



CROWN OFFICE  
& PROCURATOR  
FISCAL SERVICE

SCOTLAND'S PROSECUTION SERVICE

# Information for bereaved relatives

## The role of the Procurator Fiscal in the investigation of deaths

### Alternative formats

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## **Aim of this Booklet**

The death of a loved one is an upsetting and distressing time. The involvement of the Procurator Fiscal in a death can be confusing and worrying for relatives if the Procurator Fiscal's role is not understood.

This booklet has been published by the Crown Office & Procurator Fiscal Service (COPFS), to help relatives understand the role of the Procurator Fiscal in certain deaths, and to explain what the Procurator Fiscal will do.

## **The Procurator Fiscal and COPFS**

Procurators Fiscal are qualified lawyers who are employed by COPFS and who act on the instructions of the Lord Advocate. The Lord Advocate has responsibility in Scotland to investigate any death which requires further explanation. In other parts of the United Kingdom, the Coroner may investigate such deaths.

### **The responsibility of the Procurator Fiscal in relation to the investigation of Deaths**

When a person dies in Scotland, they cannot be buried or cremated until a medical certificate giving the cause of death has been issued. This certificate must be completed by a doctor, and must show the time, place and cause of death.

Most sudden and unexplained deaths are reported to the Procurator Fiscal because a doctor is unable to confirm the cause of the death and is therefore unable to issue a death certificate.

Once a death has been reported to the Procurator Fiscal, the Procurator Fiscal has legal responsibility for the body, usually until a death certificate is written by a doctor and given to the nearest relative.

Within COPFS, the Scottish Fatalities Investigation Unit (SFIU) is a specialist unit responsible for investigating all sudden, suspicious, accidental and unexplained deaths. There is a designated SFIU team based across each area of the country, in the North (SFIU North), East (SFIU East) and West (SFIU West).

## **Sudden and Unexplained Deaths**

All sudden and unexplained deaths must be reported to the Procurator Fiscal. The death is usually reported by a doctor (either a General Practitioner (GP) or a hospital doctor), by the police or a local Registrar of Births, Deaths and Marriages.

### **Sudden Deaths**

Whether or not the cause of death is known, if a doctor is of the view that a death was clinically unexpected, it is described as a "sudden death".

## **Unexplained Deaths**

When the cause of death is not known or is not clear to a doctor, this is described as an “unexplained death”.

## **Reports to the Procurator Fiscal**

Once a person’s death is reported to the Procurator Fiscal, it is for the Procurator Fiscal to decide what further action will be taken, if any.

The Procurator Fiscal might for example, following discussion with a doctor, agree a cause of death, a death certificate is issued and no further action may be required by the Procurator Fiscal.

Alternatively, it is possible that the Procurator Fiscal will decide that further investigation needs to be carried out.

## **Investigation and the Death Certificate**

It is not uncommon for relatives to find it difficult to understand why a death has been reported to the Procurator Fiscal. Quite often relatives will believe that the medical history of their loved one shows that they were ill before their death, and as such a death certificate should simply be issued.

The medical history will always be taken into account by the Procurator Fiscal and the doctor in considering if any further explanation is required. However, even where there is a history of illness, for medical reasons, doctors may not always be able to issue a death certificate.

This does not mean the circumstances of the death have been reported to the Procurator Fiscal because they are considered to be suspicious.

The Procurators Fiscal themselves do not investigate a sudden or unexplained death at this stage; they will normally instruct the Police to investigate deaths, regardless of whether or not the death is suspicious. If your loved one’s death has been reported to the Procurator Fiscal, it is likely that you may have already spoken with the Police or that the Police will contact you soon, either by telephone or in person. They may ask you for information regarding the circumstances of the death and your views on any further examination of your loved one’s body, all of which will be communicated to the Procurator Fiscal in a police report.

If initial investigations do not identify a cause of death, or if a cause of death is believed to be known but there are other concerns surrounding the death, a post mortem examination (also known as an “autopsy”) may be required.

Any post mortem will be carried out at a mortuary by qualified pathologists (doctors who specialise in determining causes of death).

## Suspicious Deaths

All deaths where the circumstances are thought to be suspicious must be reported to the Procurator Fiscal.

Where there are circumstances surrounding the death which suggest that criminal conduct may have caused or contributed towards the death, this is described as a “suspicious death”. The Procurator Fiscal will instruct the Police to investigate the circumstances and consider whether criminal charges should be brought which may lead to a prosecution.

A post mortem examination will always be required in these circumstances in order to ensure that all available evidence is gathered to assist with any criminal investigation, including identifying those persons responsible for the death.

