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Peter McGrath  
Clerk to the Justice Committee  
Scottish Parliament

**BY E-MAIL**

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Your ref:  
Our ref:  
17 March 2017

Dear Mr McGrath,

**PUBLIC PETITIONS PE 1501 & PE 1567**

Thank you for your letter of 9 February to Neil Robertson seeking views from the Scottish Government regarding correspondence received by the Committee discussing the position of military related deaths in which cross-border issues arise. The letter was in the context of Petitions 1501 & 1567 which are currently under the Committee's consideration and deal with the investigation of deaths. I note that the Committee is also seeking information from the Lord Advocate, given his responsibility for the investigation of all deaths in Scotland.

Firstly, I must emphasise that the Lord Advocate's functions as head of the system of investigation of deaths in Scotland are independent from the Scottish Ministers and therefore matters such as working practices and protocols are matters on which the Lord Advocate must lead.

In September 2012 Section 12 of the Coroners and Justice Act 2009, was introduced which made it possible to hold a fatal accident inquiry into the death of service personnel who are killed abroad (outside of the United Kingdom) in military service. As a result of this a protocol was drawn up between the Crown Office, the Chief Coroner and the Ministry of Defence, which set out the principles for effective liaison between the parties. The protocol is currently being updated.

One of the reasons for updating the protocol is to reflect the impact of the Inquiries into the Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 which will make it mandatory for an FAI to be held into deaths of service personnel in the course of military service in Scotland (or the offshore area of continental shelf adjacent to Scotland). This Order will not have retrospective effect.

Commencement of the 2016 Act and Order is expected in the near future and once in place it will ensure that in the future in the event of the death of military personnel in Scotland whilst on military service a mandatory FAI will be held.

Yours sincerely,

**Walter Drummond-Murray**