

Our ref: JD/CMcC

19 October 2015

Ms. Christine Grahame MSP  
Convener, Justice Committee  
Scottish Parliament  
The Scottish Parliament  
Edinburgh  
EH99 1SP

**Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Bill: Centre for Excellence for Looked After Children in Scotland (CEL CIS) response to Stage 1 debate**

Dear Convener,

The Centre for Excellence for Looked After Children in Scotland (CEL CIS) has been following Parliament's scrutiny of the 'Fatal Accident and Sudden Deaths, etc. (Scotland) Bill' with interest. We commend the considered and constructive debate which has taken place so far.

In anticipation of the Bill's second stage, we would like to take the opportunity to re-state our concerns about including the deaths of looked after children (in residential care) on the list subject to mandatory Fatal Accident Inquiries (FAI). We appreciate that you have heard a variety of views of this question, and by writing today we hope to explain our position further, and assist in your ongoing deliberations.

As we stated in our original submission to the Justice Committee, it is essential that any accidental or sudden death of a looked after child is investigated fully and openly. However, there is already a framework in place for such inquiry. Beyond any relevant police investigation, all deaths of looked after children are investigated by the Care Inspectorate. The Care Inspectorate seeks specialist medical advice about each case and, in partnership with Education Scotland colleagues, reviews whether action taken or not taken by the local authority may have contributed to the child's death. From this they identify lessons which need to be drawn to the attention of statutory agencies, as well as highlighting areas of policy or legislation in need of review. In addition to the Care Inspectorate's investigation, some cases are subject to Significant Case Reviews, where the aim is, again, to identify lessons so that similar cases can be avoided in future.

In this context, we do not believe it is necessary to extend the provision for mandatory Fatal Accident Inquiries to all accidental or sudden deaths of looked after children in residential care. Under the Bill's current provisions, the Lord Advocate would continue to have discretion to convene a Fatal Accident Inquiry into the death of a looked after child. We recommend that documents accompanying the Bill (including any guidance developed following enactment) clarify that the sudden or accidental death of any looked after child should be considered, by the Lord Advocate, as a case for a discretionary inquiry. Moreover, in view of local authorities' legal responsibilities towards these children and young people, we would suggest that it should always be considered in the public interest for a FAI to be convened into the suicide of a looked after child or care leaver. This too should be clearly stated in guidance.

**CEL CIS**

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Finally, in our original submission to the Committee we expressed concern about the additional burden mandatory FAIs would place on the judicial system, without certainty that this extra burden would result in clear improvements for looked after children. We base this opinion on the evidence of numerous investigations and reviews, the lessons from which have not always been disseminated and implemented widely. This is why we suggest that the recommendations from FAI and other formal investigations (such as Significant Case Reviews) are monitored and analysed systematically by national agencies, and relevant learning shared across the sector.

We hope that this additional information is helpful. If we can be of any further assistance to the Committee, please do let us know.

Yours sincerely,



**Jennifer Davidson**  
Director