

# A death in the workplace

A guide for family and friends





State of Queensland 2018.

Unless otherwise noted, this document is available under a Creative Commons Attribution 4.0 International Licence (<https://creativecommons.org/licenses/by/4.0/>). You are free to copy and redistribute the work, so long as you attribute The State of Queensland.

The material presented in this publication is distributed by the Queensland Government for information only and is subject to change without notice. The Queensland Government disclaims all responsibility and liability (including liability in negligence) for all expenses, losses, damages and costs incurred as a result of the information being inaccurate or incomplete in any way and for any reason.

PN10524

## Contributing organisations

Maritime Safety Queensland

Mining Safety and Health

Office of the State Coroner

Queensland Police Service

Rail Safety Regulator

Office of Industrial Relations

## Interpreter assistance

Queensland Government agencies are required to provide and pay for professional interpreting services for clients who have difficulties communicating in English.

Clients should not pay for an interpreter when accessing Queensland Government services or services funded by the Queensland Government – it is the responsibility of the Queensland Government agency to arrange and pay for the interpreter and to incorporate provision for meeting language services needs with funded organisations.

If you need an interpreter there are a number of translating and interpreting service providers including the Translating and Interpreting Service National, Department of Immigration and Border Protection that can be contacted on 13 14 50. Ask for the interpreter to call the Investigations Liaison Support Officer (Office of Industrial Relations) on 1300 362 128, or the department with responsibility for investigating the incident.

# Contents

Introduction	3
<b>1. Summary of the process</b>	<b>4</b>
<b>2. Roles and responsibilities</b>	<b>6</b>
2.1 Queensland Police Service	6
2.2 The coroner	6
2.3 The investigating agency (regulator)	8
<b>3. Dealing with practical matters</b>	<b>11</b>
3.1 Right to Information	11
3.2 The funeral	11
3.3 Workers' compensation	11
3.4 Occupational superannuation	12
3.5 Wills	12
3.6 The media	12
3.7 Death certificate	13
3.8 Who to advise	13
3.9 Financial matters	13
3.10 Employer	13
<b>4. Getting further help</b>	<b>14</b>
4.1 Consultative Committee for Work Related Fatalities and Serious Incidents	14
4.2 QLeave	14
4.3 Employee associations (unions)	14
4.4 A Miner's Legacy	14
4.5 Coronial Family Services	14
4.6 Lifeline	15
4.7 The Compassionate Friends, Queensland Inc.	15
4.8 Kids Helpline	15
<b>5. Legal enquiries</b>	<b>16</b>
5.1 Legal Aid Queensland	16
5.2 Coronial Assistance Legal Service	16
5.3 Queensland Public Interest Law Clearing House	16
5.4 Queensland Law Society	16

## Introduction

You may be reading this guide because your partner, a family member or friend has died suddenly and unexpectedly at work. Please accept our sincere condolences on your loss.

Coping with the loss of someone close to you is never easy, but when it is sudden and it is connected with work activities, it can be particularly difficult and confusing. This guide provides information that may be helpful to you and other family members at a time when you are grieving your loss and dealing with changes in your family life.

While this guide has been prepared specifically for the family or friends of someone who has died in a traumatic workplace incident, some of the information may be useful if you have lost someone unexpectedly from natural causes or self-inflicted harm while he or she was at work.

You do not need to read this guide all at once – use it as a resource when you need it. Some of the information will be useful immediately following your partner's or relative's death. Other information will not be applicable until months or perhaps years down the track.

The guide attempts to give answers to some of your questions about what to expect and what will happen next. It explains:

- the roles of the various government agencies that may be involved
- what investigations will be undertaken, when and by whom
- the legal processes and decisions
- some practical matters that you will need to manage
- the services and support that may be offered to you by other organisations.

To get through this difficult time, we want you to know what will happen and why, and where you can get further support or information.

Everyone's loss, circumstances and ability to cope will be different. Every work-related death will be different. The information in this publication is of a general nature and may not be applicable to everyone. If you would like more detailed information, you should contact the relevant organisations listed in this document.

