



Law Society
of Scotland

Scottish Government Justice Committee

Petition PE 1633: Private Criminal Prosecution in Scotland

23 February 2018



Introduction

The Law Society of Scotland is the professional body for over 11,000 Scottish solicitors. With our overarching objective of leading legal excellence, we strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. We set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's solicitor profession.

We have a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective solicitor profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through our active engagement with the Scottish and United Kingdom Governments, Parliaments, wider stakeholders and our membership.

The Society's Criminal Law Committee welcomes the opportunity to consider and provide comments in relation to the Petition PE 1633: Private Criminal Prosecution in Scotland (Petition) which questions whether there should be any changes in the law by removing the requirement that the Lord Advocate must first give permission before a private criminal prosecution can be commenced in Scotland.

General Background

The background to the Petition has been fully explored by the Crown Office and Procurator Fiscal Service (COPFS) who is Scotland's prosecution service. They receive reports about crimes from Police Scotland and other reporting agencies such as the Health and Safety Executive (HSE). We do however understand that the practical enforcement of the Health and Safety at Work etc Act 1974 (1974 Act) and related legislation is however shared between HSE and local authorities.¹ The HSE are the specific organisation referred to in the four questions that have been posed.

COPFS, having received a report from HSE or any organisation, are solely responsible for deciding what action, if any, to take, including the forum as to where any prosecution should be initiated. Relevant too to the issue of any HSE prosecutions in Scotland is COPFS's role in relation to deaths which includes investigation into any sudden, unexpected and unexplained deaths in Scotland.

¹ For an allocation of specific activities or premises refer to HSE's website at www.hse.gov.uk/lau/lacs/23-15.htm.

Deaths that may give rise potentially to the consideration of any such criminal proceedings arising under the 1974 Act will already have been initially the subject of a report to COPFS and thereafter, an investigation by COPFS. Consideration will be given as to whether there should be any criminal prosecution and/or a Fatal Accident Inquiry (FAI) held under the Inquiries into Fatal Accident and Sudden Deaths (Scotland) Act 2016 (2016 Act). It is also competent to hold a public inquiry, arising more usually in the case of multiple deaths such as Piper Alpha.²

Many deaths that give rise to HSE implications will fall into the category of deaths arising as a result of an accident in the course of their employment which will require a mandatory FAI to be held by COPFS. The purpose of an FAI is not to establish guilt or fault as with civil or criminal proceedings as a FAI is an inquiry conducted in the public interest. FAIs are significant inquiries into the circumstances of a death in respect of which a usually a sheriff in issuing his determination can make recommendations as to various matters such as:

- (e) any precautions which (i) could reasonably have been taken and (ii) had they been taken, might realistically have resulted in the death, or any accident resulting in the death, being avoided
- (f) any defects in any system of working which contributed to the death or any accident resulting in the death
- (g) any other facts which are relevant to the circumstances of the death.³

As a result, making recommendations to possible changes in working practices may well be considered. The Determination into the death of John Grant Cousin⁴ is a recent example of a mandatory (course of employment) inquiry into his death which arose in relation to a workman on the Queensferry Crossing. (Normally, a criminal prosecution will precede any FAI but this is not a requirement as discussed in our Conclusion section,)

Another relevant objective to consider in relation to COPFS is that all such deaths are investigated appropriately and without due delay. That ties in with observations made about timescale for decisions to be made as to possible criminal prosecutions and FAIs and implications for the relatives.

Turning to the specific questions, we would comment as follows:

1. Is your view that health and safety breaches are currently investigated and prosecuted with sufficient robustness? If not, why? For example is there a question

² <http://discovery.nationalarchives.gov.uk/details/r/C7084>

³ Section 26 of the 2016 Act

⁴ <http://www.scotcourts.gov.uk/docs/default-source/cos-general-docs/pdf-docs-for-opinions/2018fai01345d46a7898069d2b500ff0000d74aa7.pdf?sfvrsn=0>

about the role of the HSE and/or Crown Office approach to such cases? How would any such problems be resolved?

The HSE is the national independent watchdog for work-related health, safety and illness. It acts in the public interest to reduce work-related death and serious injury across the Great Britain's workplaces where HSE operates and applies the same policies and standards throughout. The important difference for HSE and other health and safety regulators in Scotland is that in England and Wales, HSE makes the decision to prosecute and conducts cases themselves whereas, in Scotland, prosecution decisions and the conduct of cases is entirely a matter for COPFS.

