

Fact sheet

Difference between a Statutory Inquiry and a Fatal Accident Inquiry

A number of Fatal Accident Inquiries (FAIs) have been announced by the Crown Office and Procurator Fiscal Service to investigate the death of several children at the Queen Elizabeth University Hospital.

FAIs differ from statutory public inquiries in several ways, which are laid out in the table below.

	Statutory Inquiry	Fatal Accident Inquiry
Establishment	Set up under the Inquiries Act 2005 by a minister in light of an issue of public concern	The Lord Advocate may decide that an FAI is in the public interest in light of a sudden, unexplained or suspicious death as provided by the Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 and the Act of Sederunt (Fatal Accident Inquiry Rules) 2017
Terms of Reference	Yes. These are set by a minister and in consultation with the Chair and members of the public	No
Determination of Guilt	Cannot determine civil or criminal liability	Cannot determine civil or criminal liability
Public or private	Public with some evidence potentially held in private	Public with option to hear some evidence in private
Composition	Chair-led with option to include panellists	Conducted by a Sheriff
Typical duration	One to six years on average after it is established	A few days to a few months from when it starts. Generally, this can be around a year after the FAI is established
Subpoena power	Can compel testimony and the production of documents under threat of criminal sanction	Can compel testimony and the production of documents under threat of criminal sanction
Taking evidence	Takes evidence under oath	Takes evidence under oath
Recommendations	In most cases the Terms of Reference will require the delivery of recommendations for change	A Determination is issued which contains all their findings based on evidence. They do not have to make recommendations if they found that all reasonable precautions were taken to avoid a death
Public access to documents	Duty to ensure public access to documents	Generally not
Core participants	Core participant status available for individuals and organisations with an interest in the work of the inquiry, which grants them specific rights	Certain persons with an interest may participate

For reference, see [How public inquiries can lead to change](#). Institute for Government, 2017 and [Guide to Fatal Accident Inquiries | COPFS](#)

Will a Fatal Accident Inquiry impact the work of the Inquiry?

There have recently been a number of Fatal Accident Inquiries (FAIs) into individuals who have died at the Queen Elizabeth University Hospital.

The scope of the Inquiry's investigations is specific as set out in our Remit and Terms of Reference. The Inquiry is unable to consider individual case histories in the same way that an FAI (or a criminal investigation) would.

These are separate investigations and while there may be crossover in certain cases, we do not anticipate that the FAI will have any impact on the work or progress of the Inquiry.

How does the criminal investigation into the QEUH impact the Inquiry's investigations?

The Inquiry's investigations are set out in our Terms of Reference. We have a programme for hearings this year to address a number of issues. [Direction 5 - in respect of the Hearing Commencing 19 August 2024](#) details what aspects of the Terms of Reference we will be examining at that hearing with regards to the Queen Elizabeth University Hospital.

Though there may be some crossover, we do not anticipate that other investigations, whether the FAIs or police investigations, will impede the work of the Inquiry or its progress in making recommendations as soon as possible.

Will the outcomes of the other investigations be taken into consideration by the Chair?

The Chair will consider their outcomes in as far as they relate to our Terms of Reference.

Do the Inquiry and the Crown Office and Procurator Fiscal Service cooperate with one another on mutual cases?

The Scottish Hospitals Inquiry respects the independence and processes of the Crown Office and Procurator Fiscal Service. Our investigations are separate and are underpinned by different legislation. We are not involved in their investigations, nor are they with ours.