# 1. Summary of the process

Phase	Agency	Tasks
The first response	Queensland Police Service	<ul style="list-style-type: none"> <li>Preserves the scene and collects evidence.</li> <li>Notifies the next of kin.</li> <li>Notifies the coroner, if required.</li> <li>Arranges for identification of the person.</li> <li>Arranges for the person to be taken to the mortuary.</li> <li>Deals with property in possession.</li> <li>Conducts initial investigation to determine probable cause of death (i.e. whether natural causes, suspicious circumstances, work-related).</li> <li>Notifies other agencies who may need to investigate the event e.g. a safety regulator such as Workplace Health and Safety Queensland (WHSQ).</li> </ul>
	Coroner	<ul style="list-style-type: none"> <li>Certain circumstances may mean the death is reportable under the <i>Coroners Act 2003</i>.</li> <li>Directs the police to investigate further, if required.</li> <li>Orders an autopsy, if required.</li> <li>Releases the body for the funeral.</li> </ul>
	Other Government investigating agencies	<ul style="list-style-type: none"> <li>May respond in conjunction with the Police to commence early investigation of an incident.</li> <li>Generally have agreements to share information and on some occasions conduct joint investigations.</li> </ul>
The funeral	<ul style="list-style-type: none"> <li>Next of kin</li> <li>Family</li> <li>Executor of the Will</li> <li>Friend(s)</li> <li>Burials Assistance Scheme</li> </ul>	Arranges funeral and burial or cremation.
The investigation	Queensland Police Service, as agent of the coroner, when the death is reportable under the <i>Coroners Act 2003</i> for example: <ul style="list-style-type: none"> <li>death resulting from injuries sustained in a workplace incident</li> <li>apparent natural cause of death where the treating doctor is not willing or able to issue a cause of death certificate</li> <li>suspected suicide</li> <li>suspicious death.</li> </ul>	<ul style="list-style-type: none"> <li>Investigates the circumstances of the death.</li> <li>Prepares a report for the coroner.</li> <li>Determines if a person will be charged with a criminal offence in respect of the death.</li> </ul>
	Investigating regulator when the person died because of a work-related incident or work-related activities	<ul style="list-style-type: none"> <li>Investigates the circumstances of the incident to find out what happened and why.</li> <li>Identifies any preventative action to be taken in an effort to prevent a repeat of the incident.</li> <li>Decides whether to take legal action against a person or company.</li> <li>Prepares a report for the coroner.</li> </ul>
Compliance action	Investigating agency	<ul style="list-style-type: none"> <li>Initiates compliance action which may include legal proceedings against a person or company.</li> </ul>
	Magistrates Court	<ul style="list-style-type: none"> <li>The case is presented to the Court by the investigating agency and the case is presided over by a Magistrate.</li> </ul>
	Next of kin, family or friend(s)	<ul style="list-style-type: none"> <li>Has the opportunity to provide a victim impact statement (voluntary).</li> </ul>
	Magistrate	<ul style="list-style-type: none"> <li>Finds person or company guilty or not guilty.</li> <li>Determines penalty for person or company if they are found guilty.</li> </ul>

Phase	Agency	Tasks
<b>The coronial process</b>	The coroner	<ul style="list-style-type: none"> <li>• Directs the coronial investigation and gathers investigation material, which includes reports prepared by the police and/or the investigating regulator.</li> <li>• Makes their findings under the <i>Coroners Act 2003</i> known in respect of the death – the deceased’s identity, the date, place and medical cause of death and how the death occurred.</li> <li>• Decides whether it is in the public interest to hold an inquest into the death.</li> <li>• May make coronial recommendations designed to improve workplace safety and prevent future deaths.</li> <li>• Publishes inquest findings and may publish non-inquest findings.</li> </ul>

Further information about the agencies involved, the processes and how they impact on you is provided in the following pages.

The process following a fatal accident in a workplace is not always straight forward. For example, the investigating agency will start the investigation of a work-related death as soon as they are notified of the death, regardless of whether the police have finished their initial investigation. The coronial process commences as soon as the death is reported to the coroner by police. The coroner’s investigation is informed by the initial police report of the death, autopsy and toxicology findings and the outcomes of the investigating agency and any police or other agency prosecution in respect of the death.

The coroner may order an autopsy before releasing the body for the funeral, and also monitors progress of the investigation undertaken by the agency through progress reports.

While the first response phase and funeral normally happen very quickly, it can take months, possibly years, for the full process to be completed if the investigating agency prosecutes and the coroner decides to hold an inquest.

## 2. Roles and responsibilities

### 2.1 Queensland Police Service

The police are notified whenever someone not under medical care or supervision dies, including after a death in a workplace.

The police are responsible to:

- notify the next of kin  
Sometimes the employer or work colleagues contact the worker's family before the police have had a chance to do so. The police officer contacting you should give you the officer's details so that you can contact them if you have any questions. If you haven't received this information contact your local police station in the first instance.
- determine if it is necessary to notify the coroner (i.e. if the death is 'reportable', according to law)
- arrange for your deceased partner or relative to be taken to the mortuary
- collect personal belongings from your deceased partner or relative when he or she is taken to the mortuary  
Arrangements should be made for next of kin to be provided with any belongings or property which have not been seized by police and that may be at the workplace. These arrangements can be made directly through the workplace or on the next of kin's behalf by a union representative or other proxy.
- arrange for your deceased partner or relative to be formally identified  
Your partner or relative must be formally identified before the coroner can release the body for the funeral. An identification is usually done by someone who knows the person well (it doesn't have to be the next of kin) through visual identification. If this is not possible, the police may use other options such as fingerprints, dental records or DNA testing.
- investigate the circumstances surrounding the incident  
The police do this even if the incident is referred to another agency for investigation. In the course of investigating the incident, the police may need to collect information from yourself, work colleagues, witnesses, or other close family members. They may need to talk to you more than once in the course of their investigation.
- assist the coroner, as directed by the coroner  
For example, the coroner may require the police to undertake further investigations or collect additional statements from work colleagues or witnesses.
- prepare a report for the coroner about the circumstances of the death
- determine if criminal charges should be laid in respect of the death
- arrange for any personal belongings or property collected to be returned to you when the coronial investigation is complete.

### 2.2 The coroner

The coroner is an independent judicial officer who investigates and makes findings in respect of 'reportable deaths' under the *Coroners Act 2003*. The coroner is not a medical officer. Queensland has seven full-time coroners located in Brisbane, Southport, Mackay and Cairns. Each coroner is supported by dedicated legal and administrative support staff from the Coroners Court of Queensland within the Department of Justice and Attorney-General.

#### When is a death in the workplace reportable to the coroner?

The purpose of the coronial system is to investigate unnatural, unexplained, sudden or suspicious deaths and the deaths of certain categories of vulnerable persons. Consequently not all deaths are reportable to the coroner.