If someone is charged with a crime in connection with the death or if a criminal investigation is ongoing in relation to the circumstances of the death, then it may be that a further post mortem examination is subsequently required. This is often referred to as a Defence post mortem as it is requested on behalf of an individual(s) accused of that crime. If it is necessary for the Procurator Fiscal to retain your loved one’s body for this purpose, you will be advised and the circumstances explained.

### **Murder or Culpable homicide**

If someone close to you has been murdered or killed as a result of culpable homicide you may find it helpful to read the information contained within the Scottish Government publication: [Information for bereaved family and friends following murder or culpable homicide](#)

If your loved one is believed to have died in these circumstances, a copy of this publication should be given to you by your Police family liaison officer at the beginning of the police investigation.

### **Hate Crime**

A crime committed because the accused is motivated by prejudice against a particular race, religion, sexual orientation, transgender identity or disability is described as a crime aggravated by prejudice or a hate crime. If you feel that the death of your loved one involved such a crime, then please tell the Police and the Procurator Fiscal of this. All crimes of prejudice are intolerable and where there is sufficient evidence in law of such prejudice, this will be included in any charges an accused person will face.

### **Deaths as a result of suicide**

All deaths where the circumstances are thought to have been as a result of intentional self-harm must be reported to the Procurator Fiscal. One of the principal

reasons for this is to exclude that the death is suspicious in nature. In most such deaths, the Procurator Fiscal will instruct a post mortem examination.

## **Road Traffic Deaths**

If someone close to you has been killed as a result of a road traffic collision you may find it helpful to read the information contained within the Brake publication:

[Information and advice for bereaved families and friends following a death on the road in Scotland.](#)

If your loved one is believed to have died in these circumstances, a copy of this publication may be given to you by your Police family liaison officer at the beginning of the police investigation.

## **Death of an Infant or Young Child**

The Procurator Fiscal recognises the intense grief and distress experienced by parents following the sudden and unexpected death of their baby or young child.

If the death of an infant or young child is reported to the Procurator Fiscal, it is likely that further investigation will be instructed to determine the circumstances of this death. The Procurator Fiscal may decide that a post mortem examination is required.

## **Post Mortem Examination**

The Procurator Fiscal will instruct a post mortem examination for all suspicious deaths; all deaths which remain unexplained after further initial investigation; and in a number of other situations where there are concerns about the circumstances or cause of the death.

A post mortem examination should take place as soon as possible after the report of a death to the Procurator Fiscal and will often take place within a few days of the date of death.

It is a matter for the Procurator Fiscal whether or not a post mortem examination is required following the report of a death. Although your consent is not required any concerns you may have should be communicated to the police, or to doctors, at the time when you are informed the death may be reported to the Procurator Fiscal and will always be considered, by the Procurator Fiscal.

## **Identification**

Before a post mortem examination is undertaken, it will sometimes be necessary for formal identification to be carried out. This must be done by somebody who knew the person when they were alive. Where the circumstances appear to be suspicious, the body will need to be identified by two people.

A nearest relative will usually be asked to do this, although it may be possible for someone else to identify the body. This usually involves going to the mortuary where the post mortem examination is to be carried out. The identification will need to be confirmed to the police officers who will be in attendance and often to the pathologist. Everything will be done to assist relatives and minimise distress throughout this essential process.

### **View and grant examinations**

In Scotland there is scope for the Procurator Fiscal, in certain circumstances, to ask a pathologist to conduct a 'view and grant post mortem examination' rather than an invasive post mortem examination. This consists of a careful and detailed external examination of the body and consideration of the medical records by the pathologist.

It is a matter for the individual pathologist to determine whether such an examination is appropriate as it is they who have the professional responsibility to certify the cause of death to 'the best of their knowledge and belief'. The decision they make must be defensible, not only to you as a nearest relative of the deceased and to COPFS, but also to their professional colleagues and professional organisations including the General Medical Council.

### **Use of other alternative non-invasive post mortem techniques.**

In other parts of the United Kingdom, where is no facility to conduct a 'view and grant' post mortem examination, there has been consideration of the use of other alternative non-invasive methods to try and ascertain the cause of death, for example Magnetic Resonance Imaging (MRI) scanning of a deceased's body. The prevailing view among pathologists working in Scotland is that such an approach would only be suitable in cases in which they already consider and in most cases provide death certificates based on the 'view and grant' approach. Accordingly scanning is not currently considered to be appropriate in Scotland to determine the cause of death.

