



Local Court of New South Wales State Coroner's Protocol on Family Statements

Commences: 8 September 2025

Application

1. This Protocol is issued pursuant to section 10(1)(d) of the *Coroners Act 2009* and applies to proceedings pursuant to the *Coroners Act 2009* in the Local Court.
2. This Protocol is to be read in conjunction with Coronial Practice note 1 of 2018 and sets out supplementary arrangements which apply to family statements.
3. The following provisions are subject to any contrary direction by the coroner with carriage of the coronial investigation, and any relevant provisions of applicable legislation.

Commencement

4. This Protocol will commence on 8 September 2025.

Purpose

5. The purpose of this Protocol is to provide clarity regarding what a 'family statement' is in the context of a coronial inquest, and the information such a statement may contain.

What is a coronial inquest?

6. If a coroner considers that a coronial investigation into a person's death should continue to a public hearing held in open court, this is called an inquest.
7. Some coronial investigations must proceed to an inquest under the *Coroners Act 2009*, such as deaths in custody or as a result of a police operation.
8. An inquest examines evidence from witnesses about events leading to, or following, a person's death. Witnesses may be asked questions by counsel assisting the coroner, and, where relevant, by other legal representatives.

9. Participants in an inquest include:

- a. all persons or entities with sufficient interest who are granted leave to appear at an inquest pursuant to section 57(3) of the *Coroners Act 2009* and their legal representatives;
- b. relatives who have a statutory right of appearance pursuant to section 57(3) of the *Coroners Act 2009* and their legal representatives; and
- c. counsel assisting the coroner, who may be a police advocate, lawyer or barrister whose role is to ensure all relevant information is presented to the coroner. They do not represent any specific person or entity, rather they help guide the inquest process and can explain the issues to participants.

Guiding Principles

10. An inquest is inquisitorial in nature, resembling a commission of inquiry rather than a criminal or civil trial. An inquest does not allocate criminal or civil liability, nor does it declare rights between parties. An inquest is a fact-finding proceeding which seeks to ascertain the date, time, place, manner and cause of a person's death.
11. Although the rules of evidence and procedure do not apply to inquests pursuant to section 58(1) of the *Coroners Act 2009*, procedural fairness is critical.
12. In an inquest the interests of multiple persons must be balanced. While therapeutic concerns for the family are a priority, procedural fairness must be afforded to all participants.

The role of the family in an inquest

13. The family and friends of the deceased person play an important role in an inquest.
14. Before an inquest commences, counsel assisting or the coroner will ask the family by what name they would like their relative referred to as throughout the inquest.
15. First Nations families often include cultural practices, such as ceremonies or displaying items in the courtroom. These practices are encouraged as part of the inquest process, consistent with the spirit of recommendations made by the Royal Commission into Aboriginal Deaths in Custody, and the State Coroner's Protocol regarding First Nations deaths.
16. Family members may be asked to provide witness statements if they have relevant information or knowledge regarding the factual events leading to, or following, the death.
17. Family members may also be required to attend the inquest to answer questions. This is separate from a family statement.

18. Additionally, family members may wish to make submissions about the evidence presented at an inquest, and if the family is legally represented, their legal representatives may make submissions on their behalf. If a family is not legally represented, the coroner will provide the family with an opportunity to make written or oral submissions, should they wish. These submissions are also separate from a family statement.

What is a Family Statement?

19. At or around the conclusion of the inquest, the family may choose to address the coroner to honour their loved one. This is known as a '*family statement*'. Families do not have to provide a family statement if they do not wish to do so.
20. A family statement is not evidence but provides valuable insight into the life of the deceased and their significance to loved ones.
21. Families may deliver the statement themselves or may request that the statement be read by their legal representative or counsel assisting the coroner.
22. Families may include music, a short video or display items such as photographs, poems or artworks. This should be raised with counsel assisting who will seek approval from the coroner and assist with logistics in the courtroom.

Content of a Family Statement

23. A family statement is different to a witness statement. A family statement is also distinct from a 'victim impact statement', which may be received by a court in any separate criminal proceedings.
24. A family statement gives the family or friends of the deceased person an opportunity to tell the coroner and those present something about the character, personality and life of their loved one and aims to help the coroner understand more about the person who has died. It may include who they were, information about their background, what made them special and why they are missed.
25. A family statement should not contain:
- a. any new evidence relevant to the inquest,
 - b. allegations of criminal or civil liability against an organisation or person,
 - c. critical or insulting comments, including defamatory statements, about any organisation or person, including medical staff, police or other family members, or
 - d. other statements attributing blame.

26. Draft family statements will be requested by counsel assisting, two days before delivery to ensure they are consistent with this protocol. Where required, extensions of time may be sought.

Procedure for the provision of family statements to the court

27. If a family has questions about what to include in a family statement, they should seek guidance from their legal representatives, or if unrepresented, from counsel assisting the coroner.

28. Typically, no more than two family members speak on behalf of the whole family, but requests can be made to accommodate additional speakers if necessary. Other family members may wish to also sit in the witness box to support the speakers.

29. As a family statement does not form part of the evidence that the coroner will later review in order to make factual findings about manner and cause of death, or any other issues in the inquest, the person giving the family statement will not be asked questions about the statement.

30. If a family requires the help of an interpreter so that they can speak to the coroner in the language that suits them best, this can also be arranged.

Magistrate Teresa O'Sullivan

State Coroner



1 September 2025



Judge Michael Allen
Chief Magistrate of the Local Court

