

THE CORONERS COURT IN QUEENSLAND:



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A guide for Aboriginal and Torres Strait Islander families

Losing a family or community member to suicide is heart-breaking. Families and communities deeply feel the loss of a loved one to suicide especially during times of sorry business. What can make things harder is when the death of a loved one to suicide is investigated by a coroner. Speaking and hearing about the loss of a loved one to suicide can be very emotional. The coronial process can be complicated and long, holding up the time when a deceased person can finally rest, and families and communities can heal from grief.

Even though it can be hard for families to go through, it is an important way for mob to have their say and voice heard and make the coroner see opportunities for change, so this doesn't happen to someone else.

Thirrili and Norton Rose Fulbright have partnered together to help guide Aboriginal and Torres Strait Islander families and communities through some of the challenges of dealing with the Coroners Court during times of sorry business and have their voice heard. We pay our respect to the First Nations people of Australia whose Country was never ceded. We acknowledge the devastating impact of suicide on Aboriginal and Torres Strait Islander people.

This guide helps explain the role and processes of the Coroners Court of Queensland when it investigates a death. It tells you about the kinds of deaths investigated by a coroner and the difference between an investigation and an inquest. The guide also explains how the Coroners Court of Queensland can support you and your loved ones throughout the coronial process and how the Coroners Court can respect cultural protocols.

This Guide to The Coroners Court of Queensland for Aboriginal and Torres Strait Islander families includes 9 fact sheets with information for families and communities to make the process of dealing with the coroner easier and more manageable.

Disclaimer: The legal information in this Guide is to help guide you through some of the challenges of dealing with the Coroners Court during times of sorry business. It is not legal advice. Please consult with your local Aboriginal Legal Service or other legal professional to make sure this information is right for you.

For more help contact

The Coroners Court of Queensland via phone or email: (07) 3738 7050 or at state.coroner@justice.qld.gov.au

The Aboriginal and Torres Strait Islander Legal Service (Qld) via phone or email: 1800 012 255 or at info@atsils.org.au

The Queensland Coronial Legal Service via phone: (07) 3214 6333.

Coronial Family Services via phone or email: 1800 449 171 or fss.counsellors@health.qld.gov.au.

A community legal centre can be found via the Community Legal Centres Australia database: <https://clcs.org.au/legal-help/>



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FACT SHEET 1



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What is the Coroners Court and the role of a Coroner?

The Coroners Court of Queensland is an expert court that was set up to investigate and help understand the cause of certain types of deaths including suicide and those due to self-harm. A coroner is a representative of the Court and is the main person in charge of the investigation.

The role of the coroner is to investigate the death to find out when and where the person died, how they died, and suggest changes to try and prevent the same thing happening to someone else.

In some investigations, a coroner will also hold an 'inquest' which are public hearings where people are called to the Coroners Court to give evidence.

The coronial process is slow. It can take months or even years. It can take a long time because the coroner may need to talk to many other people about the circumstances of the death, such as a hospital, the police, or a government service.

The Coroners Court does not have the power to:

- conduct a criminal trial;
- find someone guilty of a crime;
- order that compensation be paid to the family of the deceased; or
- send a person to prison.



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FACT SHEET 2

What types of death will a Coroner investigate?



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Coroners do not investigate all deaths, only deaths that are reportable by law.

These include:

- a death that is unexpected, unnatural or violent, or caused by an accident or injury;
- a death that happens unexpectedly during or after a medical procedure;
- a death that happens when the person who died was in custody or care;
- when the cause of death is unknown; and
- when the identity of the person is unknown.

There must also be a connection with Queensland, such as the death occurring in Queensland or that the deceased usually lived in Queensland.



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FACT SHEET 3

How a Coroner investigates a death



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Initial stage

The initial stage of a coroner's investigation is undertaken with the assistance of Queensland Police and includes:

- receiving an initial report from the police about the death from family members, friends and witnesses;
- contacting the senior next of kin to inform them about the coronial process and to obtain more information about the deceased, as well as the family's wishes with respect to the deceased's post-mortem examination (for more information, see Fact Sheet 5: Next of kin and the Coroners Court); and
- reviewing information from the preliminary medical examination of the deceased.

