



PUBLIC PETITION NO.

PE01567

Name of petitioner

Donna O'Halloran

Petition title

Investigating unascertained deaths, suicides and fatal accidents

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to change the law and procedures in regards to investigating unascertained deaths, suicides and fatal accidents in Scotland.

Action taken to resolve issues of concern before submitting the petition

I have raised my concerns about this issue with my local MSP, who wrote to the Cabinet Secretary for Justice on my behalf.

I have also contacted Police Scotland and made a freedom of information request to the Crown Office and Procurator Fiscal Service (COPFS).

My own son's death was categorised as 'unascertained' and, as such, I have personal experience of how difficult it is in the current system to convince the authorities to review, or reopen, a case where the initial investigations have been unable to categorically determine the cause of death.

Petition background information

We need unascertained deaths, suicides and fatal accidents to be thoroughly investigated so that we can understand what it is that causes the death of so many people, especially the young on simple nights out. Understanding the cause of death will enable us to tackle the issues that cause deaths in the first place and give families some comfort and answers in the loss of loved ones.

So many other deaths have occurred in similar circumstances to my son: nights out leading to deaths; young men and women just drunk one minute, then completely disorientated in winter and summer; - so many others ending up in rivers and lots seem to be university students, or young hard-working men and women. There are even parents fighting for justice when their son was deemed to have committed suicide, even though all the evidence and facts points to a very different conclusion, such as murder.

At the moment, the investigation of all unascertained deaths, suicides and fatal accidents in Scotland are left to the discretion of the police in charge of the case. Our young are dying out there and no one seems able to say whether it's drink or spiking, if it's drink laws in establishments that need changed to protect people, instead of

protecting profits and organisations. If it's spiking, more needs to be done to deter and catch offenders, more should be done to protect people instead of people being put out onto the streets in vulnerable conditions.

In response to my FOI request, COPFS noted:

All sudden, suspicious, accidental or unexplained deaths reported to COPFS are thoroughly investigated. Despite a full and thorough investigation it is not always possible to identify a final cause of death. In such cases the cause of death is stated as being 'unascertained'.

Police Scotland investigates all deaths reported to us, with the level of investigation reflecting the circumstances. The investigation into all deaths which are suspicious or unexplained is thorough. All deaths are in turn reported to the Crown Office and Procurator Fiscal Service and it is they who categorise certain deaths as "unascertained".

COPFS uses a live operational case management system specifically designed to receive criminal and death reports from the police and other specialist reporting agencies and to manage the cases for prosecution purposes. The information held on the system is structured for these operational needs, rather than for statistical reporting or research purposes. Details of whether the cause of death in a particular case is 'unascertained' is not information that is recorded on the COPFS electronic case management system. As such, it is not possible to conduct a search of the electronic system for such cases.

I think this is very concerning because it would appear that COPFS doesn't currently have the capacity to monitor or review this information effectively. As such, how can COPFS ascertain whether their current system for investigating deaths is fit for purpose? Why, in this day and age, can this information not be easily recorded and accessed electronically?

The COPFS also informed me that:

If you are dissatisfied with the way in which your request has been handled, you do have the right to ask us to review it...If our decision is unchanged following a review and you remain dissatisfied with this, please note that although generally under section 47(1) of FOISA there is a right of appeal to the Scottish Information Commissioner, where the information requested is held by the Lord Advocate as head of the systems of criminal prosecution and investigation of deaths in Scotland, under section 48(c) no application can be made as respects a request for review made to the Lord Advocate.

In my view and experience, this procedure adds a cost element most families cannot afford. This system doesn't include families who feel distressed and powerless and it is also too burdensome on families, as for many families it would involve seeking legal advice, which is expensive and can take a long time to resolve. I am also concerned that the current system is not compliant with the spirit and/or text of the European Convention on Human Rights and we should be looking to England, Wales and other European countries to see how they ensure the investigations process is human rights compliant. In summary, this petition is advocating for an alternative appeals/review system, which would reduce the burden on families to obtain a review of investigations of unascertained deaths, suicides and fatal accidents and include them more in the decisions that are reached.

Why is it, that the ones affected the most are the ones left to do all this running around, shredding their broken hearts even more through this tortuous route, that supposedly exists, yet which can only be traversed with great emotional distress to those affected. The route is more designed for lawyers than the heartbroken family who are not qualified in law.

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Do you wish your petition to be hosted on the Parliament's website to collect signatures online?

YES

How many signatures have you collected so far?

0

Closing date for collecting signatures online

27 / 04 / 2015

Comments to stimulate online discussion

What do you think?

Should Scotland treat unascertained, suicides and accidental deaths the same way they do in other civilised countries, treat them as suspicious until proven otherwise? England carry out approx. 30,000 Inquiries a year to keep in standard with European laws, why can't Scotland?