

Guide for Families Dealing with Workplace Death

**Document to be printed and available
as downloadable publication and fact
sheets on website**

Acknowledgements

These fact sheets incorporate material from the Uniting Church's Urban Ministry Network Queensland website, entitled '*Workplace Death Partnerships in Grieving*'; WorkCover Safety Victoria's publication, '*A workplace death in the family – support for families and workmates*'; and from Victims Services' brochure '*Counselling Services*'.

Assistance Provided by WorkCover NSW

WorkCover NSW is the State government agency that administers the workplace health and safety and workers compensation legislation. WorkCover inspectors investigate workplace fatalities and incidents. WorkCover also provides assistance for families of those who have died as a result of a workplace incident.

To find out how WorkCover can be of support and assistance to you, please phone our Counselling and Liaison Coordinator on 02 8258 7149.

The WorkCover Counselling and Liaison Coordinator is a grief counsellor who can assist you with the emotional, legal and claims processes that follow the loss of a loved one. The Counselling and Liaison Coordinator can provide you with information on:

- counselling services that are available to you and your family at no charge
- other support services, including financial services and support groups
- the compensation, investigation and any prosecution processes that may apply to the death of your family member.

More specifically you can obtain information on:

- The role of the Police
- The role of the Coroner
- WorkCover's involvement
- Legal proceedings
- Anticipated timeframes for certain processes to occur
- What your options are with regard to these processes
- Possible eligibility for compensation
- Referrals for legal assistance
- Referrals for financial assistance and financial counsellors

What happens when someone dies as a result of a workplace incident?

When someone dies as a result of a workplace incident, the Police are called immediately.

The duties of the police are to:

- Inform family members of the accident.
- Inform WorkCover and the Coroner's court that a death has occurred.
- Accompany a family member or close friend to formally identify the body of the deceased in their presence.
- Collect statements from colleagues and witnesses in order to prepare a report for the Coroner. The Police may ask you or another family member to make a statement about your knowledge of the circumstances surrounding the death.

The investigation process begins immediately. The Police look at matters of criminal intent and inspectors from WorkCover determine whether any health and safety laws have been broken.

What you may need to do:

- Make a statement to the Police.
- Accompanied by the Police, formally identify your family member.
- Locate the will of your loved one (the will may outline funeral requests).
- Contact a funeral director. The funeral director will contact the Coroner to establish when your loved one's body may be released and when the funeral could take place.
- Obtain support. Ask the WorkCover Counselling and Liaison Coordinator about the counselling services and support available to you and your family.

The investigation process

When a death occurs at work, a WorkCover inspector is assigned to investigate whether any health and safety laws have been broken. WorkCover has a dedicated legal unit that supports the WorkCover inspectors. A solicitor from the unit is assigned to case manage the ongoing conduct of the investigation.

The solicitor will review all evidence as it arises and, in accordance with the Compliance and Prosecution Policy, will evaluate if there are any grounds for a prosecution. The WorkCover Counselling and Liaison Coordinator communicates with both the inspector and solicitor to provide family members with information about these processes.

Investigations are complex and can take months and sometimes longer to complete.

What you can do

If you would like to find out more information about the investigation processes as they apply to the death of your family member, contact the WorkCover Counselling and Liaison Coordinator on 02 8258 7149 who will help you.

Finding out how and why your family member died at work

When a person dies at work, the Police must notify the Coroner. Coroners are overseen and coordinated by the State Coroner and are situated around NSW in Local Courts. The State Coroner's role is to ensure deaths that come under the Coroner's jurisdiction are properly investigated and concluded and when deemed necessary, by law or otherwise, that the Coroner undertakes an inquest. It is not the role of the Coroner to lay blame or apply a penalty.

The Coroner can:

- determine the identity of the deceased person
- arrange for the death to be registered.
- investigate deaths in order to determine how and when the death occurred and the circumstances contributing to the death.

Following the investigation process, the Coroner:

- presents findings
- may make recommendations in order to protect lives.

