Justice Committee

Inquiries into Fatal Accidents and Sudden Death etc (Scotland) Bill

Written submission from Death Abroad - You're Not Alone

Background

After the sudden death of my son Colin Love in January 2009, I found there were no support mechanisms in place to assist me and my family at such a traumatic time. My son had died thousands of miles away in another country and there was no assistance whatsoever from any governing body in the UK. Appalled at this and the total lack of respect towards my deceased son I vowed to ensure no other family were treated like ours. Whilst I believe my son’s death was a tragic accident I was appalled to learn that enquiries were held for English citizens who died abroad and repatriated to the UK yet there was no legal equivalent in Scotland.

I first raised my concerns with my elected representatives for Glasgow City Council and went on to raise them with both my MP and MSP. I also put in writing to the Crown Office and the Scottish Youth Parliament.

Prior to my son’s death I discovered that on 7 March 2008, the Scottish Government had commissioned an independent review into the legislation which governed the operation of fatal accident inquiries (FAIs) in Scotland for more than 30 years. The Review, led by the Rt Hon Lord Cullen of Whitekirk KT, examined the operation of judicial inquiries into sudden, suspicious or unexplained deaths. The consultation paper was launched on 20th November 2008, when Lord Cullen invited responses by 20th February, 2009. With the help of my elected MSP I was able to make a late submission as the report was finally published in November 2009.

Researching this further and with the help of my sons friend Kenny, we submitted a petition in September 2009 calling for the Scottish Parliament to urge the Scottish Government to give the same level of protection to the families of people from Scotland who die abroad as is currently in place for people from England by amending the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 to require the holding of a fatal accident inquiry when a person from Scotland dies abroad. This petition (PE1280 http://www.scottish.parliament.uk/Petitions_Archive/PE1280.pdf) is currently being considered by the Justice Committee and members recently indicated agreement for the petition to remain open during Stage 1 scrutiny of the Bill.

Many Scottish celebrities signed the petition and this prompted media attention and some families contacted me regarding issues surrounding the death of their loved one in another country, I quickly realised that additional support was required when a Scot died abroad no matter what the circumstances.

After meeting with many families I held a meeting at the Scottish parliament in January 2012, inviting affected families and their elected MSP’s. The decision was
taken by a group of families to apply for charitable status which was subsequently pursued and granted in September 2012 and DAYNA was formed.

**Introduction of FAs for Scots deaths abroad**

I speak for many bereaved Scots families who feel that they have not had a voice in the current Scottish legal system, they welcome this major change to Scots law and the impact this will have for future families who find themselves in such a traumatic situation. In the past they have been powerless to pursue an inquiry when their loved ones death was suspicious or they feel wasn't investigated properly. Of course we cannot insist on other countries carrying out an investigation to the same high standard as Police Scotland but we can now set up a process to allow a FAI when and if appropriate.

The statistics regarding Scots deaths abroad are scarce and whilst an average of 300 per year has been estimated, going by recent referrals to DAYNA we believe there would be no more than 3 required in a 12 month period. Logistically we don’t believe that this would involve a substantial change and that systems could be developed seamlessly. An analogy would be if a foreign tourist were to die in Scotland in suspicious circumstances. (ie. recently Karen Buckley).

We have supported many Scottish families over the years but also families from all regions of the UK and are conscious that many areas need change and not only that of FAI’s for Scots deaths abroad and we seek as part of this process a body is set up to encompass relevant organisations / interested parties to submit their proposals. I believe this is currently being reviewed by the Scottish Office.

Communication with families is important and they should be fully informed and have realistic expectations of what results will come from the inquiry process.

Bob Doris MSP submitted evidence and refers to when bodies repatriated to England and Wales undergo a post mortem, like Bob, I believe it is imperative that this practice is constituted in Scots Law and should also apply in cases where the Lord Advocate does not deem a FAI to be necessary. Where a FAI is not deemed necessary by the Lord Advocate there is still a lot of room for improvement in the support offered to families.

I also question that the sole responsibility lies with the highest office in the land, The Lord Advocate. Surely a Procurator Fiscal could have the legal authority to allow for an FAI to be held in their jurisdiction.

DAYNA has many examples of failings in the investigatory process of families whose loved ones have died abroad.

**Julie Love**  
**Chairperson**  
**Death Abroad - You’re Not Alone**  
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