The gathering of information stage

An investigation may vary with the circumstances of the death but usually includes:

- gathering a range of information from police, family, friends, medical practitioners, witnesses, technical experts, and any other relevant persons to assist the coroner to form a picture about what happened and why. More often than not, a coroner is able to make a written finding into a death based on this information, without having to hold an inquest;
- attending the scene of the death (if safe and appropriate to do so);
- directing that an autopsy be performed on the deceased (for more information, see Fact Sheet 9: My loved one's body and things and Fact Sheet 8: 'What happens after coronial process');
- requesting Queensland Police provide statements, reports, and information about the death; and
- conducting research and considering potential recommendations.

The Coroners Court will communicate with the senior next of kin throughout the investigation process.

Making a finding

A coronial finding is the formal document that a coroner writes after an investigation of a death, and it is usually the last step in the investigation.

A finding usually includes:

- the identity of the deceased;
- the cause of the death;
- the circumstances of the death; and
- comments or recommendations made by the coroner aimed at preventing similar deaths.

There are two kinds of findings:

- a 'finding without an inquest', which is where a coroner makes a finding on the available information without a public hearing. Most coronial investigations end with a finding without an inquest; and
- an 'inquest finding', which is where a coroner delivers a finding after a public hearing is held. A copy of the inquest finding is published on the Coroners Court of Queensland website unless a coroner orders it not to be published.

A coroner **may**:

- comment on any matter connected with a death, including matters relating to public health and safety or the administration of justice; and/or
- make recommendations to any Minister, public authority or organisation that may help prevent similar deaths.

A coroner **must not** include in a finding or comment any statement that a person is, or may be, guilty of an offence or civilly liable for something.

Sometimes a coroner is **not** required to make a finding if an inquest into the death was not held, and the coroner decides that there is no public interest in making a finding.



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Inquests into a death

An inquest is a public hearing of the investigation into a death which is held at the Coroners Court. An inquest is an inquiry that tries to find out why the death happened and, if appropriate, to make recommendations to prevent deaths occurring in the same or similar circumstances in the future. An inquest is not a trial to decide if someone is legally responsible for a death.

There are some deaths which a coroner must hold an inquest, including if:

- a person dies of unnatural causes in custody or in care;
- the person's identity is unknown; or
- the coroner suspects the death may have been a homicide and no one has been charged in relation to the death.

In other cases, a coroner may decide to hold an inquest if:

- the circumstances surrounding the death are unclear; and/or
- there are broader issues of public health and safety that the coroner believes need to be examined.

Can I request an inquest be held into the death of a loved one?

- Any person can ask that a coroner hold an inquest into a death. To do so you need to complete the required form and give reasons why you believe an inquest is needed. Importantly, making a request does not mean an inquest will be held.
- Further information on legal assistance can be found in the Summary and Acknowledgment sheet.

What is a 'hand-up' inquest?

- In some cases, where a person dies in circumstances which normally require a mandatory inquest, the coroner may decide that an inquest with oral evidence is not required. An example where this might occur is when a person dies in custody as a natural progression of a terminal illness and an autopsy confirms this as the cause of the death.

- In these cases, the coroner may hold what is termed as an 'inquest on the papers' or 'hand-up' inquest, which involves the relevant evidence being tendered (handed-up) in court but no witnesses being called to provide oral evidence.

Can I request an inquest be held into the death of a loved one?

- Any person with sufficient interest can ask that a coroner hold an inquest into a death. To do so you should give reasons why you believe an inquest is needed. Importantly, making a request does not mean an inquest will be held.

For further information for legal assistance, see Fact Sheet 8: What happens after the coronial process.

Who can attend?

Generally, anyone can attend an inquest. People who may wish to attend include:

- Family members of the deceased. Family members may also be called as witnesses. You will be given advanced notice and receive a document issued by the Coroners Court of Queensland called a summons if you are required by a coroner to appear as a witness and give evidence.
- Expert witnesses. Expert witnesses are people who specialise in certain fields and help the coroner understand complex information relating to the death they are investigating.
- Police witnesses. Police witnesses are often the police officers who were the first responders to the scene of the death and tell the coroner what they did, heard and/or saw at the scene.
- General witnesses. General witnesses are the individuals who did, heard or saw something that may help the coroner with their investigation.
- Media. Journalists and media outlets may attend inquests and report on what is said during the inquest.
- Interested Parties. People that the coroner has given permission to attend as an 'interested party'.

Interested parties

- An interested party is a person, group or organisation who may be affected by the coroner's findings or who has information about the death being investigated and the coroner is satisfied that it is appropriate for them to be an interested party.
- If the coroner agrees, a person with sufficient interest may:
 - appear at the inquest, including with legal representation;
 - make submissions to the coroner on anything connected to public health or safety, the administration of justice or ways to prevent deaths from happening in similar circumstances in future;
 - be given a copy of any written comments by the coroner about the inquest.

