SHERIFFDOM OF TAYSIDE CENTRAL AND FIFE AT PERTH

[2017] FAI 16

B333/15

DETERMINATION

BY

SHERIFF LINDSAY DAVID ROBERTSON FOULIS, Esquire

UNDER THE FATAL ACCIDENTS AND SUDDEN DEATHS INQUIRIES (SCOTLAND) ACT 1976

into the death of

JASON JACKSON

Perth, 28 July 2017

The Sheriff, having considered all the evidence adduced, Determines:-

1. In terms of Section 6(1)(a) of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976, that Jason Jackson died between 8am and 9am on 28th September 2013 within cell B3/32 of H M Prison, Perth following his having taken lethal quantities of Buprenorphine, Gabapentin, and Phenazepam after he was transferred from the Separation and Reintegration Unit to B Hall on 27th September 2013 at 1.45pm.

2. In terms of Section 6(1)(b) of the said Act, that the cause of the death of Jason Jackson was due to the adverse effects from which he suffered as a result of his taking lethal quantities of Buprenorphine, Gabapentin, and Phenazepam after he was transferred

from the Separation and Reintegration Unit to B Hall on 27th September 2013 at 1.45pm.

3. In terms of section 6(1)(c) of the said Act, that a reasonable precaution whereby the death of Jason Jackson might have been avoided was by his avoiding taking non prescribed drugs illicitly and in lethal quantities after he was transferred from the Separation and Reintegration Unit to B Hall on 27th September 2013 at 1.45pm.

4. In terms of section 6(1)(c) of the said Act, that a reasonable precaution whereby the death of Jason Jackson might have been avoided was by his advising Nurse Lisa Duffus what illicit drugs he had taken when she made that inquiry of him in B Hall around 5.30pm on 27th September 2013.

5. In terms of section 6(1)(c) of the said Act, that a reasonable precaution whereby the death of Jason Jackson might have been avoided was by the provision of information to prison officers regarding the effects and symptoms of a person suffering the adverse effects of taking drugs and how these effects and symptoms might exhibit themselves.

6. In terms of section 6(1)(c) of the said Act, that a reasonable precaution whereby the death of Jason Jackson might have been avoided was by any member of the medical staff called to examine a prisoner who was suspected of having taken drugs, informing prison officers of the changes in the prisoner's presentation which might

indicate a deterioration in the prisoner's condition necessitating further medical intervention.

7. In terms of section 6(1)(c) of the said Act, that a reasonable precaution whereby the death of Jason Jackson might have been avoided was that prison officers, undertaking hourly observations upon a prisoner who was suspected of having taken drugs, ensured that they obtained both a visual and coherent verbal response from that prisoner to confirm that the prisoner was orientated to time, place, and identity.

8. In terms of section 6(1)(c) of the said Act, that a reasonable precaution whereby the death of Jason Jackson might have been avoided was by Officer Ferguson, having determined that the former was not orientated to time, place, and person, seeking a further medical assessment to be undertaken of Mr Jackson or further medical assistance or advice being obtained for him.

9. In terms of section 6(1)(e) of the said Act, that other facts which are relevant to the circumstances of the death of Jason Jackson are that a standardised approach, such as that set down in the SEWS scale or the Glasgow coma scale, be employed to assess the condition of a prisoner who was suspected of taking drugs.

10. In terms of section 6(1)(e) of the said Act, that other facts which are relevant to the circumstances of the death of Jason Jackson are that nursing staff called to assess a prisoner who was suspected of taking drugs should have with them standard

equipment to enable them to measure accurately a prisoner's blood pressure, pulse, blood sugar, oxygen saturations, and breathing.

11. In terms of section 6(1)(e) of the said Act, that other facts which are relevant to the circumstances of the death of Jason Jackson are that nursing staff called to assess a prisoner who was suspected of taking drugs should be able to access the Vision system in order to apprise themselves of the up to date medical information concerning the prisoner.

12. In terms of section 6(1)(e) of the said Act, that other facts which are relevant to the circumstances of the death of Jason Jackson are if a prisoner suspected of taking drugs is required but unable to provide nursing staff with a urine sample, a procedure should be set up to ensure that such a sample is provided by the prisoner when he is able so to do.

NOTE

[1] This Fatal Accident Inquiry into the death of Jason Jackson following events at H M Prison Perth on 28 September 2013 took place on 29th February, 1st March, 11th May, 7th and 8th June, 18th, 19th, and 20th July, and 29th September 2016. Thereafter the parties were allowed time to lodge and intimate written submissions. These were e mailed to the Sheriff Clerk in Perth by mid December 2016. Parties were content that unless there was a need for me to hear further oral submissions, I should proceed to issue my determination without any further court hearing. The parties' written submissions are

appended to this note. M/s Ross, Procurator Fiscal depute, initially presented the case for the Crown. On her leaving the service, Mr Barclay took over. The other parties represented were the deceased's mother, M/s Hershaw, Tayside Health Board, the Scottish Prison Service, the Prison Officers' Association, and Nurse Lisa Duffus. These parties were represented by Mr Leighton, advocate, Edinburgh, Mr Wightman, solicitor, Edinburgh, Mrs Dargie, solicitor, with Mr Scullion, solicitor, Edinburgh succeeding her, Mr Adams, solicitor, Glasgow, and Mr Ewing, solicitor, Glasgow, at times covered by Miss McCann respectively.

[2] Evidence was led by the Crown from Carol Hershaw and John Jackson, Mr Jackson's parents, Nurses Lorraine Jamieson, Cheryl Ramsay, Lisa Duffus, Kirsten Horsburgh, and Mumtaz Hussain, Prison Officers Donald Colbron, Barrie Simpson, Stuart Burnside, Robert Chisolm, George Turpie, Graeme Ross, Douglas Shepherd, Graeme Orange, Adam Allison, Douglas Ferguson, John Jewell, Karen Conway, Robert Aitken, and David Roy, Mr Gary Miller, Doctors Mark Wallace, Shona Sinclair, and Helen Brownlow, and M/s Lesley McDowall. Professor Anthony Busuttil was led on behalf of M/s Hershaw. I further sought certain information, firstly regarding internal searches of inmates if they were suspected of having drugs banked internally. In addition, I wished information as to whether there was reluctance on the part of prison staff to call an ambulance due to past criticism. An affidavit was provided by Mr Kenneth McCaskill, who was head of operations and public protection for the Scottish Prison Service. The parties also produced a lengthy joint minute of agreement covering a number of issues. These included the incarceration of Mr Jackson, a number of DVD's of

CCTV footage, the conduct of the post mortem and the results of that post mortem, and the toxicology report on Mr Jackson. It also covered the recovery of drugs banked on Mr Jackson and of buprenorphine from his cell. It covered agreement relating to a number of documentary productions and photographs lodged by the Crown. Finally parties agreed that copies were true copies of the originals.

