

## Document one

Minister for Mental Wellbeing and Social Care  
Kevin Stewart MSP



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Dorothy Bain QC  
Lord Advocate

By email: [LordAdvocate@gov.scot](mailto:LordAdvocate@gov.scot)

1 April 2022

Dear Lord Advocate,

I am writing to you in your capacity as independent head of the prosecution system in Scotland in relation to the Operation KOPER investigation. At Scottish Care's Care Home conference today I received a number of questions from the care home sector about the timescales for completion of the investigation, parity with other sectors such as the NHS and additionally considerable feedback about the detrimental effect of the investigation on staff and organisations.

I acknowledged the operational independence you have in this area and offered to simply pass these concerns on to you. I understand that the Deputy Crown Agent has recently undertaken a series of engagements with Scottish Care and the sector to discuss the process of the investigation and you may wish to consider any further engagement with the sector to hear at first hand their concerns.

Yours sincerely,

**KEVIN STEWART**

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Document two



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Our ref: R-04521-22

4 May 2022

Dear Mr Stewart

Thank you for your letter dated 1 April 2022 passing on feedback you received at the recent Scottish Care's Care Home conference. I am aware of the various concerns raised because I have recently received and replied to a letter from the Chief Executive of Scottish Care, Dr Donald Macaskill, raising similar concerns.

You have referred in your letter to the fact that the Deputy Crown Agent, Stephen McGowan, has recently undertaken a series of engagements with Scottish Care. It may be helpful to note that Dr Macaskill has had meetings throughout the pandemic first with Lindsey Miller, Deputy Crown Agent (DCA), Serious Casework and **[Redacted]**, Assistant Procurator Fiscal (APF), Head of CDIT and more recently with their successors, Stephen McGowan and **[Redacted]**. I am also aware from Stephen and **[Redacted]** that they attended a recent Scottish Care webinar on 21 March 2022 which was well attended by Scottish Care members and provided a forum for discussion directly with Dr Macaskill and his members in respect of this important area of work. I have advised Dr Macaskill that both Stephen and **[Redacted]** would be only too happy to continue to him appraised of developments in relation to our ongoing investigations when they are advanced to such a point that makes such discussions possible. As I am sure you will appreciate, while our investigations are ongoing there is a limit to the amount of information that can be shared. However, as indicated I have been in direct correspondence with Dr Macaskill regarding this.

I/



**[Redacted]**

Thank you again for passing on details of the feedback you received at the recent conference. As indicated, I have had direct correspondence with Dr Macaskill regarding these concerns.

Yours sincerely

*Dorothy R. Bain.*

**THE RIGHT HONOURABLE DOROTHY BAIN QC**  
**Lord Advocate**

## **Document three**

**From:** [Redacted]

**Sent:** 19 July 2022 15:05

**To:** [Redacted]

**Subject:** Fwd: Micase about Operation Koper

Hello,

I have been asked to provide some assistance regarding the undernoted questions on behalf of the COPFS Covid Deaths Investigation Team (CDIT). I do not think we can assist in relation to question 3 but have provided some clarification around our role which will hopefully assist regarding questions 2 and 3.

Q1- On 13 May 2020 the Lord Advocate confirmed to the Scottish Parliament that, in light of significant public anxiety around deaths in care homes and deaths of those who may have contracted COVID in their place of work, all Covid-19 (or presumed Covid-19) deaths involving any person who might have contracted the virus in the course of their employment or occupation or who was resident in a care home when the virus was contracted, must be reported to the Crown Office and Procurator Fiscal Service (COPFS). This is not limited to private residential care homes.

Q2- In order to receive reports of Covid-19 (or presumed Covid-19) deaths, COPFS established a Covid-19 Deaths Investigation Team (CDIT). Investigations require the collation and examination of a large amount of information, and this process is on-going. Accordingly, it is difficult for COPFS to set timescales for completion of those investigations at this time. It is a fundamental aim of the system for the investigation of deaths in Scotland that the Crown should conduct investigations where appropriate, with a view to understanding the circumstances of deaths and helping to prevent future deaths in similar circumstances and COPFS is committed to ensuring that this principle is upheld and we are doing everything we can to progress these investigations in a thorough but timely manner. Please note that the continued requirement to report the above Covid-19 deaths is something that is kept under constant review in conjunction with other professional bodies and indeed is something that is actively under consideration at this time. However, the number of deaths reported to CDIT continue to fluctuate and as such we cannot provide a definitive position in respect of this matter at this time. Please however be assured that the matter is actively under consideration and when it becomes appropriate to do so, the current reporting requirements will be changed to revert to less stringent reporting

Q3- This is not something CDIT can comment on given it is a direct question for the Scottish Government and not for the Lord Advocate.

Happy to discuss further if that would assist.

Regards,

**[Redacted]**

**From:** [Redacted]  
**Sent:** 12 July 2022 14:42  
**To:** [Redacted]  
**Subject:** Micase about Operation Koper

Hi folks,

We've received a follow up to a recent micase when Mr Stewart, as part of the reply, referenced writing to the Lord Advocate about Operation Koper.

Latest correspondence:

Exchanges part 1 **[Not in scope of this FOI request]**  
Exchanges part 2 **[Not in scope of this FOI request]**

In essence, the person is frustrated that we're not answering the 3 questions below. They followed on from a conference Mr Stewart spoke at and we've basically said that we can't reply to these questions as the Lord Advocate is responsible for the issues raised so perhaps there's a better, standard line we could use here?

1. Why did a Minister in the Scottish Government (the Lord Advocate) limit this investigation to private care homes when public anxiety was across all care sector establishments?
2. When and how will this operation be closed down or expanded to include all operators?
3. What will you or the Scottish Government do to alleviate the ongoing threat and distress that Operation Koper places on so many of the most dedicated and compassionate social care managers who have done so much to guide our most vulnerable safely through this pandemic?

Grateful for any advice, happy to discuss.

Thanks,  
[Redacted]

[Redacted] | Scottish Government | Directorate for Social Care and National Care Service Development | ASC Oversight and Assurance Support | M: [Redacted]

## Document four

**From:** [Redacted]

**Sent:** 27 July 2022 12:53

**To:** [Redacted]

**Subject:** Tomorrow's meeting

Good afternoon all,

Can I suggest that we cancel tomorrow's meeting as we had such a fruitful discussion yesterday?

I would also like the opportunity to bring [Redacted] and [Redacted] up to speed with what [Redacted] and [Redacted] can do to assist (both on holiday this week and next) before we agree on a strategy moving forward.

[Redacted]

Thanks,

[Redacted]

CDIT (Covid Deaths Investigation Team)

PF Office Glasgow

Ballater Street

Glasgow

[Redacted]