As far as criminal prosecutions are concerned, HSE will report, as highlighted above, as the reporting agency to COPFS in relation to any alleged criminal breach of the relevant legislation that falls under its remit. That will mostly include contraventions of the 1974 Act. HSE does provide very clear guidance as to how it investigates such cases.⁵

Once reported, decisions as to whether to prosecute are entirely for COPFS who require to be satisfied as to the sufficiency of admissible evidence in relation to any alleged offence and the identification of the accused⁶. The jurisdiction to take proceedings for the alleged offence must also be within Scotland. Once a prosecution is instructed, for any conviction to be obtained, the court will require to be satisfied as to the criminal standard of proof beyond reasonable doubt. The unique features of Scots criminal law such as corroboration do require to be considered when considering evidential satisfaction in relation to any offence of the Scottish evidential and procedural requirements.

There is always be the possibility too that a case may be prosecuted at common law for culpable homicide against an individual. For prosecutions to be taken against an organisation⁷ that is now possible following the the Corporate Manslaughter and Corporate Homicide Act 2007.⁸ (The case of Transco preceded this legislation. In 2003, the High Court in Edinburgh rejected a charge of 'culpable homicide' against the gas pipeline firm, Transco after the death of a family of four in Larkhall in 1999. Convictions were subsequently obtained under sections 3 and 33 of the 1974 Act. The company was fined a record £15m).

In October 2008, a specialist Health and Safety Division (HSD) of procurators fiscal and support staff were formed dedicated to progressing health and safety cases.⁹ There will be the opportunity to discuss and

⁵ <http://www.hse.gov.uk/enforce/enforcementguidesc/index.htm>

⁶ And a public interest in prosecution

⁷ Since 26 July 2007

⁸ Section 1(5)

⁹ the Health and Safety Division (HSD) was created to better reflect the priorities of COPFS and work closely with law enforcement to bring a more strategic and cohesive approach to the prosecution of Health and Safety cases.

consider such complex cases as required prior to and at the time of reporting. There now exists in relation to HSE cases, the Work Related Death Protocol for Scotland (Protocol) ¹⁰ which has been signed by COPFS, ACPOS (the Association of Chief Police Officers in Scotland), British Transport Police and HSE.

This ensures that, when a work related death occurs, a thorough, co-ordinated and multi-agency investigation takes place allowing all possible offences to be considered.¹¹ Under paragraph 44 of the Protocol, the National Liaison Committee (with representatives from such organisations) will meet at least once a year to review the operation of the Protocol and consider the need for changes to the arrangements. We understand that there has been regular liaison with HSE in relation to ongoing investigations and cases. The Head of HSD meets the Director of Operations, HSE every six weeks to discuss ongoing cases and any issues arising. This seems to be a useful route in which to consider how the joint approach between HSE and COPFS is working.

It may be useful to bear in mind a perspective on the number of cases that are reported by HSE to COPFS. In the financial year 2015/16, the number of charges (not cases) reported were 152 with court action taken in respect of 43 charges. There were 30 charge convictions.¹²

There seem to us to be clear systems in place for the reporting of HSE cases and any subsequent prosecutions which have been improved by the introduction of the Protocol and a specialist COPFS team of prosecutors.

The thrust of the questions appear to relate to circumstances where HSE declines to investigate a non-fatal accident or submit a report of an investigation to COPFS, as COPFS can at present do nothing to compel HSE to do so. But in the case of that scenario arising, Police Scotland, as with any criminal investigation can be instructed to investigate and report to COPFS. Thereafter, as highlighted above, a criminal prosecution could be instructed if prosecutions were in the public interest and sufficient admissible evidence.

That seems to us to relate more to the accountability of HSE as an investigatory body which lies beyond the remit of the Committee and the Society in representing the interests of our members.

2. Would greater access to private prosecutions help resolve any concerns about the current prosecution of health and safety law?

HSD oversees all health and safety related death investigations and leads the investigation and prosecution of health and safety cases (including Corporate Homicide) across Scotland. HSD is also involved in the preparation and conduct of Fatal Accident Inquiries arising from an accident in the course of employment or at a workplace which are deemed to require specialist input.