[3] Before I move to consider the evidence, submissions, and my determination, I would firstly wish to express my condolences to Mr Jackson's family. I further apologise for the time which has elapsed since the conclusion of the evidence and receipt of the various parties' submissions in this inquiry and the issue of this determination, particularly in light of the fact that Mr Jackson passed away in September 2013 and this inquiry only commenced in February 2016. Thereafter the inevitable pressures on court programmes and the various parties' representatives' diaries resulted in the nine days evidence taking seven months to conclude. By way of explanation, the need to issue a decision in a permanence application and a further long Fatal Accident Inquiry has resulted in the delay to which I have referred.

[4] The submissions for the parties represented focus generally on events following his release from the Separation and Reintegration Unit on 27th September 2013. Before I deal with the matters raised in submission, I wish to set out the factual background which I found established.

[5] Mr Jackson was a drug user. He had had a heroin habit for at least four years. He also took cannabis. He further suffered from ADHD. He was admitted to HMP Perth on 24th September 2013, having been ordered to serve a sentence of forty five weeks

imprisonment. Having undergone the ACT2care procedure, he was assessed by the prison officer, the reception nurse, and Doctor Mark Wallace as constituting 'no apparent risk' of self harm. Doctor Wallace concluded that he was lucid. His speech was coherent and spontaneous. His gait was normal. He did not appear under the influence of either drugs or alcohol. His Personal Escort Record only disclosed his suffering from ADHD. He was asked about his drug taking and indicated that he only smoked heroin. His urine sample tested positive for opiates and cannabis. He communicated well and retained good eye contact. There were no obvious signs that he was under the influence of any drug. Nurse Jamieson considered that he was able to communicate and understand the ACT2care assessment. This assessment was undertaken around 5pm.

[6] After the reception process, Mr Jackson was transferred to B Hall. He was locked in cell B 3/32. Very shortly after his arrival, prisoners started to congregate at and near his cell. They tried to communicate with him. There was a concern that Mr Jackson had brought drugs into the prison by concealing items internally, hence the interest from other prisoners. A decision was taken to transfer him to the Separation and Reintegration Unit. This took place on the evening of 24th September 2013. He was compliant. He was subject to a rub down search in B Hall prior to his transfer. This was negative. He was unsteady on his feet. During the transfer, Mr Jackson was very talkative and appeared to be under the influence of drugs. His speech was slurred but he was able to communicate. Once in the segregation unit, the 'Advice to Prisoners Suspected of Swallowing, or Under the Influence of an Unauthorised Substance' form, Crown Production 9 page 237 was completed. Mr Jackson was asked to sign this form

but refused. This form detailed that he would be subject to hourly observations whilst in the unit. The first observation was carried out at 8.30pm. The '72hr Rule Checklist for Prisoners with Items Concealed Internally' was completed in part by Officer Colborn with Officer Simpson completing certain sections in the form. The reason for the transfer to the unit was given as suspicions that he had 'banked' drugs and he had taken drugs. The form confirmed that Mr Jackson displayed signs of being under the influence. After being checked by medical staff, Mr Jackson was placed on medical observations at 8.20pm. He was made the subject of a strip search, the result of which was negative. Whilst in the segregation unit, Mr Jackson was subjected to two searches daily as was the cell he occupied in the unit.

[7] As a result of this transfer and the reason for it, Nurse Jamieson was advised and placed a 'post it' note on Mr Jackson's prescription sheet. It recorded that he was not to receive any medication as a result of these suspicions. This was a precautionary measure to avoid any potential adverse reaction between the prescribed medication and what he may have taken. As a result no medication would be provided to Mr Jackson until he was assessed by a doctor. In accordance with normal procedure, an email was sent to the substance misuse/addiction nurses by her colleague, Nurse Hussain.

[8] On 25th September 2013 Mr Jackson was unsteady on his feet and his speech was slurred throughout the day. He was disorientated in time, having been asleep for a significant part of the day. He advised Officer Chisholm at one point that day that he had taken ten Valium the previous weekend. When Officer Chisholm was observing Mr Jackson that day, he obtained a response from him. The officer noted on the observation

sheet for that day that at breakfast time Mr Jackson was unsteady on his feet and his speech was slurred. Later that day, he again noted that Mr Jackson's eyes were glazed and his speech slurred, although he could converse. Mr Jackson was also searched that day at 1.55pm and 3.10pm. In the course of the earlier search a small pink plastic/rubber wrap was found on the floor of the cell. It was empty. An entry relating to that search in the '72hr Rule Checklist' paperwork suggested that Mr Jackson had taken something that day. During the later search, nothing was found but Mr Jackson appeared to be under the influence of something. The second search took place quickly because of the recovery of the empty wrap. His speech was a bit slurred and his eyes were glazed. His condition had worsened from the morning.

[9] On 26th September 2013 Mr Jackson was seen by Nurse Ramsay in the morning. He was still visibly under the influence and his speech was slurred. His movements were slow. His pulse, blood pressure, and temperature were taken. Further medication continued to be withheld until he was assessed by a doctor the following day. Mr Jackson told Nurse Ramsay that he had injected heroin on 23rd September 2013 and taken twenty tablets of 'street' Valium. He said that he was experiencing an unusual effect from the 'street' Valium. She carried out observations and questioned Mr Jackson in some detail. She sought a urine sample but he was unable to provide this sample. Accordingly, she left a container for him to provide a sample when he was able. This sample would have enabled a full toxicology and drug screen to be carried out to ascertain what Mr Jackson had in his system. The screening test carried out on admission was able to detect opiates, cannabis, and benzodiazepines. Mr Jackson was in

a similar condition when lunch was served. By late afternoon there was an improvement in his presentation. He appeared more orientated and communicated in a more coherent manner. Searches were carried out at 9am and 3pm. They were negative but Mr Jackson was demanding and unsteady. His speech was slurred. At the time of the later search, his memory was poor. He had no recollection of having breakfast or lunch.

