



Inquests

The Coroners Court of Victoria (the Court) investigates certain deaths and fires to find out their cause. Coroners also make recommendations to help prevent similar deaths and fires in the future. Not all investigations result in an inquest however below is some relevant information.

What is an inquest?

An inquest is a court hearing into a single or multiple deaths and/or fires. While every reportable death will have an investigation, inquests or public hearings are only needed in a small number of investigations. A matter will go to an inquest if there is sufficient public health and/or safety interest, or if there are unanswered questions about the death or fire that the coroner is unable to answer via paper statements, records or reports. It is heard by a coroner and is open to the public unless specified otherwise.

An inquest is unlike other court cases. It is an inquisitorial process rather than an adversarial process. This means, an inquest is not a trial with a prosecutor and a defendant, but an inquiry that tries to find out why the death or fire happened. Coroners have more flexibility than other jurisdictions with the type of evidence they can accept and how they conduct their court proceedings.

Importantly, a coroner does not decide if someone is legally responsible for a death.

The coroner's role is to identify the person who has died and to find out how their death happened including in some cases, the cause and circumstances.

After the coroner has heard all the evidence in court as part of the inquest, they will write a finding. A finding may include recommendations to a government Minister, public statutory authority or other organisation, to help stop similar deaths or fires from happening in the future.

Why is an inquest held?

A coroner holds an inquest because they think there is an issue of public interest and they need more information to answer all the questions about the death or fire.

In some situations, a coroner also has to hold an inquest under the *Coroners Act 2008*. For example, there must be an inquest if a person died while they were in police custody, unless the coroner decides the death was due to natural causes.

A coroner also has to hold an inquest if the death is a suspected homicide or the identity of the person who died is not known.

A coroner, however, does not have to hold an inquest if:

- The death probably occurred more than 50 years before it was reported to the coroner;
- A person has been charged with a criminal offence to do with the death;



- A coroner in another state has investigated, is investigating or plans to investigate the death; or,
- The death happened outside of Australia.

Inquests are only held in a small number of investigations, in fact only in less than 5% of all Victorian coronial matters.

What happens if there is no inquest?

Coroners investigate all deaths reported to the Court, whether or not an inquest is held.

An inquest will only be held if it has to be under law or if the coroner decides an inquest is necessary. If the coroner does not have to hold an inquest, and the coroner has sufficient evidentiary material, they may instead make a finding about a death without an inquest. This is sometimes called a 'chambers finding'.

Who can ask for an inquest?

Any person can ask that a coroner hold an inquest into a death or fire reported to the Court. To do this, you need to complete a Form 26- Request for inquest into death or a Form 27 – 'Request for inquest into fire' and give reasons why an inquest is needed. You can find copies of the forms on the court's website.

Before asking for an inquest, speak to the Coroners Support Service staff to talk about the investigation. The coroner needs time to gather all the evidence before deciding if an inquest is needed. The coroner will think about all requests. If a coroner decides not to hold an inquest, they must give written evidence.

If the coroner decides not to hold an inquest, you can appeal to the Supreme Court within three months of the coroner's decision.

Who can attend an inquest?

Anyone can attend an inquest as they are all public hearings. Sometimes a coroner will decide to exclude the public, or specific people from attending but this is unusual.

A coroner may also restrict publication of the evidence or part of the evidence.

While anyone can attend, only people who are granted permission can appear as an interested party.



How do I know if there is going to be an inquest?

The coroner will examine all information relating to the death or fire and will decide whether an inquest is appropriate or required. The court will contact the 'senior next of kin' and any other interested parties to advise the matter is going to proceed to an open hearing. Usually, the coroner will sit a preliminary hearing prior to the actual inquest. These are called either a 'mention hearing' or a 'directions hearing'. These hearings bring all interested parties together to discuss and make decisions about the course of the coronial investigation and/or potential inquest.

What happens before the inquest?

Before the inquest, you will be contacted by the Court to advise the coroner has listed the matter be heard in court. You will then also receive the notification in writing from the coroner's registrar.

Before the matter proceeds to the inquest, decisions will have been made regarding:

- What issues to consider (**the scope of the inquest**);
- What further information is required, including any material and/or statements; and,
- Which witness' are required to appear and give evidence.

Coroners will investigate matters within the scope of the inquest. Any other avenues of investigation that is not reasonably within the scope of the inquest will not be addressed in the courtroom.

Who are witnesses?

Witnesses are people who have to give evidence or give material or information to the Court. They help the coroner understand the circumstances of the death or fire and give evidence of any knowledge they have about the death or fire.

A coroner may issue a summons to make sure a witness appears at the inquest. A summons is a legal document that orders someone to come to court. If the witness does not to attend or give any document or material the coroner has asked for, the coroner may issue a warrant to arrest and order that person and bring them to court.

If the coroner wants a person to appear as a witness, a police officer acting for the coroner will give them a summons in person. The summons tells witnesses where and when to go.

For more information about witnesses, please see our website

<https://www.coronerscourt.vic.gov.au/inside-court/witnesses>



Do you need a lawyer?

Families can choose to be legally represented at the inquest, however because the Court is independent, we cannot help you choose a lawyer. The person helping the coroner (the coroner's assistant, usually a police member or a lawyer), along with the guidance and support of the coroner, can help you understand and participate in the inquest if you decide not to get a lawyer.

Court Network

Court network is a group of trained volunteers who supports families and friends that have to go to coroners' court hearings. They can also give you information and refer you to other support organisations. If you want to meet a network volunteer at your court hearing, please contact the Court.

Who are interested parties?

An interest party is not just a person who is interested in a death or fire report to the Court.

In coronial proceedings, an interested party is a person, organisation or group who has information about the death or fire being investigated or who may be affected by the coroner's finding.

