

Proposed Post-Mortem Examinations (Defence Time-Limit) (Scotland) Bill

Page 1: Introduction

A proposal for a Bill to make the right of defence counsel for a person accused of homicide to instruct a post-mortem examination of the alleged victim subject to an extendable time-limit in order to minimise delays and uncertainty for victims' families. The consultation runs from 9 January 2018 to 4 April 2019. All those wishing to respond to the consultation are strongly encouraged to enter their responses electronically through this survey. This makes collation of responses much simpler and quicker. However, the option also exists of sending in a separate response (in hard copy or by other electronic means such as e-mail), and details of how to do so are included in the member's consultation document. Questions marked with an asterisk (*) require an answer. All responses must include a name and contact details. Names will only be published if you give us permission, and contact details are never published – but we may use them to contact you if there is a query about your response. If you do not include a name and/or contact details, we may have to disregard your response. Please note that you must complete the survey in order for your response to be accepted. If you don't wish to complete the survey in a single session, you can choose "Save and Continue later" at any point. Whilst you have the option to skip particular questions, you must continue to the end of the survey and press "Submit" to have your response fully recorded. Please ensure you have read the consultation document before responding to any of the questions that follow. In particular, you should read the information contained in the document about how your response will be handled. The consultation document is available here: [Consultation document](#) [Privacy Notice](#)

I confirm that I have read and understood the Privacy Notice attached to this consultation which explains how my personal data will be used

Page 2: About you

Are you responding as an individual, or on behalf of an organisation? Note: If you choose "individual" and consent to have the response published, it will appear under your own name. If you choose "on behalf of an organisation" and consent to have the response published, it will be published under the organisation's name.

an individual

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

Member of the public

Optional: You may wish to explain briefly what expertise or experience you have that is relevant to the subject-matter of the consultation:

My brother was murdered and we were unable to have his funeral for nearly 4 months due to this rule about the defence being allowed to conduct another post mortem.

Please select the category which best describes your organisation

No Response

Please choose one of the following:

I am content for this response to be published and attributed to me or my organisation

Please provide your name or the name of your organisation. (Note: the name will not be published if you have asked for the response to be anonymous or "not for publication". Otherwise this is the name that will be published with your response).

Lynsey Blaney

Please provide details of a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number. We will not publish these details.

Page 8: Aim and Approach

Q1. The proposed Bill would set a time-limit for the instruction of a second post-mortem examination (PME), by the defence, in relation to a suspicious death. Which of the following best expresses your view of the proposal?

Fully supportive

Please explain the reasons for your response.

It is a hard enough time when a family member is murdered without the added upset of waiting months for a funeral. We were unable to bring my brother home to spend one last night in his own home due to the amount of time it took for his body to be released. We had to identify him from behind a glass screen which was also a horrific situation and it meant that most of our family never got to see him one last time. Processes should be in place which mean that only one post mortem should have to take place. The families and the victims of these cases have been through enough without this added intrusion and upset.

Q2. Which of the following best expresses your view of when any time-limit should begin?

Unsure

Please explain the reasons for your response.

The wording of the options is quite confusing. I do not agree with the body of a person who has been murdered being held without time limit. This is undignified for the victim and the victims family. The post mortem should be conducted by the crown and verified by an independent body at the same time to ensure transparency. This should be adequate for the defence as in my opinion too many processes are

Q2. Which of the following best expresses your view of when any time-limit should begin?

set up which are taken advantage of by the defence. Victims and there families are treated like they have committed the crime.

Q3. How long a time-period do you think should be available to the defence in which to instruct a second PME?

Other (please specify)

Please explain the reasons for your response.

Families should not have to wait more than one month to bury there loved ones. I'd be interested to know how many times the defence call for their own post mortem and there justification for doing so. As professional surely the judgement of the people conducting the post mortem should be trusted.

Q4. The proposed Bill would allow the defence to apply to the courts for the time limit to be extended by up to the same amount as originally allowed, and on more than one occasion. Which of the following best expresses your view of this element of the proposal?

there should be no time-limit (and no need for any extension)

Page 12: Financial Implications

Q5. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

	Significant increase in cost	Some increase in cost	Broadly cost-neutral	Some reduction in cost	Significant reduction in cost	Unsure
(a) prosecuting authorities (COPFS)		X				
(b) the courts (SCTS)		X				
(c) victims' families			X			
(d) the accused/defence				X		

Please explain the reasons for your response.

If the process is transparent and completed at one time. The cost may be more for the prosecution and courts and less to the defence. The cost to the family financially will remain the same but emotionally you cannot put a price on the effect the current process has on a victims family.

Q6. Are there ways in which the Bill could achieve its aim more cost-effectively (e.g. by reducing costs or increasing savings)?

No Response

Page 14: Equalities

Q7. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, marriage and civil partnership, race, religion and belief, sex, sexual orientation?

Positive

Please explain the reasons for your response.

As stated previously. In my opinion, too many processes in relation to criminal proceedings are favoured towards the defence meaning that equality for victims of crime and their families takes a back seat.

Q8. In what ways could any negative impact of the Bill on equality be minimised or avoided?

No Response

Page 16: Sustainability

Q9. Do you consider that the proposed Bill can be delivered sustainably i.e. without having likely future disproportionate economic, social and/or environmental impacts?

Unsure

Q10. Do you have any other comments or suggestions on the proposal?

The process in England and Wales where if someone is not arrested within 28 days then a second pm is carried out allowing the release of the body should be standard in all cases, whether there is a defence team or not. This sets a standard that should only be altered in exceptional circumstances and supports the family who have already suffered enough.

My preference would be that only one post mortem takes place but I do believe that unless there are exceptional circumstances a family should not have to wait longer than 1 month to lay their family member to rest.