

## **PE2085/L: Introduce a statutory definition of residency for Fatal Accident Inquiries into the deaths of Scots abroad**

### **Petitioner written submission, 26 May 2025**

It's very clear that the Cabinet Secretary for Justice and Home Affairs' response PE2085K is inaccurate and it surprisingly still does not appear that the Cabinet Secretary understands the gravity of the situation and what we are trying to prove - that the ordinarily resident term is unachievable as families are never asked and there is not a defined criterion. I have also been provided by the Scottish Government and the Lord Advocate with similar terms such as Habitual Resident, Permanent Resident and Relevant person etc. Again, non-defined qualifications for residency. I would suggest this is further confusing the situation, particularly for families in distress.

The Cabinet Secretary states:

'Being 'ordinarily resident' is only one of the conditions that needs to be met for an FAI to be considered appropriate. The Lord Advocate would also need to consider that the death was sudden, suspicious or unexplained, or occurred in circumstances giving rise to serious public concern; that the circumstances of the death had not been sufficiently established in the course of an investigation in relation to the death; that there is a real prospect that those circumstances would be sufficiently established in an inquiry; and that it would be in the public interest for an inquiry to be held into the circumstances of the death.'

As we are aware, not one FAI has been undertaken since 2007 or since the Lord Cullen review in 2016 where in England and Wales there are around 1300 inquests every year plus around another 400 investigations undertaken to prevent future deaths. The only qualifying criteria that is different is the ordinarily resident definition in Scotland. With an estimated 1000 deaths of Scots overseas not investigated over a 9-year period since 2016, I do not believe that anyone can justify the effectiveness of the current system. It is statistically beyond belief that in 9 years no Scot has qualified for an FAI. It's clear that the current process does not work and that the ordinarily resident test is not applied correctly or in many cases including our loved ones until 5 years after his death.

Our loved one's death was also unexplained, undetermined, suspicious, the cause had not been established, and I would suggest in the public interest to investigate given that there are around 600 UK deaths in Thailand every year with around 200 undetermined. Our lawyer also stated murder.

The Cabinet Secretary also references my meeting with the First Minister in April 2025 at no time did the First Minister state that there were no plans to change the 2016 Act. The discussions with the First Minister centred around the role of the Death Certification Review Service (DCRS) and Scottish Fatalities Investigation Unit (SFIU), myself and my MPs concerns on the failures on the current systems particularly around ordinarily residency and the official organisations designed to assist, advise and support families and investigate the circumstances of the death if necessary. We also discussed the comparisons with England and Wales Inquests versus FAs, the denial of FOIs and potential ideas to improve the system.

We further discussed the contradictions on residency status on the 2024 Memorandum of Understanding where the Lord Advocate referencing stated qualification examples for ordinarily resident being where the victim banked, where their families live, where they were registered to vote, where they had insurance and whether they had a mortgage. Our loved one had these and several more notably working for a Scottish Company visiting regularly and no having residency anywhere else.

I would also request that, as this has not happened in previous public hearings, the major stakeholders are requested to appear namely Julie Love MBE, the Lord Advocate, Cabinet Secretary for Justice and Home Affairs' and preferably the First Minister. Particularly given the Cabinet Secretary's statement that the First Minister has stated that his government does not plan to change the law. I believe all must justify this given the undeniable knowledge of systematic failure.

I would also strongly request that Mr Dave Doogan MP is called as an expert witness. Dave has expertise in both the UK and Scottish systems and can confirm the absolute failure of the Scottish system. Dave's insight is long standing, educated, balanced and insightful.

I would also like to be invited to speak as I believe I have some expert advice to offer and potential solutions to ensure the system is vastly improved. These include in the short term appointment of a public appointee to engage with the grieving families and the Foreign Commonwealth and Development Office (FCDO) prior to repatriation to

educate and inform of their choices as UK citizens and the current implications of choosing repatriation to Scotland. This education should explain that an FAI has never been held when repatriated to Scotland, whilst in England an Inquest must be held.

It is also unfortunate that the fact that insurance will not pay out on an undetermined death and an inquest or investigation would address this.

The Lord Advocate has also stated the Scottish Fatalities Investigations Unit will work closer with families following repatriation. This is far too late we are aware if the deceased is considered not ordinarily resident any investigation is prevented by any UK organisation.

It's very welcome that Mr Doris and Ms White maintain an interest and are willing to speak to the Committee. It's also clear that given the potential 1000 deaths that have occurred since 2016 with no FAI that many other MSPs will also have an interest given that their constituents have written to them on the current situation on deaths abroad and the implications to their companies, employees, members and families.

The Scottish Trades Union Congress, unions, major Scots employers, Offshore Energies UK and industry leaders all also have an interest in the outcome of this petition.

It's also welcomed that the Scottish Government have such a strong stance on the atrocities in Gaza, Ukraine and elsewhere. However it appears that when these atrocities happen to their own citizens, grieving families are treated with absolute contempt.