

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

Petitioner written submission, 30 July 2024

I am absolutely disgusted by the First Minister's and his official superficial response. It's to the public and those in power that the ordinarily resident definition is unclear and ineffective.

It's also clear following our meeting with the Lord Advocate attended by my MP, MSPs, a Senior SFIU member and government officials that the ordinarily resident definition is not understood and indeed the definition is vague and untenable.

Also constantly referencing the Lord Cullen report from 2016 where again I believe we have questioned that, and I believe we have demonstrated that this report-based UK healthcare issue do not have the gravity to be referenced when a suspicious death abroad occurs.

Please ask the First Minister to demonstrate where the ordinarily resident criteria following the death of a Scot abroad has been effectively used, with the family satisfied with the outcome. I believe that there is not one example.

The First Minister has also referenced Michael Marra who despite a question at FMQs months ago on our situation and residency still awaits an answer.

In response to the First Minister's comments on the Crown Office and the Lord Advocate, I would again question this based on our meeting and multiple communications with the Lord Advocate who has taken the following action since we met:

- 1 Has started discussions with Senior Advocates on my son's residency status following information supplied which was never requested by any organisation previously.
- 2 In discussions with the Death Certificate Review Service (DCRS) and Police Scotland with regards to procedures for reporting and investigating deaths abroad in particular in relation to communicating with nearest relatives. A document will be produced will replace existing guidance.
- 3 Set up a Memorandum of Understanding between the Foreign, Commonwealth & Development Office (FCDO) and COPFS detailing roles and responsibilities including the extent of the ability of the COPFS to investigate deaths abroad.
- 4 The official COPFS website has also been updated with specific details for relatives to contact the Scottish Fatalities Investigation Unit (SFIU) whom we had never heard of and were never put in touch with.

It appears that The Justice Directorate is attempting to defend the status quo despite knowing that since the Lord Cullen report and since they have taken office no FAI has been undertaken following the death of a Scot abroad, and that at every level there is a complete lack of understanding on how the system should work effectively.

The Justice Directorate also quotes that the COPFS now in 2024 are looking at improvements that can be made. Is this an admission that the Lord Cullen report has been ineffective?

Grieving families should be given as a matter of urgency from the FCDO and SFIU the hard facts on the differences between an FAI in Scotland and an Inquest in England and the differing criteria for residency. In England, a suspicious death abroad guarantees an Inquest and the protection of his majesty the Kings passport.

The FCDO until my discussion in December 2023 were unaware of the differences between the Scottish and English systems. This is despite an intended memorandum of understanding in 2019 by the Scottish Government following an all-party parliamentary group meeting reacting to the concern of 60 grieving families. How then could they advise correctly?

In regard to repatriation, the grieving families pay all costs legal and funeral and should have the choice of where to repatriate to. I would suggest, if correctly informed, all would choose England or Wales. The implications are severe in Scotland. No one has ever been considered resident and worthy of an FAI, even when a legal professional states a murder. Also having an undetermined death and not having an FAI or Inquest negates insurance payouts, amplifying the tragic situation. Parity on deaths abroad with England and Wales must be established as a minimum immediately.

I am also requesting my MP to communicate with the Home Secretary and Foreign Secretary on the implications of the differences between the Scottish and English systems particularly on residency and repatriation. I have also reached out to the Police and Crime Commissioner in Manchester with my concerns that when a Scot dies abroad Police Scotland are not allowed to investigate purely on residency.