¹⁰ <http://www.hse.gov.uk/scotland/workreldeaths.pdf>

¹¹ <http://www.hse.gov.uk/scotland/copfs.htm>

¹² <http://www.copfs.gov.uk/foi/responses-we-have-made-to-foi-requests/46-responses2017/1524-health-and-safety-cases-r015426>

The Lord Advocate prosecutes crime in the public interest, assisted by the Solicitor General, Advocates Depute, and Procurators Fiscal, who are the local agents of, and appointed by the Lord Advocate.

Before 1975, in Scotland, HSE inspectors could initiate and conduct proceedings in the Sheriff Court but that authority was lost when the 1974 Act came into force. Since then, prosecution of health and safety offences has been through HSE or local authority inspectors reporting offences to the Procurator Fiscal, or occasionally, by the Procurators Fiscal instructing a prosecution on the basis of evidence provided from other sources, such as the police.¹³

We suspect that the concerns identified in the Petition are unlikely to arise in relation to cases that arise where death has resulted since these will be caught under the ambit of a mandatory FAI. Even where the death did not fall into such the category of course of employment, the Lord Advocate has the power to instruct a discretionary FAI where:

'the Lord Advocate considers that the death occurred in circumstances giving rise to serious public concern and decides that it is in the public interest for an inquiry to be held into the circumstances of the death'.¹⁴

Under the 2016 Act,¹⁵ the Lord Advocate is required to give reasons for a decision not to hold an inquiry. Such a decision is also subject to judicial review.

Private prosecutions: It is possible for an individual to seek authority to take a private prosecution in Scotland. The procedure is and has been very rarely invoked. Virtually all criminal proceedings in Scotland are conducted by means of public prosecution as discussed above.

For a private prosecution to proceed, the individual needs to show that the crime alleged is a wrong to them and they have applied to the Lord Advocate for his concurrence in the prosecution. In effect, the Lord Advocate would require to provide his consent to a Bill of Criminal Letters (the procedure by which the private prosecution is authorised).

The recent high profile application in respect of the families involved in the Glasgow bin lorry case¹⁶ was refused by the High Court in December 2016 which case confirmed that:

'[it] remains open to a private prosecution to apply to the court for permission to bring a private prosecution where the Lord Advocate has declined to prosecute or grant his concurrence to a private prosecution, the circumstances in which such permission may be granted have been repeatedly described as exceptional'.¹⁷

The question then arises as to what might be deemed to be 'exceptional.'

¹³ Police or Maritime Coastguard Agency (MCA cases make up (9% of reported cases (COPFS))

¹⁴ Section 4 of the 2016 Act

¹⁵ Section 9 of the 2016 Act

¹⁶ Bill for Criminal Letters by (1) John and Linda Stewart and (2) Alan and Aileen Convy v William Payne and (1) Matthew McQuade, and Jacqueline McQuade and (2) Yvonne Reilly v Henry Clarke [2016] HCJAC 122

¹⁷ Paragraph 85

The case of Carol X¹⁸ in 1982 was one in which a private prosecution was granted. This was a case of rape where COPFS had declined to prosecute due to the complainer's ill-health. Thereafter, the complainer recovered sufficiently to give evidence but the Lord Advocate was barred from prosecuting. This was clearly an exceptional and in our view unexpected set of circumstances.

In an earlier case in 1909¹⁹, an application for a private prosecution was successful.²⁰

While we accept that an application for private prosecution remains competent, the likelihood of success has to be addressed. The Glasgow bin lorry case does not in our view go so far as to rule out altogether the possibility of a private prosecution taking place in Scotland but it does serve as a stark reminder of the considerable barriers that must be overcome by those seeking authority to bring a private prosecution in Scotland. We would make the following observations though we accept that this would be determined on the facts and circumstances on a case by case basis.

Complainer's interest: As was noted by the Lord Advocate:

*'to bring a private prosecution an individual must show a wrong personal to themselves, from which they have suffered injury of a substantial nature beyond all others, giving them a special and peculiar interest in bringing proceedings'.*²¹

There are limited categories of persons who can demonstrate that necessary interest.

