

## FACT SHEET 5

# Next of Kin and the Coroners Court



THIRRILI

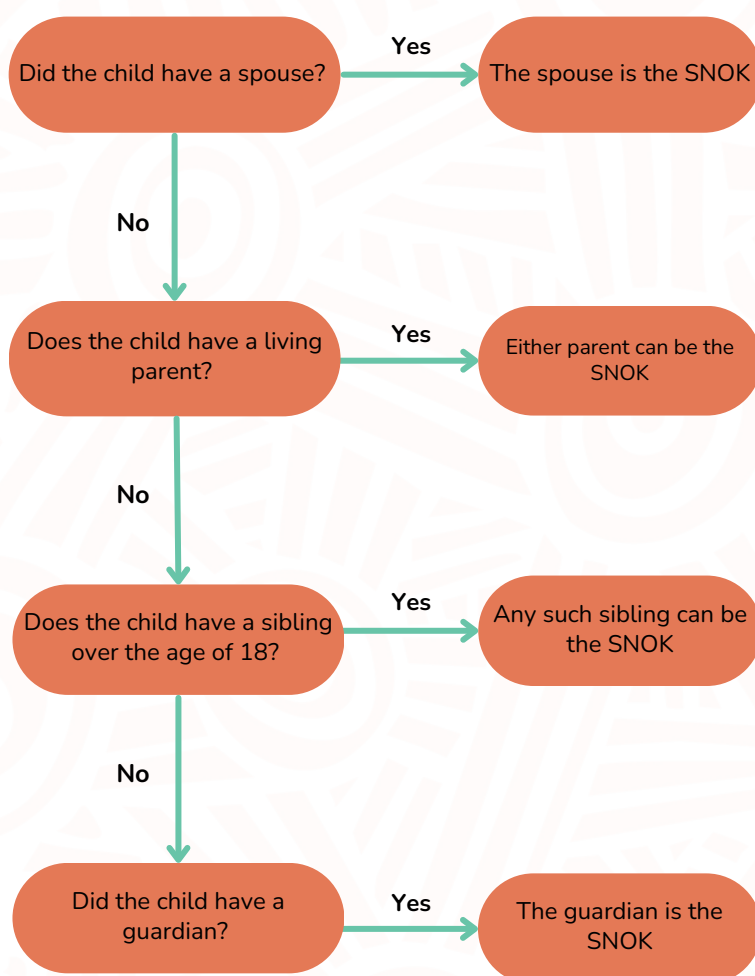
This fact sheet explains which family members and friends can make important decisions in the coronial process. This fact sheet does not apply to deaths in custody.

## Who can make decisions after someone dies?

### Senior Next of Kin

The following flow chart will help you determine who can make decisions about a person who dies. 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.

