

Citizen Participation and Public Petitions Committee

14th Meeting, 2022 (Session 6), Wednesday
26 October 2022

PE1948: Improve the way that unexplained
deaths are dealt with

Note by the Clerk

Petitioner Alex O’Kane

**Petition
summary** Calling on the Scottish Parliament to urge the Scottish Government to encourage Police Scotland to review their practices for dealing with unexplained deaths from initial recovery through to the support that is offered to family members.

Webpage <https://petitions.parliament.scot/petitions/PE1948>

Introduction

1. This is a new petition that was lodged on 8 August 2022.
2. A full summary of this petition and its aims can be found at **Annexe A**.
3. A SPICe briefing has been prepared to inform the Committee’s consideration of the petition and can be found at **Annexe B**.
4. While not a formal requirement, petitioners have the option to collect signatures on their petition. On this occasion, the petitioner elected to collect this information. 822 signatures have been received.
5. The Committee seeks views from the Scottish Government on all new petitions before they are formally considered. A response has been received from the Scottish Government and is included at **Annexe C** of this paper.

Action

6. The Committee is invited to consider what action it wishes to take on this petition.

Clerk to the Committee

Annexe A

PE1948: Improve the way that unexplained deaths are dealt with

Petitioner

Alex O’Kane

Date lodged

8 August 2022

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to encourage Police Scotland to review their practices for dealing with unexplained deaths from initial recovery through to the support that is offered to family members.

Previous action

I have written to the Chief Constable of Police Scotland and MSPs raising concerns about the current approach to unexplained deaths and the lack of support for those impacted. I have arranged a number of TV interviews and newspaper articles to highlight the way that families who have lost a loved ones to an unexplained death are treated. I have gathered over 20,500 signatures from members of the public asking for changes to the way that Police Scotland approach and deal with unexplained deaths.

Background information

Unexplained deaths are far too common in Scotland and whilst I accept that in some cases the medical conclusion cannot be determined, I would urge Police Scotland to improve its policy when a body is initially discovered. This is a vital window of time when decisions are made and evidence can either be secured or lost forever.

Whilst representing a family who had lost a loved one to an unexplained death, I discovered that Police Scotland did not conduct door to door enquiries at relevant locations nor did they formally appeal for witnesses after a body was discovered. I believe this should be good practice and become policy when a body is discovered with no clear cause of death.

As an unexplained death case is not considered as a crime - the same level of resources are not invested to support the person's family, nor is victim support involved.

Unexplained deaths leave many families without answers and in some cases without justice, so it's vital for the Police to have a good line of communication open with the families and to be as transparent, helpful and empathetic as possible.

Annexe B

The logo for SPICe, featuring the text 'SPICe' in a white, sans-serif font on a dark purple background.

The Information Centre
An t-Ionad Fiosrachaidh

Briefing for the Citizen Participation and Public Petitions Committee on petition PE1948: Improve the way that unexplained deaths are dealt with, lodged by Alex O’Kane

Background

The [petition](#) wants Police Scotland to review its practices for dealing with unexplained deaths. It raises concerns about the approach to investigating such deaths, commenting that:

“Whilst representing a family who had lost a loved one to an unexplained death, I discovered that Police Scotland did not conduct door to door enquiries at relevant locations nor did they formally appeal for witnesses after a body was discovered. I believe this should be good practice and become policy when a body is discovered with no clear cause of death.”

It also argues for more support for affected families.

Police Scotland

[Police Scotland](#) has produced new guidance on the Investigation of Death (not published on its website at the time of writing this briefing). The guidance sets out three broad categories of death; outlining what involvement the police and [Crown Office & Procurator Fiscal Service](#) (COPFS) may have in investigating each:

- medical death – both police and the COPFS may have minimal involvement

- unexplained medical death – healthcare professionals may be required to report the death to the COPFS with the level of any police involvement depending on whether it is a suspicious death
- police reportable death – the guidance lists a range of situations in which the police are required to investigate and report a death to the COPFS.

Police reportable deaths include ‘suspicious deaths’ – any death where the circumstances are unknown and give cause for concern.

The guidance goes on to detail what steps should be taken during a police investigation.

Crown Office & Procurator Fiscal Service

Although the petition does not refer to the COPFS, it plays an important role in the investigation of unexplained deaths. This may include instructing the police to carry out investigations when more information is needed to find out the cause of death.

Information on the role of the COPFS is set out on its website under the heading of [our role in investigating deaths](#) and in its [family liaison charter for bereaved families](#). The latter notes that:

“The extent of the investigation that is required depends on the facts and circumstances of each death. When a person dies in Scotland, a burial or cremation cannot take place until a medical certificate giving the cause of death has been issued. This certificate must be completed by a doctor, and must show the time, place and cause of death. Most sudden and unexplained deaths are reported to the Procurator Fiscal because a doctor is unable to confirm the cause of the death and is therefore unable to issue a death certificate. Other cases may require further investigation into the circumstances leading up to the death.

In any investigation the police will submit a report to the Procurator Fiscal for consideration. This report should be received as soon as possible after the police are aware of the death. It will contain background information of the deceased, including their medical history, and a summary of the events leading up to the death. On receiving this information the Procurator Fiscal will decide what investigation is necessary, which may include instructing a post mortem examination to determine the cause of death.” (page 7)

Frazer McCallum
Senior Researcher
26/07/22

The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at spice@parliament.scot

Every effort is made to ensure that the information contained in petition briefings is correct at the time of publication. Readers should be aware however that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

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Annexe C

Scottish Government submission of 1 September 2022

PE1948/A: Improve the way that unexplained deaths are dealt with

Thank you for your correspondence of 12 July 2022 seeking views on the action called for in the above petition. I am responding as Deputy Director for Scottish Government Police Division.

