

## Scottish Resilience

Scottish Fire and Rescue Advisory Unit

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Chief Officers

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Dear Chief Officer

### **DEAR CHIEF OFFICER (SCOTLAND) LETTER 1/2010 FATAL ACCIDENT INQUIRIES – SHERIFFS' DETERMINATIONS**

#### **Introduction**

1. This letter introduces a procedure to ensure that the findings of Fatal Accident Inquiries (FAI) are considered and that issues are shared with key stakeholders where there may be implications for operations, health and safety, training or other fire and rescue service activities.
2. The procedure introduced in Scotland by this letter, is similar to the procedure for sharing information from Coroners, which was introduced by English Fire and Rescue Service Circular 49/2009.

#### **FAI determination**

3. A fatal accident inquiry is a public inquiry presided over by a Sheriff. The Sheriff's function is to determine:
  - (a) where and when the death and any accident resulting in the death took place;
  - (b) the cause or causes of such death and any accident resulting in the death;
  - (c) the reasonable precautions, if any, whereby the death and any accident resulting in the death might have been avoided;
  - (d) the defects, if any, in any system of working which contributed to the death, or any accident resulting in the death; and
  - (e) any other facts which are relevant to the circumstances of the death.

4. It is not the function of the Sheriff at a FAI to decide whether anyone was at fault or whether a breach of the law has been committed. Not infrequently the Sheriff will make a formal determination dealing only with (a) and (b) above, these being the minimum compulsory findings required in a determination.
5. It is possible for a Sheriff's determination at the conclusion of the inquiry to be the subject of judicial review, a Sheriff's determination may therefore not necessarily be final.

### **Sharing Information**

6. Where a Fire and Rescue Service (FRS) receives notification of a relevant Sheriff's determination, the Scottish Fire and Rescue Advisory Unit (SFRAU) should be advised so that there can be discussion and consideration as to whether there is a need for a wider circulation, or a need to issue or amend national advice or guidance, either in Scotland or on a wider UK basis.
7. In cases where either SFRAU or the Scottish Government receive notification of a determination direct from a Sheriff, the matter will similarly be notified to and discussed with the relevant FRS.

Yours faithfully

A handwritten signature in black ink, appearing to read 'B Fraser', written in a cursive style.

**BRIAN FRASER**  
**Head of the Scottish Fire and Rescue Advisory Unit**