A workplace fatality will be reportable to the coroner if the circumstances of the death suggest:

- the person died from injuries sustained in a workplace incident
- the death is a suspected suicide
- the death is suspicious
- the death is from apparent natural causes e.g. heart attack but the person's treating doctor is not willing or able to issue a cause of death certificate because the probable cause of death is unknown.

The police are responsible for notifying the coroner of any reportable deaths.

The *Coroners Act 2003* requires the coroner to investigate the circumstances in which the death occurred and make findings (if possible) about the deceased person's identity, when, where and what caused the person to die and how the death occurred. While investigating a death, the coroner will examine whether the death was preventable and consider whether there are opportunities for changes to be made to prevent future deaths.

The coronial process is inquisitorial, not adversarial. The *Coroners Act 2003* expressly prevents the coroner from making a finding that someone is criminally or civilly liable for the death.

The coroner's investigation commences immediately once the death is reported by police and is progressed concurrently with other investigative or legal processes triggered by the circumstances of the death. However, the *Coroners Act 2003* prevents a coroner from holding or continuing an inquest into the death once a person is charged with an offence in respect of the death. In practice, the coroner will not finalise his or her investigation until the outcomes of any criminal or workplace prosecution and associated appeal are known. It may be several years for the coronial investigation to be completed.

The Coroners Court of Queensland will communicate with family members about the progress of the coronial investigation.

The *Coroners Act 2003* establishes a hierarchy of family members who are recognised as the ‘senior next of kin’ for this purpose. Other family members can also seek permission from the coroner to be kept informed about the outcomes of the investigation.

It is important for family members to notify the Coroners Court of Queensland of any change of address or contact details so they can be kept informed of the progress of the coronial process and receive a copy of the coroner’s findings.

## Will an autopsy be performed?

The coroner may order an autopsy by a specialist forensic pathologist as part of the investigation.

Coronial autopsies are only performed in:

- Brisbane
- Gold Coast
- Nambour
- Rockhampton
- Townsville
- Cairns.

Depending on where the death occurred, the deceased may need to be transported by a government contracted undertaker some distance from their usual place of residence.

When deciding whether to order an autopsy, the coroner is required to have regard to any religious, cultural or other family concerns about an autopsy, but the coroner may override those concerns if he or she is satisfied of the greater need for the coronial investigation.

The coroner will arrange for a coronial counsellor to speak with family members when there are autopsy concerns before an autopsy order is made. If you or your family members are unhappy with the coroner’s decision to proceed to autopsy, you can apply to the Supreme Court for a review of the decision. It is recommended that you seek legal advice before doing this. Information regarding legal advice for families going through the coronial process can be found on page 16 of this document.

If ordered, the autopsy will be performed within days of the death. From time to time, the coroner may require organs such as the brain to be retained for further specialist examination. If this is necessary, the coroner will arrange for a coronial counsellor to seek the family’s views and possible options before he or she makes a final decision.

Once the autopsy is completed, and the coroner is satisfied the body is no longer required for the coronial investigation, the coroner will permit the body to be released to the family’s nominated funeral director. In practice, funeral directors liaise closely with the Coroners Court of Queensland about the timing of release.

Blood and tissue samples may be taken for further testing and it may be several months before the results are known, especially in complex cases where there is no obvious cause of death. This means the final autopsy report may not be available for some time. However, on completing the autopsy,

the pathologist sends an autopsy certificate to the Registry of Births, Deaths and Marriages to enable the death to be registered. Once the pathologist determines the cause of death, the Registry of Births, Deaths and Marriages will update the death certificate. If an interim death certificate recording the cause of death as ‘underdetermined’ has already been issued, family members can obtain an updated cause of death certificate free of charge by returning the interim certificate to the Registry of Births, Deaths and Marriages.

Family members can request a copy of the autopsy report by writing to the coroner.

## What informs the coroner’s investigation?

The coroner has very broad powers of investigation. The coronial investigation of a workplace fatality is generally informed by:

- the initial police report
- autopsy and toxicology findings
- further police investigations as directed by the coroner
- if applicable, the outcomes of another government agency’s investigation
- witnesses who can provide evidence either by written statement or by attendance at inquest
- independent specialist expertise, if necessary.

Family members should write to the coroner if they have any concerns about the circumstances in which the incident occurred.

## Will an inquest be held into the death?

The coroner may decide they have sufficient information to make findings about the circumstances of the death without needing to hold an inquest. These are known as non-inquest or chambers findings. A copy of the findings will always be provided to family members and the relevant investigating agency. The coroner may also provide a copy of the findings, on request, to other people who have sufficient interest, such as the deceased’s employer.

The coroner may decide to hold an inquest into a workplace death if he or she considers it is in the public interest to do so. For example, when there is doubt about the cause and circumstances of the death, or there is potential to prevent similar deaths or uncover systemic issues which affect public health and safety.

An inquest is a formal hearing conducted in court by the coroner to gather more information about the cause and circumstances of a death.

An inquest is an inquisitorial hearing, not a trial. The coroner cannot decide if someone has committed an offence, is guilty or innocent, or determine any question of civil liability. The proceedings are less formal than a conventional court hearing and the Coroners Court of Queensland is not bound by the legal ‘rules of evidence’ like other courts. The coroner will hear evidence from people who have information about the incident.

The people giving evidence may include:

- police
- doctors
- investigating inspectors from government agencies
- experts
- eye witnesses
- family members
- other people who have information relevant to the incident.

