

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

## **Petitioner submission, 9 April 2024**

The common and deflecting response is the 2016 Lord Cullen report. No FAIs have been undertaken following the deaths of Scots abroad since its introduction or the 2019 APPG designed to help Scots families losing loved ones abroad. This APPG was commissioned as a result of 60 families questioning the Lord Cullen report. SPICe also confirmed in July 2023 that no FAIs have occurred. This is despite multiple statements from the Scottish Government stating that an FAI would be conducted if it is in the public interest to do so or an investigation would prevent further deaths. Foreign, Commonwealth and Development Office (FCDO) Thailand statistics show that 400-500 UK Citizens die every year in Thailand – around 150-200 undetermined deaths. There appears to be a wilful ignorance of the subject.

With regard to normally resident and non-defined status, again no Scot who has died abroad has met these criteria as it is undefined, and families are not interviewed by the relevant Government body the Scottish Fatalities Investigation Unit (SFIU). It's clear that if the DCRS has concerns regarding the nature of the death, the SFIU should interview families, loved ones and potentially lawyers and witnesses regarding the nature of the death and residency. There is in fact no statutory definition of ordinary resident which it appears is very convenient preventing and investigation. On no occasion did the SFIU speak with me or the unqualified DCRS in terms of establishing criminality before making the decision to allow our son to be put to rest. DCRS, despite having serious concerns regarding our son's death, never mentioned SFIU or any process. I later received an apology including some very inaccurate statements. Not surprisingly no electronic record of this call exists. I referred my concerns to the Ombudsman.

The SPICe document states that it is the coroner's duty to investigate and must investigate if the death is unnatural or unknown. David's death was documented by legal professionals, Government Officials, death certification authorities as unnatural and probably sinister. We did not know there was a formal process until communicating with the Lord Advocate last year. If we had known about the process, we would have chosen to repatriate to England.

In reference to the Lord Scarman report, and as discussed with several officials including my MPs MSPs and the Lord Advocate, it certainly does not deal with the gravity of a death abroad in suspicious circumstances. This is certainly not an appropriate reference and refers to a healthcare situation between the East Lothian and Milton Keynes Councils.

On March 28th, 2024, myself Mr Dave Doogan MP, Mr Michael Marra MSP and Mairi Gudgeon MSP met with the Lord Advocate and a representative from the SFIU

to discuss our son's case and that of the systematic failures. The Lord Advocate is committed to identifying improvements in relation to investigating and reporting on deaths abroad and consulting with families. The Lord Advocate has also added information on their external website in relation to deaths abroad. This contains links to Scottish Government and FCDO advice and if necessary, will include details for families on how to contact SFIU. The Lord Advocate will also provide a memorandum of understanding to the FCDO as they are typically the 1st point of contact following tragedy to ensure that families are aware of procedures. I would suggest this includes the option to repatriate to England or Wales where a non-residency status does not exist. UK Citizens wherever they live are granted the protection of His Majesties Government.

The Lord Advocate, following my expression regarding the decision made on David's residency having never been asked by any official body, has asked for further detail. David was not a Thai resident always having a short term temporary visa and, at the time of his death been denied a visa in 2019, he held a UK Passport, worked for a UK/Aberdeen Company between 2016- 2019, banked in the UK, could vote in Elections and referendums, owned a UK property for several years and demonstrated considerable links to the UK living here holidays work trips etc.

Had the SFIU spoken with me, I am convinced they would have agreed that David qualified for any criteria on residency. This would certainly have been true in the UK.

I also asked the Lord Advocate if she could demonstrate a case where a Scot has died suspiciously abroad and the correct process had been followed.

There is no such example.

The Lord Advocate has also committed to look at FOI denials to me only occurring since the First Minister was questioned by Mr Marra MSP at FMQs. These FOIs provided to others were denied to me stating that they were not in the public interest. The First Minister however appears to recognise that improvements are required into the current failure to support families following the death of a loved one abroad and has committed publicly to look at legislation and respond to Mr Marra.

These dreadful uninformed decisions have emotional and financial consequences. David's family were initially homeless having lost out not only on David's support, estate but on employer insurance. Totalling around £700K. The sustained emotional impact has resulted in severe psychological issues.

The UK Government and FCDO had grave concerns regarding David's death and attempted to engage Interpol and Senior Thai Police to prove UK residency and record deaths abroad including the nature of the death. Scotland still does not include nature and appears unconcerned as there are no FAls deeming this information unnecessary.

I have been told by Government officials in Scotland that the Solicitor General and Police Chief work for them which is concerning.