

# Guidance for families attending a **Fatal Accident Inquiry**



If you have lost a loved one in unexpected circumstances, a Fatal Accident Inquiry (FAI) may be required to investigate and determine the cause of death. At Irwin Mitchell, we are here to guide you through this challenging process and ensure you receive answers and support.

## **What is a Fatal Accident Inquiry?**

A Fatal Accident Inquiry (FAI) is a public hearing conducted to investigate the circumstances surrounding a sudden, unexplained, or suspicious death. The primary aims of an FAI are to establish the cause of death and to make recommendations to prevent similar incidents in the future.

## **When is a Fatal Accident Inquiry Required?**

An FAI is mandatory in certain situations, such as deaths in custody or those resulting from workplace accidents. In other cases, the Crown Office and Procurator Fiscal Service (COPFS) may decide to hold a discretionary inquiry if it is deemed in the public interest. The Procurator Fiscal investigates the death and determines whether an FAI should proceed.

In other situations, an FAI may be conducted if it is deemed to be in the public interest.

## **When and where will the inquiry be held?**

The timing and location of an FAI depend on several factors, including the complexity of the case and the availability of the court. Once the Procurator Fiscal determines that an FAI should proceed, they will notify all interested parties of the date and venue. FAIs are typically held in the Sheriff Court that has jurisdiction over the area where the death occurred.

## **Will I be able to see the evidence before the inquiry?**

The Sheriff will decide which evidence will form part of the inquiry, and you can request a copy of the relevant material.

We may be able to assist you with this process to ensure appropriate investigations and reports are instructed, and to make sure you get access to all of the relevant evidence before the inquiry. It may be possible for you to present your own evidence or reports to the inquiry, should you wish.

## **What is a Preliminary Hearing?**

Prior to the commencement of the FAI, a Preliminary Hearing is usually organised. This hearing helps to settle logistical details, such as the duration of the inquiry, the participants, and the specific issues to be addressed. The aim is to ensure that the proceedings run smoothly and efficiently, providing a structured environment in which all relevant information can be thoroughly examined.

## **What happens during an FAI?**

During an FAI, a Sheriff oversees the proceedings. The process involves gathering evidence, which may include witness testimonies and written statements. Parties with a vested interest, such as employers or health organisations, may also participate and present evidence through legal representation.

## **What is the duration of a Fatal Accident Inquiry?**

The length of time an FAI may take can vary greatly depending on the complexity of the case and the number of witnesses to be heard. Some inquiries may be completed within a few days, while others may take several weeks or even months.

It is important for families and other interested parties to be prepared for this variability and to stay in close communication with the Crown or their legal representatives (if instructed) for updates on the progress of the inquiry.

#### **Who can participate in an FAI?**

Several individuals and entities may be involved in an FAI, including:

- The deceased's spouse, civil partner, or cohabiting partner
- The nearest relative if there is no spouse or partner
- The deceased person's employer, if the death occurred at work
- A health and safety inspector
- A trade union representative
- Other relevant parties as determined by the Sheriff

#### **What Should I do if I am called as a witness?**

If you are called to give evidence at a Fatal Accident Inquiry, it is crucial to prepare thoroughly. Witnesses play a vital role in providing the court with accurate and comprehensive information about the circumstances surrounding the death.

Here are some steps to consider:

**Consult with your solicitor:** Before the inquiry, discuss your evidence with your legal representative. They can explain the process and help you understand the type of questions that you may be asked.

**Review relevant documents:** Make sure you review any documents or records that relate to the incident. This will help refresh your memory and ensure that your evidence is accurate.

#### **What are the possible outcomes?**

A FAI can lead to several possible outcomes, depending on the evidence presented and the findings of the Sheriff. The primary aim of an FAI is not to attribute blame but to determine the cause of death and to identify any safety measures that could prevent future fatalities. Here are the potential outcomes:

##### **Determination of Facts:**

The Sheriff will decide on the facts surrounding the death. This includes the time, place, cause of death, and any other relevant circumstances.

##### **Recommendations for the Future:**

Based on the findings, the Sheriff may issue recommendations aimed at improving safety and preventing similar incidents in the future.

These recommendations are directed towards organisations, employers, and any other relevant bodies who are able to implement changes.

##### **No Further Action:**

In some cases, the FAI may conclude that no further action is necessary. This may occur if the death is found to be due to natural causes or if all necessary safety measures are already in place.

##### **Referral to Other Authorities:**

If the inquiry uncovers evidence of criminal conduct or significant regulatory breaches, the Sheriff may refer the matter to the appropriate authorities for further investigation and potential prosecution.

##### **Impact on Civil Claims:**

The evidence presented during the FAI can also provide valuable information for those considering civil claims for bereavement damages or loss of financial support.. The determination and recommendations may support such claims by establishing the circumstances of the death and identifying areas of potential negligence or failure.

#### **Legal Support and Advice**

We would recommend that you seek legal advice prior to the commencement of an FAI. This allows your solicitor to obtain and consider any relevant medical records and other necessary documents before the court proceedings. If you instruct your own legal representation, your solicitor can also question witnesses during the inquiry, and since FAIs are public and often attract media attention, they will ensure that your interests are adequately protected. The Crown represent the public interest which, at times, may differ to the issues important to family members.

Additionally, evidence that emerges during the FAI may assist you in pursuing a civil claim for bereavement damages following the death of a loved one. Our team is here to help you understand all your options throughout and after the FAI process.

Further information is available online here:

**Guide to Fatal Accident Inquiries | COPFS**  
**Fatal Accident Inquiries: follow up review - gov.scot**  
**Fatal Accident Inquiry | Support Around Death**