The coroner has the power to compel people giving evidence to answer questions. For this reason, evidence from an inquest cannot generally be used in any other court of law.

A legal representative called the ‘counsel assisting’ will assist the coroner. The counsel assisting will ask the people giving evidence questions on behalf of the coroner, although the coroner may also ask questions.

The counsel assisting can also ask questions on your behalf and other family members. Some families choose one family member to represent the family and ask questions through the counsel assisting the coroner. Alternatively, families can provide a short statement to the coroner, which either the counsel assisting reads for them or a family representative requests permission to read.

Other families choose to employ a solicitor to ask questions on the family’s behalf. It is your decision whether you seek legal representation or not. However, you may wish to consider what legal representation could achieve for you and the family before engaging them.

The length of an inquest will depend on the complexity of the case and the number of people who will give evidence. It can take from a few hours to weeks and is usually held in the court closest to where the fatal incident occurred. The court is generally open to the public.

If the coroner decides to hold an inquest, the coroner’s office will notify you when and where the inquest will be held, and the expected duration. However, it may finish earlier or take longer depending on what happens during the inquest. The coroner’s office will also notify you if you are required to give evidence at the inquest.

If the coroner decides not to hold an inquest, you or other family members can request that an inquest is held by writing to the coroner explaining why it is in the public’s interest to do so. The coroner has six months to respond to the request and must give reasons for their decision. If the coroner refuses a request for an inquest, you or other family members can make an application for an inquest to the State Coroner or District Court.

The coroner may deliver their findings at the end of the inquest hearing, or hold them over until a later date. The length and detail of findings can vary according to the inquest.

The inquest is one of the final stages of the process and takes place after other legal action, such as a prosecution, including appeals. It can sometimes be years after the death. Families who have been through this process have said that it is a difficult time for them because it re-awakens feelings they had

when their family member first died. An inquest can also be a difficult process to go through as evidence given at the inquest might include details about the incident that you hear for the first time.

If an inquest is held, the findings will be published on the Queensland Courts website. If the coroner makes recommendations, they will be sent to the relevant government agency. The relevant government agency must then report back on whether the recommendations have been implemented and how. This response will then be published on the Queensland Courts website.

Further information about inquests is available at [courts.qld.gov.au/courts/coroners-court/common-questions/inquests](https://courts.qld.gov.au/courts/coroners-court/common-questions/inquests).

## 2.3 The investigating agency (regulator)

Laws exist to ensure the work health and safety of people in the workplace. Different government agencies may be responsible for implementing and enforcing laws in different industries. The government agencies responsible for enforcing these laws are known as regulators. Regulators are responsible for investigating workplace incidents in their areas of responsibility. If someone dies as a result of a workplace incident, there will be an investigation.

The investigating agency will start an investigation as soon as they are notified of a fatal workplace incident. Sometimes this will be before the police have finished their preliminary investigation. The police may also decide that they need to continue their investigation, in which case both parties will work cooperatively.

Usually it is clear which legislation applies to the workplace where the incident occurred and therefore which agency will be responsible for the investigation. The agencies have established protocols for determining which legislation applies and consequently which agency will be the investigator so that there is no delay in starting the investigation. In any case, the agencies work in cooperation with each other, the police and other government departments where necessary.

The relevant agency will appoint a lead investigator who is responsible for investigating the incident and preparing a report for the coroner.

Regulator	Office	Contact details	Industries covered	Legislation
<b>Department of Natural Resources and Mines</b>	Mining Safety and Health	Ph: 07 3199 8033 <b>minesafetyandhealth@dnrm.qld.gov.au</b>	<ul style="list-style-type: none"> <li>• Mining</li> <li>• Quarrying</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Mining and Quarrying Safety and Health Act 1999</i></li> <li>• <i>Coal Mining Safety and Health Act 1999</i></li> </ul>
	Explosives Safety and Security	Ph: 07 3199 8023 <b>explosives@dnrm.qld.gov.au</b>	<ul style="list-style-type: none"> <li>• Explosives</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Explosives Act 1999</i></li> </ul>
	Petroleum and Gas Safety and Health	Ph: 07 3199 8027 <b>gassafe@dnrm.qld.gov.au</b>	<ul style="list-style-type: none"> <li>• Petroleum</li> <li>• Gas</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Petroleum and Gas (Production and Safety) Act 2004</i></li> </ul>
<b>Office of Industrial Relations</b>	Electrical Safety Office	Ph: 1300 362 128 <b>electricalsafety.qld.gov.au</b>	<ul style="list-style-type: none"> <li>• Electrical industry</li> <li>• Electrical equipment</li> <li>• Electrical entities</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Electrical Safety Act 2002</i></li> </ul>
	Workplace Health and Safety Queensland	Ph: 1300 362 128 <b>worksafe.qld.gov.au</b>	<ul style="list-style-type: none"> <li>• All industries not covered by specific legislation</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Work Health and Safety Act 2011</i></li> <li>• <i>Safety in Recreational Water Activities Act 2011</i></li> </ul>
<b>Queensland Police Service</b>		Contact your local police station	<ul style="list-style-type: none"> <li>• Medical condition involved</li> <li>• Motor vehicle accident on a public road</li> <li>• Criminal activity involved</li> </ul>	
<b>Department of Transport and Main Roads</b>		Ph: 13 74 68 <b>rsr@tmr.qld.gov.au</b> <b>tmr.qld.gov.au</b>	<ul style="list-style-type: none"> <li>• Transport</li> <li>• Mainroads</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Transport Act 2010</i></li> </ul>
<b>Office of the National Rail Safety Regulator</b>		1800 531 983 08 8406 1500 <b>onrsr.com.au</b>	<ul style="list-style-type: none"> <li>• Railway operations</li> <li>• Rail safety</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Transport Act 2010</i></li> </ul>
	Maritime Safety Queensland	<b>msq.qld.gov.au</b>	<ul style="list-style-type: none"> <li>• Marine incidents</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Transport Operations (Marine Safety) Act 1994</i></li> </ul>
<b>Comcare</b>		Ph: 1300 366 979 <b>general.enquiries@comcare.gov.au</b>	<ul style="list-style-type: none"> <li>• Commonwealth employee</li> <li>• Companies that are self-insured under a Commonwealth scheme</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Work Health and Safety Act 2011</i></li> </ul>

