

# Frequently Asked Questions

## Magistrates Court of Tasmania – Coronial Division

The Coronial Division of the Magistrates Court has developed these Frequently Asked Questions to assist family and friends of the deceased and the public with general enquiries. If you have any additional questions, contact details for the Coroner's office are provided throughout this document.

### What is a reportable death?

Not all deaths are dealt with by the Coroner. Only 'reportable' deaths are referred to the Tasmanian Coroner for investigation. Reportable deaths are defined by law in [section 3](#) of the [Coroners Act 1995](#) as:

- (a) a death where -
  - (i) the body of a deceased person is in Tasmania; or
  - (ii) the death occurred in Tasmania; or
  - (iii) the cause of the death occurred in Tasmania; or
  - (iiia) the death occurred while the person was travelling from or to Tasmania – being a death -
  - (iv) that appears to have been unexpected, unnatural or violent or to have resulted directly or indirectly from an accident or injury; or
  - (v) that occurs during a medical procedure, or after a medical procedure where the death may be casually related to that procedure, and a medical practitioner would not, immediately before the procedure was undertaken, have reasonably expected the death; or
  - (vi) .....
  - (vii) the cause of which is unknown; or
  - (viii) of a child under the age of one year which was sudden and unexpected; or
  - (ix) of a person who immediately before death was a person held in care or a person held in custody; or
  - (x) of a person whose identity is unknown; or
  - (xi) that occurs at, or as a result of an accident or injury that occurs at, the deceased person's place of work, and does not appear to be due to natural causes; or



- (b) the death of a person who ordinarily resided in Tasmania at the time of death that occurred at a place outside Tasmania where the cause of death is not certified by a person who, under a law in force in the place, is a medical practitioner; or
- (c) the death of a person that occurred whilst that person was escaping or attempting to escape from prison, a detention centre, a secure mental health unit, police custody or the custody of a person who had custody under an order of a court for the purposes of taking the person to or from a court; or
- (d) the death of a person that occurred whilst a police officer, correctional officer, mental health officer or a prescribed person within the meaning of [section 31](#) of the [Criminal Justice \(Mental Impairment\) Act 1999](#) was attempting to detain that person.

## Who is the ‘senior next of kin’?

The senior next of kin is the person with whom the Coroner’s office will communicate with about the investigation into a reportable death. The senior next of kin of a deceased person is defined in [section 3A](#) of the [Coroners Act 1995](#) as:

- (a) if a person was, immediately before the death of the deceased person, the only spouse of that deceased person, that spouse; or
- (b) if the deceased person, at the time of his or her death, is survived by more than one person who would qualify as the deceased person’s spouse, the last person to so qualify; or
- (c) if the deceased person, at the time of his or her death, is survived by more than one person who would qualify as the deceased person’s spouse and the spouse referred to in [paragraph \(b\)](#) is not available, another spouse of the deceased person if that spouse has the approval of the spouse referred to in [paragraph \(b\)](#); or
- (d) if the person referred to in [paragraph \(a\) – \(c\)](#) is not available, a child of the deceased person if the child has attained the age of 18 years; or
- (e) if the person referred to in [paragraph \(a\) – \(d\)](#) is not available, the person with whom the deceased person had a caring relationship, at the time of his or her death, which was the subject of a deed of relationship registered under [Part 2 of the Relationships Act 2003](#); or
- (f) if the person referred in [paragraph \(a\) – \(e\)](#) is not available, a parent of the deceased person; or
- (g) if the person referred to in [paragraph \(a\) – \(f\)](#) is not available, a sibling of the deceased person if the sibling has attained the age of 18 years; or
- (h) if the person referred to in [paragraph \(a\) – \(g\)](#) is not available, an executor named in the will of the deceased person or a person who, immediately before the death, was a personal representative of the deceased person; or
- (i) if the deceased person is an Aboriginal person, a person who, according to the customs and tradition of the community or group to which the person belongs, is an appropriate person.

## When will someone contact me if I'm the senior next of kin?

The senior next of kin is contacted at the start of the investigation. You might be asked to provide a statement, or affidavit, about the deceased's life or circumstances to assist the investigation. At certain stages of the investigation you may be contacted for further information and/or be provided with updates on the investigation.

If you haven't heard from one of the Coronial Division representatives in relation to the investigation and have questions or need an update, please contact the Coroner's Office by phone (03) 616 57134 or via email to [Coroners.Hobart@police.tas.gov.au](mailto:Coroners.Hobart@police.tas.gov.au) (for a Southern investigation); or [Coroners.Launceston@police.tas.gov.au](mailto:Coroners.Launceston@police.tas.gov.au) (for a Northern investigation).

Northern investigations are deaths which have occurred in the north of the state, defined as:

- Derwent Bridge, Queenstown to Tunbridge to Bicheno (Bicheno is south, boundary is at Denison Rivulet), Flinders Island and King Island.

Southern investigations are deaths which have occurred in the south of the state.