[10] On 27th September 2013, prior to his being returned to B Hall, Mr Jackson was made the subject of another search. A sniffer dog was also employed in the search. Mr Jackson denied he was in possession of anything. He said that he had taken twenty 'vallies' before being admitted to prison. Nothing was found and there was no reaction from the dog. The dog was trained to detect heroin, cocaine, amphetamine, cannabis and MDNA. Mr Jackson's presentation was much improved. There was a difference in the evidence between Officers Colborn, Turpie, and Jewell on the one hand and Officer Roy on the other. The last named officer indicated that Mr Jackson still appeared under the influence. That was not the impression of the former officers. I preferred the evidence from the former officers. They had greater involvement with Mr Jackson that day, Officer Roy being the dog handler. The entry from Officer Colburn on Crown Production number 4 page 19 supported their account. Further, if he was under the influence, his stay in the Separation and Reintegration Unit might have been extended. It was not. Finally, their evidence was consistent with Mr Jackson's presentation when he initially returned to B Hall.

[11] Mr Jackson was returned to B Hall about 1.45pm. He was locked in his cell for forty five minutes. Thereafter he had the opportunity to associate with other inmates for

about one and a half hours. At this time his demeanour was unremarkable and that remained the position until at least 4.40pm. By 5.30pm, however, Mr Jackson was incoherent and under the influence of a substance. The health centre was contacted and Nurse Duffus attended. She had been requested to see Mr Jackson and another prisoner, who also appeared to be under the influence of unknown substances. Until Nurse Duffus arrived in B Hall she was unaware of the identity of the prisoners she was to see. Officer Shepherd and Nurse Duffus asked Mr Jackson questions which he, in the main, answered. He was orientated to identity, time, and place. He declined to answer staff inquiries about what he had taken. His pulse and blood pressure were checked and were acceptable. His clinical observations were stable. His breathing caused no concern. He was unsteady on his feet. He was unable to provide a urine sample. A container was left for him to provide a sample later. If a sample had been provided, a dipstick analysis would have been undertaken at the medical centre. The results of such a test would have confirmed whether Mr Jackson had such as opiates or cannaboids in his system. He was placed on hourly observations on the instruction of Nurse Duffus. This required Mr Jackson to provide an officer with a verbal and visual response. Prison staff were instructed to keep Mr Jackson in his cell for his own safety. If his condition deteriorated, the prison staff were told to contact the health care team. Albeit the only source of information Nurse Duffus had regarding Mr Jackson came from the prison officers, if she had had access to his prison records her assessment would not have altered. Mr Jackson was checked hourly from 5.40pm that evening. Officer Ferguson recorded on the observation record sheet, Crown Production number 5 page 24 that between 6.40

and 8.40pm Mr Jackson was 'sleeping most of the time.' He was not coherent and did not know the officer was there when he checked on his welfare. He was tossing and turning.

[12] From 9pm on 27th September 2013, Mr Jackson was observed hourly by Officer Aitken. He had been informed of the reason for the hourly observations when he commenced his shift, namely that Mr Jackson was suspected of having taken an illicit substance. From 11pm until 7am on 28th September 2013 Mr Jackson was noted as being asleep. It was recorded on the observation sheet that he was snoring loudly and in a deep sleep. He was noted to have moved during the night. At around 8am Officer Allison entered Mr Jackson's cell with Officer Ferguson. Mr Jackson was lying on his side facing into the middle of the cell with his head towards the door. Whilst Officers Allison and Ferguson said in evidence that they obtained a verbal response at that time in the form of a grunt, I do not accept this in light of the medical evidence to which I refer later. They might have heard some sound which was akin to a grunt but it certainly was not in response to the officers. Indeed, Mr Allison in evidence denied that Mr Jackson woke up when he entered the cell at that time. Officer Ferguson returned about thirty minutes later. Notwithstanding an entry by Mr Ferguson to the effect that Mr Jackson was observed at 9am, I am satisfied that neither he nor any other officer observed Mr Jackson at 9am. Officer Ferguson said the Officer Conway saw Mr Jackson at 9am. She denied this and I have no hesitation in accepting her evidence. For a number of reasons, which I shall detail later, I have significant doubts about several aspects of Officer Ferguson's evidence. The cells were locked between 9 and 10am.

[13] Just before 10am Officer Ferguson opened Mr Jackson's cell. He did not get a response. He radioed for medical assistance and medical staff attended at once. All reasonable attempts were made to resuscitate Mr Jackson without success and 'life extinct' was pronounced at 10.16am. On examination it was noted that lividity staining was in evidence on his forehead and neck. Further Mr Jackson looked blue and cyanosed around his mouth. This was indicative of his having passed away at least thirty minutes before he was discovered.

[14] After his death a post mortem was carried out. Within Mr Jackson's rectum a small yellow/white wrap measuring 3x1x1cm was recovered. This wrap contained 0.42 grams of cannabis resin. On 28th September 2013 two wraps, each containing 0.01 grams of buprenorphine were recovered from his cell. Following the analysis of samples taken from Mr Jackson, it was established that he had buprenorphine, gabapentin, diazepam, and phenazepam in his system. The level of diazepam was low and within the therapeutic range. Buprenorphine, diazepam, and phenazepam interact in an additive way. This can lead to enhanced depression of the central nervous system and increased risk of fatal respiratory depression. The level of buprenorphine found fell within the range of cases involving fatality. The level of phenazepam found was above the level seen in therapeutic trials. It was four to five times above the standard dose. The level of gabapentin found was well above the level seen in clinical therapeutic use and medical intervention would have been required for an individual to survive. The level was fifteen times above the normal dose. Gabapentin would enhance the effects of the other drugs. Doctor Brownlow was of the opinion that Mr Jackson would be gradually

affected by the ingestion of these drugs. Depending upon the quantity taken, a person would progress from a drowsy state to sleep, then a deeper sleep and coma until death resulted. This process could take a number of hours. During this process a person might snore loudly, giving the impression of being in a deep sleep. Sleep can be distinguished from a coma by the ability or otherwise to rouse a person. Mr Jackson would have been unconscious for a period prior to his death. The presence of infection in his lungs indicated that he had been unconscious for some hours. Lividity in a deceased becomes obvious normally between one and two hours after death occurred. Death was likely to have occurred no earlier than 7am. Naloxone, as an antidote to the ingestion of opiates, is more effective if it is administered closer to the time the actual drugs were taken.

[15] In relation to the matters covered by Mr McCaskill, his evidence was that there were no circumstances in which an internal search of a prisoner suspected of banking drugs would be carried out. Such an operation would be contrary to prison rules. Further, the prison staff would not report the matter as a crime in order for a search warrant to be obtained. The only instances of reports being made were if there was a suspicion of an inmate being in possession of any illegal commodity. The affidavit does not detail what would fall within this definition. I assume it covers the likes of mobile telephones. Mr McCaskill did indicate that there were instances in which escort staff were asked why a prisoner had been sent to hospital. This experience notwithstanding, he was unaware of any reluctance on the part of prison staff to call an ambulance.

