PE1911/YY: Review of Human Tissue (Scotland) Act 2006 as it relates to post-mortems

Lord Advocate written submission, 26 May 2025

Thank you for your letter dated 28 April in relation to the above petition.

I have maintained a close interest in the progress of the petition since I gave evidence to the Committee in June 2023. You may be aware that I have now met with the petitioner, Mrs Stark, on two occasions to hear more about her experiences following the tragic death of her son.

I can confirm that on 2 May 2025 senior representatives from the Crown Office & Procurator Fiscal Service (COPFS) attended at the Coroner's Court in Lancashire, accompanied by an experienced pathologist and radiologist from our pathology providers. They were grateful to have the opportunity to meet with Dr Adeley, Senior Coroner as well as pathologists and radiologists based there to discuss their approach to the post mortem examination process – including the use of CT scanning in appropriate cases – to establish a cause of death. Discussions focussed on the process that is followed when investigating a death and determining a cause of death, as well as the background to the development of the CT scanning service in Lancashire.

The information that was obtained was very helpful and will form part of our ongoing discussions with pathology providers about any improvements that can be made to the process. However, it is clear from what we have learned that the use of CT scanning is only one tool that may be available to assist in establishing a cause of death, and it cannot replace the need for an invasive post mortem examination in every case. There are some categories of death, particularly those involving children or young adults, lung disease or certain cardiac-related deaths where scanning is likely to be of limited assistance.

Although there are similarities between my role and that of the Coroner in relation to the investigation of deaths, there are also significant differences. In particular, unlike the Coroner, I am responsible for the investigation and prosecution of crime in Scotland as well as the investigation of deaths. Accordingly, one of the key functions of a death investigation is to eliminate (or establish) criminality in relation to that death, and an invasive post mortem examination may be required for that purpose.

I would highlight that the use of CT scanning is currently available in some circumstances in Scotland. Since 2011, NHS Lothian has been able to carry out scanning as an additional investigative tool, alongside more traditional examination processes, albeit restricted to particular cases such as homicides or deaths involving decomposition where it is thought it may add additional value to the findings.

I hope it was clear from the evidence that I previously gave to the Committee that I am supportive of any measures that will minimise the distress caused to families during the death investigation and post mortem examination processes, whilst still

ensuring that an accurate cause of death is established and the requirements of our death investigation are fully met. However, I require to be guided by pathologists – as the medical experts – as to the effectiveness of any proposed changes. It was on that basis that it was considered helpful for a pathologist and radiologist to attend the meeting in Lancashire to discuss the more technical aspects of the process.

In my experience, our pathology providers are equally committed to identifying any improvements that can be made. To that end, we were recently approached by pathologists regarding the possibility of expanding the use of CT scanning in our death investigations and commencing additional CT scanning in certain identified cases. From May 2025, Glasgow University Pathology and NHS Greater Glasgow and Clyde Health Board will begin a service development pilot to investigate the potential benefits of incorporating CT scanning in Procurator Fiscal-instructed post mortem examinations taking place at the Queen Elizabeth University Hospital Mortuary in Glasgow.

The aims of the pilot are to ascertain:

1. where using CT scanning, in addition to the established view and grant and invasive post mortem procedures, could improve outcomes regarding the accuracy of establishing a final cause of death;
2. whether utilising CT scanning could enable pathologists to perform minimally invasive examinations in some cases; and
3. whether, in any category of case, a CT scan could entirely replace an invasive examination.

During the pilot, the CT scan will be carried out in addition to the post mortem examination that is instructed. This approach will allow the pathologists and radiologists to compare results of the examination and CT scan and consider where the scan adds value.

The scope of the pilot is to include any post mortem examination of an adult instructed and to be performed at the Queen Elizabeth University Hospital Mortuary by Glasgow University pathologists. These will include suspicious deaths. Pathology providers will identify cases which may be suitable for the pilot. It is not expected that the scheduled date of the post mortem examination will be affected by the additional CT scanning involved. The results of the scan will be included in the final post mortem examination report.

Although all cases where a post mortem examination has been instructed will be considered for inclusion of the pilot, it is considered that the use of CT scanning may be of most benefit in the following categories of death:

- Shootings
- Manual strangulation
- Deaths involving fire
- Deaths where there has been significant decomposition of the body
- Deaths resulting from trauma, including falls
- Deaths following a road traffic collision.

The pilot funding initially covers fifteen cases and a review paper of the results of each test case, with overall conclusions and recommendations, will be produced and made available to COPFS.

Pathology services are delivered through commercial contracts where COPFS is the client. We do however work with pathology providers to shape the future of service delivery. We regularly meet with current pathology providers to support the resolution of any ongoing issues and to identify any improvements to the quality of service that can be provided to nearest relatives.

Future discussions will consider the findings from the CT pilot and the information gathered during our meeting with the Coroner in Lancashire. Members of our Pathology, Toxicology and Mortuary Programme Board also previously visited Northern Ireland and received a presentation from the State pathologist on their experiences of using CT scanning, and we will consider whether visits to other areas would be helpful. Earlier this year, our Post Mortem Programme Delivery Manager met with the Royal College of Pathologists where CT scanning featured among the discussions.

All the information received during these discussions and inputs are being taken into account by the Board as part of its future planning. An ongoing review by COPFS of pathology provision allows for pathology providers to highlight any opportunity for research or for new innovative procedures, including CT scanning, to be introduced or tested. However, proposals regarding the introduction of new processes, including the costs involved in installing suitable equipment and recruiting appropriately trained staff, are the responsibility of the pathology providers. To ensure the provision of a consistent approach throughout the country, we would support the establishment of a National Pathology and Mortuary Service and we are keen to work with the NHS and others who are well placed to provide appropriate leadership for this.

Finally, I am aware that the Committee has heard or received a considerable amount of evidence in relation to this petition from numerous sources. However, before coming to any conclusions or making any recommendations, I do consider that it may be helpful for the Committee to hear evidence from pathology providers, particularly pathologists and radiologists, currently engaged in the death investigation system in Scotland to obtain their views on the current process and any proposed changes.

I hope this information is of assistance to the Committee.

Yours sincerely

THE RIGHT HONOURABLE DOROTHY BAIN KC
LORD ADVOCATE