Determining the scope of an inquest

- The coroner decides the best way to run the inquest and what information and issues to look at and who they want to hear from as witnesses.
- The coroner determines the scope of the inquest before the inquest begins by conducting smaller hearings known as a 'directions hearings'. A directions hearing is held by the coroner to:
 - hear from the people involved and to find out their preliminary opinion of what the issues in the inquest should be;
 - talk through issues that may impact the coroner's decision on whether an inquest is in fact required;
 - work out how long the inquest may go for;
 - determine who the witnesses will be; and
 - hear from other people involved who want to raise any other related issues.

What happens during an inquest?

Even though each inquest is different most follow these procedures:

- When the inquest begins, the lawyers representing the family of the deceased or other interested parties introduce themselves and say who they are representing. If the family is not represented by a lawyer, the coroner's assistant or counsel assisting the coroner will inform the coroner that family members are present in the courtroom.

- The coroner will read an opening summary.
- Witnesses will be called one at a time to talk about their knowledge of the death. In some cases, a witness statement may be read out. The coroner's assistant or counsel assisting the coroner will then ask the witness any questions. The lawyers representing the family of the deceased or other interested parties will then ask the witness any questions. If the family is not represented by a lawyer, the coroner's assistant or counsel assisting the coroner will check with the family to see if they would like the witness to be asked any questions.
- When all witnesses have been heard, the coroner will ask for any final submissions. These submissions may be said in Court out loud or may be submitted in writing to the coroner. If the family of the deceased are not represented by a lawyer, the coroner may ask them if there is anything they wish to say.
- When the coroner believes that all relevant evidence has been heard, they will adjourn (postpone) the matter so that they can complete their finding.
- The Coroners Court staff will let you know when the coroner is ready to give their finding.

How long does an inquest go for?

It varies. The length of an inquest depends on how complex the circumstances surrounding a death are and how many witnesses and submissions need to be considered. Some inquests may only last a few hours, while others may occur over several weeks or months.

Legal representation for family members

Families attending an inquest can choose to have a lawyer represent them. The Coroners Court cannot help a family choose a lawyer. For further information on legal assistance available, [Queensland Coronial Legal Service](#) or the [Aboriginal and Torres Strait Islander Legal Service \(QLD\)](#).



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Next of Kin and the Coroners Court

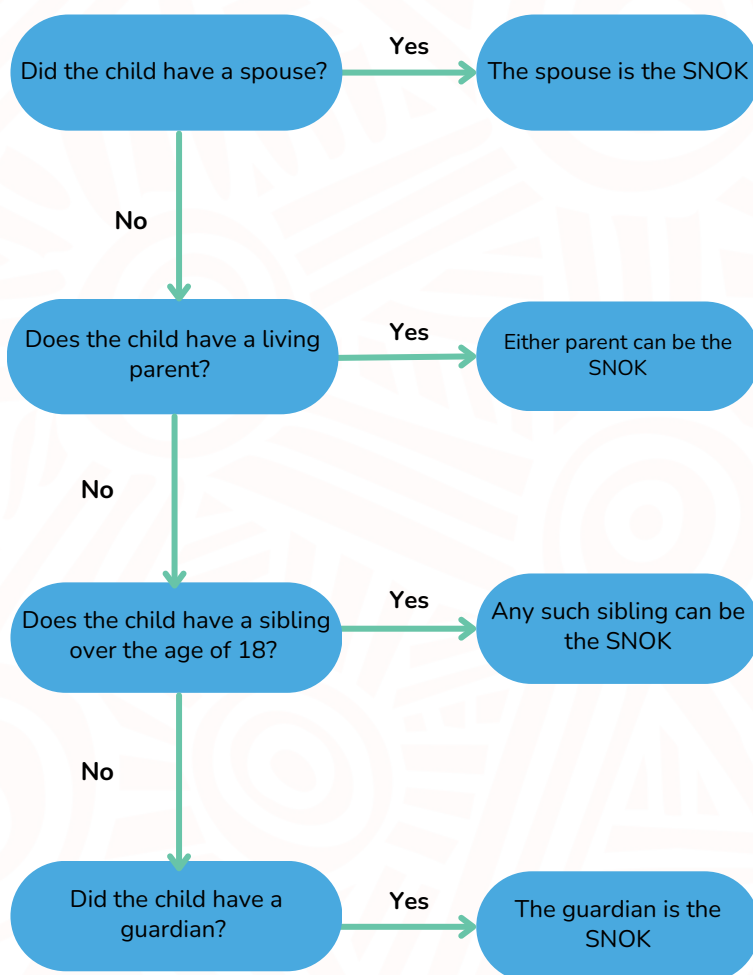
This fact sheet explains which family members and friends can make important decisions in the coronial process. This fact sheet does not apply to deaths in custody.