To be an interested party for an inquest, a person or organisation must be able to show the coroner that they have enough interest in the issue.

Interested parties may make submissions, examine witnesses and read documents. Often, these are legal professionals representing their clients, unless a person chooses to represent themselves.

Interested parties include (but not limited to):

- Family members of the person who has died;
- Employers;
- A doctor who treated the person who has died;
- Anyone who has relevant information; or,
- A person who, in a coroner's opinion, may be involved in some way with a death or fire.

To be an interested party in an inquest, you need to complete a Form 31 – 'Application for leave to appear as an interested party' and give it to the Court. The coroner may go through these applications in court as part of a directions and/or mention hearing.

The senior next of kin does not need to fill out an application form. You can find the form on the Court's website.

If a person is not an interested party, they may still be able to get information about an investigation by completing a Form 45 – 'Application for Access to Coronial Documents/Inquest Transcripts'. These are also available on our website.



What are the rights of interested parties?

Interested parties have the right to:

- Appear in the court or be represented by a lawyer or, with the coroner's permission, by another person
- Make submission to the coroner that lists who they think are relevant witnesses
- Examine or cross examine witnesses and make submissions
- Be given a copy of the coronial inquest brief, unless the coroner orders not to
- Have a document given to them if the coroner thinks that they have enough interest in the document
- The same protection as a party in a Supreme Court proceeding
- Appeal to the Supreme Court against the coroner's findings about a death or fire.

Restrictions on an interested party

Interested parties may only be able to appear in the part of the inquest that relates to their interest. Parties who only have a financial interest in the outcome of an inquest may not be able to be an interested party for that inquest.

Other help given to the coroner at inquests

In most inquests, a member of the police helps the investigating coroner. This person is called the coroner's assistant and can examine and cross examine witnesses.

In some cases, the coroner may ask a lawyer from the court's in-house legal counsel or a barrister for help. This person is called counsel assisting the coroner.

A coroner may also ask for help from experts to understand and explain complex issues during an inquest. These people are called expert witnesses and can include people with medical, scientific or engineering expertise.

What happens at the inquest?

The Court wants family members and interested parties to understand everything that happens in the courtroom. It can be hard to hear details about the death of a friend or loved one in a public courtroom, particularly when grieving. Coroners understand if family members and friends need to leave the courtroom so they do not have to hear or see evidence the coroner is examining. Court staff are there to help answer questions and guide you through the process.

The coroner will decide the most appropriate way to conduct the inquest. As the coroner is not bound by the rules of evidence that apply to other courts, they can decide what information and issues to examine and who to hear from.



During the inquest, the coroner will call witnesses to give evidence. The coroner, coroner's assistant or a lawyer representing an interested party may then ask the witness questions. Interested parties can also give statements, documents or other relevant items to the coroner.

After hearing all the evidence, the coroner may receive submissions which restates the position of all the parties on the evidence and the matters they wish the coroner to take into consideration. These may be spoken aloud in court (which the coroner may ask for submissions on the last day of the inquest or may call all parties back into court on another day for a 'Submissions Hearing') or submissions may be delivered in writing to the Court.

How long does an inquest go for?

It varies. The length of an inquest depends on how complex the death or fire are and how many witnesses and submissions there are. Some inquests may last a few hours, while others may take weeks or months.

What happens after the inquest?

At the end of the inquest, the coroner must make a finding. In some hearings, the coroner may give the finding on the same day that the inquest ends. With other more complex issues, it may take the coroner longer to prepare the finding. Court staff will let you know when the coroner is ready to give the finding

What is the finding?

A finding is the formal document that a coroner prepares after an investigation into a death or fire and is usually the last step in the investigation.

The coroner is the only person who can make a finding.

The length of a finding can vary from a single page to a number of pages, depending on how complex the investigation is.

Inquest findings

The coroner delivers a finding made after an inquest in court. This is called an 'inquest finding'. A copy of the inquest findings including recommendations, unless a coroner orders it not to be, is published on the court website.

The finding will set out:

- a) The identity of the person who died;
- b) Their cause of death; and,
- c) In some cases, the circumstances surrounding the death.

It can also include recommendations on public health and/or safety or the administration of justice for the attention of responsible Ministers and other organisations that may help to prevent similar deaths.



Fire findings

A coroner must also make findings after the investigation/inquest into a fire. A coroner must find, if possible, the cause and source of the fire and the circumstances surrounding the fire.

Who gets the finding?

The coroner decides who will receive a copy of the finding. The senior next of kin usually gets a copy of the finding.

Copies of the finding may also be given to any person or organisation that the coroner has decided is an interested party or has enough interest.

Can a finding be reviewed or appealed?

Yes. There are avenues where you can review or appeal a coroner's decision.

Appealing a refusal for an inquest

After receiving a request for an inquest, a coroner must let you know the decision in writing.

If the coroner decides not to hold an inquest, you can appeal to the Supreme Court within three months of the decision.

Appealing a refusal to reopen an investigation

Anyone can apply to the court to set aside all or some of a coroner's findings. You can make an application by completing a Form 43- 'Application to Set Aside a Finding'. You can find a copy of the form on the Court's website.

The coroner can reopen the investigation if they think that there are new facts and circumstances and that it is right to reopen it.

If the coroner refuses to reopen an investigation, you have the right to appeal to the Supreme Court within three months of the finding date.

Appealing to have a finding set aside

A person with enough interest in the investigation, or an interested party, has the right to appeal to the Supreme Court against the findings of a coroner within six months of the date of the finding.

You may want to get legal advice before lodging an appeal.

Note: The matters contained in this document are general in nature and do not constitute legal advice. If persons reading this document are unsure about being represented at a coronial inquest, the Court encourages you to seek legal advice regarding the particulars of their coronial matter.