

## Professional Discipline and Regulation

March 2008

### Fatal Accident Inquiry Review to be Conducted by Lord Cullen

The legislation which has governed the operation of Fatal Accident Inquiries (FAIs) in Scotland for more than 30 years is to be reviewed.

Justice Secretary Kenny MacAskill and the Lord Advocate, Elish Angiolini have agreed that a review, to be carried out by the former Lord President, Lord Cullen of Whitekirk, should take place into the working of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976.

The review, which is expected to take around a year, will examine the operation of judicial inquiries into sudden, suspicious or unexplained deaths. It will consider whether the sheriff court is the right forum for such investigations and how FAIs interact with other inquiries, such as those by the Health and Safety Executive.

Among the subjects expected to be considered during the review will be:

- the framework of procedural rules for fatal accident inquiries;
- the use of expert evidence;
- the legal representation of bereaved families;

- the status of recommendations made by a sheriff at the conclusion of a fatal accident inquiry;
- inquiries into deaths in healthcare;
- inquiries into deaths in legal custody;
- consideration of the categories of mandatory and discretionary inquiries;
- whether there should be inquiries into all Scots deaths abroad (where the body is returned to Scotland); and
- the interaction with other forms of investigation.

You will want to make representations to Lord Cullen for the purposes of this review. We will liaise with Lord Cullen's review team and return with the review timetable, so that we can put forward your representations to Lord Cullen. In the interim, if you would like to discuss this alert or any matter concerned with the FAI review, please contact our Professional Discipline and Regulation team.

This Alert! is correct to the best of our knowledge and belief at the time of going to press. It is however written as a general guide, so it is recommended that specific professional advice is sought before any action is taken. We are required by law to protect personal data.

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If you would like to discuss this alert or any matter concerned with the FAI review, please contact our professional discipline and regulation team;

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