Who can make decisions after someone dies?

Senior Next of Kin

The following flow chart will help you determine who can make decisions about a person who dies. This person is called the 'senior next of kin' (**SNOK**) of a deceased person. The SNOK is the first available person from the flow chart.

When the deceased person was a child (i.e. under the age of 18).



FAQ: Who is a 'parent'?

A parent can include a step-parent, a person regarded as a parent under Aboriginal traditional custom or other cultural traditions of a community, and a person who exercised parental responsibility for the child (even if not the legal guardian of the child). Additionally, Queensland now recognises the Torres Strait Islander practice of Kupai Omasker.

FAQ: Who is a 'sibling'?

A sibling can include an adopted sibling, a step-sibling, and a person regarded as a sibling under Aboriginal traditional custom or other cultural traditions of a community.

When the deceased person was an adult



FAQ: Who is a 'child'?
 A child can include an adopted child, step-child, foster child, and a person regarded as a child under Aboriginal traditional custom or other cultural traditions of a community. Additionally, Queensland now recognises the Torres Strait Islander practice of Kupai Omasker.

What role does the SNOK have?

The SNOK is the main point of contact for the Coroners Court.

A SNOK can:

- appoint a representative to act and receive information on their behalf;
- consent to a post-mortem examination (only when the coroner has consented to the post-mortem examination first);
- consent to the removal of the deceased's body tissue (only when the coroner has consented to the removal first).

What can I do if the coroner won't accept me as the SNOK despite my role in the community?

- If there are competing interests between families as to who should be the SNOK, coroners are instructed to first refer the issue back to the families to be resolved amongst themselves.
- If the competing SNOK interests cannot be resolved, the coroner will refer you to the free coronial assistance legal service or the Aboriginal and Torres Strait Islander Legal Service (QLD).

A person of sufficient interest

If you are not the SNOK, you may be a person with a "sufficient interest". This is a broad term depends on the facts and circumstances surrounding a death but includes:

- A family member.
- The representative of a department.
- The representative of a company that manufactured a product that is associated with the death.
- A person or body that needs a document that is relevant to assessing a potential threat to public health such as the health chief executive.
- A person with a public interest (but the rights of this person are limited to making submissions about matters such as the public interest, the administration of justice and ways to prevent similar deaths from occurring).

If the coroner determines you have a sufficient interest, you can:

- raise concerns to the examiner before a preliminary examination of the deceased's body is conducted.
- raise concerns to the coroner about the type of examinations to be conducted during the autopsy.
- observe an autopsy, but before this occurs, the coroner must (where practicable) consult with a member of the deceased's family.
- request access to a coronial document or other investigation document from the Coroner.
- be involved in the inquest, for example by:
 - (a) participating in hearings;
 - (b) examining witnesses; and
 - (c) making submissions.

I am not the SNOK or a person with sufficient interest, what rights do I have?

There are certain types of applications that can be made by anyone, regardless of their relationships with the deceased. For example:

- Anyone who does not agree with a coroner's decision that a death is a reportable death may apply for an order.
- Anyone may apply to the coroner to hold an inquest into a death, but such an application must outline why it is in the public interest to do so.
- If a person is unhappy with a finding at an inquest, they may apply to the State Coroner or District Court to set aside the finding.

More Help

Coroners Court of Queensland
(07) 3738 7050
state.coroner@justice.qld.gov.au

Queensland Coronial Legal Service
(07) 3214 6333
[FAQ: Who is an 'interested person'?](#)

Coronial Family Services
1800 449 171
fss.counsellors@health.qld.gov.au

Aboriginal and Torres Strait Islander Legal Service (Qld)
1800 012 255
info@atsils.org.au



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Cultural Protocols in Coronial Investigations

This fact sheet explains the role of culture in a coronial inquest when a family member dies and who you can speak to for help to get the coroner to understand your traditions.

