



Department of
Justice

An Roinn Dlí agus Cirt
Máinnystrie O tha Laa

Coronial Investigations Into Deaths Abroad

The Way Forward

September 2025

Introduction

1. In 2022, the Department of Justice consulted on whether coroners in Northern Ireland should have a statutory power which would allow them, in certain circumstances, to undertake a formal investigation, known as an inquest, into the death abroad of a Northern Ireland resident whose body has been repatriated.¹
2. In 2023, during the period when there was no functioning Executive and no Minister in office, the Department published a summary of responses to that consultation.² Only five responses were received, but all were in favour of expanding the jurisdiction of coroners here to include deaths which happen outside Northern Ireland. The summary-of-responses paper noted that it would be for an incoming Minister to consider any next steps in response to the consultation.
3. The Minister of Justice has now considered the responses to and the matters arising from this consultation, and this paper sets out a proposed way forward.

Background

4. The governing legislation concerning inquests and coroners is the Coroners Act (Northern Ireland) 1959. Under section 13 of that Act, a coroner may hold an inquest into a death where a body is ‘found’ in Northern Ireland, or where a death is unexpected, unexplained, or occurred in suspicious circumstances. The Court of Appeal has clarified that ‘found’ implies an element of discovery or a chance encounter, which is not the case where a body has been repatriated to Northern Ireland following a death in another country.³ As a result, coroners in Northern Ireland do not currently have jurisdiction to investigate such deaths.

¹ Department of Justice (2022), *A Consultation on coronial investigations into deaths abroad*. Available at [Consultation on coronial investigations into deaths abroad | Department of Justice](#).

² Department of Justice (2023), *A Consultation on coronial investigations into deaths abroad: Summary of consultation responses*. Available at [Consultation on coronial investigations into deaths abroad: Summary of responses | Department of Justice](#).

³ *Forde (Christine) v The Attorney General and the Coroner for Northern Ireland* [2009] NICA 66

5. There is legislation, which has not been commenced, that would provide coroners here with a statutory power to undertake an inquest into a death abroad. This is section 49(1) of the Coroners and Justice Act 2009, and it would amend section 13 of the 1959 Act to allow an inquest to be held on a body 'lying' rather than 'found' in Northern Ireland, thereby including a body repatriated from another jurisdiction.
6. However, bearing in mind concerns previously raised by a range of stakeholders as to the practical limitations of investigating a death in another jurisdiction and thus whether implementing section 49(1) of the 2009 Act was the best approach, the Department outlined a number of different options in the 2022 public consultation that would, in different ways, amend the 1959 Act to provide coroners with a statutory power to undertake an investigation into such deaths. This would bring Northern Ireland into line with the rest of the UK and Ireland where coroners, or the Lord Advocate in Scotland, can investigate a death abroad, albeit they all take different approaches.

Legislative options

7. The 2022 consultation asked for views on three different options for extending coroners' jurisdiction to deaths abroad. These were to:
 - commence section 49(1) as it currently stands;
 - amend the 1959 Act, with the Attorney General for Northern Ireland exercising the primary decision-making function with clear statutory criteria to determine when an inquest should be directed; or
 - amend the 1959 Act, with the High Court exercising the primary decision-making function and applying legislative criteria (following an application by the Attorney General).
8. The consultation also asked whether there were any practical issues or limitations, which the Department had not identified, that may impact on the effectiveness of any coronial investigation into a death abroad. Finally, the Department sought

views on whether potential legislative amendments should be retrospective and apply to deaths which occurred prior to any change in the law.

Consideration following consultation

9. There were only five responses to the consultation, with four favouring commencement of the 2009 Act provisions and one the option of the Attorney General as decision-maker. Following consideration of the consultation responses and further comparative research, we have concluded that a straightforward commencement of section 49(1) would necessitate putting in place a resource-intensive and bureaucratic process of identification and preliminary investigation. This would not necessarily be responsive to the views of bereaved families, some of whom may not want to go through the coronial process and would prefer simply to repatriate a loved one to Northern Ireland in order to have a funeral or memorial services, including burial or cremation.
10. The Minister has concluded that alternative legislative provision to allow for the coronial investigation of deaths abroad would be preferable. This alternative provision would be based on the previously considered options but, following further comparative research, includes some further refinement.
11. Key features of two of those options have been retained in the preferred approach, namely introducing statutory criteria to define the circumstances in which an inquest could take place, and the Attorney General having the primary decision-making function.
12. The Minister considers that there would be significant merit in refining these options by introducing additional statutory criteria specifying the circumstances in which a death should be reported in the first instance. This would be similar to the approach taken in New Zealand, where an individual may, but is not required to, report a death abroad where they are concerned that overseas authorities have not established the cause and circumstance of the death, or there is doubt about the accuracy of any findings. This would be more responsive to the wishes

of the family who either may want to report a death (where they have concerns about the investigation or findings in another jurisdiction), or may simply want to move on with making funeral or memorial arrangements without entering into a reporting process.