### **Retention of tissue and samples**

Where there has been a post mortem examination, small biological samples, which may include tissue samples, will often be taken for scientific analysis. This is to help the pathologist to establish the cause of death. Once these enquiries are complete, the samples will be retained as part of the medical records.

### **Retained organs**

In a small number of cases, the pathologist may decide that an organ needs to be removed from the body so that it can be examined in more detail. The examination of organs can on occasion take several weeks and sometimes months. If an organ is to be retained separately following return of your loved one's body to you, the

Procurator Fiscal will contact you to let you know that this is to happen and explain the process in more detail.

### **Organ and tissue donation**

If the deceased person has expressed a wish to donate their organs or tissue, where appropriate, every effort will be made to try and achieve this prior to post mortem examination. COPFS and the Scottish Transplant Group have an agreed protocol in place for dealing with cases where organ and/or tissue transplantation might be contemplated.

### **Hospital Post Mortem examination**

If your loved one has died in hospital and their death has been reported to the Procurator Fiscal but it has been decided by the Procurator Fiscal that no further action or investigation is needed to establish the primary cause of death, it may be that the hospital would like to carry out a post mortem examination for medical purposes. This may be for example to assist with medical research or for training purposes. In that situation the Procurator Fiscal will normally indicate that they have no objection to a hospital post mortem examination but unlike the other types of post mortem listed here, your consent will be required for a hospital post mortem.

### **Objections to a Post Mortem Examination**

The Procurator Fiscal recognises that the prospect of a post mortem examination can be upsetting, and that waiting for the results of any examination may delay funeral arrangements which can cause difficulties for grieving friends and relatives.

The Procurator Fiscal is also sensitive to the various religious and cultural beliefs throughout Scotland, and their individual needs and requirements.

If you are opposed to a post mortem examination taking place, for whatever reason, please ensure you make this known to the doctor and/or the Police as soon as you possibly can.

The Procurator Fiscal will always take your views and beliefs into account when considering whether or not to instruct a post mortem examination, and will always treat your wishes with respect. Unfortunately it is not always possible to comply with these wishes, and a post mortem examination will sometimes still be required, particularly where the circumstances appear to be suspicious.

### **Religious and Cultural beliefs**

In relation to the time taken to complete post mortem examinations both the Procurators Fiscal who work within SFIU and the pathologists who conduct the examinations are fully aware of the cultural and religious requirements of those faiths who believe that the body should be buried as soon as possible after death. Where



the deceased's faith is known all reasonable efforts are made to return the deceased to nearest relatives as soon as possible.

It is of course the aim of the Procurators Fiscal within SFIU and pathologists to have all examinations completed as soon as is practically possible in all cases irrespective of faith.

## **After the Post Mortem Examination**

After the post mortem examination, the medical certificate giving the cause of death will be written by the pathologist and will then be made available to the nearest relative.

In some cases the pathologist may wish to consider the findings of their examination and to receive the results of blood/tissue/organ analysis or any other tests which were carried out before giving a final cause of death. Where such examinations take place the pathologist may issue a provisional cause of death which will enable the family to proceed with funeral arrangements. Once the results of the examination are received the pathologist may amend the final cause of death in the post mortem report.

### **Toxicological analysis**

Toxicological analysis is instructed by the Procurator Fiscal in the case of fatalities where the cause of death is not immediately clear, and when it is considered that such analysis may assist the pathologist in the preparation of their post mortem report.

### **Receiving the Death Certificate**

There may be local variations throughout the country as to how you obtain the death certificate. In some areas, the Police will collect the certificate from the mortuary and deliver it to you as the nearest relative; in others, the funeral director will collect it; and in some areas it may be that you have to go to the mortuary to collect it in person.

Your funeral director should be able to advise you what happens in your area and will be able to explain about registering the death. Further information on registering a death can be found from the [National Records of Scotland \(NRS\)](#)

The Procurator Fiscal will usually surrender legal responsibility for the body once the nearest relative has the death certificate.

In a small number of cases, it may be necessary for the Procurator Fiscal to keep responsibility for the body for a longer period of time, to allow for further investigations to be carried out into the circumstances. This only happens with a very

small number of deaths, most likely where the death is thought to be suspicious. If this is necessary, you will be advised by the Police or the Procurator Fiscal.

## **Changes to the Recorded Cause of Death**

Delays in toxicology affecting conclusion of deaths investigations:

Regrettably there are currently delays in the provision of toxicology analysis by our supplier. Whilst COPFS continues to undertake a number of steps, along with our supplier to resolve this issue, we are not able to confirm the date when post mortem reports will be available in cases where toxicology is instructed by the Procurator Fiscal.