The purpose of an investigation is to:

- find out what happened and why
- determine whether an offence under the relevant legislation has occurred and take any appropriate action.

It involves inspecting the incident site and interviewing people who may be able to assist with determining the facts (e.g. witnesses, other employees and the employer). It may also involve taking measurements and photographs, reviewing relevant documents and the safety management system, and contacting relevant technical experts for advice.

Due to the complexity of investigations into workplace deaths, it may take some time for the agency's investigation and report to be completed.

All of the agency's investigators carry identification. If an investigator contacts you at any stage of the investigation, you can ask to view their identification.

Some agencies, for example, the Office of Industrial Relations, have a dedicated liaison officer who will let you know how the investigation is progressing and if, and when, the agency will commence legal proceedings. The same service is provided for incidents that occur under the jurisdiction of the Department of Natural Resources and Mines.

The timing and interval of contact with you will depend on factors such as:

- how complex the investigation is
- how much evidence has to be gathered and analysed
- how much contact you want.

The investigating agency aims to tell you as much as they can, including what they have done, what they believe to be the cause, and the action they intend to take. To ensure any prosecution is not prejudiced or jeopardised, there may be things that the agency is not able to explain in detail until a decision is made about commencing legal proceedings or the legal proceedings have been completed.

Possible outcomes from the investigation include the agency deciding to:

- take no further action
- accept or reject an enforceable undertaking under the *Work Health and Safety Act 2011*
- issue safety alerts for similar workplaces
- initiate an education or audit campaign for relevant industries
- undertake compliance action which may include prosecution.

## Prosecutions

The investigating agency may or may not prosecute an individual or company in relation to a fatal incident. The respective agency considers a number of factors when making this decision. For example, the agency will determine if there is a case to answer and whether there is sufficient evidence to prove the case in court. If a decision is made to prosecute, a court hearing will take place – usually in the Magistrates Court and some time after the actual incident.

The name of the person or company to be prosecuted cannot be disclosed until they have been provided with the details of the charge and relevant material. Therefore, the agencies cannot provide you with detailed information until a charge has been filed in court.

The person or company charged under the relevant legislation can enter a plea of guilty or not guilty. If the plea is guilty, you may attend the sentencing hearing at the court when the person or company receive their penalty. If you choose not to attend the hearing, a brief summary of what happened can be provided. If a not guilty plea is given, the magistrate will set a trial date which could be several months away. The trial will often take longer than a day, but you will hear all the evidence in detail. It is not compulsory for you to attend a sentencing date or a trial.

There is limited information that you can receive from the investigating agency before the trial to prevent the trial's outcome being jeopardised. While this may be difficult for you and your family, if the agency makes a decision to prosecute, they want to maximise the likelihood of a plea of guilty or a guilty finding by the court. You can make an application for more information under the *Right to Information Act 2009* if you have concerns about the amount of information the agency gives to you.

Penalties for offences against the legislation include fines and imprisonment. The amount of any fine will be determined by the court. The penalties a court can award to someone who pleads or is found guilty are set by relevant legislation.

If an offender is found guilty, you or a member of your family may wish to submit to the court a victim impact statement before sentencing.

## If there is no prosecution and you disagree with this decision, do you have options?

If you disagree with the investigating agency's decision not to prosecute, you should contact the investigating agency's lawyer or information officer, and request in writing that the matter be referred to the Director of Public Prosecutions (DPP) for review.

## If there is no prosecution, can you take action against the person or company and claim compensation?

Regardless of whether or not the investigating regulator prosecutes, you may have other legal options available to you. You should obtain your own legal advice regarding your options. The investigating agency is unable to provide any advice in relation to the merits of any civil proceedings.

## The court process

The first hearing is generally a request by the offender to have the matter adjourned to seek advice from their legal representative and decide what their response will be to the charge. Any subsequent adjournment is a directions hearing where the defendant enters a plea of guilty or not guilty.

If the defendant pleads guilty, the matter will proceed to a sentencing hearing. If the defendant pleads not guilty then the matter will proceed to a defended hearing or trial.

At the conclusion of a directions or defended hearing, the court may reserve its decision before sentencing and it may be several weeks or months before the court schedules a sentencing hearing.

You and your family may attend all the court hearings and listen to proceedings.

Either party may appeal the court's decision. All legal proceedings must be completed before the coroner can hold an inquest.

## Victim impact statement

A victim impact statement may be given by a family member at a sentencing hearing after a person or company either pleads guilty or has been convicted, but before they are sentenced.