Making the coroner understand our sorry business and culture

- The Coroners Court of Queensland already follows a cultural competency guide on sorry business. Further, a person with a sufficient interest (i.e. a family member) can appear at an inquest hearing to make submissions, which can be used as an opportunity to tell the coroner about what customs you would like to be observed during the process.
- The coroner is required to ask the next of kin whether the deceased identified with a particular traditional owner group.

Visiting a deceased person

- The deceased person can be visited by anyone with a sufficient interest.

Smoking ceremony at an inquest

- A smoking ceremony will be allowed if it is safe and appropriate. You or your lawyers can contact the court staff in advance of the hearing to request this.

Culturally significant items and acknowledgement of Country

- You or your lawyers can contact the court staff in advance of the hearing to request the display of culturally significant items and a specific acknowledgement to country.

Using the name and images/videos of the deceased

- The default position is that the coroner will refer to the deceased by their surname. The coroner is required to ask the next of kin as to how the deceased's name can be used. The coroner is also asked to consult with the next of kin on the use of images and video recordings in the hearing.

Next of Kin

- The process in Queensland for determining the deceased's next of kin takes into account cultural considerations such as Marigeths and the practice of Kupai Omasker. You can learn more about this process in our fact sheet 5: Senior Next of Kin.

Language

- The Coroners Court of Queensland can try to organise an interpreter who speaks your language at the hearing. You or your lawyers should contact the court staff in advance of the hearing to ensure an interpreter can be organised. The court may first attempt to use a family member of the deceased if they understand the relevant languages.

Men's or Women's Business

- The coroner is aware of men's and women's business and will take this into account. The coroner is advised to consult with the next of kin as to whether they would prefer to speak to someone from their own gender.

More help

You can contact the Coroners Court of Queensland for further information on (07) 3738 7050 or at state.coroner@justice.qld.gov.au.

You can contact the Aboriginal and Torres Strait Islander Legal Service (Qld) on 1800 012 255 or at info@atsils.org.au to obtain legal advice on the above.

If you are struggling with the death of a loved one, you can call 13YARN (13 92 76) for free support.





The role of the Queensland Police force in the coronial process

This fact sheet explains the role of the Queensland police force in a coronial inquest when a family member dies suddenly. This fact sheet explains what to expect when talking to the police throughout the coronial process.

What is the role of the police?

- Queensland police are required to report sudden or unexplained deaths to the coroner.
- The police will start gathering information immediately after a death to provide an initial report to the coroner.
- The police will also then arrange for the deceased person's body to be transported to the nearest government mortuary.
- The police may ask for reports from experts and statements from witnesses including family and friends as part of their investigation.

Communicating with the Police

- Queensland police are required to report sudden or unexplained deaths to the coroner.
- The police will start gathering information immediately after a death to provide an initial report to the coroner.
- The police will also then arrange for the deceased person's body to be transported to the nearest government mortuary.
- The police may ask for reports from experts and statements from witnesses including family and friends as part of their investigation.

More help

For more information about your options regarding coronial investigations:

[Aboriginal and Torres Strait Islander Legal Service](https://atsils.org.au/)

<https://atsils.org.au/>

[Legal Aid Queensland](http://www.legalaid.qld.gov.au/Home)

<http://www.legalaid.qld.gov.au/Home>

[Community Legal Centres Queensland](http://communitylegalqld.org.au/)

<http://communitylegalqld.org.au/>

[Coronial Family Services - Queensland Forensic and Scientific Services](https://www.health.qld.gov.au/public-health/forensic-and-scientific-services/forensic-services/death-and-autopsies/coping-with-unexpected-death/coronial-family-services)

<https://www.health.qld.gov.au/public-health/forensic-and-scientific-services/forensic-services/death-and-autopsies/coping-with-unexpected-death/coronial-family-services>





What happens after the coronial process?

This fact sheet explains the steps that can be taken after a coroner has handed down their findings and any available legal options for families when contesting the findings of the coronial process. You should always get your own legal advice before taking any legal action.

Where can I get a copy of the coroner's findings?

Following an investigation by a coroner into the death, the coroner will hand down a written finding. The findings are put on a database available to the public: [Austlii database](#). You can search for a particular finding by name, a case number, type of death or location of death using the search field.

What is a coroner's finding and what does it mean for the deceased's family?

- A finding by the coroner is made following an investigation into a death and provides the identity of the deceased, the time, date and place of death, a summary of the evidence relating to the circumstances of the death, and in some cases the coroner's comments or recommendations aimed at preventing similar deaths.
- A finding handed down by the coroner is not the same as a judgment handed down by a judge in a court room. It is a fact-finding process and will not find anyone guilty of a crime or solve any of the problems experienced by the family or community affected by the death.
- Speak to a lawyer about options if you wish to take further legal action after a coroner has made their findings.