If you are unsure, please use the Hobart (southern) email address.

## I'm not the senior of kin but would like to receive a copy of the findings

Any person or organisation who the Coroner considers to have a sufficient interest in the investigation can be an 'interested person' under [section 52](#) of the [Coroner's Act 1995](#). 'Sufficient interest' is not defined in the Act, but may include people who have information which is relevant to the investigation, people whose interests may be affected by the Coroner's findings, and family members of the deceased person.

Close family members of the deceased person may be automatically deemed interested persons by the Coroner.

To apply to be recognised as an interested person or party, approval will need to be sought from the Coroner via email using the contact details above. Proof of identity will need to be provided with your application.

## How long will the investigation take and when will the Coroner's findings be completed?

This depends on the complexity of the investigation and it can take several months or more for the Coroner to reach a finding on the cause of a death.

Toxicology and post-mortem reports can take about three months to prepare and, on average, police investigations can take around six months to complete, especially if they include digital evidence such as recordings.

An investigation into a death involves gathering information from many sources. The investigating officers compile an 'investigation file' over many months, adding to the evidence when each report is received.

Police may gather samples, exhibits, evidence and documents from the scene of the death. Police will talk to witnesses to an incident or anyone who has information about the events leading up to a death. All of these statements are written down and then sworn as formal affidavits, and then included on the file.

In most cases, the Coroner will request the deceased's medical records to be included on the investigation file. It may take several months for this process to occur and more time is required if a full post mortem report and toxicological testing are required.

The investigation file is provided to the Coroners once the initial investigations are complete. The Coroner may ask for additional expert reports or information to complete the file before making a finding, or the matter might progress to an inquest stage.

## **What does natural death mean?**

A natural death is one that occurs as a result of the aging process or disease. In cases where the Coroner determines that the death was by natural causes, the Police will conduct a limited investigation and the Coroner will send a letter to the senior next of kin notifying them that the death was natural and the Coroner's jurisdiction is at an end.

## **What does Medico-Legal mean?**

The term medico-legal refers to a medical case, for example a death occurring in a hospital, with legal implications requiring further investigation.

When a matter has been put into the medico-legal list it means it will be referred to a specialist team of medical researchers who work with the Coroner to assist the Coroner in the accuracy and efficiency in findings. This extra level of investigation and reviewing can take some months to complete.

## **What is an inquest?**

An inquest is a public inquiry held by a Coroner in respect of a death, a fire, or an explosion.

Under [section 24](#) of the [Coroner's Act 1995](#), a Coroner must hold an inquest in specific circumstances. This is where the body of the deceased is in Tasmania or appears to the Coroner that the death, or the cause of death, occurred in Tasmania or that the deceased ordinarily resided in Tasmania at the time of death and where the death falls into one of the following categories:

- where there is a suspected homicide
- where a person was held in custody or care immediately before death
- where a person died escaping or trying to escape from custody or care
- where a person died while someone was trying to take them into custody or care

- where the identity of the deceased person is unknown
- where there is a workplace death, not due to natural causes
- if the death occurs in a matter in which an inquest is required under any other Act
- if the Attorney-General or the Chief Magistrate directs.

The Coroner also has the power to hold an inquest to obtain oral evidence if they have jurisdiction to investigate the relevant death and they consider it desirable to do so, for example if it is in the public interest or it is necessary to put additional questions to witnesses or experts so as to clarify aspects of the investigation.

Inquests are normally held at a Magistrate Court location closest to where the death occurred or where the deceased resided. An inquest might take a few hours, a few days, or a week to complete, depending on the number of witnesses called to provide evidence.

## **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.

## **When can I have property taken by Police released to me?**

Any item that the Coroner reasonably believes to be relevant to the investigation can be seized and held by Police under the authority of the Coroner, including items such as motor vehicles, computers and mobile phones.

All items held by Police as evidence after a death remain the custody of the Coroner until the Coroner makes an order as to ‘care and control’ of the items, or until the Coroner’s findings are completed, whichever occurs first. This can take some months and depends on the relevance of the item to the investigation.

If a Coroner makes a care and control order then the item can be returned to you, however it remains in the ‘legal custody’ of the Coroner and so it must not be altered or disposed of until the Coroner’s findings are finalised. The Coroner’s Office will let you know when that occurs. For example, if an order is made returning a laptop to you, the laptop cannot be sold or any files deleted until the Coroner has confirmed their findings.

At the conclusion of the investigation, the Coroner will generally release property to the person from who the item was seized or, if the property belonged to the deceased, to the senior next of kin or the Executor of the Will. The Coroner will give an order to the Investigating Officer to make arrangements for the return and/or disposal of items, including any medications seized by Police.

If there is a dispute over ownership of any item you may apply to the Coroner for custody, care, control or disposition of the item under [section 61](#) of the [Coroner's Act 1995](#) by contacting the Coroner's Office. They will advise you which forms you will need to complete along with any additional information you will be required to submit with your application.