In order to carry out the above processes, the Coroner may order an autopsy or post-mortem and a coronial inquest.

What is an autopsy?

An autopsy is an examination of the deceased person's body performed by a pathologist (specialised medical doctor).

The thought of this procedure can be very distressing. However, without this examination, it may be difficult to establish the cause of death.

Following the autopsy, the Coroner may request a coronial inquest.

What is a coronial inquest?

A coronial inquest is a formal hearing where the Coroner considers information to help determine the manner and cause of death.

If the Coroner determines that there should be an inquest, the Coroner's office will notify you when and where the inquest will be held. The hearing may take more than one day.

Family members may be required to give evidence, based on any statements previously made to the Police. You will be notified if you are required to give evidence.

If you or any person has sufficient interest in the inquest, you can apply to the Coroner to appear in person or be legally represented at the inquest.

Inquests are generally open to the public.

At the conclusion of the inquest, a copy of the Coroner's findings will be sent to the next of kin.

Can I request a coronial inquest?

A relative or person with sufficient interest in the cause of death can request an inquest. To seek advice on how to make this request, contact the Coronial Information and Support Program or your solicitor. You may also telephone the WorkCover Counselling and Liaison Coordinator to assist you (see contact details following).

What do I need to do?

To find out more about the coronial system, contact the Coronial Information and Support Program.

If a coronial inquest is held:

- the next of kin will be notified of when and where it will take place and if they are required to give evidence
- seek legal advice if you would like to be legally represented.

If the Coroner decides that a coronial inquest is not necessary:

- the next of kin will be notified
- persons with sufficient interest in the cause of death can request an inquest.

Contact details for the Coroner's Court

State Coroner's Court- Glebe and Coronial Information and Support Program	Tel: 02 8584 7777 44 Parramatta Road, Glebe NSW 2037 www.lawlink.nsw.gov.au
Coroner's Court - Westmead	Tel: 02 9633 8000 Institute Road, Westmead NSW 2145

Legal proceedings

What legal action can WorkCover undertake?

WorkCover can prosecute individuals or companies for breaking workplace safety laws.

A death in the workplace does not always lead to a prosecution. It must be established that a workplace safety law was broken.

Prosecutions are usually heard by a Justice of the Industrial Relations Commission of NSW in Court Session.

Victim Impact Statements

If the Justice of the Industrial Relations Commission convicts an offender (typically an employer or director of a company), family members are entitled to submit a victim impact statement for consideration by the judge.

A Victim Impact Statement is given after a person or company has been convicted and before they are sentenced.

This statement relates to the impact of the death on you and may be submitted as a written document or read out in court. The WorkCover Counselling and Liaison Coordinator can assist you if you wish to submit a Victim Impact Statement..

What can I do?

- Stay in contact with the WorkCover Counselling and Liaison Coordinator
- Talk to the WorkCover Counselling and Liaison Coordinator about your option to prepare or present a Victim Impact Statement.

Legal information and referrals

<p>LawAccess - Provides legal information and referrals.</p>	<p>Tel: 1300 888 529 www.lawaccess.nsw.gov.au</p>
<p>Legal Aid Commission of NSW - Provides legal advice on civil and criminal matters. Legal Aid has a Head Office in Sydney and 20 regional offices (under 'L' in the phone book). Call LawAccess for more information.</p>	<p>Head Office Tel: 02 9219 5000 323 Castlereagh St, Sydney NSW 2000 www.legalaid.nsw.gov.au</p>
<p>Law Society Community Service - Provides legal information and referrals to solicitors and/or other agencies.</p>	<p>Tel: 02 992 6033 Fax: 02 9231 5809 170 Phillip Street, Sydney NSW 2000, DX 362 Sydney Email: lawsociety@lawsocnsw.asn.au www.lawsociety.com.au</p>

Managing your finances

It is often hard to think clearly about financial matters when you are grieving for the sudden loss of a loved one.

