

Justice Committee

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

Written submission from the Scottish Legal Aid Board

1. SLAB has limited its response to the issues that the Committee has stated that it is particularly interested in.

Are the circumstances for mandatory FAIs provided for in the Bill are sufficient?

2. Yes. We noted in our consultation response that extending the scope of mandatory FAIs to cover death beyond those occurring in the course of a person's employment could put additional pressure on legal aid expenditure. We therefore welcome that the scope of mandatory FAIs has not been extended.

Are the circumstances provided for in the Bill in respect of discretionary inquiries are appropriate

3. Yes. We do not consider that the discretion afforded to the Lord Advocate to require an inquiry in certain circumstances will have a significant impact on legal aid expenditure.

Are there alternative approaches that should be considered?

4. SLAB does not have any comment to make.

Are the provisions in relation to FAIs into deaths abroad are appropriate?

5. Yes. We noted in the response to the Bill's consultation that we considered it appropriate for the Lord Advocate to have discretion whether to hold an FAI in these circumstances.

6. As our response to the Finance Committee notes, the average cost to the Legal Aid Fund of an FAI can vary significantly due to a number of factors and therefore it is very difficult to estimate the potential costs of any additional FAIs resulting from the Bill's provisions. The FM also notes that it is impossible to predict whether those involved in any additional cases as a result of this Bill will require or be eligible for legal aid.

Are the provisions in relation to the pre-inquiry procedure appropriate?

7. Yes. We have previously stated that any provisions put in place to allow for greater focus on the issues to be considered at an FAI, which in turn focusses the work to be undertaken using legal aid funding, are welcomed.

What are the practical implications of the provisions of the Bill?

8. The Bill makes no changes to the availability of legal aid, or requires changes in legal aid processes so there will be no implications for SLAB in the processing of legal aid applications and accounts.

9. If the Bill results in an increased number of FAIs then this has the potential to increase the expenditure on legal aid, but as set out in the Financial Memorandum, this is impossible to accurately predict. The Scottish Government is bound to meet any costs to the Legal Aid Fund under the terms of the Legal Aid (Scotland) Act 1986.

Scottish Legal Aid Board
30 April 2015