FACT SHEET 5

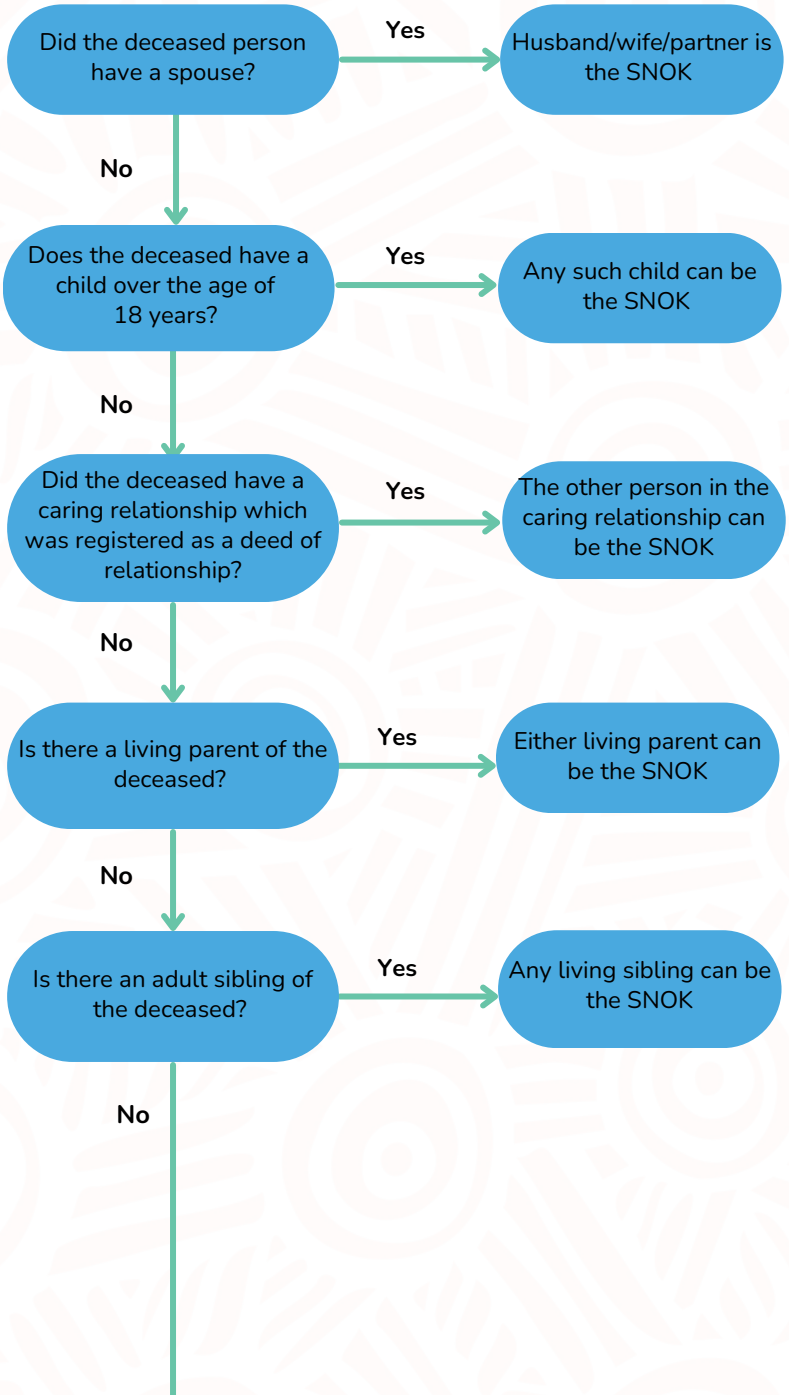
Next of Kin and the Coroners Court

THIRRILI

This fact sheet explains which family members and friends can make important decisions in the coronial process. This fact sheet does not apply to deaths in custody.

Who can make decisions after someone dies?

The following flow chart will help you determine who can make a decision when someone dies suddenly. This person is called the 'senior next of kin' (SNOK) of a deceased person. The SNOK is the first available person from the flow chart.



FAQ: What if the deceased had more than one husband/wife/partner?