[16] I now wish to turn to the matters which were addressed in submission and their relationship with the matters set out in section 6(1) of the Fatal Accidents and Sudden

Deaths Inquiry (Scotland) Act 1976. As tends to be the position in such inquiries, it was the family which raised most of the issues to be considered. There is, however, one matter upon which I shall be making no comment. That is a suggestion made on behalf of Mr Jackson's mother that I should comment upon Mr Ferguson's employment as a prison officer. I do not consider I have any locus to comment in that regard and do not intend to say anything further.

[17] There was no dispute as to the place of death or certain matters relating to the cause of death. There was an issue as to the time of death. I am quite satisfied from the evidence led from Doctor Brownlow and Professor Busuttil that death occurred earlier than when Mr Jackson was discovered by Officer Ferguson. The officer had denied in his evidence that Mr Jackson was dead at 10am saying there were bubbles coming from his mouth. However, aside from his evidence being less than persuasive generally for reasons which I shall detail later, his evidence was not supported by the medical evidence given by those already mentioned. Doctor Sinclair also spoke to his pupils being fixed and dilated at 10am and his body feeling cold to touch. She was of the opinion that death had occurred at least thirty minutes earlier. She was prepared to defer to the opinions of the pathologists. Nurse Hussain said that he checked for breathing and pulse with negative results. He confirmed Mr Jackson's body was cold to the touch. Doctor Brownlow, the Crown pathologist, considered that the absence of rigour mortis indicated that Mr Jackson died after 7am. She agreed with Professor Busuttil's assessment that he had been dead for over an hour at the time he was discovered. Both pathologists came to this conclusion from the degree of lividity in

evidence on the body of Mr Jackson and the presence of aspiration pneumonia. In the circumstances, I have reached the conclusion that Mr Jackson died sometime between 8am and 9am on 28th September 2013.

[18] Turning to the causes of Mr Jackson's death, the post mortem and toxicology reports clearly establish that he had taken fatal quantities of Buprenorphine, Gabapentin, and Phenazepam. The levels of these drugs in his system were, in the case of Phenazepam and Gabapentin, assessed by Doctor Brownlow as being above the levels seen in therapeutic use. The level of Buprenorphine was within the range seen in the instance of overdoses. Further the level of Gabapentin was at a level such as to require medical assistance to survive. The combination of these drugs would produce a 'cocktail effect' whereby the individual effects of the drugs were enhanced, thus increasing the likelihood of the overdose being fatal.

[19] There was some dispute between the parties as to when Mr Jackson took the drugs found in his system. A number of the parties submitted that I could not come to any conclusion on this matter. I am, however, satisfied that Mr Jackson took these drugs after he was transferred from the Separation and Reintegration Unit to B Hall on 27th September 2013. I have come to this conclusion because he was in a reasonable condition when transferred. His condition had improved in the latter stages of his stay in the Separation and Reintegration Unit. However, within a matter of hours of his arrival in B Hall, he was incoherent and medical assistance was sought, with Nurse Duffus attending. There are other facts which support my conclusion. Events on 24th September 2013, after his admission to H M Prison, Perth, mirror events on 27th September 2013. On

admission he was lucid and coherent. He was not considered to be under the influence. Again, within a matter of hours he was assessed as being under the influence of drugs. His demeanour suggested that he remained under the influence of drugs for most of the time he was in the Separation and Reintegration Unit. An empty wrap was found during a search of his cell during his period in the Unit. Further, Doctor Wallace indicated that the effects of Gabapentin wore off fairly quickly, a patient being prescribed to take the medication three times daily. Diazepam also had a short shelf life. The effects of taking diazepam became apparent within an hour. The evidence from Doctor Brownlow did not counter this. Mr Jackson was further found to have cannabis resin banked in his rectum after his death. Buprenorphine was recovered following a search of his cell after his death. I am unable to determine, however, whether he took these drugs at one time or over a period after his return from the Separation and Reintegration Unit. Notwithstanding the observations made on behalf of Nurse Duffus, in my opinion there is no evidence which points one way or the other. I disagree with an observation made on behalf of the Scottish Prison Service to the effect that there was no evidence of any drugs being on Mr Jackson's person at any time during his period in custody. There is evidence of persons taking an unhealthy interest in him on his admission on 24th September 2013, the empty wrap found during a search in his cell during his stay in the Separation and Reintegration Unit, and the discovery of the 'banked' wrap and further illicit drugs in his cell after his death. In addition, his condition during most of his time in custody after his admission suggests the ability to access drugs without difficulty.

This period included three days in the Separation and Reintegration Unit during which he did not have access to other inmates.

[20] Before I move on to cover a number of matters and give consideration to whether they have any relevance to subsections 6(1)(c) to (e) of the 1976 Act, I consider it is appropriate for me to express my conclusion on the evidence from Officers Aitken and Ferguson regarding their observations of Mr Jackson. The first matter to note is that Officer Aitken recorded that Mr Jackson was snoring loudly all night and in a deep sleep. 'Movements observed' was noted on the observation record sheet, which formed part of Crown production number 5. The evidence from Officer Aitken generally records that as the night progressed the sound of Mr Jackson's snoring increased. Latterly it was very loud and noticeable. This accords with the evidence given by the pathologists as representing the effects of a person suffering from an overdose. The drugs taken by Mr Jackson had a cumulative effect, resulting in drowsiness, loss of consciousness, then his falling into a coma, and finally death. The evidence from the results of the post mortem indicated that Mr Jackson had aspiration pneumonia. This pointed to his having been unconscious for a period of time. Doctor Brownlow, whilst she could not determine that Mr Jackson would be unable to respond verbally from a specific time, indicated that it would have been between thirty minutes of his death to a number of hours. On the basis of the post mortem results, she considered that it was unlikely that he would have been able to speak at 8am. Professor Busutill was of a similar opinion. In light of this evidence, I am satisfied that by 8am Mr Jackson was unable to give any vocal response. For these reasons, I simply do not accept the evidence from Officers Allison and

Ferguson to the effect that at 8am on 28th September 2013 they obtained a verbal response from Mr Jackson. I further reject the evidence from Officer Ferguson that twenty five minutes later he engaged in a conversation with Mr Jackson. In addition, Officer Ferguson completed the observation sheet indicating that he had checked on the prisoner at 9am. This clearly was not the case. His explanation that Officer Conway carried out that observation was denied by her. Further, the prior statements from Officer Ferguson contradicted his evidence. Any explanations he gave for these differences were sadly unconvincing. Officer Allison also provided an affidavit, the content of which, in certain aspects, was incorrect.