## **What about the Will or estate?**

If you have any questions about the Will or about the estate of the deceased person, please contact the Executor of the Will, or seek legal advice. The Coroner's Office cannot provide you with legal advice.

If there is a dispute about the ownership of valuables or personal items belonging to the deceased, you should contact the Executor of the Will or seek legal advice.

If there is no Will, it is recommended that you seek legal advice or alternatively you may contact the Public Trustee for assistance. Contact details are on the Public Trustee website [www.publictrustee.tas.gov.au](http://www.publictrustee.tas.gov.au) or phone 1800 068 784.

## **How do I get a death certificate and what is an interim certificate?**

The [Registry of Births, Death and Marriages \(BDM\)](#) maintains the Register of all deaths in Tasmania. It also issues death certificates. Once the Coroner receives the initial Police Report of Death, a Registration of Death Statement is generated and sent to BDM. The death is then registered and an interim death certificate can be issued.

The interim certificate will have an endorsement stating 'incomplete registration – cause of death subject to Coronial inquiry'.

Once the cause of death has been determined, the Coroner's court notifies BDM. BDM will then finalise the death registration and the endorsement statement is removed. After this, anyone who received an interim death certificate can return it to BDM in exchange for a standard death certificate.

If you require a copy of a death certificate, you may apply online at [Births, Deaths and Marriages: Apply online – your checklist](#)

## **I disagree with or dispute some of the contents of the finding**

The Coroner's formal role in conducting an investigation and issuing findings ends when the finding are signed by the Coroner. If you disagree with or dispute the findings, you can apply to the Chief Magistrate under [section 58](#) of the [Coroner's Act 1995](#) requesting that they reopen an investigation and re-examine some or all of its findings.

The Chief Magistrate may decide to do so if they are satisfied that:

- (a) the investigation was or may have been tainted by fraud; or
- (b) the investigation was not sufficiently thorough or was comprised by evidentiary or procedural irregularity; or
- (c) there are mistakes in the record of the findings; or
- (d) new facts or evidence affecting the findings have come to light; or
- (e) the findings were not supported by the evidence; or
- (f) there is another compelling reason to reopen the investigation.

The findings need to be materially deficient for a re-examination of the findings to be made. Therefore, a Coroner cannot amend or re-word a finding without the Chief Magistrate formally re-opening the case.

To make an application, you must complete a '[Coronial – Application to Reopen an Investigation and Re-Examine some or all of the Findings – Form 4](http://www.magistratescourts.tas.gov.au/forms)', which can be found on the Magistrates Court website at <http://www.magistratescourts.tas.gov.au/forms>

## **Why is the finding being published online and where is it published?**

All findings relating to inquests are published as they result from a public hearing involving significant issues. Findings relating to investigations without inquest may be published if there is public concern surrounding a matter, or where public health and safety is furthered by disclosure of the findings.

When findings are published in this manner, the senior next of kin is notified in advance. When findings are published, sometimes they are 'de-identified'. This is done to protect the identity of the persons referred to in the findings in certain circumstances, for example, if the deceased is a child or infant.

Instead of the person's name, an initial such as 'K' will be used. Findings may be de-identified on the Coroner's own decision or at the request of a family member.

If you wish to have findings de-identified, please contact the staff at the Coroner's court at any time prior to the findings being published to make your request (as early as possible in the proceedings is best).

Findings are published on the Magistrates Court website in the Coroner's court section, under Coronial Findings. A link to this section is displayed on the home page [www.magistratescourt.tas.gov.au](http://www.magistratescourt.tas.gov.au)

## How can I provide my feedback on the process or make a complaint?

To provide us with feedback or to make a complaint, we encourage:

- talking with the staff member that you are dealing with or their supervisor by phone or in person; or
- sending us an email to [Coroners.Hbt@justice.tas.gov.au](mailto:Coroners.Hbt@justice.tas.gov.au); or
- writing to us at the following address:

Manager, Coronial Division  
Magistrates Court  
23-25 Liverpool Street  
HOBART TAS 7000

If you have a complex matter, it is often best to put your feedback or complaint in writing.

If you are unhappy with the response from the person that you originally contacted, we will forward your concerns to the Administrator of Courts for a response.

We centrally record all feedback and our responses in accordance with privacy laws.

## Complaints about a Coroner/Magistrate

If you have a complaint about the conduct of a Coroner or Magistrate, or a delay in handing down a coronial finding, please refer to the process detailed in the [Magistrates Court's Judicial Complaints Policy](#), which is available on the Court's website at [https://www.magistratescourt.tas.gov.au/about\\_us/coroners](https://www.magistratescourt.tas.gov.au/about_us/coroners)

### Magistrates Court of Tasmania

Coronial Division

Phone: (03) 616 57134

Email: [Coroners.Hbt@justice.tas.gov.au](mailto:Coroners.Hbt@justice.tas.gov.au)

[www.magistratescourt.tas.gov.au](http://www.magistratescourt.tas.gov.au)