

Procurator Fiscal

The following sections will inform other professionals interacting with Procurators Fiscal through their involvement following a SUDI. The information may also help Procurators Fiscal respond appropriately when a SUDI occurs.

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Any death which may be categorised as a SUDI **must** be further investigated. The investigation is **always** subject to thorough examination by Crown Office and Procurator Fiscal Service (COPFS) staff and treated sensitively to take account of the feelings and experiences of the family involved, as set out in the Statement on the Treatment of Victims and Witnesses.

Interactive timeline and flow chart

The interactive timeline demonstrates the role and responsibility of a Procurator Fiscal in relation to other professionals involved, and in the subsequent SUDI Review meeting. The scenario illustrated in the flow chart highlights some of the key points but does not aim to show everything that may arise in what is a unique circumstance for each case of SUDI.

[View example scenario \(flow chart\) »](#)

Structure of the Crown Office and Procurator Fiscal Service

1. The COPFS is organised into 3 federations with a central office.
2. Outside of Strathclyde (which has four offices) these areas typically correspond with constabulary areas for the police forces in Scotland.
3. Each area is headed by an Area Procurator Fiscal who has responsibility for the work of his or her area and is accountable to the Lord Advocate.
4. Each area either has a dedicated Deaths Unit or an Area Deaths Specialist
5. Investigation of deaths follow the same pattern throughout the country.

What happens if a death occurs outside Scotland

The role of the coroner

Many professionals dealing with a SUDI for the first time may not have been involved with the COPFS. There are differences between the Procurator Fiscal (Scotland only) and the coroner (remainder of the UK).

1. The coroner is a doctor or lawyer responsible for investigating deaths in particular situations (such as SUDI) and can also arrange for a post-mortem examination of the body, if necessary.
2. An inquest may be held which is a legal inquiry into the causes and circumstances of a death.
3. Such an inquest is open to the public but in some cases the coroner will consider the views of the family and if there is no public interest in the case, the inquiry could be conducted in private with the family.

4. Where a child in Scotland is taken to a hospital in England and life is pronounced extinct there, the matter is governed by English law and the host English police force leads the inquiry.

Reporting infant deaths to the Procurator Fiscal

The following categories of deaths of children require to be reported to the Procurator Fiscal:

- Any death of a newborn child whose body is found
- Any death which may be characterised as sudden unexplained death in infancy (SUDI) or the like
- Any death of a child from suffocation including overlaying
- Any death of a child in foster care
- Any death of a child in the care of a Local Authority
- Any death of a child on a Local Authority "at risk" register.

When a SUDI is reported, the Procurator Fiscal instructs a police report outlining the facts and circumstances surrounding the death. It is not considered necessary that parents be seen in all cases as such interviews can create extra strain on some parents. Parents will be seen where they have expressed specific concerns about the circumstances of the death, or where reports indicate that they may hold such concerns.

Victim Information and Advice (VIA) service

All deaths of children where further investigation is required must be referred to the Victim Information and Advice (VIA) service, established by the COPFS in 2004 to assist bereaved families and relatives. The service includes the provision of updates on the progress of the case and advice about other agencies which could provide relevant support.

Post-mortem examination

1. On receipt of the police Sudden Death report, the Procurator Fiscal decides if a post-mortem examination is necessary.
2. When it is believed that a SUDI has occurred, a post-mortem examination must be conducted unless there are clear and compelling reasons for not doing so.
3. Where a post-mortem examination is to be carried out, the child's parents or carers will be advised.
4. In the case of a Sudden Unexpected Postnatal Collapse (SUPC) where the infant subsequently dies from sequelae of the collapse, but the initial cause of collapse is unknown, the death should be investigated.
5. Local procedures with the police and pathologists should seek to avoid the parents having to formally identify their child prior to the post-mortem examination.
6. If the parents wish to undertake the identification, Procurators Fiscal will seek to encourage those responsible to arrange that this be done in as sympathetic surroundings as possible.
7. Post-mortem examinations should be conducted by a paediatric pathologist although the Procurator Fiscal is responsible for deciding the form of the examination subject to advice from investigating police officers, medical experts and other expert advisers.
8. In Scotland at present there is not a paediatric pathologist in each health board. If a post-mortem examination is instructed the infant's body may then have to be transferred to a specialist mortuary perhaps some distance away. Parents should be informed of this.

