

FACT SHEET 4

Inquests into a death



THIRRILI

An inquest is a public hearing of the investigation into a death which is held at a Magistrate Court location closest to where the death occurred or where the deceased lived. 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:

- homicide is suspected;
- a person dies in custody or in care;
- the person's identity is unknown;
- a person dies whilst escaping or attempting to escape from prison, a detention centre, a secure mental health unit, or police custody;
- a person dies while in the process of being detained; or
- the person died at, or because of, an accident or injury that occurred at their place of work and the coroner is not satisfied that the death was due to natural causes.

In other cases, a coroner will **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.

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 Tasmania if you are required by the 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.
 - Interested Parties. People that the coroner has given permissions to attend as an 'interested party'.
 - Media. Journalists and media outlets may attend inquests and report on what is said during the inquest.

Interested parties

- In coronial proceedings, an interested party is a person, group or organisation who the coroner is satisfied has a sufficient interest in the coroner's investigation.

- An interested party has some rights during an inquest, including the right to:
 - appear at the inquest, including with legal representation;
 - call, examine and ask witnesses questions during the inquest;
 - make submissions to the coroner; and
 - be provided with copies of documents the coroner intends to consider as part of their investigation.
- A person, group or organisation must make an application to the coroner should they wish to be considered an interested party. If you wish to make such an application and require further information or legal assistance, see Fact Sheet
- The senior next of kin does not need to make an application to be an interested party (for more information, see Fact Sheet 5: Next of Kin and the Coroners Court

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 'case management hearings'.
- Case management hearings may occur at any stage in the proceedings and:
 - allow parties in an investigation to understand what has been done in the investigation and what is still to come;
 - allow parties to ask questions, advise the coroner of any issues and provide information relevant to the investigation; and
 - help parties to understand what the issues in an inquest are and what they may need to do to prepare for the inquest.

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.
- Either the Coroner or counsel assisting 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. 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 counsel assisting the coroner will check with the family as to whether they would like the witness to be asked any questions.
- When all witnesses have been heard, the coroner will ask for 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 complicated 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. However, the Coroners Court cannot help a family choose a lawyer (for more information, see Fact Sheet 6: Cultural Protocols in Coronial Investigations)



Working with families and
communities after suicide

1800 805 801
24/7 Australia-wide

In partnership with

 NORTON ROSE FULBRIGHT