It is entirely up to you and your family whether you submit a victim impact statement or not. It's an opportunity for you to tell the court how the loss of your partner or family member has affected you and your family. Some families find writing a victim impact statement helpful, and others choose not to do so.

Support is available if you decide to submit one. A victim impact statement can be submitted as a written document or read out in court by you or someone on your behalf.

The statement cannot be used to grant a harsher penalty. If a family does not give a statement, this cannot be used to grant a more lenient sentence.

## 3. Dealing with practical matters

In addition to dealing with, and coming to terms with the loss of someone through a traumatic incident there are a number of practical matters that will need attention in the days and weeks following. Grieving can make it difficult to concentrate. The following may help you to keep track of some of these important tasks.

### 3.1 Right to Information

#### Obtaining information held by Queensland Government agencies about your deceased family member

Under the *Right to Information Act 2009* (the RTI Act) a family member can apply to a government agency for access to information the agency holds about their deceased family member.

More information about the RTI process can be found at <https://www.worksafe.qld.gov.au/home/right-to-information/office-of-industrial-relations-right-to-information/next-of-kin-right-to-information>.

Contact details for the RTI units of each Queensland Government agency can be found at [www.rti.qld.gov.au](http://www.rti.qld.gov.au).

#### The Office of the Information Commissioner

The Office of the Information Commissioner (OIC) publishes information to assist in understanding how to access information held by the Queensland government.

The OIC provides a general enquiries service on the operation and application of the RTI Act via telephone **07 3234 7373** or email [enquiries@oic.qld.gov.au](mailto:enquiries@oic.qld.gov.au).

### 3.2 The funeral

Your partner or relative will normally be released by the coroner to a funeral director you or the family has chosen to conduct the funeral.

When taking your deceased partner or relative from the scene to the mortuary, the police are required to use the government contracted funeral director. However, there is no obligation on you to use the same funeral director. A list of funeral directors can be found using a telephone directory or by searching online.

The funeral director will complete the necessary forms requesting the coroner to release your partner or relative for the funeral.

Some additional things to think about are:

- review the Will, if one exists, for any instructions on funeral arrangements
- determine if your partner or relative had any life insurance policies or other schemes that provide funeral or death benefits.

### 3.3 Workers' compensation

All employers in Queensland are required to have a workers' compensation policy that covers their workers. WorkCover Queensland handles workers' compensation insurance in Queensland on behalf of all employers, except when the employer is self-insured.

If, for some reason, your partner's or family member's employer does not have a workers' compensation policy, but your partner or family member was a 'worker' under the legislative definition of a 'worker', then you can still be entitled to lodge a claim for workers' compensation. Contact WorkCover Queensland to find out if this applies to you.

If your partner or family member was self-employed or otherwise ineligible for coverage by Queensland's workers' compensation scheme, he or she may have taken out personal injury insurance with a private insurance company. In this case, contact the insurance company to find out what you are entitled to and how to claim.

#### Compensation after the death of a worker

Under the Queensland workers' compensation scheme, compensation may be payable if a worker:

- dies immediately, or soon after, he or she is injured
- sustains a non-fatal injury, but dies of the injury sometime later
- sustains a non-fatal injury and later dies of complications from this injury
- sustains a non-fatal injury and later dies from a subsequent injury arising from this existing compensable injury.

The following people may be eligible to apply for, and be paid compensation:

- the worker's dependants
- parents, when the worker is under 21 years of age and leaves no dependants.

There are time limits for applying for compensation. The following compensation may be available:

- reasonable medical treatment and associated costs for the injured worker
- weekly benefits if the worker is totally incapacitated from injuries before he or she dies
- reasonable funeral expenses
- a lump sum or periodic payments for dependants if the worker dies (the amount paid is proportionate to the extent of dependence on the worker's earnings).

Compensation may be payable when:

- the person suffered an 'injury' as defined in the *Workers' Compensation and Rehabilitation Act 2003* (the WCR Act)
- the fatally injured person was a 'worker' at the time of the injury, as defined in the WCR Act
- the event causing the fatal injury was work-related
- the worker's employment was a significant contributing factor to the fatal injury.

In Queensland, the workers' compensation scheme may also cover workers who are travelling between their home and their workplace.

## How to make a claim

Contact WorkCover Queensland, or the employer directly if they are self-insured, to obtain the appropriate forms. Anyone can make contact on your behalf.

To determine if your partner's or family member's employer is self-insured, ask:

- the employer directly
- seek information from the Office of Industrial Relations on **1300 362 128**, email [insurerservices@oir.qld.gov.au](mailto:insurerservices@oir.qld.gov.au) or visit [worksafe.qld.gov.au/insurance/find-a-self-insurer](http://worksafe.qld.gov.au/insurance/find-a-self-insurer).

WorkCover Queensland can guide you through the application process. In addition to the claim form, you will need to submit:

- medical evidence to show the cause of death  
For example, a workers' compensation medical certificate available from an attending doctor, autopsy report, death certificate, report of a coroner's inquest or other medical records.
- proof of your relationship to your partner or family member  
For example, a marriage certificate, proof of joint bank accounts or ownership of property, utilities accounts in both names, birth certificates for children, proof of full-time education for dependant children over 16 years, documentation from the relevant government department for foster children or adopted children.
- proof of dependency  
For example, your tax returns and tax returns for your partner for three years, bank statements for both you and your partner, proof of your income and expenditure on groceries and utilities or evidence of child support orders.
- evidence of the settlement of your partner's or family member's estate  
For example, your partner's or family member's Will, Supreme Court documents related to the grant of probate or letters of administration.