- **Nature of crime:** This could, in our view, only arise in what might be the most serious of health and safety cases (as far as Question 3 is concerned, this would mean the most serious and therefore, indictable (solemn) crimes such as rape or murder) where significant injury or death had occurred (we have already considered issues regarding cases involving death above).
- **Frequency of cases:** The infrequency of success in such applications has to be a factor. In effect, there has been one successful application in thirty years showing the high bar which requires to be satisfied.
- **Exceptional:** What does appear clear from the Glasgow bin lorry case is how the exceptional nature of any such case will be considered. The Lord Justice- Clerk Lady Dorrian said:

*'..... it is quite difficult to conceive of circumstances in which the court would pass a bill where the Lord Advocate had examined and investigated the circumstances of the case and concluded as a matter of informed professional judgment that the whole tenor and weight of the evidence did not justify prosecution, unless in making that decision the Lord Advocate had acted **oppressively, capriciously, or wantonly** (our emphasis). Accordingly, even if we had disagreed with the Crown's assessment, or*

¹⁸ X v Sweeney and not a Health and safety case

¹⁹ J & P Coats v Brown 1909 6 Adam 19

²¹ Paragraph [17]

*the weight attributed to individual pieces of evidence, we would be unable to conclude that the decision of the Lord Advocate not to prosecute was so **extravagantly wrong** (our emphasis) as to amount to special circumstances justifying the passing of the bills in either case.*²²

We have highlighted that this does show for a private prosecution to be justified, it would take the Crown potentially to have made a significant number of errors before any private prosecution could possibly be justified. It will not be granted to provide a review mechanism of the Crown's assessment of the evidence. There has been a view expressed that:

*'private prosecutions have their origin in the mists of legal history and, nowadays, such prosecutions sit so uncomfortably alongside a modern system of public prosecution that they simply cannot be justified.'*²³

We are not persuaded that the concerns outlined in the Petition would be resolved by making it easier for any person, such as the injured party, to seek to mount a private prosecution. The onus would fall on that person to investigate and compile a case. That would inevitably be expensive and there would be no certainty that legal aid would necessarily be granted in respect of any application for Bill for Criminal Letters.

We do note that legal aid was indeed granted to the families in the Glasgow bin lorry case. It is stressed that this would be a matter for the Scottish Legal Aid Board to consider. In granting legal aid then, the Justice Secretary Michael Matheson said:

'In light of the unique and special circumstances of this case, which raises fundamental questions that have not previously been tested in case law, Scottish ministers believe it is in the public interest that all parties are adequately represented....'

It is important too to note that in making the grant of legal aid that this did not acknowledge that there had been any error in law in the original decision made by the Crown not to prosecute.

In conclusion, the Glasgow bin lorry case does set a precedent for how such cases would be assessed in the future. So, in short, there is a mechanism but success is unlikely to be achieved. It does not appear to be an issue about access to justice as much as a question of law.

What appear to be implied in the Petition are concerns that health and safety cases are regularly going un-investigated or being investigated but not reported to COPFS²⁴. Were this route of private prosecution to be required to hold the HSE to account, there is an established complaints and appeals²⁵

²² [para 101]

²³ John Macaulay <http://www.journalonline.co.uk/Magazine/62-1/1022696.aspx>

²⁴ Health and safety cases are not regularly being investigated and/or reported to COPFS.

²⁵ <http://www.hse.gov.uk/contact/complain-about-hse.htm>

procedure to investigate any aspect of service. This includes the Office of the Parliamentary and Health Service Ombudsman²⁶ to further review the complaint.

3. Would wider access to private prosecution be desirable in itself, separate to questions of health and safety laws?

We refer to our answer to Question 2 which covers many of the same issues regarding private prosecutions.

The Victims and Witnesses (Scotland) Act 2014²⁷ requires the Lord Advocate to publish rules about the process for reviewing decisions not to prosecute. Such a right of review was introduced on 1 July 2015 and can be made by the person who is or appears to be a victim in relation to an offence or alleged offence.

These rules are now set out in COPFS's²⁸ '*Lord Advocate's Rules Review of a Decision Not to Prosecute Section 4 of the victims and Witnesses (Scotland) Act 2014.*' (Its introduction does specifically refer, *inter alia*, to cases reported from the HSE). Such a review requires to consider the original report, witness statements, productions including medical and expert reports and other documents. The question is:

'if on review the decision not to prosecute the case was reasonable having regard to all the circumstances and in line with the COPFS Prosecution Code²⁹ and prosecution policies'.

