

## **2025 Fatal Accident Inquiry Review**

### **Call for evidence on the Fatal Accident Inquiry system**

#### **A response by the Association of Personal Injury Lawyers**

**September 2025**



### **Introduction**

APIL welcomes the opportunity to respond to the 2025 Fatal Accident Inquiry Review stakeholder call for evidence.

The Fatal Accident Inquiry (FAI) system plays a vital role for the families involved as it provides them with an opportunity to understand what happened in the circumstances leading to a death. For many families, the FAI is one of the key steps of any procedure and can be more significant than civil damages due to the opportunity to obtain answers and the broader scope of the investigation.

APIL believes that FAIs benefit not only the families involved by uncovering the truth about an incident, but also wider society, by identifying failures and driving improvements in safety standards. However, our members have reported that while the aim of the FAI system is important, there are concerns about the efficiency of the process, namely, the amount of time it takes to reach conclusions.

Currently, there is also a lack of a follow-up approach to ensure the recommendations arising from the inquiries are implemented effectively. APIL recommends the introduction of a mechanism for review of the implementation of the recommendations to improve accountability and ensure that the recommendations lead to actual improvements.

### **Call for evidence questions**

#### **Question 1: Please summarise your experience of, or interest in, the Fatal Accident Inquiry system.**

In preparing this response, APIL consulted some of our members in Scotland who have direct professional experience of the system.

As an organisation, APIL campaigns to prevent needless injury or deaths and to promote safety standards and alert the public to hazards. We are responding to this call for evidence as we believe that families should receive the support they need when the worst happens and have access to legal advice. We also believe that lessons should be learnt from the conclusion of inquiries and that the recommendations should be implemented swiftly to avoid further needless deaths.

#### **Question 2: In your view, what is a Fatal Accident Inquiry for and do they achieve that?**

The primary purpose of FAIs is to investigate and establish the cause of a death and make recommendations to prevent similar incidents in the future. As mentioned above, we believe the system benefits not only the families involved to get the truth about an incident, but also wider society by identifying failures and driving improvements in safety standards. However,

we have concerns about how the system is working at the moment, including delays and efficiency issues, resource and funding issues, and the power imbalance between families and insurers. We explain our concerns further and suggest improvements in response to question 3.

We believe that the effectiveness of FAIs depends on the quality of evidence and representation for families. It is key that families have access to appropriate funding in the system to ensure they can access legal advice and representation to navigate the FAI process effectively. Early legal advice can help families understand their rights and the procedures involved, leading to better outcomes and more thorough investigations. Without adequate representation, the process might not achieve its intended purpose, as families may not have the resources to fully investigate and assess the circumstances of the death. This should be seen in the context of the other parties to the inquiry being public institutions or being represented by well-funded insurance companies. We believe that more funding should be available to families to ensure they can access independent legal advice. Automatic legal aid funding has now been made available to families of those who have died in custody, and consideration should be given to extending that to other families, in particular those where a mandatory inquiry is taking place.

**Question 3: In your view, what does not work well in the system and what would make it better?**

Our members have provided some suggestions for improving the FAI process.

Currently, delays often arise in the system as a result of insufficient resources and funding. We suggest that the Crown Office & Procurator Fiscal Service (COPFS) should allocate sufficient resources to establish a dedicated team of Fiscals focusing on FAIs. Related to the previous suggestion, the units responsible for different types of fatalities within the Crown Office need to be suitably resourced to be effective and bring improvements to the system.

Our members also reported a lack of a follow-up approach to ensure the recommendations arising from the inquiries are implemented effectively. We acknowledge the recording of the response to FAI recommendations on the Scottish Court website and note that there would appear to be varying levels of engagement. We suggest the creation of an enforcement body to oversee the implementation of FAI recommendations and verify that the necessary changes to practices, procedures and safety standards are made and that the recommendations are not ignored. Alternatively, the Sheriff Principals could establish a review mechanism to check the implementation of recommendations after a set period, such as one or two years. This would provide accountability and ensure that the recommendations lead to actual improvements.

Another issue identified by our members in the system is continuity, including long gaps between hearings. This is distressing and challenging for families who want to obtain answers about their loved one's death as quickly as possible. Prolonged inquiries are often emotionally and financially draining. We suggest that better scheduling and resource allocation could help reduce these gaps. For example, smaller improvements such as providing transcripts of hearings could help maintain continuity and assist all parties involved. We believe this would be beneficial to families, but also to ensure that everyone involved in the inquiry can make informed decisions at all stages of the process.

Our members have also highlighted difficulties in obtaining necessary documentation and evidence from the COPFS and other authorities, which can lead to significant delays in the

FAI process. We note that COPFS has recently introduced a disclosure portal. This is welcomed as we believe a standardised process for disclosure has the potential to improve the current position on delays. It would also ensure that families have timely access to the information they need and that they remain on an equal footing with other parties involved in the inquiry. As mentioned above, efforts should be made to provide equality of arms for families and their opponents during FAIs.

**Question 4: In your view what works well in the system, and should be kept if changes are made?**

The level of engagement and support provided by COPFS to bereaved families has undoubtedly improved over the years. Our members highlighted that Victim Liaison Officers should be kept in the system if changes are made. We believe their role is key to the families involved, as they provide a single point of contact and clear and consistent communication throughout the inquiry process. Regular meetings with the Procurator Fiscal Depute in charge of the inquiry are also to be encouraged as they assist with the families' understanding of the process and issues involved.

Any questions about this response should be directed to

Ana Ramos

Legal Policy Officer

[Ana.ramos@apil.org.uk](mailto:Ana.ramos@apil.org.uk)