

PE2085/E: Introduce a statutory definition of residency for Fatal Accident Inquiries into the deaths of Scots abroad

Scottish Government submission, 19 July 2024

We write in respect of Petition PE2085 entitled “Introduce a statutory definition of residency for Fatal Accident Inquiries into the deaths of Scots abroad”, and in particular your letter of 17th May 2024.

The Committee asked whether the Scottish Government would consider working with the UK Government to ensure that the differences of the system in England and Wales compared to Scotland are being communicated clearly to the next of kin when someone dies abroad to ensure that families can take an informed decision about repatriation and the options for further investigation of the death of abroad.

As you may be aware, responsibility for all death investigations lies with the Crown Office and Procurator Fiscal Service (COPFS), who act independently of government. We work closely with officials at COPFS to ensure that the FAI legislation operates as effectively as possible.

We understand that COPFS are looking closely at their current processes in relation to the investigation of deaths abroad to identify any improvements that can be made, particularly in relation to the areas of communication with nearest relatives and ensuring they are fully aware of the process that applies to repatriation to Scotland. As part of that, they are engaging with relevant external stakeholders. Their aim is to ensure that families are always given accurate information at the outset about the correct process for repatriations to Scotland. It is not, however, to provide the families with options for repatriation.

As Mr Marra MSP mentioned at the meeting of the Committee on 15 May, ‘the Lord Advocate has agreed to contact the Foreign Office regarding formalising a memorandum of understanding to ensure that families are given the correct information if a family member dies abroad’. Contact has been initiated and discussions are ongoing. We are conscious of the fact that FCDO are likely to be one of the main initial points of contact for bereaved families following a death, whereas COPFS may in many cases first be made aware of the death a number of weeks later when the body is being returned to Scotland.

Justice Directorate