13. Avoiding the need for mandatory reporting of all deaths would mean that the Department would not need to establish a procedural bureaucracy to support preliminary inquiries or coronial investigations into deaths which either do not require one, or where it is simply not possible to undertake and complete an effective investigation. Justice system resources, particularly for the Coroners Service and State Pathologist's Department, could instead be targeted towards those cases where an investigation in Northern Ireland is likely to make the most meaningful and positive impact while respecting a family's wishes.
14. It would also underscore a central principle that the responsibility for investigating a suspicious death in the first instance rests with the jurisdiction in which the death occurred. Only in exceptional circumstances, where the cause of death is not known or is disputed, should a death be investigated here.

Proposed legislation

15. The Minister considers, therefore, that it would be appropriate to legislate to amend the 1959 Act to clarify both the circumstances in which a death abroad could be reported to the Coroners Service in the first instance, and when an inquest would take place.
16. While families would not be placed under an obligation to report a death abroad, the circumstances when the death of a person normally resident in Northern Ireland could be reported to the Coroners Service would be:
 - (i) where a person is concerned that overseas authorities have not established the cause and circumstances of the death, or there is doubt about the accuracy of any conclusion reached by an overseas authority; and

(ii) the body has been repatriated to Northern Ireland.

17. Based on experience elsewhere, we anticipate the number of reported deaths is not likely to be significant. For instance, between 2017 and 2023, there were twelve overseas deaths reported to the Coronial Services of New Zealand, nine requiring a post-mortem examination, and one resulting in an inquest.
18. While, of course, there are significant geographical differences between New Zealand and Northern Ireland, not least our land border, and the proximity to Great Britain and mainland Europe, we nonetheless expect reported deaths here to be uncommon, and inquests to be rare. This should be aided by providing legislative clarity around the meaning and scope of 'abroad' in the context of deaths which occur outside Northern Ireland.
19. It is considered that it would be appropriate to take a similar approach to that adopted by the Scottish Government in 2009 when it commissioned a review of fatal accident inquiry legislation, led by Lord Cullen of Whitekirk, the former Lord President of the Court of Session, and Lord Justice General. As part of its considerations, the review concluded that there was no reason why, in principle, there should be concerns about the investigative effectiveness of an inquest conducted elsewhere in the UK into a sudden death in England, Wales or Northern Ireland. For that reason, 'abroad' in the revised Scottish legislation referred to outside the UK. This rationale is similarly applicable in Northern Ireland.
20. While we consider that the same rationale could be applied to deaths of Northern Ireland residents that occur in the Republic of Ireland, we are unable to legislate specifically on this point owing to the possibility, even if remote, that Article 2 of the European Convention on Human Rights could be engaged in a death. This places a positive duty and procedural obligation on the UK state to ensure an Article 2 compliant investigation into that death, even if an inquest were to take place in the Republic of Ireland. However, with non-Article 2 engaged deaths, we see no reason why an inquest in the Republic of Ireland would not sufficiently determine how, when and where a Northern Ireland resident came to their death.

21. It is proposed that amendment to the 1959 Act would also provide the Attorney General with a primary decision-making function. Based on information provided following initial inquiries by the Coroners Service, potentially supported by a post-mortem examination carried out by the State Pathologist's Department, the Attorney General would have a power to direct an inquest where:

- (i) they are reasonably satisfied that the overseas authority has not established the cause and circumstances of death, or there is concern as to the accuracy of any conclusions;
- (ii) they are reasonably satisfied that an inquest could identify the cause and circumstances of the death; and
- (iii) it is in the public interest to do so.

22. The Minister's view is that the Attorney General, as a senior law officer and guardian of the public interest, is best placed to determine whether or not an inquest is merited. The proposed power has some similarities with section 14 of the 1959 Act, which allows the Attorney General to direct an inquest into a domestic death where there is reason to believe that a deceased person has died in circumstances that makes holding one 'advisable'. While section 14 is a review function rather than a primary decision-making function, the sort of issues the Attorney General would have to consider when determining whether an inquest should be held would have considerable familiarity.

The way forward

23. The Department intends to bring forward these provisions in the next suitable legislative vehicle, which is likely to be early in the next mandate subject to the views of an incoming Minister.