[21] Returning to the various issues raised, the first relates to the level of knowledge prison officers had at the time of Mr Jackson's death as to the effects and symptoms of drug taking, in particular the signs of an inmate potentially suffering adverse effects from taking drugs. It was clear from the officers who gave evidence that they were not provided with any information about the effects of drugs and in particular, information as to the signs of someone suffering from the adverse effects of taking drugs. I have no issue with prison officers not being expected to undertake any kind of medical assessment. That is not part of their role. However, I do not consider that identifying signs which might indicate that a prisoner was progressing from unconsciousness to coma to death as a consequence of taking drugs requires any detailed medical knowledge or undertaking any medical assessment. It simply involves being aware of changes in presentation, which although apparently consistent with sleep, may indicate something more serious. If that change is noted, then medical input should be sought

from someone suitably qualified to carry out a medical assessment of the prisoner's condition. Mr Jackson had been identified as being under the influence of drugs, the nature of which was unknown. It was clearly a potential consequence of taking drugs, depending on what they were and their quantity, that the person firstly becomes drowsy, and then falls asleep. Thereafter the person may move to a deep sleep, unconsciousness, coma, and finally death. During this process the person may begin to snore loudly and give the appearance of being in a deep sleep. If prison officers were aware of this process and these signs and these became apparent when observations were undertaken, then there would be no difficulty in seeking medical assistance. If the appropriate medical staff were on duty in the prison, they could be called to examine the prisoner. If it was during the night, the necessary call could be made to the on call doctor. What is suggested is no different to what would occur if a person, who had taken drugs, was outwith the prison environment. Medical assistance would be sought and if the condition was not acute, advice would be tendered to keep an eye on the individual. Information would be provided as to what evidenced a deterioration in the person's condition. If there was such a change in that person's condition, then further medical assistance would be sought.

[22] In dealing with this matter, I do not consider there is any question of prison staff overruling the decisions made by medical staff if they are provided with such training or information. I fully agree that it is counterproductive for a regime to be in place whereby an unqualified member of staff can overrule a qualified member of staff. As was observed in the submissions on behalf of the Prison Officers' Association, this could be

detrimental to the welfare of inmates and create problems between staff. However, what would be envisaged is that prison officers would be aware of signs indicating a change in a prisoner's condition. This would result in them seeking medical advice/assistance. At this point I can conveniently deal with the submission made on behalf of M/s Hershaw that prison officers should have sent her son to hospital notwithstanding the advice given by Nurse Duffus. I disagree with this proposition. As I observe later there is nothing to suggest that her assessment to place Mr Jackson on hourly observations was not reasonable. In addition, Doctor Wallace made an observation, with which I agree that if someone is under the influence of drugs, the default position is not to send that person to hospital. There are times when transfer to hospital is appropriate but on many occasions it is not. The appropriate person to make that assessment is someone with medical training. The evidence from Mr McCaskill should not be overlooked. He advised that there had in the past been comments made by the hospital authorities regarding whether an inmate, who had been transferred to hospital, actually required such action. M/s McDowall also referred to a recent instance of accident and emergency staff commenting that transferring an inmate under the influence of drugs to hospital was a waste of time. I agree that transfer to hospital should not be the default position. Rather such action should be taken after input from medically qualified personnel. The content of the Governors and Managers Action Reference number 079A/14 clearly envisages assessments being made by healthcare staff.

[23] The next matter which I wish to cover is that of medical examination of prisoners by nursing staff when they are suspected of being under the influence of drugs and their

instruction to the prison staff following such an examination. I heard evidence from Nurses Ramsay, Duffus, and Hussain. The nursing staff are the medically qualified personnel called upon to examine prisoners as a matter of course. In 2013 examination of prisoners consisted of measuring pulse, temperature, and blood pressure. The prisoner was also checked whether he was orientated to time, place, and identity. There did not appear to be any standard equipment taken to such an examination. Nurse Ramsay said that she only took a kit bag if it was an emergency, a code blue or red call. Nurse Duffus said that she attended on 27th September with a blood pressure cuff, observation sheet, and urine pot. Nurse Hussain spoke of there being a bag for minor emergencies which had standard equipment. This enabled blood pressure, temperature, pulse, blood sugar, oxygen saturations and breathing to be measured. Further in 2013 the SEWS scale (Scottish Early Warning System) was not used by nursing staff. The SEWS scale employs a number of measures. These result in the calculation of a score which enables a nurse to determine whether and how quickly a patient should be reviewed by a doctor. In my opinion it is important that a standard kit is devised to measure blood pressure, temperature, pulse, blood sugar, oxygen saturations and breathing. This should be taken by nursing staff when they are requested to examine a prisoner. Further the use of such as the SEWS or Glasgow coma scale enables the nurse to assess more accurately the condition of a prisoner.

[24] In September 2013, if a prisoner was deemed to be under the influence of drugs and transferred to the Separation and Reintegration Unit, he was subject to periodic observations. It appears that the nurse who examined Mr Jackson when he was

transferred to the Unit determined that these observations should be hourly, although the checklist to officers there suggests that that frequency for observations was the norm. Such a prisoner was to be assessed by a member of the nursing staff daily. In Mr Jackson's case, there is dubiety as to whether he was assessed in the Separation and Reintegration Unit on 25th September 2013, the day after he was transferred there. There is certainly no entry on the Vision system relating to such an assessment. He was examined by Nurse Ramsay the following day. Thereafter he was examined by Nurse Duffus in B Hall after his return from the Separation and Reintegration Unit when he was again suspected of being under the influence of drugs. Both nurses measured his pulse, temperature, and blood pressure. They also checked whether he was orientated to time place and identity. Both endeavoured to obtain a urine sample but Mr Jackson was unable to provide one. Accordingly, they left a container for a sample to be taken when he was able to provide one. As with her colleague who assessed Mr Jackson on his admission to the Separation and Reintegration Unit, Nurse Duffus considered that hourly observations were appropriate. All the nurses who gave evidence were of the view that these observations required a visual and verbal response. Doctor Wallace concurred with this opinion. Whilst on the issue of observations, I would agree with Doctor Wallace's evidence that in circumstances in which a prisoner was suspected of having taken an illicit substance, if observations requiring these responses were to be undertaken on a more frequent basis than hourly then hospital admission of the inmate should be seriously considered.