Further information is available from WorkCover Queensland on **1300 362 128** or visit [worksafe.qld.gov.au](http://worksafe.qld.gov.au).

## Common law damages

You may be entitled to common law damages if your partner or relative was injured as a result of his or her employer's negligence. You should consult a lawyer if you think the employer's negligence caused the injury. There are time limits that apply to these actions.

## Contact information

WorkCover Queensland can be contacted on:  
Phone: 1300 362 128  
Fax: 1300 651 387

Postal address:  
GPO Box 2459  
Brisbane QLD 4001

Website: [worksafe.qld.gov.au](http://worksafe.qld.gov.au)

## 3.4 Occupational superannuation

Legislation specifies who will be paid superannuation benefits in the event of a death. In general, payment will be made to dependant(s) that can be one or more of the following:

- a spouse (including de facto spouse)
- a child or children
- people who were dependent at the time of death
- the person's estate, where none of the above exists.

If the benefit is paid to the deceased person's estate, it will be distributed in accordance with the provisions of their Will.

## 3.5 Wills

Find out if your partner or relative left a Will. If there is no Will, your partner's or relative's estate will be administered in line with *The Succession Act 1981*.

For more information on Wills visit the Public Trustee of Queensland website at [pt.qld.gov.au/wills](http://pt.qld.gov.au/wills).

## 3.6 The media

When someone dies in a workplace incident, the media may report on it. The media may contact you, your family or friends for a comment.

You do not have to speak to the media if you do not want to – you can tell them that you have no comment. If you decide to speak to the media, think about appointing a spokesperson. This could be another family member or a friend.

Ask the journalist or reporter for their name, phone number and who they work for. Don't allow yourself to be pressured into giving an interview or answering questions if you don't want to.

Some strategies for dealing with reporters are:

- tell the reporter to call back at a convenient time
- offer to contact the reporter at a time when you feel up to answering questions
- ask for the questions to be submitted in advance so that you can prepare responses with the help of family or friends
- decide in advance, perhaps in consultation with family and friends, what you are or are not prepared to talk about
- say 'no' if you do not feel up to it
- don't answer any questions that make you feel uncomfortable
- stop the interview if it becomes too much for you
- decide on your boundaries for dealing with the media and enforce them.

## 3.7 Death certificate

A copy of the death certificate is available from the Registry of Births, Deaths and Marriages. You can request this directly or through your funeral director.

A death certificate will normally only be issued after the coronial process has been completed. An 'interim record of investigation of death' may be available if the cause of death has been established by an autopsy. This may be used in limited circumstances to help finalise estate matters, access money in bank accounts and for Centrelink purposes. A final death certificate will then be available after the coronial process is finalised. It may take some time for a final death certificate to be issued if there is a court case.

### Contact information

Registrar-General  
Registry of Birth, Deaths and Marriages  
CBA Building  
Level 32  
180 Ann Street  
Brisbane QLD 4000

Postal address:  
PO Box 15188  
City East QLD 4002

Phone: 1300 366 430

Anyone outside Brisbane should contact their local Queensland Government Agent Program (QGAP) office or Magistrates Court Office.

## 3.8 Who to advise

In addition to family and friends, you may need to advise some of the following organisations:

- insurers (e.g. car, home, health, life)
- financial institutions
- mortgage providers
- superannuation providers
- Australian Tax Office
- Medicare
- other government departments your partner or relative dealt with
- Transport and Main Roads (driver's licence)
- Australian Passport Office
- consulate offices for the country of any other passports issued to the person
- clubs or associations your partner or relative was a member of.

## 3.9 Financial matters

If you need immediate financial assistance contact Centrelink at [centrelink.gov.au](http://centrelink.gov.au) or call 13 10 21. Centrelink also provides social workers who are available to offer advice and support.

### Lodge a workers' compensation claim.

In the long term, you may wish to consult a financial counsellor. Some trade unions provide this service if you are, or your partner or family member was a member of a trade union.

## 3.10 Employer

Ideally your partner's or family member's employer should contact you about arranging:

- outstanding salary and other payments
- the return of personal property to you
- the return of company property to them.

If they don't contact you, you will need to contact them.

## 4. Getting further help

Dealing with distress, grief and bereavement is difficult after the loss of someone close to you, especially in traumatic circumstances. Counselling can help you to:

- talk about your loss
- understand the stages of grief and what you are feeling
- find ways to cope in the weeks and months after your loss
- obtain the support you need
- deal with symptoms such as appetite or sleep disturbance, isolating yourself or difficulty with day-to-day life
- find ways to remember your partner or family member and move towards the future.

Medicare can provide up to 10 individual counselling consultations in one calendar year through General Practitioner referral and undertaking of a mental health plan.

The Office of Industrial Relations can also arrange for 10 hours of grief and trauma counselling for immediate family and others affected by a work related fatality, illness or serious incident.

For a counselling referral please contact:

Phone: **1300 631 904**

Email: **ohs.coronialliaison@oir.qld.gov.au**

In addition, the organisations below along with funeral directors, family doctors or religious ministers may be able to help you cope with your loss.

### 4.1 Consultative Committee for Work Related Fatalities and Serious Incidents

The consultative committee for work related fatalities and serious incidents (the Committee) was established to ensure there is an ongoing consultative forum for injured workers and families affected by a workplace death, illness or serious incident.

