

INQUIRIES INTO FATAL ACCIDENTS AND SUDDEN DEATHS ETC. (SCOTLAND) BILL – STAGE 1 BRIEFING

Background

The RCN supports moves to ensure that Scotland's Fatal Accident Inquiries (FAIs) are a clear and transparent mechanism for the investigation of deaths which occur in a healthcare setting.

Transparency allows the families of those who have died to establish the circumstances around the death of their loved one. Such openness also allows relatives and the public to have confidence in the outcome of the FAI.

Discretionary FAIs

We believe that clear and robust investigation procedures should be put in place for all deaths that are likely to meet the criteria for an FAI. Such investigations could be carried out more quickly than FAIs with lessons also being learned swiftly. We believe such a change would result in a more efficient, effective and transparent system which could ultimately reduce the number of discretionary inquiries.

Location of FAIs

We recognise the desire to cut the link between the location of a death and the sheriffdom in which an FAI is held. We understand that this would allow for greater administrative flexibility, and recognise in particular the positive impact that the proposed change could have for families.

We do, however, have concerns that the loss of local context could be detrimental to the process. The presumption to date in favour of the FAI being held locally has been seen as important as it has preserved local knowledge. This can be crucial in healthcare settings where different procedures, pressures, nursing and other practices differ from place to place.

We accept that in some circumstances it may be preferable for families to have an FAI held in a sheriffdom other than that in which the death occurred. In these cases the process must preserve the local context. Any change must balance the needs of families with the fact that local knowledge is often relevant to FAIs and, as such, the public interest.

We believe that FAIs should continue to be held in the sheriffdom local to the incident wherever possible.

Efficiency of the FAI system

We support the proposal to introduce rules to govern the agreement of evidence in advance of an FAI. We believe that this will lead to a more transparent and efficient system which will benefit all parties.

Our position is that when a 'note of proposed issues to be explored' is lodged the preliminary hearing(s) should be fixed.

We believe that this would avoid preliminary hearings being held shortly before an FAI with new issues being raised at this point. Such a process would also reduce the chance of the FAI being discharged which is stressful for those involved, particularly families of the deceased. It is also inefficient and costly.

Outcomes of FAIs

We welcome the Bill's proposals for a new obligation on individuals and organisations involved in the FAI to respond to a sheriff's recommendations.

Whilst we welcome the intention behind this proposal we believe that the sanction for non-compliance should be strengthened. We appreciate the view that the Justice Committee has taken on this in its Stage 1 report but hope that the Scottish Government will consider the matter further.

We also believe that appointing a body to review the sheriff's recommendations to ensure that effective and sufficient action has been taken would be in the public interest. We urge the Scottish Government to give further consideration to make sure that a sheriff's recommendations are respected.

If you would like any further information please contact Sarah Atherton on 0131 662 6172 or by email at sarah.atherton@rcn.org.uk.