The decision of the review will be notified in writing and will advise what documents were considered in the review, whether prosecution policies were considered during the review,³⁰ any previous (and by implication authoritative or binding) court decisions and the decision made on review. As much detail will be given about the decision and reasons for decision as soon as possible.

Where following a review the conclusion is reached that proceedings should have been taken or the case should not have been discontinued, if it is still possible to do so, then proceedings will be commenced as quickly as possible.³¹

In the '*Standards of Service for Victims and Witnesses Annual Report on Performance 2016-17*³²³³

²⁶ <https://www.ombudsman.org.uk/>

²⁷ Section 4

²⁸ http://www.copfs.gov.uk/images/Documents/Victims_and_Witnesses/Lord%20Avocates%20Rules%20-%20June%2015%20v2.pdf

²⁹ <http://www.copfs.gov.uk/publications/prosecution-policy-and-guidance>

³⁰ Noting that some reasons remain confidential to COPFS

³¹ Page 6 of the COPFS Rules Review

³² <http://www.scotland.police.uk/assets/pdf/138327/284146/standards-of-service-2017-18?view=Standard>

³³ 1 July 2015 and 30 June 2016

COPFS received 139 applications from victims for a review of the decision not to prosecute or not to continue with a prosecution. In 100 applications, the original decision made was upheld or the review request withdrawn. In 15 applications (approximately one/seventh), the original decision was overturned and proceedings were raised. 24 reviews are ongoing.³⁴

In conclusion, there is a review mechanism available. Once a review has been carried out and the original decision upheld, it has to be even less likely that the High Court would grant authority to bring a private prosecution. They certainly would not consider any application without all prior processes have been fully completed. Private prosecution remains a possibility. It does not appear likely that this is an area in which legislation would be required or considered by the Scottish Parliament as has been stressed, mechanisms currently do exist were the circumstances in a future case to arise. Decisions would be made as to the success or otherwise by judges well able and placed to consider the complex evidential and legal issues that would require to be considered and the precedent status of the Glasgow bin lorry case.

It may be worth in passing of reflecting on the English and Welsh position, as we have highlighted above, health and safety is a reserved matter³⁵ to consider how the issue of private prosecutions³⁶ are dealt with there. These are defined as:

‘..a prosecution started by a private individual or entity which is not acting on behalf of the police or other prosecuting authority.’³⁷

HSE can prosecute cases themselves in the English and Welsh courts so that would not be a private prosecution. In circumstances where the Crown Prosecution Service did not take action or the HSE did not report a case to the Crown Prosecution Service, the right to bring private prosecutions³⁸ is preserved with certain limitations that:

- the Director of Public Prosecutions (DPP)³⁹ can take over private prosecutions
- in some cases, the private prosecutor must seek the consent of the Attorney General or of the DPP before the proceedings commence.

Private prosecutions do seem to be on the increase in England and Wales because:

‘police budget cuts and pressures on the justice system force hundreds of Britons to fund their own criminal actions. Prosecutions for a wide array of offences including sex attacks, violent assaults and multi-million

³⁴ Page 12 of the Standards of Service

³⁵ Schedule 5 of the Scotland Act 1998

³⁶ <https://www.cps.gov.uk/legal-guidance/private-prosecutions>

³⁷ This includes but is not limited to an entity which has a statutory power to prosecute

³⁸ Section 6 of the Prosecution of Offences Act 1985

³⁹ Section 6(2) of the Prosecution of Offences Act 1985

*pound frauds are currently being pursued by private law firms. The growing trend for private criminal prosecutions has raised concerns about the prospect of a “two-tier” justice system, with some cases reaching court only because the victims – often corporations – can afford to pay the substantial costs’.*⁴⁰

The practices as to criminal prosecution procedures are quite different in Scotland from England and Wales so we do not feel that this really presents a useful comparison. The same can be said with regard to access to justice or legal aid considerations. What seems to have been highlighted in this article is that private prosecutions have been taken in relation to fraud or IP crime and not related to what might be referred to as an aggrieved complainer with which the health and safety legislation is concerned.

4. Do you have any comments on the scope for action by the Scottish Government and Parliament taking into account the provisions of the Scotland Act 1998? For example, sections 29 and 48 by the Lord Advocate and schedule 5 (Part 11 H2) in relation to Health and Safety at Work Executive?