The website and Facebook pages listed below contain information about the Committee members and provides an avenue for people who have been affected by a work related fatality, illness or serious incident to share their stories.

For further information about the Committee, visit **worksafe.qld.gov.au**

#### Connect

Facebook: Support for families of workplace fatalities, illness and injuries

Facebook: Work related fatalities and serious incidents (closed group)

### 4.2 QLeave

QLeave administers a portable long service leave scheme for Queensland's building and construction industry. The Scheme allows eligible workers to receive long service leave benefits for service in the industry, even if they change employers.

An authorised person can claim a long service leave benefit for a deceased worker, who is registered with QLeave.

#### Contact information

Phone: **1800 803 491**

Email: **members@qleave.qld.gov.au**

Website: **www.qleave.qld.gov.au**

### 4.3 Employee associations (unions)

Unions may provide support services to the families of their members in the event of a serious workplace incident. This may include counselling, financial guidance or assistance with accessing other agencies such as WorkCover Queensland.

For example, the Queensland Council of Unions has set up the Workers' Compensation Information Service. This is an independent service that provides information to injured workers and/or their families about the workers' compensation system in Queensland. Call **07 3010 2555** or visit **queenslandunions.org.au/workers\_comp**.

You can also contact the relevant union to determine what other services may be available.

### 4.4 A Miner's Legacy

A Miner's Legacy is a not for profit foundation established to provide support, advice and assistance to families of mine workers involved in fatal mine accidents. They can be contacted through **aminerslegacy.com.au**.

### 4.5 Coronial Family Services

Coronial Family Services provides support and can help answer questions about the coronial process, especially in the period immediately following a death. They can provide information about local support services.

#### Contact information

Coronial Family Services  
Queensland Health Forensic and Scientific Services  
39 Kessels Road  
Coopers Plains QLD 4108

Phone: **07 3096 2794** or **1800 449 171**

Email: **fss.counsellors@health.qld.gov.au**

Website: **health.qld.gov.au/qhcss/qhss/fss/forensic-path.asp**

## 4.6 Lifeline

Lifeline offers specialist services dealing with crisis support and suicide prevention. Twenty-four hour telephone counselling or face-to-face counselling at a number of locations is available.

For further information call **13 11 14** or visit **[lifeline.org.au](http://lifeline.org.au)**.

## 4.7 The Compassionate Friends, Queensland Inc.

Whether your family has lost a child or you are trying to help those who have gone through this life altering experience, the Compassionate Friends exists to provide friendship, understanding and hope to those going through the natural grieving process.

### Contact information

Drop in Centre  
505 Bowen Terrace  
New Farm QLD 4005  
Phone: **07 3254 2657**  
Opening hours: 9.30am - 3.30pm (Monday, Tuesday and Friday)

24hr support line: **07 3254 2585**

Website: **[compassionatefriendsqld.org.au](http://compassionatefriendsqld.org.au)**

Email: **[info@compassionatefriendsqld.qld.au](mailto:info@compassionatefriendsqld.qld.au)**

## 4.8 Kids Helpline

Kids Helpline is a free, private and confidential telephone and online counselling service specifically for young people from 5 to 25 years of age.

For further information call **1800 551 800** or visit **[kidshelp.com.au](http://kidshelp.com.au)**.

## 5. Legal enquiries

### 5.1 Legal Aid Queensland

Legal Aid Queensland can cover legal costs and provide access to legal representation and other legal services to a dependant when a claim for workers compensation is disputed and taken to court.

#### Contact information

Telephone: **1300 65 11 88**

Website: [legalaid.qld.gov.au](http://legalaid.qld.gov.au)

### 5.2 Coronial Assistance Legal Service

The Coronial Assistance Legal Service:

- provides legal advice about any aspect of the coronial process and associated issues
- can provide representation for bereaved family members appearing in some inquests
- works with other service providers and can help families connect with social work, counselling and other support services.

The Coronial Assistance Legal Service is a statewide service provided by Caxton Legal Centre and Townsville Community Legal Service, who are independent, non-profit community legal centres.

Make an appointment for advice by contacting:

#### Caxton Legal Centre

1 Manning Street  
South Brisbane QLD 4101

Telephone: **07 3214 6333**

Email: [caxton@caxton.org.au](mailto:caxton@caxton.org.au)

Website: [caxton.org.au](http://caxton.org.au)

#### Townsville Community Legal Service

2/181 Sturt Street  
Townsville QLD 4810

Telephone: **07 4721 5511**

Email: [tcls@tcls.org.au](mailto:tcls@tcls.org.au)

### 5.3 Queensland Public Interest Law Clearing House

If you are not eligible for Legal Aid you may still be eligible for assistance from the Queensland Public Interest Law Clearing House (QPILCH).

#### Contact information

Post:  
PO Box 3631  
South Brisbane QLD 4101

Phone: **07 3846 6317**

Fax: **07 3846 6311**

Email: [admin@lawright.org.au](mailto:admin@lawright.org.au)

Website: [www.lawright.org.au](http://www.lawright.org.au)

### 5.4 Queensland Law Society

The society provides advice (means tested, as well as a fixed fee scheme).

#### Contact information

Telephone: **1300 367 757**

Email: [info@qls.com.au](mailto:info@qls.com.au)

Website: [qls.com.au/For\\_the\\_community](http://qls.com.au/For_the_community)