[25] When the nature of observations of an inmate suspected on being under the influence of drugs undertaken by prison officers is considered it is quite clear in 2013 what the medical personnel anticipated was involved in these observations did not accord with what was actually performed by prison officers. The officers had differing opinions as to what was required. They included not waking a prisoner to gain a verbal response if asleep and checking he was breathing without distress, checking on movement by the prisoner, or looking for any reaction to the ingestion of a substance such as sweating. At least one officer said that training in relation to what was involved in observations related to the ACT2care procedure. This related to risks of self harm and suicide. The risks involved there are very different from those involved in a drugs overdose. The confusion in relation to what was required by way of observations in this instance was further exacerbated by the fact that a prison officer was not permitted to enter an occupied cell overnight unaccompanied. A prison officer required to contact the manager who then appeared with two other staff. A sealed packet contained the keys to the cell. This could not be opened until the manager agreed with that course of action. This process would not encourage an officer to obtain a verbal response, albeit such might be obtained by making sufficient noise at the door of the cell to rouse an inmate thus prompting a verbal response. It clearly prevented physically shaking a prisoner to rouse him to gain such a response. If officers had sought a verbal response in observing Mr Jackson, then at some point between 5.40pm on 27th September and 10am on 28th September 2013 they would have been unable to obtain same. They would have been

unable to rouse him. This would have clearly indicated that his condition had deteriorated and medical assistance would have been sought.

[26] The next issue to consider is one which is not uncommon. Prisoners appear generally to be unable to cooperate with prison staff when they make reasonable inquiries even in circumstances in which to be other than honest may jeopardise an inmate's health. It is clear throughout his dealings with prison staff following his admission to H M Prison Perth that Mr Jackson was less than frank. There are a number of examples of this. He told Nurse Ramsay that he had taken illicit Valium prior to his admission. He repeated this assertion to at least one prison officer. The drug screening test undertaken on his admission was negative as regards Valium. When he was examined by Nurse Duffus on 27th September 2013 he refused to tell her what he had taken. If he had answered her questions truthfully, then he may not have passed away. Whilst on this point, it is appropriate to note that the 'Advice to Prisoners Suspected of Swallowing an Unauthorised Substance' form, Crown production number 5 page 23 does contain the following warning 'You are suspected of swallowing an unauthorised substance. I am duty bound to explain the possible health implications of your actions. This has serious implications and could cause major health problems and in extreme case, could result in loss of life.' In short, Mr Jackson was put on notice as to the potential consequences of his actions.

[27] Another issue relates to medical cover in September 2013. There was no nursing staff on duty within the prison establishment after 9.30pm on weekdays and 5pm at weekends. They commenced at 7am during the week and at 9.15am at the weekend.

Doctors were on duty from 9.15am to 5pm during the week and from 8.30am to 12.30pm on Saturday. An on call doctor provided cover outwith the doctors' hours to deal with any medical issue. Mr Leighton, on behalf of the family, suggested that there should be nursing cover all the time within the prison establishment. He referred to the practice operated in Lothian and Borders when persons were in police custody. My immediate reaction is that this information came from Professor Busuttil as opposed to someone with first hand experience of the practice. As a matter of fact, Lothian and Borders Police no longer exist with the regional forces having amalgamated to form Police Scotland. Accordingly, the witness' information may be a little out of date. In any event, there may be differences in observing a limited number of persons in police custody as opposed to a greater number of inmates in a prison establishment. The comparison is not like for like. How many nursing staff would have to be employed to provide such cover in prison? What were the cost implications? Further, the risks of persons being under the influence in police custody are likely to be higher than in a prison. Persons taken into police custody will have been at liberty and thus had the opportunity to take drugs recently. By the time they reach a prison, at least in theory, their ability to obtain and take drugs should have been reduced. Any drugs taken prior to apprehension by the police will have been taken some significant time prior to admission to prison. An inmate will have spent time in the police cells, followed by an appearance in court and then transfer to prison. The effect of any drugs may have reduced. Thus there may be good reason for nursing staff to be on duty overnight in police cells as opposed to a prison establishment. It seems to me that if prison staff follow the observation regime

expected by nursing staff and are aware of the signs of deterioration, then contact to the on call doctor at night provides more than sufficient safeguards, particularly in the absence of evidence showing why such a regime is inadequate. In any event, I agree with the observations made by Mr Wightman on behalf of Tayside Health Board on this matter. Aside from the foregoing observations, there was no evidence led to suggest what the effects might be on other aspects of the service if overnight nursing care was provided.

[28] This logically moves matters on to the issue of whether Nurse Duffus should have arranged for Mr Jackson's admission to hospital when she examined him around 5.30pm on 27th September 2013. This was a Friday. Accordingly, nursing staff were on duty for approximately another four hours. She placed Mr Jackson on hourly observations. If there was any deterioration in his presentation and condition over that period, a nurse was on duty to carry out further examination. If his condition deteriorated after 9.30pm, the on call doctor could be called. I do not consider that there was any basis for criticising Nurse Duffus in assessing the risk as she did and placing Mr Jackson on hourly observations as opposed to arranging for his admission to hospital. There was no evidence to suggest that her assessment of Mr Jackson that he was not requiring hospital admission was incorrect. Indeed, Doctor Wallace supported her assessment. Although Nurse Duffus was unaware of Mr Jackson's history when she examined him, the scenario was very similar to the one which had presented itself shortly after his admission to the prison. It had been dealt with in a similar manner without any adverse consequences. The fact that Prison Officer Shepherd expressed the

opinion that if the same circumstances presented themselves again, he would call an ambulance does not undermine the assessment of Nurse Duffus. He is not medically qualified. Whilst I am prepared to accept that Mr Jackson took drugs after he returned to B Hall from the Separation and Reintegration Unit, I cannot rule out the possibility that he took further drugs after he was seen by Nurse Duffus. There were drugs found in his cell and indeed concealed in his person after his death. One of the drugs found was also found in his system after his death.

[29] Whilst considering the actions of Nurse Duffus, there was no suggestion in evidence that she tendered any advice to officers as to what changes in Mr Jackson's condition or presentation might prompt further medical assistance. It would have been useful if such information had been provided. It might have avoided his death. She was aware of signs which might indicate a deterioration in Mr Jackson's condition, for example snoring. In making this observation I fully appreciate that Nurse Duffus anticipated that in instructing hourly observations these would involve officers obtaining a visual and verbal response from Mr Jackson. Accordingly, any change in his condition should have been apparent. He would have been unable to give a verbal response. However, it seems to me that it would be reasonable to anticipate that medical personnel would provide such advice. If medical adssistance was sought outwith the prison setting for someone under the influence of drugs, advice would be given to keep an eye on the individual. If there was any change in the condition, then the advice would be that further medical input be sought. It would be expected that information would be provided as to what evidenced such a change.