Section 48(5)⁴¹ protects the independence of the Lord Advocate as head of criminal prosecution and investigation of deaths in Scotland. Any decision made by him is taken by him independently of any other person. Health and safety are reserved matters in terms of Schedule 5. That sets out the purposes as:

‘securing the health, safety and welfare of persons at work, protecting persons other than persons at work against risks to health or safety arising out of or in connection with the activities of persons at work, and controlling the keeping and use of explosive or highly flammable or otherwise dangerous substances, and generally preventing the lawful acquisition, possession and use of such substances; and the Health and Safety Commission (HSC), the Health and Safety Executive (HSE) and the Employment Medical Advisory Service (EMAS)’.

Any changes to health and safety legislation would be a matter for the UK Parliament.

In practice, the Lord Advocate’s and HSE’s roles seem well defined and operate as outlined above.

We have nothing more directly to add in relation to this question.

Brexit: We did reflect whether the implications of the UK withdrawal from the EU had any implications. The UK’s current Health and Safety regime⁴² was demonstrated in 2011 to be improving safety so that it seems

40 <http://www.independent.co.uk/news/uk/crime/two-tier-justice-private-prosecution-revolution-9672543.html>

41 Scotland Act 1998

42

Reclaiming health and safety for all: An independent review of health and safety legislation Professor Ragnar E Löfstedt
November 2011 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/66790/lofstedt-report.pdf

unlikely that the UK Government would jeopardise those safety standards to confer any UK trading advantage post Brexit but Brexit would potentially offer the UK Government that independence.

The scope for changing health and safety regulation has been severely limited by its requirement to implement EU law and much of the health and safety regulation applying to businesses implements EU Directives.⁴³ Many of the requirements that originate from the EU will probably continue to exist anyway as many are contributing to improved health and safety outcomes.

Conclusion

We are of course aware of press articles concerning decisions made in relation to specific cases by COPFS such as the Clutha Helicopter⁴⁴ crash which circumstances will give rise to a FAI (still to be held) but not to any criminal proceedings. COPFS has indicated following the receipt of the submission of a detailed report by the Helicopter Team that there is insufficient evidence available to justify instructing criminal proceedings. In coming to their decision, there has been:

*[consideration] of the evidence available, the recommendations of the inquiry team and an assessment of what information may reasonably become available in the future.*⁴⁵

With regard to that decision to date, COPFS have reserved the right to raise criminal proceedings should further evidence become available to prosecutors.

The public interest demand the circumstances of a high profile case such as this to be fully examined to ascertain what lessons can be learnt to avoid these issues in the future. It should be observed of course that the Clutha Helicopter crash falls into the category of a mandatory FAI given that those who died within the helicopter were acting in the course of their employment.⁴⁶ Where there is criminality that should of course be prosecuted where prosecution is justified in the public interest and the requirements of Scots criminal law as to admissibility and sufficiency are satisfied.

Though not touched on, it is of course open in any HSE case for civil proceedings to be raised. Any civil proceedings are of course outwith the main responsibilities of COPFS which are:

⁴³ According to one study, 41 of the 65 new health and safety regulations introduced between 1997 and 2009 originated in the EU, and EU Directives accounted for 94 per cent of the cost of UK health and safety regulation introduced between 1998 and 2009
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/66790/lofstedt-report.pdf

⁴⁴ This is of course not a health and safety case but is included for illustrative purposes

⁴⁵ <https://www.eveningexpress.co.uk/news/scotland/no-criminal-proceedings-after-clutha-helicopter-crash-prosecutors/>

⁴⁶ Even were this not to fall into the category of a mandatory FAI, one could surmise that it would have been instructed as discretionary inquiry given the public interest factors of an otherwise unexplained helicopter falling from the sky on a crowded public house in Glasgow.

- investigate, prosecute and disrupt crime, including seizing the proceeds of crime
- establish the cause of sudden, unexplained or suspicious deaths
- investigate allegations of criminal conduct against police officers.⁴⁷

There, the evidential requirements and the burden of proof, are set at a lower level than in criminal prosecutions (Civil proceedings may be raised and sisted pending the outcome of any FAI). That does provide a redress and means of action for those affected persons or relatives.

We trust this is helpful for your purposes and are happy to provide any further information.

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⁴⁷ <http://www.copfs.gov.uk/about-us/about-us>