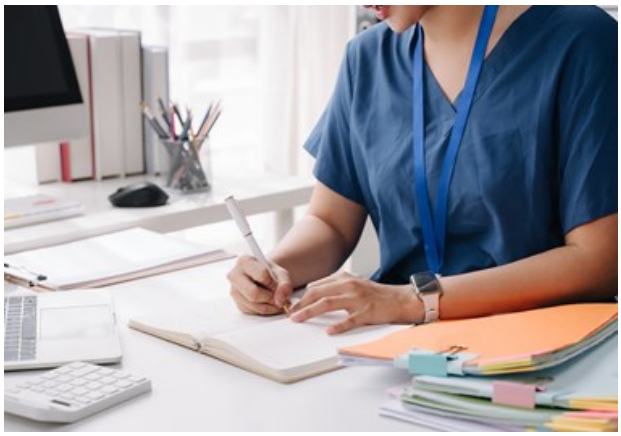
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Challenging a coroner's decision in Queensland: how reviews work

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Coronial inquests are often sad and stressful for the parties involved and at the end of an inquest, some parties are left questioning whether the coroner's findings and recommendations are correct.

The end of a coronial inquest, however, is not always the end of the matter. In this article, we look at how decisions made in coronial inquests can be reviewed.

In particular, this article focuses on two general types of decisions a coroner can make. First, we look at reviewing a coroner's decision to (or to not) investigate a death. And second, we look at reviewing a coroner's finding about how a death happened.

Reviewing a coroner's decision to investigate a death

The first big decision a coroner must make is to decide whether to investigate a death.

Coroners must investigate a "reportable death". A "reportable death" happens when someone dies in one or more of the following circumstances:

- it is not known who the person is.
- the death was a violent or otherwise unnatural death.
- the death happened in suspicious circumstances.

- the death was a health care related death.
- a cause of death certificate has not been issued, and is not likely to be issued, for the person.
- the death was a death in care.
- the death was a death in custody.
- the death happened in the course of or as a result of police operations.

The coroner, however, may decide that a death is not reportable and, by extension, decide to not investigate the death.

You may think the coroner is wrong. If so, you can make an application for a decision about whether the death is reportable and, consequently, is one that the coroner must investigate.

If the original coroner is not the State Coroner, you can make the application to review the decision to the State Coroner. And if the State Coroner reviews your application, and disagrees with you, then you can make another application to the District Court to review that decision. However, you must make that application within 14 days of the State Coroner's decision.

If the original coroner making the initial decision is the State Coroner, then you must make the application to the District Court.

If your application succeeds, then the death will be considered a reportable death and, by extension, must be investigated.

Reviewing a coroner’s decision made at an inquest

A coroner, when investigating a death, makes findings around how someone died. They must find out whether a death happened and, if so, must (if possible) find out:

- who the deceased person is.
- how the person died.
- when the person died.
- where the person died, and in particular whether the person died in Queensland.
- what caused the person to die.

They cannot find that a person is guilty of an offence or civilly liable for something.

If, following an inquest hearing, you think a coroner has made the wrong decision, you can apply to the State Coroner or District Court to set aside the findings. If the State Coroner believes you are wrong, you can still apply to the District Court.

When can a coroner's finding be set aside?

A State Coroner can set aside a finding of a coroner if one or more of the following applies:

- new evidence casts doubt on the finding; or
- the finding was not correctly recorded.

Meanwhile, the District Court can set aside a finding if one or more of the following applies:

- new evidence casts doubt on the finding.
- the finding was not correctly recorded.
- there was no evidence to support the finding.
- the finding could not be reasonably supported by the evidence.

If either the State Coroner or District Court set aside a finding, then the State Coroner may reopen the inquest to re-examine the finding or may hold a new inquest. A State Coroner may also direct a coroner to reopen the inquest to re-examine the finding or hold a new inquest.

Need help with a coronial inquest or review in Queensland?

Coronial Inquests including reviews of a coroner's decision are difficult particularly given the challenging and often emotive nature of the proceedings.

Gilshenan and Luton Legal Practice is experienced in conducting complex coronial inquests and reviews for government and private clients.

If you are considering challenging a coroner's decision, or need representation at an inquest, contact our Brisbane office to discuss your options.

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This blog is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.