COPFS is acutely conscious of the impact the delay in confirming the final cause of death can have upon bereaved families and we will be in contact with families who are affected by this issue.

If the recorded cause of death changes the Procurator Fiscal will inform the family of this as soon as possible and answer any questions the family have as a result of this change.

If the recorded cause of death changes, you will not need to do anything about this as the Procurator Fiscal will inform the National Records of Scotland on your behalf, who will in turn advise the local registrar of births, deaths and marriages of the required amendment. The local registrar will be able to advise you of how you may obtain a revised death certificate, showing the amended recorded cause of death. Please do not contact the local registrar until you are contacted by letter from NRS advising that the new certificate is available.

## **Access to Information by nearest relatives**

Where families request copies of documents prepared in connection with the investigation of their loved one, such as the post mortem report or a collision investigation report in a death where there has been a road traffic fatality, the Procurator Fiscal will provide copies of documents requested.

The only exception where the Procurator Fiscal would not give you this requested material would be where such disclosure could prejudice any criminal proceedings against an accused person in connection with the death which are either ongoing or are pending. Following conclusion of any criminal proceedings however, any such requested information will be provided to a family.

The Procurator Fiscal will ensure that the provision of this information is carried out in as sensitive a manner as possible given that the information contained in any reports can be distressing. For example, a post mortem report is medical in its terms, and by its very nature may be distressing to read and difficult to understand.

Your General Practitioner (GP) may be willing to receive the report on your behalf,

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and to explain its terms to you. If this is the case then please advise the Scottish Fatalities Investigation Unit team of the name and address of your GP and the Procurator Fiscal will arrange for a copy of the report to be sent to your GP instead of being sent to your home address.

## Further Investigations

Whilst some death investigations conclude once a cause of death is known, other deaths may require further detailed and sometimes lengthy investigation, involving complex technical and medical issues and expert opinion to be carried out. At the conclusion of the Procurator Fiscal's investigation, it may be necessary for a Fatal Accident Inquiry (FAI) to be held.

### Fatal Accident Inquiry

A Fatal Accident Inquiry is a type of court hearing which publically inquires into the circumstances of a death. It will be presided over by a Sheriff and will normally be held in the Sheriff Court. If the death has happened as a result of an accident while at work or if the death happened while in legal custody, for example in prison or police custody, a Fatal Accident Inquiry will normally be held. FAIs can be held in other circumstances if it is thought by COPFS to be in the public interest to do so. COPFS seeks to hold FAIs as soon as practicable after a death.

The purpose of an FAI is to assess the circumstances surrounding the death and to identify any issues of public concern or safety and to prevent future deaths or injuries. The Procurator Fiscal has responsibility for calling witnesses and leading evidence at an FAI, although other interested parties may also be represented and question witnesses.

At the end of an FAI, a Sheriff will make a determination. The determination will set out:

- where and when the death occurred
- the cause of death
- any precautions by which the death might have been avoided
- any defect in systems that caused or contributed to the death
- any other facts which are relevant to the circumstances of the death

An FAI cannot make any findings of fault or blame against individuals.

## Contact with the Procurator Fiscal

### Before the death is reported

Prior to the death of your loved one being reported to the Procurator Fiscal, the police or the doctor who is reporting the death should be able to assist with your enquiries in the first instance. They should notify the Procurator Fiscal of any questions, comments and concerns that you have.

### After the death is reported

Following the death of your loved one being reported to the Procurator Fiscal, should you wish to discuss matters with the Procurator Fiscal or require any further information, please contact the Scottish Fatalities Investigation Unit within office hours through our Enquiry Point on 0300 020 3000 and ask to speak SFIU. If you have a reference number you should tell the operator as that will assist in putting you through to the person best able to help.

Staff from the [COPFS Victim Information and Advice \(VIA\)](#) will contact you if there is to be a prosecution, further investigations after a post mortem examination or a Fatal Accident Inquiry. VIA staff can provide you with information about the progress of the case and can assist you to get in touch with support agencies.

Nearest relatives will be invited to meet with the Procurator Fiscal when there is the possibility of criminal proceedings, or when a Fatal Accident Inquiry is being considered, or where the death involves a road traffic collision, as soon as it is reasonably practicable to do so. Throughout investigations the Procurator Fiscal will liaise with the nearest relatives of the deceased's family to ensure that they are kept fully informed of any progress and to ensure their views are carefully considered when any decisions are being made.