Under the Police and Fire Reform (Scotland) Act 2012, Section 17, the Chief Constable of Scotland is responsible for the policing of Scotland, and is accountable to the Scottish Police Authority (SPA) rather than Scottish Ministers. As the issues raised by the petitioner are operational matters for Police Scotland, the Committee may therefore wish to explore these further with the SPA and the Chief Constable.

However, I can advise that Police Scotland's Investigation of Death National Guidance aims to provide officers and staff with guidance on the role and responsibility of the service and its partners when attending incidents of death. The latest iteration of this guidance was published in March 2021 and is currently under review. Such a review would involve consultation with practitioner forums which would include, for example, Senior Investigating Officers, and key stakeholders such as the Crown Office and Procurator Fiscal Service (COPFS).

Instances involving suspicious deaths, drugs' suicide or accidental deaths are among those that officers have a responsibility to investigate and report to COPFS. These are known as Police Reportable Deaths.

Firstly, in order to provide a consistent service to families and partners and ensure every death receives an appropriate response, officers will follow three stages:

- Stage 1 Preserve life: Unless death is undisputable, seek emergency medical assistance. Pronouncing Life Extinct (PLE) is a clinical decision that can only be determined by a competent healthcare professional.

- Stage 2 Initial assessment: This is a police function, which must include consideration of the body, the scene and all obvious risks. Healthcare Professionals (HCPs) may offer opinion related to clinical matters however the Police have the responsibility of determining the category of death.
- Stage 3 Response: The category of death will determine the most appropriate agency to lead the response.

Once stage two is reached, there are a number of actions that officers are expected to undertake. These include examination of the body; background checks looking for previous sources of threat, risk and harm to the individual that may have a bearing on the death and record the outcome (positive and negative); search of the premises; door to door inquiries to establish recent history, identification, next of kin and medical history; identify witnesses and obtain statements, where relevant. If, at any stage, it is suspected that the circumstances could indicate a Police Reportable Death, no further assessment should be undertaken by initial responders. There should be no further interference with the body or the scene at this time and Officers should protect the scene and notify supervisors and CID.

If the incident is assessed as a Police Reportable Death, the priorities are to protect the scene, secure evidence and conduct an investigation. In all Police Reportable Deaths, early consideration must be given to the appointment of an appropriate senior police investigator, of at least the rank of Inspector, to manage the ongoing police investigation. Investigations into Police Reportable Deaths should be conducted in accordance with the principles within the ACPO Murder Investigation Manual and the Crime Investigation Standard Operating Procedure.

All Police Reportable Deaths will be reported and transmitted to the COPFS Scottish Fatalities Investigation Unit (SFIU) without delay and will be approved by appropriate line management prior to submission to SFIU. Where deaths are brought to the attention of COPFS, the Procurator Fiscal has a duty to investigate all sudden, suspicious, accidental, unexpected and unexplained deaths and any death occurring in circumstances that give rise to serious public concern. Where a death is reported, the Procurator Fiscal will investigate the circumstances of the death, attempt to find out the cause of the death and consider whether criminal proceedings or a Fatal Accident Inquiry is appropriate.

In the majority of cases reported to the Procurator Fiscal, early enquiries establish that the death was due to natural causes.

However, anyone who has concerns about the circumstances of a death can report it to the Procurator Fiscal. As explained, there are certain categories of deaths that must be enquired into, but the Procurator Fiscal may enquire into any death brought to their notice.

Many deaths will initially fall into the category of unexplained until a post mortem examination is conducted and a cause of death established. The extent of the investigation required will vary with each case and will depend on such factors as where and in what circumstances the deceased was found and any recent contact with or sightings by others. Door-to-door enquiries and/or an appeal for witnesses may be appropriate in certain cases but in others Police Scotland may be able to establish the circumstances leading up to the death without the need for these to be carried out.

In some cases, particularly those where further investigation is being carried out with a view to the possible holding of a Fatal Accident Inquiry or where criminality has not been ruled out, Police Scotland may seek advice from the Crown Office and Procurator Fiscal Service (COPFS). On some occasions, having reviewed and considered the information submitted by Police Scotland, COPFS will instruct them to make specific further enquiries as appropriate. Police Scotland may also approach the Procurator Fiscal and seek guidance on possible investigations to be conducted even where the death has not yet been reported to COPFS.

The Committee will appreciate that while the petitioner was primarily asking about Police Scotland, COPFS have a crucial role to play in the investigation of unexplained deaths. I hope the above information is seen as useful and I have offered further background on the role of COPFS as Annex A below to distinguish between their respective roles during this difficult process.

A key principle of the police response is that officers and staff should at all times ensure that the deceased and any family or friends are treated with respect, dignity and compassion. Furthermore, the guidance set out that in a number of circumstances, consideration should be given by the SIO to the appointment of a Family Liaison Officer (FLO) for bereaved relatives via the Family Liaison Co-ordinator.

Guidance on FLOs is found within Police Scotland's Family Liaison National Guidance. Further details around the role, training and deployment of FLOs should be obtained from Police Scotland.

I hope that the information I have set out in this letter is helpful and would suggest, as above, should further details on police procedure in this area be required, we would help put the Committee in touch with the appropriate leads in Police Scotland and the Scottish Police Authority.