

# Avant factsheet:

## Coroner's investigations and inquests

### Quick guide

- Do not provide a signed statement or enter into detailed conversations with police without first contacting Avant
- If you receive a summons to give evidence at a coronial inquest you should contact Avant immediately so that we can assist you in the process
- Coronial investigations can be lengthy and stressful – even if there is no criticism of your care. Make sure you seek support.

### The role of the coroner

Many medical practitioners at some stage in their career find themselves involved in coronial proceedings. Coroners often seek statements from medical practitioners when investigating reportable deaths.

The legislation in each state and territory defines a 'reportable death' somewhat differently however it will usually include accidents and suicides, as well as violent, unnatural or unexpected deaths. This can include deaths after medical care has been provided. It can also include deaths that occur in care or in custody.

The coroner's role is to determine the identity of the deceased as well as when and where they died and the circumstances and cause of death.

The coronial process often involves reviewing all aspects of care and clinical decisions leading up to the patient's death. The majority of deaths referred to the coroner are finalised without needing a formal inquest. However, the process can lead to civil or disciplinary action or even criminal proceedings if the coroner is critical of the care provided. Coroners may also make recommendations to governments and other agencies with a view to improving public health and safety.

The preliminary investigation and gathering of evidence for the coroner is generally conducted by the police under the coroner's instruction.

### Providing a statement for the coroner

You may become involved in the coronial process if you provided medical care to the deceased. You may be approached by the police or coroner's staff to provide verbal information or with a request for a formal legal statement.

We strongly recommend you notify Avant as soon as possible and before you provide any statement **or** enter into detailed conversations with police, even if you are confident there will be no questions about your care. Statements are requested at the early stage of an investigation, when it may not be

clear what all the issues are going to be and what the autopsy and investigative reports will show. It is important you don't inadvertently compromise your rights. It is perfectly acceptable to say you are willing to assist once you have spoken to your medical defence organisation.

Even if the death occurred in a hospital setting and you are indemnified by the hospital, we still recommend you contact us. Our role will be to support you through the process and ensure your interests are protected.

Avant assists its members with this process. It is our usual practice to cooperate with the coroner's request and the police during the investigation process by assisting and advising you on how to respond. For example, it is not advisable for you to comment upon the care provided by other medical practitioners in your statement – concentrate on your involvement in the matter. Further guidelines on how to construct a statement are available in our factsheet: Avant How to write a coronial statement

Once a statement has been obtained from the relevant witnesses, those assisting the coroner may seek an independent expert report commenting on the role of the various individuals in the care and treatment of the deceased.

### End of the investigation

The coroner will review all of the evidence and determine whether an inquest (a court hearing) is necessary.

If the manner and cause of death are clear, the coroner will usually dispense with an inquest. A great majority of coronial proceedings are finalised by the coroner without the need for an inquest.

If, however at the conclusion of the investigation, the manner and cause of death remain unclear, the coroner will usually hold an inquest. Coronial investigations and inquests can be both complex and lengthy.

### Coronial inquest

Practitioners are asked to give evidence at inquests for a variety of reasons. Often the practitioner's involvement is not contentious.

They simply possess one or two pieces of the factual jigsaw puzzle that the coroner needs to assemble. Avant will help you appreciate the nature and the extent of your involvement as the case progresses.

If you have provided a statement to the coroner and an inquest is held, it is likely that you will be summoned to give evidence at the inquest. Occasionally, you may be asked to attend court to give evidence at short notice. This may be because it is not until the inquest commences that it becomes clear that further evidence is needed. In either case you should contact Avant immediately so that steps can be taken to ensure your interests are protected.

When you request assistance Avant will advise you on your position and the need for you to have legal representation at the inquest. If Avant appoints a lawyer to represent you, the lawyer will contact the coroner's court advising that they will be seeking leave to appear for you at the inquest.

The investigating officer will compile a brief for the coroner which contains all relevant statements, medical records, autopsy reports and expert reports obtained by the coroner in relation to the investigation. Your solicitor or lawyer (not Avant) will obtain a copy of the coronial brief and review it to identify possible areas for adverse comments that the coroner may find.

If called to give evidence, you will be asked to adopt or confirm the statement you have previously provided. Those people who have an interest in the matter are then entitled to ask questions in cross-examination. Generally, at the end of such questioning, you will be asked questions by your lawyer to clear up any ambiguities or issues that may have arisen.

It is important to remember that an inquest is a fact-finding exercise, and not a method of apportioning blame. The rules of evidence do not apply in the coroner's court and those called to give evidence are either factual or expert witnesses.

Inquest hearing time can vary from days to many weeks depending on the complexity of the case and the number of witnesses called to give evidence. Generally, we will be notified of the amount of time the inquest is 'set down' for. Regardless of the duration of the inquest, as a witness you should be excused after giving your evidence which may range from a few minutes to a day or two.

### The result of a coronial inquest

After the inquest the coroner will hand down their findings and sometimes make recommendations. Although it is not a court of blame, sometimes coroners may be critical of a medical practitioner and refer them to a disciplinary body such as a

state health care complaints body or Ahpra, following which a separate assessment or investigation will take place into the practitioner's conduct.

The coroner may form the view that there is a case for criminal charges to be brought against an individual. If so, the coroner will suspend the inquest and forward the documents to the director of public prosecution. Fortunately, this is a rare event concerning medical practitioners.

After the coroner has handed down their findings, the deceased's family may consider bringing a compensation claim alleging negligence and seeking damages against individual practitioners.

### Publicity and talking to the media

Inquests are generally open to the public and sometimes attract publicity. We recommend you do not speak to the media about the matter as this may prejudice not only the coronial proceedings but any subsequent proceedings or disciplinary investigation.

### Support throughout the process

As coronial investigations often take more than a year for the evidence to be gathered, the process can be drawn out and stressful. At the inquest the patient's family are likely to be distressed and seeking answers. These factors can compound the significant emotional impact of a patient's death and are important reasons to make sure you are supported through the process. We can support you by:

- being the point of contact for the police and the coroner's office
- ensuring you have all available material and helping you to draft coronial statements
- reviewing your statement from a medical and legal perspective to help you provide an accurate report while not inadvertently compromising your interests or your rights
- providing peer medical support
- advising and assisting through the investigation
- representing you at inquest
- connecting you with our Personal Support Program on **1300 360 364** or Doctor's Health Advisory Service if required.

### Further information

Avant video: Preparing a statement for the coroner ([avant.org.au/Resources/Public/20150313-preparing-a-statement-for-the-corerer](https://www.avant.org.au/Resources/Public/20150313-preparing-a-statement-for-the-corerer))

Avant guidelines and template for a coroner's statement ([avant.org.au/Resources/Public/How-to-write-a-coronial-statement](https://www.avant.org.au/Resources/Public/How-to-write-a-coronial-statement))

**Note:** Assistance to Avant members is subject to the terms, conditions and exclusions of the policy.

\*IMPORTANT: This publication is not comprehensive and does not constitute legal or medical advice. You should seek legal or other professional advice before relying on any content, and practise proper clinical decision making with regard to the individual circumstances. Persons implementing any recommendations contained in this publication must exercise their own independent skill or judgement or seek appropriate professional advice relevant to their own particular practice. Compliance with any recommendations will not in any way guarantee discharge of the duty of care owed to patients and others coming into contact with the health professional or practice. Avant is not responsible to you or anyone else for any loss suffered in connection with the use of this information. Information is only current at the date initially published.  
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For more information or immediate **medico-legal advice**, call us on **1800 128 268**, 24/7 in emergencies.