Retention of Samples

Medical samples retained at post mortem examination may be of value to the continuing medical research into the cause of SUDI. Where Procurators Fiscal are advised of any organ or tissue retention by the pathologist, the Procurator Fiscal should discuss with them whether there is any desire to retain any sample for the purposes of research. Where there is such a wish on the part of the pathologist, the Procurator Fiscal should, in the course of discussions with the family in relation to the retention and disposal options, raise with the family the possibility of consenting to the retention of samples

for research purposes.

Retention of Personal items

It is important that any information which might help determine why an infant has died is gathered. Police may therefore remove some of the infant's belongings, such as clothing, bedding and prepared bottles. Procurators Fiscal should enquire what items have been taken. If clothing and bedding have been taken, it should be clarified whether forensic analysis is required and whether these items require to be retained. Once all tests have been concluded and there is no further need for items to be retained, they should be returned to the family as soon as possible, after liaison with the police involved in the case.

Inter-professional communication

A copy of the post-mortem examination report should be provided, on request, to paediatricians or other members of the medical profession involved in counselling parents following a SUDI. Where bereaved parents request a copy of the post mortem examination report, efforts should be made to arrange for their GP to receive the report and discuss its contents with the parents. However, if the parents do not wish to involve their GP, the Procurator Fiscal should provide them with a copy of the report.

Information provided by the Procurator Fiscal

To ensure that parents are given the best possible initial support and follow up, each COPFS death unit/office should contact the health board SUDI paediatrician for their area when a case is reported to them.

This nominated SUDI paediatrician:

1. Assumes overall responsibility for local implementation of guidance ensures that the SUDI is investigated in a thorough manner.
2. Ensures that those involved are aware of such guidance to avoid duplication of questioning of parents by health and police professionals.
3. Oversees the process where information is shared to provide the police with the necessary information to report to the Procurator Fiscal with a timely response.
4. Effectively acts as a link, and is a key point of contact for health professionals involved.

Steps and timelines around the investigation of SUDI

Each case has unique circumstances which require investigation so there is never an absolute timeline to follow. The following steps should occur:

1. The police will provide the Procurator Fiscal with a Sudden Death report the next lawful day (Monday if the death occurs over the weekend).
2. Original medical records will be requested by the police on behalf of the Procurator Fiscal, and given to the pathologist prior to the post-mortem examination.
3. A post-mortem examination will be requested and normally take place within 48 hours.
4. The paediatrician following up the case will offer to meet with the parents after 1-2 weeks to discuss the process to date and offer ensure appropriate support is available for the family
5. The final post-mortem examination report can take several months as further examinations of samples will need to be concluded.
6. The Procurator Fiscal will confirm with Healthcare Improvement Scotland that it is appropriate for the SUDI Review meeting to take place once the post-mortem examination report is available, assuming there is no suspicion of criminality. Healthcare Improvement Scotland will liaise with SUDI paediatrician for the NHS Board.

The SUDI Review

The SUDI Review is a multidisciplinary meeting at which the case is discussed. The meeting is held shortly after the final post mortem examination report is available, which may be several months after the infant has died. The purpose is to discuss all aspects of the death, including possible causes or contributing factors, to see what lessons can be learned and to plan support for the family, in particular during and after any future pregnancies.

To enable Healthcare Improvement Scotland to co-ordinate the SUDI review, Procurators Fiscal are required to complete the card return notification and send to Healthcare Improvement Scotland in the return envelopes provided as soon as it has been confirmed that it is appropriate to hold such a meeting.

Participants may include:

- paediatrician
- pathologist
- general practitioner
- community health visitor
- community midwife
- social worker.

The meeting will be held at a suitably convenient time and place for all involved. The SUDI Review meeting will **not** take place if there is any suspicion of criminality or if a Significant Case Review has to take place through Child Protection.