen to receive views in this context.

Direct discrimination

Our assessment is that any change, or no change, to the standard of proof for unlawful killing would be unlikely to be directly discriminatory as it would not be likely to impact people less favourably on account of a protected characteristic.

Indirect discrimination

We consider that, whether or not any change is made to the standard of proof for unlawful killing, this would be unlikely to result in indirect discrimination against individuals with a protected characteristic.

However, we recognise that perceptions of disadvantage may arise in specific contexts, particularly in cases involving state-related deaths such as those occurring in custody or following police contact. These perceptions may be shaped by broader societal concerns and historical patterns of inequality.

A key part of considering any next steps will therefore be to understand the impacts, including the equalities impacts, of any change. For that we reason, are keen to seek as wide a range of views as possible on the potential equalities impacts, to inform our further thinking.

Evidence and Analysis

Unlawful killing conclusions are rare and may arise in a range of circumstances, including – but not limited to – deaths involving police contact, healthcare provision, or other forms of state involvement.

While there is public concern that certain groups may be disproportionately represented in deaths involving the state, there is currently no comprehensive data linking these conclusions to protected characteristics or specific settings. We therefore welcome views on any potential equalities impacts not captured by existing data.

This consultation will therefore enable us to gather further evidence and perspectives on how any change may affect individuals and communities, particularly in relation to protected characteristics. This will help inform a more nuanced understanding of the potential equalities impacts and guide any future policy development.

Harassment and victimisation

On the basis of available information, we do not consider that issues around the standard of proof for unlawful killing, whether or not it were to be changed to the criminal standard, would give rise to a risk of harassment or victimisation. However, as set out above, we welcome views to better inform our further consideration of this issue.

Discrimination arising from disability and duty to make reasonable adjustments

We do not consider that issues around the standard of proof for unlawful killing, whether or not it were to be changed to the criminal standard, would give rise to any discrimination relating to individuals who may have a disability. We would continue, however, to monitor any potential impacts of any change and provide reasonable adjustments for this group to make sure that appropriate support is provided.

Advancing equality of opportunity

We have considered how the consultation might impact on the duty to advance equality of opportunity by meeting the needs of individuals who share a protected characteristic, where those needs are different from the needs of those who do not share that particular protected characteristic. The consultation is unlikely to impact on this duty.

Fostering good relations

We do not consider that there is scope within the consultation to promote measures that foster good relations.

Welsh Language Impact Test

A Welsh language version of this consultation has been published. We consider it unlikely that any decision on the key issue, whether to maintain the status quo or implement a change, would have linguistic consequences affecting services provided to people in Wales.

Environmental Principles Duty

Since 1 November 2023, the Environment Act 2021 has placed a legal duty on Ministers of the Crown to have ‘due regard’ to the environmental principles policy statement.

The 5 principles in this policy statement, as set out in section 17(5) of the 2021 Act, are internationally recognised as successful benchmarks for environmental protection and enhancement. When making policy, and where relevant, ministers will need to consider the:

- integration principle
- prevention principle
- rectification at source principle
- polluter pays principle
- precautionary principle

The UK government has already committed to these 5 principles through international instruments and processes.

We have not identified any environmental impacts arising from the issue discussed in this consultation but would, of course, welcome any views on this assessment.

Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the Cabinet Office Consultation Principles 2018 that can be found here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691383/Consultation_Principles__1_.pdf

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