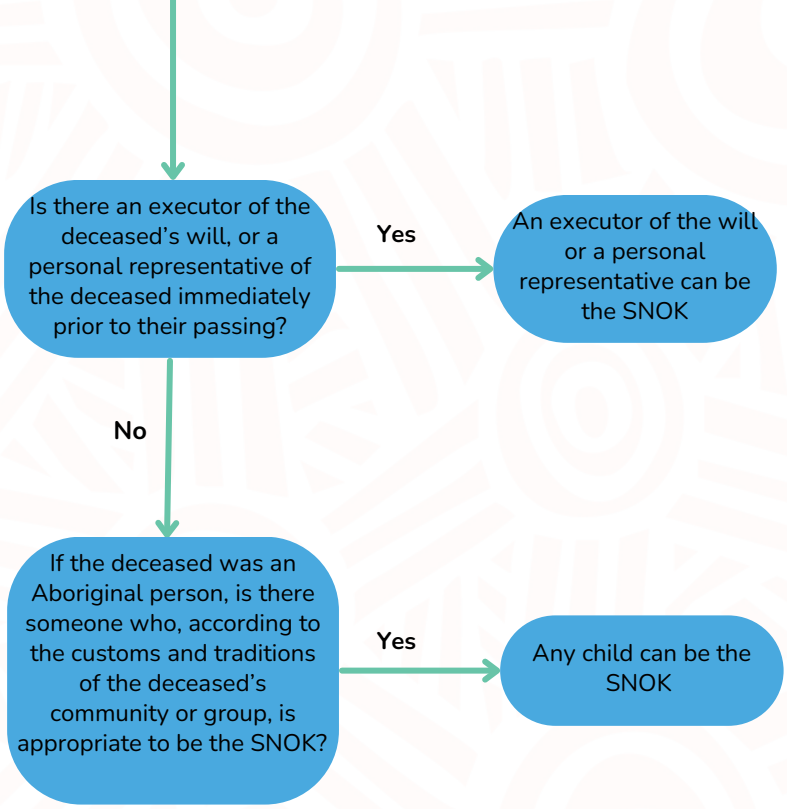
The most recent husband/wife/ partner is the SNOK (although the most recent spouse can delegate this to an earlier spouse).

FAQ: What is a 'caring relationship'? How is it registered?

A caring relationship exists between two adults who are not married or related but provide each other with domestic support and personal care.

FAQ: What is an exhumation?

The Coroner might need to investigate the remains of the deceased person after they have already been buried or cremated. To do so, they will have to remove the deceased from their resting place.



What role does the SNOK have?

The SNOK is the main point of contact for the Coroners Court. The SNOK will be informed about:

- *the purpose of the coronial process;*

·the process for identifying the deceased;

- *how to visit the deceased person;*
- *how to visit the place of death; and*
- *details and updates of investigations including the evidence being provided to the coroner, copies of which the SNOK can request.*
- *The SNOK will be contacted at the start of any investigation. They may be asked to provide a statement or affidavit about the deceased's life.*

Autopsies

An autopsy is an examination of the body of a deceased person to determine how they died. A SNOK has rights in relation to autopsies.

A SNOK can:

- request an autopsy;
- request that an autopsy not be held.

If the coroner decides that an autopsy is necessary despite a SNOK's objection:

- the coroner must immediately give notice in writing to the SNOK and not perform the autopsy for 48 hours (unless the coroner believes it is necessary); and
- within 48 hours of receiving notice, a SNOK may apply to the Supreme Court for an order that an autopsy not be performed.

In relation to the body, a SNOK can:

- make any decisions relating to the burial of the remains;
- give written consent to any other person to make decisions relating to the burial of the remains;
- apply in writing for a permit authorising the cremation of the deceased;
- give consent for a medical practitioner to access the medical records of the deceased person; and
- give instructions to the crematorium manager on what to do with the cremated remains.
- In relation to the holding of inquests, a SNOK will be notified in writing if it is decided that an inquest will not be held. If this happens, the SNOK has 14 days to apply to the Supreme Court for an order that an inquest be held.

Exhumation

An exhumation is the removal of a buried body from its resting place. A SNOK has rights in relation to exhumations.

In relation to exhumation:

- unless it is impossible, 48 hours' notice must be given to the SNOK that an exhumation of the deceased's body will take place;
- a SNOK can make a request to the coroner that an exhumation not take place (if the SNOK makes such a request, the body cannot be exhumed for 48 hours); and

- within 48 hours of receiving notice of an intended exhumation, the SNOK may apply to the Supreme Court for an order that an exhumation not take place. The Supreme Court may make an order that the body not be exhumed.

In relation to the publication of reports, a SNOK can request that certain details, including the deceased's name, are not publicly disclosed.

FAQ: What is an exhumation?

The Coroner might need to investigate the remains of the deceased person after they have already been buried or cremated. To do so, they will have to remove the deceased from their resting place.

I am not the SNOK. What rights do I have?
Anybody can apply to be an 'interested party'

An interested party can:

- make submissions to the coroner as to relevant witnesses;
- request an autopsy;
- provide arguments for or against an exhumation;
- ask for access to documents; and
- appeal against decisions of the coroner to the Supreme Court of Victoria.

What can I do if the coroner won't accept me as the SNOK despite my role in the community?

- ·You can appeal the coroner's decision to the Supreme Court.

This information was last updated in December 2024 and does not constitute legal advice.

FAQ: Who is an 'interested person'?

An interested person has a 'sufficient interest' in the matter. These terms are not defined, but may include:
-family members of the deceased;
-people who have information which is relevant to the investigation; and
-people whose interests may be affected by the coroner's findings.

To be considered an interested person, an application with proof of identity must be made via email to the coroner at coroners.hobart@police.tas.gov.au (for Southern investigations) or coroners.launceston@police.tas.gov.au (for Northern investigations).