

**SHERIFFDOM OF SOUTH STRATHCLYDE, DUMFRIES AND GALLOWAY AT
DUMFRIES**

[2023] FAI 29

DUM-B3-23

DETERMINATION

BY

SUMMARY SHERIFF JOANNA McDONALD

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

into the death of

JAMES DEREK ROAN

DUMFRIES, 20 JUNE 2023

Determination

The Sheriff, having considered the information presented at the Inquiry, determines in terms of section 26 of the Inquiries into Fatal Accidents and Sudden Deaths etc.

(Scotland) Act 2016 that:

- 1. In terms of section 26(2)(a) of the 2016 Act (when and where the death occurred):**

That the late James Derek Roan, born 5 April 1951, died at 20:40 hours on 19 June 2022 within Dumfries and Galloway Royal Infirmary. This was the time when his life was formally pronounced extinct.

2. **In terms of section 26(2)(b) of the 2016 Act (when and where any accident resulting in death occurred):**

That the accident resulting in death took place between 11:20 and 16:28 hours on 19 June 2022 at Stoney field, Barnbarroch Farm, Dalbeattie, Dumfries.

3. **In terms of section 26(2)(c) of the 2016 Act (the cause or causes of death):**

That the cause of death was:

- I (a) Severe Chest Trauma
- II Ischemic Heart Disease

4. **In terms of section 26(2)(d) of the 2016 Act (the cause or causes of any accident resulting in death):**

That the cause of the accident resulting in death was as follows:

An attack by a cow who had recently calved.

5. **In terms of section 26(2)(e) of the 2016 Act (any precautions which (i) could reasonably have been taken, and (ii) had they been taken, might realistically have resulted in death, or any accident resulting in death, being avoided):**

There are no precautions which could reasonably have been taken that might realistically have resulted in the death, or accident resulting in death, being avoided.

6. **In terms of section 26(2)(f) of the 2016 Act (any defects in any system of working which contributed to the death or the accident resulting in death):**

There were no defects in any system of working which contributed to the death or the accident resulting in death.

7. **In terms of section 26(2)(g) of the 2016 Act (any other facts which are relevant to the circumstances of the death):**

There are no other facts relevant to the circumstances of the death.

Recommendations

1. **In terms of section 26(1)(b) of the 2016 Act (recommendations (if any) as to (a) the taking of reasonable precautions, (b) the making of improvements to any system of working, (c) the introduction of a system of working, (d) the taking of any other steps, which might realistically prevent other deaths in similar circumstances):**

There are no recommendations made.

NOTE

The Legal Framework

[1] A fatal accident Inquiry was held under the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Act 2016 (“the 2016 Act”) into the death of James Derek Roan who died on 19 June 2022. He was at the time of his death, a self-employed farmer

on his family-owned farm, Barnbarroch Farm, Dalbeattie, Dumfries and Galloway. As his death was the result of an accident which occurred in the course of that employment, in terms of section 2(3) of the 2016 Act, an Inquiry was required to be held into the circumstances of his death.

[2] This Inquiry is held under section 1 of the 2016 Act and governed by the Act of Sederunt (Fatal Accident Inquiry Rules) 2017 (SSI 2017/103). The Inquiry was initiated by the Procurator Fiscal, who represents the public interest, in accordance with his statutory duty to do so. The purpose of an Inquiry under section 1(3) of the Act is (a) to establish the circumstances of the death and (b) consider what steps, if any, might be taken to prevent other deaths in similar circumstances. The Inquiry is an inquisitorial process and, under section 1(4) of the Act, it is not its purpose to establish civil or criminal liability.

[3] The Procurator Fiscal issued the notice of the Inquiry on 13 January 2023. The first order was granted on 28 February 2023. Preliminary Hearings took place by WebEx on 10 March, 28 April and 17 May 2023. Ms Morag McLintock, Procurator Fiscal Depute, appeared throughout for the Crown. There were no interested parties and the family was not represented. The Inquiry was held on 16 June 2023, in person, at Dumfries Sheriff Court.

[4] It became clear at the Preliminary Hearing that there were no matters in dispute. The Crown had prepared a substantial Notice to Admit which contained evidence that I was satisfied was uncontroversial. There were no objections to the

Notice to Admit and I accepted the facts set out in the Notice to Admit. Also before the Inquiry was the following information :

- i. Post Mortem Report dated 9 August 2022 relating to Mr Roan prepared by Dr K Nale, Consultant Pathologist, Dumfries and Galloway Royal Infirmary.
- ii. Toxicology Report dated 2 August 2022 relating to Mr Roan prepared by Hazel Jennifer Torrance, Forensic Toxicologist.
- iii. GP Records relating to the medical history and treatment of Mr Roan.
- iv. Hospital records from Dumfries and Galloway Royal Infirmary Records relating to Mr Roan.
- v. An email exchange between the Crown and Rhianna Montgomery, Rural Policy Adviser from the National Farmers Union Scotland (NFSU) concluding on 20 September 2022, relating to Mr Roan. The information contained the NFSU advice to farmers to use the Health and Safety Executive (HSE) website for guidance on cattle.
- vi. Handling and Housing Cattle Information Sheet from the Health and Safety Executive setting out their guidance on handling cattle.
- viii. A copy of the email received on 20 July 2022 by the Crown from the Health and Safety Executive relating to the closure of Mr Roan's case detailing their opinion and findings.

