

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

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).

David Logan

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?

Partially supportive

Please explain the reasons for your response.

I agree with the submission by the Faculty of Advocates that the underlying issue of lack of forensic pathologists should be addressed and that having a panel of FPs may help to alleviate the problem which the Bill rightly seeks to address.

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

On the day after the results of the Crown PME are provided to defence counsel, or when defence counsel is appointed for an accused person, whichever is the later

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

21 days (3 weeks)

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 scope for repeated extensions (each no longer than the original period)

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			

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

The Faculty of Advocates proposal of having a panel of forensic pathologists and the court instructing a post mortem where there is no accused may help to reduce time body kept in storage and so, indirectly, reduce overall costs to the public.

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?

Neutral (neither positive nor negative)

Please explain the reasons for your response.

The Bill's purpose is not to improve or disadvantage any protected characteristic either directly or indirectly and so it should have no further impact on equality.

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

Mr. Paterson seems to have taken account of potential challenges to the Bill's perceived encroachment upon the rights of an accused by discussing matters already with interested bodies. In so far as he is able to do so ensuring that these bodies remain supportive of the Bill's aims may help to reduce any negative perception of the Bill.

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?

Yes

Please explain the reasons for your response.

There would be minimal overall cost implications if the Bill was implemented. Such additional costs (e.g. legal aid fees) would be off-set by the increased social benefit to relatives of deceased in knowing when the body of the deceased can be returned for funeral purposes.

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

No.