Issues you may need to consider

- Your eligibility for compensation
- Did your loved one have a will? A solicitor or public trustee may hold the original will, but the deceased would have been given a copy.
- Did your loved one have life insurance? Contact the life insurance company as soon as possible.
- Did your loved one have superannuation? Contact the superannuation company, or if this is unknown, contact the employer and ask for these details.
- Is there money owing from the workplace, such as holiday pay, long service pay etc? Contact your loved one's employer and ask for these details.
- Is there a mortgage on the house? If there is a mortgage, contact should be made with the lending institution at once to establish whether payments are covered by insurance or to re-negotiate the mortgage payments.
- Do you now need to make a new will? Contact the public trustee or a solicitor.

What if I have no money?

If you have no money and need financial assistance, contact your nearest Centrelink office or log on to their website www.centrelink.gov.au. Centrelink has a range of payments that may be of help to you. For example, if you are responsible for a child after the death of your partner, you may be eligible for the Family Allowance. If you are over 50, you may be eligible for the Widow Allowance.

Centrelink Social Workers are available to offer advice and support. For an appointment, contact your local Centrelink office or phone **13 10 21** from anywhere in Australia.

Once you have started to sort out your financial situation, you may wish to discuss your budget or financial affairs with a financial counsellor. Financial counsellors are there to help if you are having difficulty and also to advise before problems arise (see table following).

Useful Contacts

Public Trustee of NSW	Tel: 1300 364 103 19 O'Connell Street, Sydney 2000 www.pt.nsw.gov.au
Centrelink – General Inquiries Appointments Family allowance	13 24 68 13 10 21 13 13 05 www.centrelink.gov.au

Financial Counsellors statewide

Lifeline	1300 131 144 www.lifelinesydney.org
The Salvation Army Money Care - Regional officers located around NSW. Provides financial counselling in person or via mail/phone/fax/e-mail.	02 9264 1711 02 9266 9587 www.salvos.org.au

Specialised financial counsellors for rural agricultural businesses

AAA Rural Financial Counselling Service	02 6272 5537 www.affa.gov.au/financialcounselling
NSW Association of Rural Financial Counselling Groups	www.ruralcounselling.org.au/index.html

Your eligibility for compensation

Am I eligible to receive compensation?

To receive workers compensation in NSW, a worker must be working 'under a contract of service'. A contractor or sub-contractor may also be covered by workers compensation insurance through the person who contracted the work. A self-employed or business owner may have had another form of insurance coverage, e.g. life insurance.

How do I make a claim?

If your deceased relative or partner was an employee, they should have been covered by their employer's workers compensation insurance. The employer should contact the next of kin within a few days following the death to advise them of their entitlements. Additionally, the next of kin should receive a letter from the employer's insurance company.

If you do not receive a letter from the employer's insurance company, contact the insurance company yourself. The employer should be able to provide you with the specific details.

If the employer does not have a workers compensation policy, the family of any person who met the criteria of a worker and who has died as a result of a workplace incident, is still entitled to lodge a claim for workers compensation.

Compensation entitlements for relatives and partners of volunteer emergency services personnel may also be available. In these circumstances contact a solicitor. Your solicitor may be able to file a claim with WorkCover's Uninsured Liability and Indemnity Scheme (see details following). The WorkCover Counselling and Liaison Coordinator can advise you on the process.

Do I need a solicitor?

Once the employer's insurance company has made contact with you, you may need to obtain the services of a solicitor so that your claim can be processed

Types of benefits

There is a range of benefits available under the present workers compensation system. These benefits can include lump sum compensation for dependents, weekly benefits for dependent children and funeral benefits if the deceased worker had no dependents at the time of their death.

If you receive a medical bill for expenses connected with the death of your relative or partner, make copies of the bill and send the bill to the employer's insurance company.

All immediate family members of the deceased worker are entitled to receive free counselling

What if my claim is declined?

If your claim is declined, the insurer should give you details of why the claim is declined and how you can refer the claim to the Workers Compensation Commission.