- viii. A copy of the typed medical records pages 45, 46 and 48. This was to assist me as the original handwritten version, contained within the original medical records, was difficult to decipher.
- ix. Three separate Police statements provided to the Police from Stuart Roan in relation to his father's death; these were dated 20 June 2022, 1 July 2022 and 16 April 2023.
- x. A statement from Mr Roan's wife, Kathleen Roan, dated 20 June 2022.
- xi. A statement of events from Dr Michael Quigley, Consultant in Emergency Medicine at Dumfries and Galloway Royal Infirmary, given to the Police on 21 June 2022
- xii. A statement from Dr Graham Bell, Veterinary Surgeon for Barnbarroch Farm, provided to Police Scotland on 1 July 2022.

Summary and Conclusion

[1] The deceased, James Derek Roan was a self-employed farmer on his family-owned farm, Barnbarroch Farm, Dalbeattie, Dumfries. Mr Roan was born on the farm and lived and farmed on it his entire life. He ran the farm in partnership with his wife and two sons. Mr Roan was an experienced stockman and the risks associated with cattle handling would have been well known to him. Mr Roan died on 19 June 2022 from extensive thoracic injuries as a result of an accident involving a cow whilst working on the farm. His death is certified in the post mortem report as having been primarily the result of severe chest trauma.

[2] On 19 June 2022, Mr Roan commenced work at around 07:30 hours and visited his wife at her place of employment at approximately 11:00 hours. He remained with her for approximately fifteen to twenty minutes before leaving.

[3] Mr Roan intended on 19 June 2022 to move a cow and its calf to join the main herd. The cow, a black Galloway beef cow weighing around 550kg, along with her calf, had been separated from the main herd a few days earlier due to suckling issues with the calf (who was approximately a week old at the time of the accident). The farm vet, Dr Graham Bell stated that it was good husbandry to deal with this issue in the way that Mr Roan had, to ensure that the calf was managing. The cow who was aged around 10 to 12 years had never shown any signs of aggression before. Access to the main herd was through Stoney field.

[4] At about 16:00 hours Stuart Roan, the deceased's son, was within the farmhouse on Barnbarroch Farm and noticed Mr Roan's quad bike in Stoney field with its light flashing, indicating that the engine was on. He could not see his father and assumed he was working nearby. A short time later, Stuart Roan noticed the quad bike to be in the same position and Mr Roan was still out of sight. Stuart Roan went to Stoney field to see where his father was.

[5] At approximately 16:28 hours Stuart Roan found his father lying on his side in Stoney field with visible injuries to his face. He contacted an ambulance at 16:28 hours and telephoned his mother who attended at the field immediately. Mrs Roan found her husband conscious but with significant breathing difficulties. Paramedics attended at 16:51 hours and administered oxygen and morphine to Mr Roan.

[6] At 18:00 hours, Mr Roan arrived at Dumfries and Galloway Royal Infirmary and was treated by Dr Michael Quigley, a Consultant in Emergency Medicine; on admission Mr Roan was “highly unstable and critically unwell” and was brought into the A and E department in cardiac arrest. A pulse was recovered and a CT scan carried out which confirmed that Mr Roan’s injuries were extensive thoracic trauma. There were no reversible injuries that were amenable to intervention and Mr Roan’s condition continued to deteriorate with death being pronounced at 20:40 hours on 19 June 2022 with his family present.

[7] The injuries to Mr Roan were so severe and extensive that Dr Kirsty Nale, Consultant Pathologist opined that a speedier discovery may not have had significant impact on survival and that the injuries were in keeping with the reported mechanism of death, namely an accident involving livestock. Dr Nale stated that it was difficult to state whether the pre-existing ischemic heart disease had induced a collapse that had resulted in the fatal accident but noted that there was no definite evidence of a significant cardiac event. In this regard, I noted the observation from Stuart Roan that his view was that the cow had felt threatened and attacked his father. It was Stuart Roan’s opinion (and one I paid regard to) that if Mr Roan had had a medical episode causing him to be lying in the field, then it would be “extremely unlikely” that the cow would have caused Mr Roan any harm.

[8] The Health and Safety Executive provide comprehensive guidance for agricultural employers, workers and self-employed farmers on its website at Agriculture: livestock ([hse.gov.uk](https://www.hse.gov.uk)). This includes information setting out the risks to

farm and farm workers when handling cattle and details the measures which can be taken to control and mitigate these risks. Mr Roan as an experienced and accomplished stockman would have been well aware of these risks and how to alleviate them.

Conclusions

[9] James Derek Roan was 72 years old at the time of his death. Barnbarroch Farm was a farm which had been operated by the Roan family for 125 years. Mr Roan had worked on the farm all his life and was an able and knowledgeable stockman who was a respected member of the farming community both locally and nationally.

[10] The Health and Safety Executive were aware of the circumstances of the death, but did not regard the accident as raising any real questions affecting the public interest and did not wish to take part in the Inquiry.

[11] The family of Mr Roan also did not wish to be present or represented at the Inquiry; I understood their position to be that they accepted that Mr Roan's death had been a result of tragic accident whilst he was simply doing the job that he had dedicated his life to.

[12] The Procurator Fiscal asked me, effectively, to make a formal determination of death without making any recommendations as to precautions. I agree with this approach. In my view, the evidence before me was not sufficient to allow me to do anything other than make a formal determination as to the circumstances of death.

Postscript

[13] At the outset of the Inquiry I extended my condolences to Mr Roan's family, I was joined in those condolences by the Crown. I wish to formally repeat my condolences to Mr Roan's family in this determination.