## Provision of support and information to Bereaved Families

### The Scottish Cot Death Trust

[The Scottish Cot Death Trust](#) (SCDT) is a charity which offers support and information for families who have suffered the sudden and unexpected loss of a child. COPFS has agreed to assist SCDT in supporting such families by providing details of such families, where appropriate, in order that the SCDT can contact them to offer help and advice.

Where the death of a young child is reported to the Procurator Fiscal and where there is clearly no evidence or suspicion of any criminality, the Procurator Fiscal will send a letter to the family, within two or three days of the death advising that it is proposed to provide their details to the SCDT, unless the family indicate any objection to this. This letter will be accompanied by the SCDT leaflet "[Support for](#)

[families after the sudden and unexpected death of a baby or young child](#)". The Trust can also provide education and training for professionals involved in the process of Sudden Unexpected Death in Infancy (SUDI).

### **The Scottish Association for Mental Health (SAMH)**

[SAMH](#) is a Scottish charity, working to improve the mental health of Scotland's community. As part of their National Programme for Suicide Prevention they have produced a publication called "[After a Suicide](#)". It aims to help nearest relatives bereaved by suicide with the practical issues that need to be faced, talk about some of the emotions they might be experiencing and suggest some places where help can be received. This publication includes a section on the role of the Procurator Fiscal and contains video commentaries from key organisations, who are involved in the investigation of a suicide.

### **Cruse Bereavement Care Scotland**

[Cruse Bereavement Care Scotland](#) is a charity which seeks to help anyone experiencing bereavement to understand their grief and cope with their loss. Cruse work primarily through volunteers, providing free care to bereaved people. Cruse also provides training and education to individuals and organisations, on bereavement and loss. COPFS staff are amongst those who receive this training.

### **Petal (People Experiencing Trauma and Loss)**

[Petal](#) offer practical and emotional support, advocacy, group support and counselling for the families and friends of murder and suicide victims.

### **Victim Support Scotland**

[Victim Support Scotland](#) is the lead voluntary organisation in Scotland helping people affected by crime. It provides emotional support, practical help and essential information to victims, witnesses and bereaved relatives attending court, and others affected by crime. The service is free, confidential and is provided by volunteers through a network of community based victim and youth justice services and court based witness services.

### **Scotland's Campaign against Irresponsible Drivers (SCID)**

[SCID](#) aims to provide practical and emotional support for families bereaved or victims injured by a road crash. Support is given by those who have been bereaved themselves. This support is provided without limit of time.

### **Interfaith Scotland**

[Interfaith Scotland](#) provides a forum for people from different religions and beliefs to dialogue with one another on matters of religious, national and civic importance.

Interfaith Scotland run dialogue events for young people, women, faith communities, religious leaders, members of Interfaith Scotland and local interfaith groups.

### **Edinburgh Interfaith Association (EIFA)**

The [EIFA](#) is a charitable organisation which promotes religious harmony, diversity and equal opportunities in Edinburgh and its wider environs by bringing together the faith communities in deeper dialogue which leads towards mutual understanding, trust, respect, co-operation and peace. One of its aims is to advance the education of the general public on inter-faith and multicultural issues to further their awareness and understanding.

### **Scottish Council of Jewish Communities (SCoJeC)**

[The Scottish Council of Jewish Communities](#) (SCoJeC) is the umbrella representative body of the Jewish community in Scotland. It exists to advance public understanding about the Jewish religion, culture, and community, by providing information and assistance to educational, health, and welfare organisations, to represent the Jewish community in Scotland to Government and other statutory and official bodies, and to liaise with Ministers, Members of the Scottish Parliament, Churches, Trades Unions, and others on matters affecting the Jewish community. SCoJeC also promotes dialogue and understanding between the Jewish community and other communities in Scotland, and works in partnership with other organisations and stakeholders to promote equality, good relations, and understanding among community groups.

### **Muslim Council of Scotland**

The [Muslim Council of Scotland](#) is an accord of Muslim associations, mosques and institutions in Scotland. It is a membership-based umbrella organisation, accommodating and reflecting the variety of social and cultural backgrounds and outlook of the Muslim community. It is an independent body working to promote consultation, cooperation and coordination on Muslim affairs in Scotland. It is a non-sectarian and non-partisan body working for the common good without interfering in, displacing or isolating any existing work in communities.

### **Age Scotland**

[Age Scotland](#) is the leading charity for all older people in Scotland. Age Scotland campaigns, researches and fundraises to make sure a better life is built for everyone in later life. The organisation ensures older people's voices are heard, challenges and changes attitudes, fights discrimination wherever it is found and tackles elder abuse in all its forms. Age Scotland put older people at the heart of everything they do.