If the insurer fails to notify you within a certain timeframe that your claim has been declined, you may consult a solicitor about having the claim referred to the Workers Compensation Commission.

Common Law Claims

You may file a common law claim against the employer of your deceased relative. Matters of common law can be complex and you may require the assistance of a solicitor prior to beginning these proceedings. If the deceased person was a member of a union, the union may be able to put you in touch with a solicitor who handles legal matters on their behalf.

What can I do?

- Talk to the employer's insurance provider or WorkCover Assistance Service.
- Obtain the services of a solicitor to act on your behalf.
- If your claim is declined consult your solicitor.
- Talk to the WorkCover Counselling and Liaison Coordinator on 02 8258 7149.

Useful contacts

WorkCover Assistance Service	Tel: 13 10 50
Labour Council of NSW - If your relative or friend was a member of a trade union, you may wish to contact the union directly.	Tel: 1800 688 919 Level 10, 377 Sussex Street, Sydney NSW 2000
Workers Compensation Commission of NSW	Tel: 02 9243 8800 or 1300 368 040 Level 20, 1 Oxford Street, Darlinghurst NSW 2010

Counselling services

Counselling services with a professional counsellor are available to all immediate family members of the deceased worker.

How can counselling help me?

When someone close to you dies, you may experience grief. This is a normal healing process that occurs when we go through loss in our lives. Counselling can help you to:

- talk about your loss
- understand the stages of grief and what you are feeling
- find ways to cope in the weeks and months after the loss
- obtain the support you need
- deal with symptoms, such as appetite or sleep disturbance, isolating yourself or difficulty with day-to-day life
- find ways to remember your loved one and move towards the future.

Who are the counsellors?

Counsellors who are approved under the Approved Counselling Program are social workers, psychologists, clinical psychologists or psychiatrists in private practice, who have particular expertise in grief counselling. They are paid by WorkCover for the counselling hours they provide.

How do I get counselling?

Contact the WorkCover Counselling and Liaison Coordinator by phoning 02 8258 7149. The Coordinator is a specialised grief counsellor who can assist you with the emotional, legal and claims processes that follow the loss of a loved one.

The Coordinator will ask you basic information about yourself and your relative who has died. This information will enable WorkCover to provide you with appropriate counselling services.

If you wish to receive this service, you will be referred to an approved counsellor who will provide up to 10 sessions of counselling under the program. If you need more counselling, you can discuss this with the WorkCover Counselling and Liaison Coordinator.

What can I do

- Contact the WorkCover Counselling and Liaison Coordinator on 02 8258 7149.

Where can I get further help?

You can get practical help and advice from the funeral director, your family doctor, solicitor or religious adviser. Other organisations that may be able to support or advise you are listed below. Some of these groups may charge a fee.

Bereavement support groups and internet resources	
The Compassionate Friends - telephone, group and individual support to family members who have suffered the death of a son, daughter, brother or sister of any age due to any cause.	<p>Tel: 02 9290 2355</p> <p>Fax: 02 9292 2455</p> <p>4th Floor, 32 York Street, Sydney NSW 2000</p> <p>Email: tcf@bigpond.com.au</p> <p>www.thecompassionatefriends.org.au/</p>
SOLACE Association - a national self-help organisation for those whose partners have died; support groups meet weekly for support, friendship and expression of grief.	<p>Tel: 02 9519 2820 (24 hours)</p> <p>25 Enmore Road, Newtown NSW 2042</p> <p>www.solace.org.au/nswales.htm</p>
Bereavement C.A.R.E. Centre and National Centre for Childhood Grief - individual counselling services for children and adults.	<p>Tel: 1300 654 556</p> <p>14 Hollis avenue, Eastwood NSW 2122</p> <p>www.bereavementcare.com.au</p>
Share Grief Online Counselling - online professional grief counselling for people in need.	<p>www.sharegrief.com/</p>
National Association for Loss and Grief (NSW), based in Dubbo - information and referral service to accredited loss and grief practitioners; support and self-help groups and services.	<p>Tel: 02 6882 9222</p> <p>Email: info@nalag.org.au</p> <p>nalag.org.au:8091/</p>
Child and Youth Health - online resource for parenting, child and youth health; information and support strategies for a broad range of issues.	<p>www.cyh.sa.gov.au/</p>
Grieflink - information resource for the bereaved, their carers, friends and colleagues as well as health professionals.	<p>www.grieflink.asn.au/frameset.html</p>