[30] The next issue I wish to cover is the provision and administration of Naloxone. This is a drug to counter the effects of an opiate overdose. The evidence from Kirsten Horsburgh, who was the national Naloxone Coordinator, was that the use of the drug was being rolled out by the Prison Service with the necessary training of staff being undertaken. It was not available to staff in H M Prison, Perth in September 2013. However, I do not consider the provision and administration to be of any relevance in this inquiry. Doctor Wallace gave evidence that Naloxone was used in instances of overdoses of opiates. However, it was much less effective in the case of Buprenorphine, which was the opiate found in Mr Jackson's body. Further, it had no effect in relation to Gabapentin and Phenazepam. These were both drugs found in significant quantities in Mr Jackson's system. In particular, the level of Gabapentin was considered at such a level that medical assistance would have been required to enable Mr Jackson to survive. In those circumstances, there is nothing to suggest that the administration of Naloxone would have had any material effect upon the outcome. In addition, Doctor Wallace was of the clear opinion that Naloxone was only administered when an individual was unresponsive for the simple reason that someone who had taken opiates was unlikely to welcome the administration of a drug which countered the effects of the drug taken. In short, it was a measure of last resort. Mr Jackson was not in that condition when Nurse Duffus saw him. There was no evidence pointing to the stage at which the drug could have been administered which would have resulted Mr Jackson's recovery. Of far greater significance would have been a recognition that Mr Jackson was slipping from sleep to unconsciousness to coma resulting in further medical assistance being sought.

[31] I now wish to turn to the system of healthcare markers which was in operation at the time of Mr Jackson's death. M/s McDowall, the Health Strategy and Suicide Prevention Manager, expressed the opinion that Mr Jackson's presentation was such that there should have been a health care marker raised on his records. According to the Governors and Managers Action reference numbers 26A/99, which discontinued medical observations, and 42A/09, the purpose of such a marker was to assist residential staff in caring for prisoners with specific health care problems. These problems were identified and care and comfort could be delivered effectively outwith healthcare facilities. The marker resulted in a basic care plan being instigated to support a prisoner with a specific health care need. Residential staff took account of the requirements of the care plan. The marker could only be raised by healthcare staff. The list of conditions did not cover Mr Jackson's condition. M/s McDowall suggested that drug withdrawal covered his presentation. However, he was suffering from the exactly opposite condition! The update action number 42A/09 still only referred to drug withdrawal. Doctor Wallace considered that the system of healthcare markers had no role to play in the present circumstances as the purpose of the system was to bring matters to the attention of residential staff. In the present instance, staff were only too aware of Mr Jackson's presentation. I agree with that assessment. Aside from there being no marker to cover a prisoner being under the influence of drugs, I do not consider the present circumstances were envisaged to be covered by the system of healthcare markers.

[32] I now turn to the 'Items Concealed Internally Policy' in operation in September 2013. When Mr Jackson was transferred to the Separation and Reintegration Unit on 24th

September 2013 the procedure operating in respect of prisoners who were suspected of being under the influence of an unauthorised substance at that time in H M Prison, Perth involved a form which included a statement to be read to the prisoner and a number of paragraphs which the prisoner required to read. These explained the consequences of such actions and that he would be observed hourly. The checklist for officers in the Separation and Reintegration Unit prompted officers to effect hourly observations upon prisoners as instructed by healthcare staff. An observation sheet required the officer carrying out the observations to check on whether the prisoner was orientated to time, place, and identity. During the night, the relevant section of the sheet was completed 'appears asleep' for each hourly observation between 10pm and 7am. The officer who made these entries did not give evidence but they do suggest that the officer concerned may not have obtained a verbal response. The additional comments section of the form has an entry 'various body positional changes monitored throughout the night.' This lends support to my immediately preceding remark. It does beg the question how an officer could determine whether the prisoner concerned was orientated to time, place, and identity if he was not roused?

[33] The fact that Mr Jackson was noted to be under the influence of drugs from 24th September 2013 until the morning of 27th September 2013 supports the contention that he had banked drugs internally and had access to them whilst in the Unit. Apart from the recovery of an empty wrap nothing else was recovered as a result of the searches undertaken when Mr Jackson was in the Unit. There was no suggestion that he could have accessed them from elsewhere during that period. Other evidence to which I have

referred when concluding that he took further drugs after his return to B Hall on 27th September 2013 point to this being the case. However internal searches upon Mr Jackson could not be executed. There was further no evidence that searches of his cell in the Unit were not carried out in accordance with this policy. Events in the Separation and Reintegration Unit, however, have no other significance to the inquiry.

[34] A further form which bears substantial similarity to that completed in respect of Mr Jackson on 24th September 2013, was completed after Nurse Duffus' examination on 27th September 2013. The observation sheet is an exact copy of that referred to in the earlier paragraph. The entries covering the period from 11pm on 27th September 2013 until 7am on 28th September 2013 all record that Mr Jackson was asleep. The question posed in that paragraph again seems to prompt an unsatisfactory answer. In addition, it is recorded that Mr Jackson was snoring loudly all night and in a deep sleep. Matters are exacerbated by the fact that in the entries covering the period from 5.40pm until 10pm on 27th September 2013 the officer observing has ticked the 'No' box in response to the question 'Is the prisoner orientated to time, place, and person? An accompanying additional comment made by Officer Ferguson recorded 'Sleeping most of the time but not coherent. Does not know you are there. Tossing and turning.' The officer did say that most of the time he got grunts from Mr Jackson or he was told to leave him to sleep. However, the officer considered that Mr Jackson was not sure where he was hence the ticks in the 'No' box. It was submitted on behalf of the Prison Officers' Association that there was no failure in the operation of this policy in relation to Mr Jackson's death. I cannot agree in light of these entries. The officers were not checking that Mr Jackson

was orientated to time, place, and identity. Alternatively, the response from Mr Jackson suggested he was not so orientated. If that was the case, why was further medical assistance not sought? Aside from anything else, nursing staff did not finish until 9.30pm.

