

Justice Committee

Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Bill

Written submission from the Royal Society for the Prevention of Accidents

RoSPA welcomes this opportunity to make a submission to the Scottish Parliament's Justice Committee which is seeking views on the general principles of the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Bill, which was introduced in the Scottish Parliament on 19 March 2015.

A registered UK charity, RoSPA has been at the heart of accident prevention in Britain and around the world for almost 100 years and is very active in Scotland. Our mission is to *'save lives and reduce injuries'* (the latter encompassing prevention of work related ill-health). Our vision is *'to lead the way in accident prevention'*. In this context we are keen to contribute to debates about the improvement of safety, not only at work or on the road but in the home and in leisure pursuits where most fatal and serious injuries occur, affecting the young, the old and the socially disadvantaged disproportionately. RoSPA has continued to make significant contributions of views and evidence to public debates on this subject over many years and wishes this submission to be viewed that light.

The Society's policy making in this area is underpinned by the work of our National Committees which are voluntary associations of people drawn from organisations representing a broad cross section of safety interests.

RoSPA is firmly committed to a proportionate, evidence and risk-based approach to safety and to approaches to the administration of civil and criminal justice which support this. Our evidence has been framed with this core value in mind.

Prevention must come first

We fully support the need for the rules and processes surrounding Fatal Accident Inquiries (FAIs) to be robust and transparent and to clearly meet the full range of considerations that comprise the public interest in the wake of sudden deaths. Establishing the facts surrounding a sudden death is necessary to serve a number of objectives: not only to determine what happened, how and why but to provide an evidential basis for any subsequent legal proceedings. In RoSPA's view, the prime objective in any FAI must be to determine, ahead of any further mapping of evidence that might impinge later on questions of liability, the immediate and underlying causes of the events that led to the sudden death (or deaths) with a view to determining what steps might be taken in the future, not only to prevent recurrence of similar tragedies but to remedy any weaknesses in preventive or protective arrangements that ought to have been in place to prevent the tragedy in question. These questions are an important part of meeting the needs of friends and family who may be seeking 'closure' in the wake of an accidental fatality.

Scope and focus

FAIs are most frequently held to determine the facts surrounding deaths due to work related accidents, deaths in custody, deaths associated clinical malpractice, fires and so on. But because the power to hold FAIs is exercised sparingly, the majority of accidental deaths, particularly those that occur in the home or in leisure activities are not subject to inquiry in this way. This is a major failing.

Inequity in distribution of preventive effort

In the UK as a whole there are some 12,000 accidental deaths annually but there is a gross inequity in the distribution of preventive effort between the different domains within which deaths and serious injuries occur. For example, if an elderly vulnerable person is injured fatally as an employee or as a member of the public in a managed work setting, there will be official investigation to determine immediate and possibly underlying causes - as will also be the case if the death occurs on the public highway. Questions will be asked about the adequacy of preventive and protective services. But if the death of the same person occurs, for example, as a result of a fall at home or in a DIY accident, or in a leisure pursuit, it is much less likely that a comprehensive and disciplined investigation will occur. In part this may be due to the mistaken perception that these deaths are private tragedies, due, in the main, to the failure of victims. And those professionals dealing with these sorts of events may well have had much less training in understanding the aetiology of accidents, leading them to judge perhaps that serious and fatal injuries in such circumstances do not warrant in-depth investigation to see if and how prevention might be improved in future.

From investigation to prevention

RoSPA feels strongly that steps must be taken to remedy this inequality in Society's preventive response in the wake of sudden deaths. It is self-evident that prevention is strongest in those safety domains that historically have had the strongest and most developed approaches to investigation (such as work, major hazards, nuclear, rail, civil aviation and son on). And it is weakest where approaches to investigation are superficial, underdeveloped or non-existent (such as in the home and in private sport and leisure pursuits).

It is in this context that RoSPA questions the criteria that are to be used to determine whether or not an FAI should be held. There are an estimated **1300** fatal injuries from all causes in Scotland annually, meaning that judgments have to be made about how to use limited time and other resources needed to undertake investigations and FAIs in an optimum fashion that best meets the needs of justice and the wider public interest. High profile disasters, particularly those involving multiple and simultaneous loss of life, obviously warrant the setting up of such inquiries - but where tragedies involving single deaths happen in isolation and do not attract widespread public attention, the need to assess the preventability of such events does not means that they should not be treated with equal priority.

RoSPA is not convinced that the arrangements for FAIs, as constituted under the new arrangements, will adequately address this issue.

Extension of FAI criteria

RoSPA urges that a review is carried out in Scotland to determine, review and compare the various responses which are made to all accidental deaths that have occurred over the last five years. This should be undertaken by a reputable and independent organisation that would have the necessary resources and access to data to assess how well the immediate and root causes of fatal accidents of all kinds were being determined and the extent to which findings were being fed back to improve the scope, delivery and effectiveness of preventive strategies and services. Investigation of individual accidents in all domains continues to show that the majority of these events are easily preventable. RoSPA believes that, in the light of serious and fatal accidents, it is the duty of all public authorities to determine the extent to which prevention has failed and to recommend any action needed to remedy such shortcomings in the future.

When the results of the review suggested here are known, the scope of FAIs should be extended as appropriate.

Dr Karen McDonnell
Occupational Safety Adviser
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