

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.