[35] Having dealt with these matters, I now turn to the remaining matters upon which I have to make a determination. Turning firstly to section 6(1)(c), it is unnecessary for me to be satisfied that any reasonable precautions would have avoided the death. Instead of it being a probability that the death would have been avoided, what is required is that it is a real or lively possibility that death might have been avoided by the reasonable precaution. There was no evidence led before the inquiry that any interventions of whatever nature would have saved Mr Jackson's life if they had been taken at any particular stage. It is certainly possible that by the time Nurse Duffus saw him on 27th September 2013 he had taken such a quantity of illicit drugs that he had crossed 'the Rubicon' and no medical intervention would have saved him.

[36] These observations having been made, I agree with the submissions made on behalf of the Crown, Tayside Health Board, and the Scottish Prison Service that a reasonable precaution whereby the death of Mr Jackson may have been avoided would have been his avoiding taking the drugs which were found in his system following his death in the quantities he did. As was noted in the Crown submission and I duly recognise, it may seem somewhat harsh and unsympathetic to make this determination. However, I consider that it is appropriate to do so. It seems to me inappropriate to avoid commenting that any inmate who takes drugs in custody does potentially risk fatal

consequences. Further, having taken the non prescribed drugs illicitly, he exacerbated matters by failing to provide prison staff with accurate responses to their questions regarding what he may have taken. As a consequence they were unable to take steps which might have avoided his death.

[37] In terms of section 6(1)(c) of the Act, I consider that further reasonable precautions are firstly providing prison officers with information regarding the effects and symptoms of a person of suffering the adverse effects of taking drugs and how these might exhibit themselves. If officers had been provided with such information then Officers Ferguson, Aitken, and Allison may well have realised that what they were observing was not Mr Jackson sleeping deeply. Rather he was suffering adverse effects of taking drugs. As a result his condition was deteriorating. Medical intervention might well have been sought from a nurse, if one was still on duty or the on call doctor. I note that whilst the Governors and Managers Action Reference Number 079A/14 dated 30th December 2014, which was produced as a consequence of Mr Jackson's death, refers to what is required to be undertaken by way of observations, there does not appear to be anything on this particular issue. It seems to me that without this information, it may be difficult for an officer to identify a change in a prisoner's presentation. Such a change is a catalyst for healthcare staff being contacted.

[38] Linked to the foregoing is the content of the observations. It is clear that what medical staff envisaged as being involved in the observations of a prisoner in September 2013 did not accord with the prison staff actually performing the observations. Again, if Officers Ferguson, Aitken, and Allison had sought a verbal response from Mr Jackson

after he was made the subject of hourly observations by Nurse Duffus, then any of these officers may well have recognised that Mr Jackson's condition had deteriorated as a result of the adverse effects of taking drugs. As a result, medical intervention might well have been sought from a nurse, if one was still on duty or the on call doctor. The Governors and Managers Action Reference Number 079A/14 now makes it clear what is required, namely a fifteen minute visual observation with an hourly verbal response being obtained. What form such observations take is also specified as is the action to be taken if the prisoner is unable to satisfy what is expected in terms of these observations. As I have noted this was not necessarily the position in September 2013.

[39] Moving on to section 6(1)(d) of the Act, I am satisfied that there was a defect in the system of working in September 2013 in that overnight between 27th and 28th September 2013, the observations undertaken did not confirm that Mr Jackson was orientated to time, place, and identity in terms of the system in place at the time. However, I cannot conclude that such a defect contributed to Mr Jackson's death. As I have already observed, there was no evidence led before the inquiry that any interventions of whatever nature would have saved Mr Jackson's life if they had been taken at any particular stage.

[40] Finally turning to matters in terms of section 6(1)(e) of the Act, I consider that it is appropriate that a standardised approach is used to assess the condition of a prisoner who has taken drugs. In September 2013 this was not the case albeit I am satisfied that this had no role to play in Mr Jackson's death. Doctor Wallace expressed the opinion that even if Nurse Duffus had used SEWS scale to assess Mr Jackson on 27th September

2013, her decision following such an assessment would not have been any different. The SEWS scale has now been adopted.

[41] I further consider that when nursing staff are contacted to assess the condition of a prisoner they should have with them standard equipment necessary to measure the prisoner's blood pressure, temperature, pulse, blood sugar, oxygen saturations, and breathing. There was not apparently the case in September 2013. The availability of such standard equipment enables greater information on these matters to be obtained and thus a better assessment to be made. Some steps should further be taken in such circumstances to facilitate nursing staff accessing the Vision system in order that they apprise themselves of the up to date information concerning the prisoner. Nurse Duffus had no background information upon Mr Jackson when she attended on him on 27th September 2013. That also appears to be the position regarding Nurse Ramsay's state of knowledge when she saw him the day before. Nurse Duffus, in particular, was unaware of his condition on 24th September 2013 and on subsequent days during his stay in the Separation and Reintegration Unit. Bearing in mind the culture in which many inmates are reluctant to provide information to prison staff, the more information which can be gained from prison records is bound to be beneficial. Finally, whilst still dealing with the involvement of nursing staff and the apparent reluctance on the part of inmates to be frank with them, the authorities should consider setting up a system whereby a urine sample is actually obtained from an inmate if nursing staff wish one to enable them to ascertain what drugs may be in that person's system. Both Nurses Ramsay and Duffus intended to obtain a urine sample from Mr Jackson but he was unable to provide one.

They left a urine pot for one to be obtained but none was provided. Nurse Ramsay indicated that if she had been aware of the results of the drug screening test upon Mr Jackson on his admission she would probably have insisted on his providing a urine sample as the information he gave her regarding his drug intake did not accord with the results of that screening test.

[42] Finally, there is the procedure in respect of the '72 hour rule' implemented in circumstances of a prisoner being suspected of being under the influence of an unauthorised substance or being banked with an illicit substance which resulted in that inmate being transferred to the Separation and Reintegration Unit. This procedure was implemented on 24th September 2013. The issue of further implementation of this procedure after Mr Jackson was assessed by Nurse Duffus on 27th September 2013 was never investigated by parties. The circumstances on both occasions were virtually identical. On reflection, it is not immediately apparent why this procedure was implemented on 24th and not on 27th September 2013. In addition there was evidence that the period in the Unit could be extended if items were recovered from the prisoner or his cell or he remained under the influence at the end of the 72 hour period albeit this seemed rarely to occur. Again, in this instance, something of note was recovered in the form of an empty wrap so it may be that Mr Jackson's stay in the Unit should have been extended. This matter is not ultimately significant to this inquiry but I think the operation of this procedure could benefit from further examination by the prison authorities.