<p>The Smith Family - Emergency Help Service - provides financial, material and counselling assistance at a time of need.</p>	<p>State Office – Parramatta</p> <p>Tel: 02 9895 1233 Fax: 02 9689 3978 Add: Level 1, 239 Church Street, Parramatta NSW 2150</p> <p>www.smithfamily.com.au</p>
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Useful Contacts

<p>Coroner's Court</p>	
<p>State Coroner's Court- Glebe and Coronial Information and Support Program</p>	<p>Tel: 02 8584 7777</p> <p>44 Parramatta Road, Glebe NSW 2037</p> <p>www.lawlink.nsw.gov.au</p>
<p>Coroner's Court - Westmead</p>	<p>Tel: 02 9633 8000</p> <p>Institute Road, Westmead NSW 2145</p>
<p>Legal information and referrals</p>	
<p>LawAccess - Provides legal information and referrals.</p>	<p>Tel: 1300 888 529</p> <p>www.lawaccess.nsw.gov.au</p>
<p>Legal Aid Commission of NSW - Provides legal advice on civil and criminal matters. Legal Aid has a Head Office in Sydney and 20 regional offices {under 'L' in the phone book}. Call LawAccess for more information.</p>	<p>Head Office:</p> <p>Tel: 02 9219 5000</p> <p>323 Castlereagh St, Sydney NSW 2000</p> <p>www.legalaid.nsw.gov.au</p>
<p>Law Society Community Service - Provides legal information and referrals to solicitors and/or other agencies.</p>	<p>Tel: 02 992 6033</p> <p>Fax: 02 9231 5809</p> <p>170 Phillip Street, Sydney NSW 2000, DX 362 Sydney</p> <p>Email: lawsociety@lawsocnsw.asn.au</p> <p>www.lawsociety.com.au</p>

Financial Counsellors Statewide	
Lifeline	1300131144 www.lifelinesydney.org
The Salvation Army Money Care - Regional Officers located around NSW. Provides financial counselling in person or via mail/phone/fax/e-mail.	(02) 9264 1711 (02) 9266 9587 www.salvos.org.au
Specialised for rural agricultural businesses	
AAA Rural Financial Counselling Service	(02) 6272 5537 www.affa.gov.au/financialcounselling
NSW Association of Rural Financial Counselling Groups	www.ruralcounselling.org.au/index.html

Other Useful Contacts	
Public Trustee of NSW	Tel: 1300 364 103 19 O'Connell Street, Sydney NSW 2000 www.pt.nsw.gov.au
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INTERNAL USE ONLY

APPLICATION FOR COUNSELLING

(To be completed by the WorkCover Counselling and Liaison Coordinator)

Details of the family member applying for counselling

Full Name

Date of Birth

Gender

Address

Telephone

Details of your deceased family member

Full Name

Date of Birth

Date of Death

Your relationship to the deceased

Details of counsellor

I would like the WorkCover Counselling and Liaison Coordinator to allocate an Approved Counsellor on my behalf: (please tick)

No Yes

If yes, please specify any special requirements (e.g. male or female counsellor preferred)

Do you need an interpreter?

No

Yes

Specify Language

Preferred suburb/town for counselling

(continued overleaf)

[Empty box for notes or additional information]

Enquiries:

Office use only – Signed as a True and Accurate record

Counselling approved

Yes

Coordinator's name

No

Brief explanation

Signature

Date

WorkCover. **Watching out for you.**