

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:

I am the mother of a child Paige dogherty who was brutally murdered in March 2016. we had to wait for a defence post mortem and were basically told by defence team that we would wait as long as they decided which could have been up to 110 days. our daughters body had so many bad open wounds that couldn't be sewn or glued together meaning she decomposed far quicker due to not being able to be embalmed or preserved until after a defence post mortem took place. we had to wait a month (would probably have been longer had I not threatened legal action and press coverage) and due to this month wait, paiges body was so bad that we couldn't then have open coffin and allow family members like her brother give her a kiss goodbye which has affected him everyday since. we also had to limit anytime we viewed her because everytime we brought her out to view it made her deteriorate quicker so in that month we seen her twice to

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".)

say our goodbyes with the hope that once defence done post mortem we would get her home with open coffin and it didn't happen. I would also like to add the first post mortem by crown took 12 hours very detailed and the defence took an hour or so. it wasn't required as the results were the same. my daughters dignity was definetley not upheld in this matter.

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).

Pamela Munro

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 will help maintain the dignity of a victim and help families have time to spend with a loved one.

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

On the day after the Crown PME is completed, or when defence counsel is appointed for an accused person, whichever is the later

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

Please explain the reasons for your response.

I believe as soon as defence is appointed a post mortem should take place, or a date be put in place within a time so that families have time to plan what comes next. Its a hard time and the waiting is horrendous, the victims rights should come in place and be allowed home to families as soon as possible as they have done no wrong.

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

14 days (2 weeks)

Please explain the reasons for your response.

up to 14 days because it is understandable that there are other factors in the process and Scotland is limited on their pathologists so to accommodate work hours and other circumstances related I believe 14 days is sufficient. also after seeing a body with some of the worst open injuries they have seen in a while, viewing it after 2 weeks, there was still hope paige could've came home at that point so therefore I think that time scale is vvery reasonable on both sides of the ladder.

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 scope for extension of the time limit

Please explain the reasons for your response.

extension should be required , crown manages to do their part in an ample time and defence should be no different, they should work within a timescale that is fit to the victims dignity, a victim should always be priority and given the facts and evidence along with crown results a defence should be able to conduct a post mortem in quite a quick time

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		

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

(d) the accused/defence				X		
-------------------------	--	--	--	---	--	--

Please explain the reasons for your response.

I think the cost would be reduced for authorities and courts as a case would be dealt with quicker and they can move onto another, there would be no toing and froing with different court dates being set and cancelled etc. for families the quicker a family member can be laid to rest the quicker they can get back to work, when u lose someone there is always time off work which costs the families money. the accused would have less lawyers fees the quicker the case is dealt with.

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

costs overall would be reduced due to a quicker process any prolonged process naturally costs money and time. working to a time limit reduces this.

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.

equality doesn't play a part here, everyone is treated the same it has no affect whatsoever on age race gender etc.

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

there wouldn't be a negative imoact as its not a factor in 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.

any change can only be for the better. families and professionals alike are impacted by these cases. paiges in particular imoacted everyone invloved, the longer it went on the harder it was as u have to go

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?

over everything. the public also was affected waiting on answers and things to be updated and this could have been delivered to everyone sooner had the process been limited to a timescale. x

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

I fully believe that a second post mortem is only required in certain cases, in a case where the evidence is so clear it should be avoided. there should be other ways such as a recorded post mortem with impartial pathologists in, that way they have the recording to refer back to and the process is done a lot quicker victims dignity maintained and families get to say goodbye to a loved one, however after lots of research we understand this will never be possible so we came up with a compromise of setting a time limit and cant see any reason why this shouldn't be in place x