

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

Julie Love written submission, 29 October 2025

Having participated in the roundtable meeting in the Scottish Parliament on 18 October 2025, hosted by Michael Marra MSP re Davy Cornock's petition, I felt compelled to respond to the Committee as I originally submitted PE1280 in 2009. The petition was calling to allow the Lord Advocate the discretion and the Procurator Fiscal the powers to investigate after the death of a Scot Abroad. I have a vested interest in ensuring the processes implemented at that time work as intended and that guidance is reviewed/updated when relevant. I'm well aware it's not a one size fits all for supporting families after a death abroad, however at the time it was necessary to allow the legal powers to be transferred to the Lord Advocate.

The scope of Lord Cullens's 2009 publication of his inquiry report states the Lord Advocate should have the power to apply for an FAI into the deaths of persons 'normally resident' in Scotland where the body is repatriated to Scotland. I believe there were many legislative debates regarding residency that should potentially be in the public domain and have no doubt the response to the Committee "The Law Society of Scotland, the Crown Office and Procurator Fiscal Service and the Scottish Government consider that the definition of "ordinarily resident" in common law is widely recognised and accepted. The First Minister's submission explains that officials who have been working on the issue with the Crown Office have reached the conclusion that it is not necessary to change the law at the present time. Similarly, the Law Society of Scotland's response states that it does not consider that it would be necessary or desirable to develop a bespoke legislative definition for the purposes of fatal accident inquiries." pertains to that.

During the Committee proceedings of 2 April 2025 I was disappointed that the Deputy Convener David Torrance MSP suggested the petition be closed and that basically the Petitioner (grieving family) can take the Government to "court", Mr Torrance also stated "COPFS has progressed improvements on issues, including new guidance on reporting and investigating deaths that happen abroad." I am not aware of new, publicly accessible guidance specifically addressing the reporting and progression of deaths that occur abroad. Could Mr Torrance or the Committee elaborate on this please?

Having campaigned for many years for better support for grieving families living in Scotland left to pick up the pieces after a loved one's death abroad, my belief at the time (naively perhaps) was that the support from the change to FAIs would be for the families living in Scotland and not necessarily where the deceased relative resided and that that particular terminology was being used for statistical purpose only. I was truly disappointed to learn of the circumstances leading to Mr Cornock's petition and believe he/his son are in fact the victims of a failed system that does not work as

intended and that legislative processes suggesting bereaved families take Governmental departments to court are not in this country or in bereaved families interest.

I'm aware Mr Cornock has had meetings with stakeholders of this legislation and has had some positive outcomes, particularly relating to the recently developed Scottish Memorandum of Understanding (MOU) for deaths abroad.

I've long campaigned for change to processes both to the Scottish Government, UK Government and the Foreign, Commonwealth & Development Office and I'm a contributor to the MMT working group (Murder & Manslaughter Team) within the FCDO. I underwent life changing surgery and was undergoing chemotherapy in June 2017 when the legislation finally came into force. I've had various ongoing serious health issues and recently have become financial and welfare guardian for a family member who has a dementia/Alzheimer's diagnosis restricting me from being as proactive as I used to be.

I fully support Mr Cornock's petition and I feel/believe/fear that another family could fall into the same hopeless situation that Mr Cornock has found himself in. There doesn't appear to be a "safeguard" for families. The stage at which "ordinarily resident" appears to be decided is very early after the repatriation process and families at this stage are not aware of potential struggles ahead. If this is the Government's final say, then I believe they have an obligation to make this public knowledge to Scots living and working abroad. I have a family member who works for a Scottish university in Dubai, he has worked and resided there for almost 10 years and he would not fit the "ordinarily resident" criteria should he have a suspicious death abroad.

In fact, is it possible the petitions Committee to confirm exactly when the decision of "how" the death abroad is determined and "when" as this will have an impact for families in the future.

I request the information above is discussed within the Committee and that the petition remains open or is transferred to the Justice Committee for their recommendations.