

## **Justice Committee**

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

#### **Written submission from the Royal College of Nursing Scotland**

As the trade union and professional body that represents around 39,000 nurses and nursing staff in Scotland, the Royal College of Nursing (RCN) Scotland welcomes the opportunity to submit evidence on the Fatal Accidents and Sudden Deaths etc (Scotland) Bill. We have views on particular aspects of the proposed legislation, set out under headings below.

The RCN supports moves to ensure Scotland's fatal accident inquiries (FAIs) are a clear and transparent mechanism for the investigation of deaths that occur in a health care setting. A high level of transparency allows the families of those who have died to establish the circumstances around the death of their loved one and to have confidence in the resulting recommendations. The better the FAI system, the better chance organisations have to put in place measures to minimise the risk of such an event again. Problems with staffing, training and equipment are some examples of the issues that can emerge at an FAI.

The following sections set out our views on particular aspects of the Bill.

#### **Discretionary FAIs**

We are of the view that clear and robust investigation procedures should be put in place for all deaths that are likely to meet the criteria for an FAI, resulting in a more efficient, effective and transparent system which may ultimately reduce the number of discretionary FAIs. Such a formalised and transparent investigation could be carried out sooner, with lessons learned sooner. This would not only reduce costs to all parties, it would result in the same outcome as an FAI.

#### **Location of FAIs**

We recognise the need to cut the link between the location of the death and the geographical closeness of the sheriff court to allow greater flexibility and minimise delays, as the Bill would do. However, this needs to be balanced with the fact that the location of the sheriff court can be important. There may be different procedures, pressures, nursing and other practices in different parts of the country, so taking an FAI in a different location may lose this context. The circumstances of the particular community in which the death took place may also be relevant. The RCN therefore believes that an FAI should be carried in the local sheriff court wherever possible.

#### **Efficiency of FAI system**

We support the Bill's intention to introduce rules that will govern the agreement of evidence in advance of an FAI. This already happens in many cases, but not consistently. When agreement is not made in advance it can result in participants in FAIs not having the information they need in response to questions put to them

during an FAI hearing. Where agreement is made, it leads to a more transparent and efficient system which benefits all parties.

It is now standard practice that preliminary hearings are held for FAIs and the Bill would implement this across the board. We believe that when the 'note of proposed issues to be explored' is lodged for an FAI, the preliminary hearing(s) should be fixed. The intention behind this would be to avoid preliminary hearings being held shortly before the FAI itself and new issues being raised at this point. When this occurs, it can result in the FAI being discharged and is not only stressful for all involved but is also inefficient and costly.

### **Outcomes of FAIs**

While the Bill places a new obligation on any person or body who was as an FAI participant to submit a written response to outline their action, or not, in response to an FAI's recommendations, the sanction is only to name people or bodies who do not respond on the Scottish Court and Tribunal Service website. To strengthen this sanction we would suggest a lack of response is made more public, such as being published on the Scottish Government's website. The RCN also believes the system would benefit from appointing someone specifically to review the FAI recommendations to ensure effective action has been taken by all participants.

We hope these points are useful to the Justice Committee as it considers the Fatal Accidents and Sudden Deaths etc (Scotland) Bill at Stage 1.

Royal College of Nursing Scotland  
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