Applying to have findings set aside and reopening investigations

- Any person may apply to the Coroners Court for an order that some or all the findings of a coroner be reconsidered or set aside. To do so, a person would apply to the Coroners Court and specify:
 - which findings they want set aside; and
 - the reasons for the application supported by relevant information.
- The court can set aside some or all of the findings and order that an investigation be reopened if the court is satisfied that there are new facts and circumstances that should be considered. If the Coroners Court refuses to re-open an investigation, a person who made the request may appeal to the District Court of Queensland if:
 - new evidence casts doubt on the finding;
 - the finding was not correctly recorded;
 - there was no evidence to support the finding; or
 - the finding could not be reasonably supported by the evidence.





My loved one's body and things

This fact sheet explains what happens to the body of your loved one if medical examination is required, what you can do if you object to a medical procedure happening, and when and who can get the body when the coroner is ready to release it.

What happens to the body?

- If the body requires medical examination for a coronial investigation, it will be transported from the place of death or where it is being stored to a designated local mortuary.

Preliminary examination

- A doctor or pathologist will do the 'preliminary examinations' which are not very invasive. This might include things like collecting fingerprints, looking inside at the teeth and inside the mouth, and taking samples of blood and urine. The internal organs are left alone.

Autopsy

- An autopsy is a type of medical procedure performed by a pathologist. It might also be referred to as a "post-mortem".
- An autopsy includes external and internal examinations using techniques like those used in surgical operations. The chest, abdomen and skull are examined, and some organs are examined. This may involve removing the organs.
- In some instances, a more detailed examination of an organ, like the brain or heart, might be necessary to establish the cause of death. If the pathologist thinks this needs to happen, they will require permission from the coroner to remove the organs and keep them for several weeks.
- If any tissue is removed from the deceased's body for testing during the autopsy, the coroner must not order the release of the body unless a family member of the deceased has been informed of the removal of the tissue.
- A family member can tell the coroner of their wish to test, use, or bury the tissue.

What can I do if I object to the autopsy?

- If the coroner gives a direction that an autopsy be performed, a family member or person with sufficient interest may raise their concerns to the police, the Coroner's office, a coronial counsellor or a coronial nurse about an internal autopsy for any reason, such as cultural traditions or spiritual beliefs.
- If the coroner decides the autopsy should still occur, they must give written reasons and then the family member to apply to a court for a review.

What is exhumation?

- If the body has already been buried and an autopsy is needed, the body may need to be removed from the ground or burial site. This is called exhumation.
- A coroner may order the exhumation of a body for post-mortem examination if the body is buried, or for the recovery of the ashes if the body has been cremated.
- When dealing with Aboriginal burial remains, the coronial investigation must cease, and management of the remains should be transferred to officers from the Cultural Heritage Coordination Unit of the Department of Aboriginal and Torres Strait Islander and Multicultural Affairs and representatives of the traditional owners of the land where the remains were found.

When can I get the body?

- The coroner will authorise the release of the body as soon as they can.
- If there are cultural practices that mean the body needs to be released by a certain time, the Coronial Family Service can make the coroner aware of the specific needs of the family.
- The family's nominated funeral director must submit a request for release form.

- If there are competing claims for release of the body, the coroner might ask the parties to try to work out a solution together. If a solution can't be reached, then priority will be given to the executor of the deceased person's estate.
- The body will be released to the funeral director, who will collect the body and prepare it for burial or cremation.

What about a death certificate?

- You or the funeral director can get a copy of the death certificate after the death is officially registered by contacting the [Registry of Birth, Deaths, and Marriages](#).
- If the cause of death has not yet been determined you or the funeral director can request an interim death certificate by contacting the [Registry of Birth, Deaths, and Marriages](#).

More help

[Coronial Family Services](#) provides counsellors who can provide information and support to the family of someone whose death is being investigated by the coroner. This is not a First Nations specific service.

If the body needs to be transported to the deceased's traditional homelands (within QLD) and the family or SNOK can't cover this cost, financial assistance may be available via the [CCQ Funeral Assistance Scheme](#).

If the family or SNOK can't pay for the funeral, an application can be made to the [CCQ Funeral Assistance Scheme](#).

For more information about the coronial process from the Queensland Coroners Court visit: [Coronial investigations - information for family and friends \(coronerscourt.qld.gov.au\)](#).



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