### When the deceased person was a child (i.e. under the age of 18)



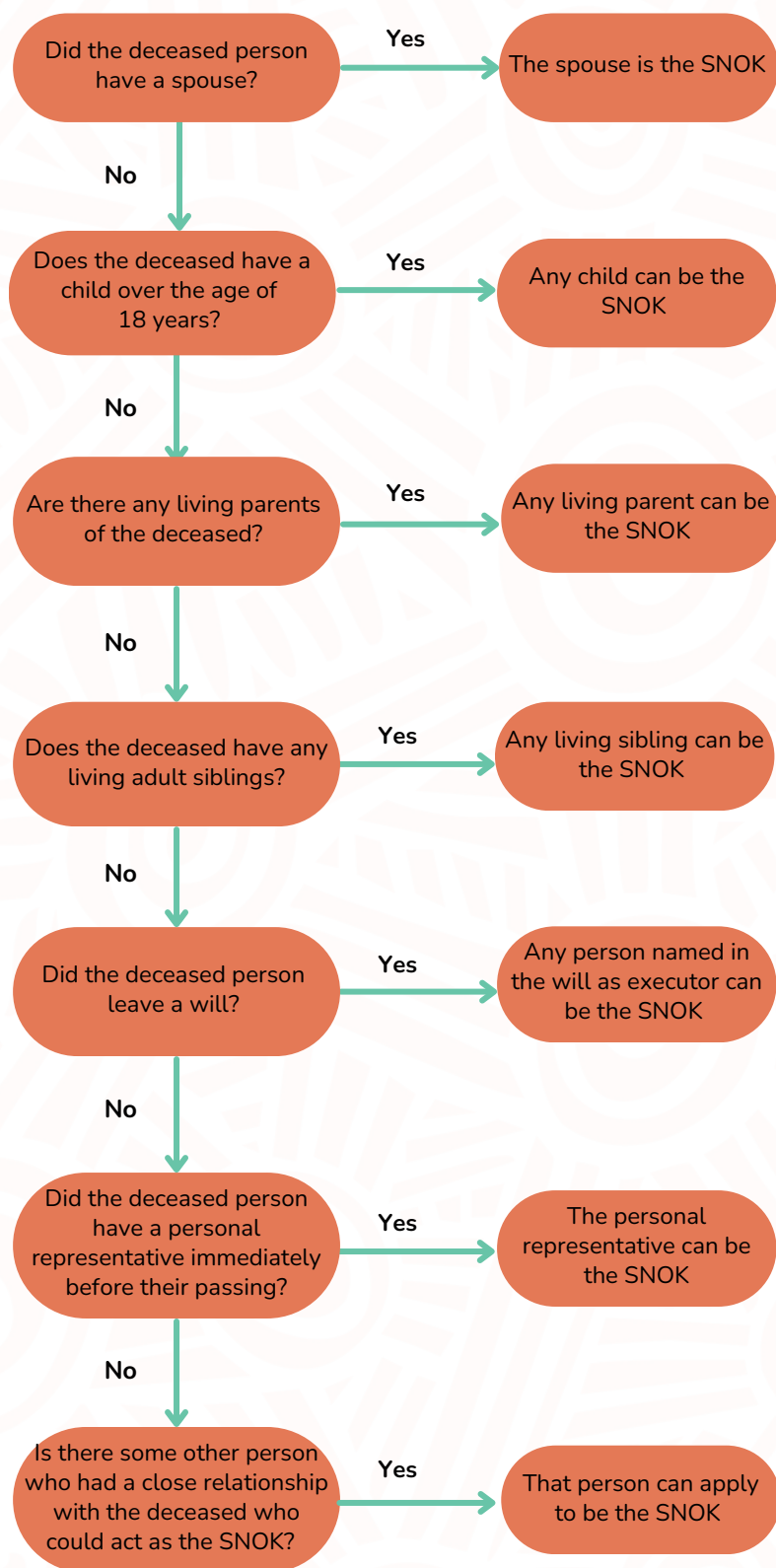
#### FAQ: Who is a 'parent'?

A parent can include a step-parent, a person regarded as a parent under Aboriginal traditional custom or other cultural traditions of a community, and a person who exercised parental responsibility for the child (even if not the legal guardian of the child).

#### FAQ: Who is a 'sibling'?

A sibling can include an adopted sibling, a step-sibling, and a person regarded as a sibling under Aboriginal traditional custom or other cultural traditions of a community.

**When the deceased person was an adult**



**FAQ: What if the deceased had more than one spouse?**

The most recent spouse is the SNOK.

**FAQ: Who is a 'child'?**

A child can include an adopted child, step-child, foster child, and a person regarded as a child under Aboriginal traditional custom or other cultural traditions of a community

**FAQ: What is an 'executor'?**

An executor is the person appointed in a will to manage the deceased's affairs when they die.

**FAQ: What is a 'personal representative'?**

A 'Personal representative' may include someone appointed to manage the deceased's affairs while they were alive (i.e., via a statutory declaration, power of attorney, or some other document).

**FAQ: How do I apply to be a SNOK?**

You need to contact the Coroners Court and explain your relationship with the deceased.

## What role does the SNOK have?

### Information

The SNOK is the main point of contact for the Coroners Courts. 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.

### 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;
- consent to a request for an autopsy;
- refuse a request for an autopsy; and
- appeal a decision to perform an autopsy in the Supreme Court of Victoria.

### Exhumation

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

A SNOK can:

- suggest if and how an exhumation should take place;
- appeal a decision to perform an exhumation in the Supreme Court of Victoria; and
- appeal a decision not to perform an exhumation in the Supreme Court of Victoria.

### Release of body

The Coroners Court will keep the deceased's body for the purposes of the investigation. A SNOK can apply for the release of the body to them, so they can prepare funeral arrangements.

## 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.

### FAQ: Who is an 'interested party'?

An interested party is someone who applies to be involved in the proceedings of the Coroners Court. The coroner will decide who can be an interested party.

Examples include a family member other than the SNOK, the deceased's employer, the deceased's doctor, or any person the coroner believes may have knowledge about the circumstances of the death.

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

- Sometimes the coroner can appoint a second SNOK.
- You can contact the Coroners Court of Victoria and explain why you think you should be the SNOK. You should provide evidence about the closeness of your relationship with the deceased immediately before their passing. The coroner will ultimately decide if you should be the SNOK.
- Also speak to the Aboriginal Engagement Unit of the Coroners Court for help if you want to be appointed dual SNOK.

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



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