

SHERIFFDOM OF GRAMPIAN HIGHLAND AND ISLANDS AT KIRKWALL

[2018] FAI 26

B6/18

DETERMINATION

BY

SHERIFF ANDREW BERRY

**UNDER THE INQUIRIES INTO FATAL ACCIDENTS AND SUDDEN DEATHS ETC
(SCOTLAND) ACT 2016**

into the death of

JAMIE McPHERSON SHANNON

Wick, 6 July 2018

DETERMINATION

[1] The Sheriff having considered the information presented at the inquiry,
determines:-

- a. In terms of section 26(2)(a) of the Act, JAMIE MCPHERSON SHANNON, born on 11 December 1993 and resident in Dunblane, died at 14.00 hours on 26 June 2017 at Noust of Bigging, Yesnaby, Orkney;
- b. In terms of section 26(2)(b), the accident resulting in said death occurred about 1400 hours on 26 June 2017 at Noust of Bigging, Yesnaby, Orkney;
- c. In terms of section 26(2)(c) the cause of death was multiple injuries due to a fall from a cliff;

- d. In terms of section 26(2)(d) the cause of the accident was a fall from a cliff at Noust of Bigging, Yesnaby, Orkney;
- e. In terms of section 26(2)(e) there were no precautions which (i) could reasonably have been taken, and (ii) had they been taken, might realistically have resulted in the death, or any accident resulting in the death, being avoided;
- f. In terms of section 26(2)(f) there were no defects in any system of working which contributed to the death or the accident resulting in the death;
- g. In terms of section 26(2)(g) there are no other facts which are relevant to the circumstances of the death.

RECOMMENDATIONS

- [2] In terms of section 26(1)(b) I have no recommendations to make.

NOTE

Introduction

- [3] The inquiry was held under the Act in view of the deceased, Jamie McPherson Shannon, having died in the course of his employment.

- [4] The inquiry took place at Kirkwall Sheriff Court with a preliminary hearing on Monday 14th May 2018 and the inquiry itself on Monday 11th June 2018.

- [5] On both dates Mr Main appeared for the Crown Office and Procurator Fiscal Service and Mr Donaldson, solicitor for Radical Travel Group Limited, the employers of the deceased, operating as Haggis Adventures.

[6] One witness was called to give evidence namely police constable William Dingwall who, as part of his evidence, read statements that had been taken shortly after the occurrence from two eye witnesses being Sarah Jessica Hodge and Amy June Gliori.

[7] Additionally, I had the benefit of a Joint Minute of Agreement completed between Mr Main and Mr Donaldson setting out, amongst other things, the times of certain events and the actions of the emergency services.

The Legal Framework

[8] The inquiry was held under section 1 of the Act, and the rules pertaining thereto, to establish the circumstances of the death and to consider what steps, if any, might be taken to prevent other deaths in similar circumstances.

[9] In an inquiry the process is inquisitorial with the procurator fiscal representing the public interest.

[10] It is not the purpose of an inquiry to establish fault, whether criminal, civil or otherwise.

Summary

[11] Jamie McPherson Shannon was employed as a Driver Guide with Haggis Tours from 21 March 2016 and, after training, had led a number of tours taking guests to various parts of Scotland, including Orkney.

[12] One such tour, on 26 June 2017, took the deceased and a party of guests to a place known as Yesnaby (otherwise Noust of Bigging, Yesnaby) which is a popular stop for such tours.

[13] The deceased had warned his guests to be careful in relation to cliffs at the location.

[14] The witness statement of Sarah Jessica Hodge advised that the deceased, while apparently trying to take a photograph of a puffin, lost his balance and fell, and that of Amy June Gliori advised that she heard a noise and saw the deceased fall.

[15] This was around 14.00.

[16] The emergency services were contacted with an immediate response by the police, on land plus the coastguard and the RNLI by sea.

[17] The deceased was recovered from the sea to a lifeboat and a coastguard paramedic was winched on to the lifeboat. Said paramedic pronounced life extinct at 15.38.

[18] It is reasonable to conclude that the deceased died immediately as a result of the fall and therefore at around 14.00.

[19] On 28 June 2017 a post mortem examination concluded that the cause of death of the deceased was multiple injuries due to, or as a consequence of, a fall from a cliff.

Submissions

[20] The conclusions that I have drawn, as set out at the beginning of this Determination are entirely in keeping with what was submitted to me by Mr Main.

Mr Donaldson aligned himself with those submissions highlighting, properly, the positive character and personality of the deceased.

Discussion and conclusions

[21] While I have stated above that it is not the purpose of an inquiry to establish fault, whether criminal, civil or otherwise, it is clear that there was no fault contributing in any way to the death nor is there any blame to be apportioned.

[22] The deceased was clearly popular with his employers. This popularity was shared by those who were part of the group sightseeing together on 26 June 2017. Additionally, on the trip the deceased was in good spirits and enjoying his work very much indeed.

[23] The tragic events of 26 June 2017 were entirely an accident.

[24] The deceased will clearly be greatly missed by those closest to him as was evident by the attendance of several family members, as well as work colleagues, at the inquiry on 11 June.

[25] I offer my condolences to all those who have been affected by the death of Jamie McPherson Shannon.