

**PE1501/J**

## **PE1501 Response to inputs from June 2014 meeting**

Having read the submission from the Government, I can only say that I am dismayed by the lack of support for change in our system. It appears that the concept of Social Justice does not apply to the families of bereaved. If we follow the logic given, families must spend thousands of their hard earned earnings to gain some access to what is nothing more than the truth. Our family can testify not only to the financial but legal cost of this existing system. I can only re-iterate that in Scotland there are only about 60 reviews of unexpected death in Scotland whereas in England and Wales it is nearer 30000. I am sure that in the current climate, everyone can see that the arithmetic shows a somewhat slanted picture. Our advocacy has never been to get anywhere near the English/Welsh system but one of helping families get to the answers they need and not be patronised by others as to what is good for them. With this in mind I will go on and consider the inputs from the other organisations.

After the latest presentations from COPFS, Police Scotland, Victim Support Scotland and Law Society Scotland it seemed apparent that there was nothing substantively different presented than that developed in the written responses.

I do feel however that it may be best to dwell on the area of agreement rather than present another analysis to provide support for our arguments. In this, if the literal feedback has integrity, all parties wanted bereaved families to be supported and supplied with enough information to aid their closure on these sensitive matters. In having taken further legal advice on the possible procedures that can facilitate the best possible outcome for those families that do feel they need more information than the current system allows, it seems that there is possibly a two track opportunity. This would entail on one level, nothing more than a procedural change rather than legislative change but cemented in time with a robust legislative change.

### **Procedural Change**

The essence of the procedural change is that The Crown Office could set up a system in conjunction with Victim Support Scotland, where families that request greater degrees of information (on suspicious deaths closed as accidental or self-infliction), that provides them with the full package of information. The perspective is that it is given under supervision and legal guidance.

From this, the most likely outputs would be acceptance of the findings or in some, more questions leading to further action by the Crown Office could be raised. In this last scenario, if the questions have validity, it is surely in the best interest of all that they are raised and actioned.

The area that would still provide concern would be on those now even rarer occasions when families are in dispute with The Crown and the raised issues are seen as irrelevant by the Crown. In these events I believe that we need to have an arbitrator on such issues and as such it would seem that a Sheriff most pertinent. This leads to legislative changes.

### **Legislative Change**

Upon a point of impasse has been reached between family and Crown, a formal review of information would be heard by a Sheriff and a decision made as to whether more action is required on the part of the Crown or be dismissed if there was no merit in the claim. Even this would not be on a scale of an FAI but would work on principle the family presenting their concerns and the crown stating their objection. The ideal situation would be a public recording of the findings to give credibility of the process.

If there are findings that the Sheriff finds concerning, then the sheriff should have the remit to request an FAI through The Lord Advocate. This would still ensure that the final say for an FAI lies with the Lord Advocate as today.

### **Conclusion**

On the few cases that have families seriously concerned over findings, a low cost procedural change should facilitate the release of information that reduces this further. Even if there are issues discovered, the first option is for the Crown to rectify this before any further progression into the legislative framework.

Regards

Stuart Graham