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*Jim Cunningham*

**Public Petition PE 1633: Private Criminal Prosecutions in Scotland.**

Thank you for your letter dated 2 February 2019 in relation Public Petition PE 1633: Private Criminal Prosecutions in Scotland.

You have asked me to clarify whether the policies of the Health and Safety Executive in regard to sports workers is compatible with Article 2 of the Human Rights Act. I take this to be a reference to Article 2 of the European Convention on Human Rights, which provides for the protection of the right to life. It would not be appropriate for me to comment on the lawfulness of a policy of the Health and Safety Executive; and the question would be more appropriately directed to the HSE itself.

What I can say is that a death which occurs in the context of a sporting event would, as a sudden and unexpected death, fall to be reported to the Crown, and would be considered and investigated by the Scottish Fatalities Investigation Unit of COPFS. One of the advantages of our unified system for the investigation of deaths and the prosecution of crime is that, if the circumstances justify it, the matter can be treated as a criminal investigation. If the circumstances do not justify that course, the death would, in any event, be investigated, and consideration given, in accordance with the terms of the Fatal Accident and Sudden Deaths etc (Scotland) Act 2016 to the question of whether a fatal accident inquiry should take place. You may be interested to know that a fatal accident inquiry is being held under section 2 of the 2016 Act into the death of the boxer Mike Towell.

*W. James Wolffe QC*

**W. JAMES WOLFFE QC**



INVESTOR IN PEOPLE  
**The Scottish Government**