



**PUBLIC PETITION NO.**

**PE01501**

### **Name of petitioner**

Stuart Graham

### **Petition title**

Public inquiries into self-inflicted and accidental deaths following suspicious death investigations

### **Petition summary**

Calling on the Scottish Parliament to urge the Scottish Government to introduce the right to a mandatory public inquiry with full evidence release in deaths determined to be self-inflicted or accidental, following suspicious death investigations.

### **Action taken to resolve issues of concern before submitting the petition**

Actions taken include communication with Ministers, politicians, police forces, other authorities and the media. Any inroads that have been made through disclosure, through the time delays involved, have resulted in significant barriers to a full comprehension of the events investigated.

Through insight gained from our personal cases we requested to speak to The Justice Minister about the Justice system, not our specific case, but he he refused to speak to us.

We worked with Willie Rennie and then MSP John Park to try and get access to The Justice Minister. Despite letters being written he has refused to speak to us.

### **Petition background information**

Through our own personal insight and developing awareness of European Court of Human Rights Article 2, we believe there is a significant shortfall in delivering transparency within our justice system. In talking with families with similar issues and reading of a number of other instances it has become clear that a key factor in being able to get closure is transparency. In my families specific case we would gain nothing from this recommendation but collectively we see it as a positive outcome from the learnings we have gained through being exposed to our current system.

In our own case a death was immediately treated as self-infliction and not investigated despite being re-opened after inputs from the family. The police and Fiscal's service were found to be negligent and of misleading the family. The investigation had many issues and an FAI was instructed. The FAI validated much of the families concerns and served as the basis of a request for an independent investigation. Due to this shift in position at the FAI, the insurance paid out to the family where previously this had been withheld. The police investigated the death but were unable to pursue a number of

avenues owing to previous failings, actions and the passage of time. Today this death is now open and suspicious. This case would not have been treated as self-infliction with such haste if subject to scrutiny. Likewise, loss of pertinent evidence would have been restricted by prompt challenging of available evidence.

In another case there were many suspicious circumstances surrounding a death at that time, though the police informed the family that the person had probably committed suicide by drowning and no investigation of any significance took place. After raising many questions and highlighting inconsistencies in the information provided by police the family were then told that the death could have been suicide, accidental or that the person was murdered. The family could not bury the person as they had a further autopsy carried out which yielded even more information to raise questions on the cause of death. Family and friends continued to raise awareness of this case through organised Justice marches and also through private investigation. They have uncovered even more evidence that points further away from accidental death or suicide but they still have no access to investigation findings, allowed an FAI nor had any investigation commensurate with the circumstances and thus the family are no closer to closure than they were.

The current system in Scotland, only requires that a death deemed to be self inflicted or accidental is based upon probability rather than beyond reasonable doubt as in criminal cases. This has the effect that families are presented with information that supports the conclusion but have no access to anything that may contradict this. This prohibits families from effectively defending loved ones if they do not believe the findings. In essence they must carry out their own investigations if they are to raise questions to challenge findings. Also, the current system, appears to lack the effective independence required under Article 2 as the decision makers, police and the Fiscal, are both responsible for the investigation and thus cannot be deemed to independent when reviewing the findings.

It is envisaged that the inquiry will be ran on similar lines to a Coroner's inquest in England. In this it is led by someone completely independent from the investigation process, QC or Sheriff, with the family having full disclosure with the right to legal representation if requested.

#### Unique web address

<http://www.scottish.parliament.uk/GettingInvolved/Petitions/thevictimslastright>

#### Related information for petition

[http://www.equalityhumanrights.com/uploaded\\_files/Consultation\\_responses/ehrc\\_response\\_to\\_iapdeathsincustody.independent.gov.uk/wp-content/uploads/2012/01/IAP-Workstream-Paper-on-Article-2-Compliant-Investigations.pdf](http://www.equalityhumanrights.com/uploaded_files/Consultation_responses/ehrc_response_to_iapdeathsincustody.independent.gov.uk/wp-content/uploads/2012/01/IAP-Workstream-Paper-on-Article-2-Compliant-Investigations.pdf)

#### Do you wish your petition to be hosted on the Parliament's website to collect signatures online?

YES

#### How many signatures have you collected so far?

0

#### Closing date for collecting signatures online

## Comments to stimulate online discussion

If the phrase often used as a principle of our Justice system “I would rather have 99 guilty walk free than have 1 innocent person wrongly imprisoned” is believed to be a statement of value, is it then ok to have a system that can accuse an individual of a horrific action of self-infliction and yet have no right to contest that position?

How many individuals assigned as self-inflicted deaths are actually innocents whose killers are never sought?

If the investigating authorities are so sure their investigations are thorough to the point that they can assign cause of death, why should there be an issue with full disclosure?

Does the current system assure that justice is balanced in every case?

Is it right that the decision to state self-infliction without contest is in the hands of organisations whose metrics benefit from such diagnosis rather than a potentially unsolved crime?

Why should there only be a full review at the discretion of The Lord Advocate rather than the right of the deceased to be independently represented?

How many families have lost the right to insurance pay-outs because of flawed decisions, what if this is the breadwinner? How can this be challenged with no access to meaningful information?

Should the term “not in the public interest” be a valid vehicle for non-disclosure of failings of the Justice system?

Under Article 2 ECHR it is deemed that in suspicious deaths we are all entitled to an independent, thorough and timely investigation capable of finding the culprit. Article 2 is in essence an accountability of the State to the citizens, is it therefore right that it is the State that decides that it has total control in stating it has fulfilled its obligation?