

SHERIFFDOM OF GLASGOW AND STRATHKELVIN AT GLASGOW

[2023] FAI 38

B337-22

DETERMINATION

BY

SHERIFF GERARD CONSIDINE

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

into the death of

GERARD HOOKS

GLASGOW, 1 NOVEMBER 2023.

The sheriff, having considered all the information presented at the Inquiry, Determines in section 26 of the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (hereinafter “the Act”) that:

(1) In terms of section 26(2)(a) of the Act, Gerard Hooks, born 6 June 1945, then a prisoner within HM Prison Low Moss, 190 Crosshill Road, Glasgow, died at 2228 hours on 30 April 2022 within Glasgow Royal Infirmary, Castle Street, Glasgow.

(2) In terms of section 26(2)(c) of the Act, the cause was:

1a: Marginal Zone Lymphoma

2: Prostate Cancer; Asthma

(3) In terms of section 26(2)(e) of the Act, there were no precautions which could reasonably have been taken, which might realistically have resulted in the death being avoided.

(4) In terms of section 26(2)(f) of the Act, there were no defects in any system of working which contributed to the death.

(5) In terms of section 26(2)(g) of the Act, there are no other facts which are relevant to the circumstances of the death.

Recommendations

The sheriff having considered the information presented at the Inquiry, Makes no recommendations in terms of section 26(1)(b) of the Act.

Sheriff

NOTE

Introduction

[1] The Determination is made following the Fatal Accident Inquiry held under the Act into the circumstances of the death of Gerard Hooks, born 6 June 1945, then a prisoner within HM Prison Low Moss, 190 Crosshill Road, Glasgow, who died at 2228 hours on 30 April 2022 within Glasgow Royal Infirmary, Castle Street, Glasgow.

[2] Two parties were represented at the Inquiry. Miss Ramage, Procurator Fiscal Depute, appeared for the Crown. Mr Bell, solicitor, appeared for the Scottish Prison Service. Intimation of the Inquiry was made to Agnes Hooks, the wife of Gerard Hooks, who elected not to participate.

[3] For the purposes of the Inquiry parties tendered a Joint Minute of Agreement which covered all the necessary chapters of evidence which required to be placed before the court. Therefore, no parole evidence was presented. Both parties invited me to make only formal findings in terms of section 26(2)(a) and (c) of the Act.

Legal framework

[4] This Inquiry was held under section 1 of the Act. It was a mandatory Inquiry in terms of section 2(4)(a) of the Act, as Mr Hooks was in legal custody at the time of his death. Although Mr Hooks died whilst in hospital, he remained a prisoner of HM Prison Low Moss throughout that time, meaning that, at the time of his death, he was in legal custody.

[5] In terms of section 1(3) of the Act, the purpose of an Inquiry is to establish the circumstances of the death and to consider what steps, if any, may be taken to prevent any other deaths in similar circumstances. Section 26 requires the sheriff to make a Determination which, in terms of section 26(2), is to set out factors relevant to the circumstances of the death insofar as they have been established to his satisfaction.

These are:

- (a) when and where the death occurred;

- (b) when and where any accident resulting in the death occurred;
- (c) the cause or causes of the death;
- (d) the cause or causes of any accident resulting in the death;
- (e) any precautions which could reasonably have been taken and if they had been taken might realistically have resulted in the death being avoided;
- (f) any defect in any system of working which contributed to the death or to the accident; and
- (g) any other facts which are relevant to the circumstances of the death.

[6] In terms of 26(1)(b) and 26(4), the Inquiry is to make such recommendations (if any) as the sheriff considers appropriate 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; and
- (d) the taking of any other steps which might realistically prevent other deaths in similar circumstances.

The procurator fiscal depute represents the public interest. An Inquiry is an inquisitorial process and the manner in which evidence is presented is not restricted. The Determination must be based on the evidence presented at the Inquiry. It is not the purpose of an Inquiry to establish criminal or civil liability (section 1(4) of the Act).

Findings

1. Gerard Hooks (hereinafter referred to as “Mr Hooks”) was born on 6 June 1945 and died on 30 April 2022, aged 76 years;
2. Mr Hooks died within Ward 29 of Glasgow Royal Infirmary, 84 Castle Street, Glasgow;
3. At the time of his death, Mr Hooks remained in the lawful custody of Her Majesty’s Prison Low Moss (HMP Low Moss);
4. On 1 November 2011, the responsibility for the provision of healthcare to prisoners transferred from the Scottish Prison Service to the National Health Service. Since then, individual regional NHS health boards have been responsible for the delivery of health care services within prisons in Scotland which fall within their geographical ambit for the provision of medical care;
5. On 10 June 2021, Mr Hooks was convicted, following trial, of a charge of lewd, indecent and libidinous practices and behaviour, two charges of indecent assault and three contraventions of section 5 of the Sexual Offences (Scotland) Act 1976;
6. On 30 July 2021, Mr Hooks was sentenced to 3 years and 6 months’ imprisonment and was admitted to HMP Low Moss. His earliest date of liberation from custody was 28 April 2023;
7. On admission to HMP Low Moss on 30 July 2021 Mr Hook’s prison medical notes were updated to reflect his known health issues and current medication prescription. He reported to NHS staff that he suffered from vertigo and that he had a

skin cancer operation the previous year that resulted in Bell's palsy, it was recorded that the Bell's palsy caused communication issues;

8. On 30 July 2021, as part of the admission process, Mr Hooks was subject to a Talk To Me risk assessment as part of the Scottish Prison Service's suicide prevention strategy. It was noted that he was a first offender who did not expect to be imprisoned and that he had been tearful throughout the admission process. His poor physical health was noted. He was placed on 15 minute interval observations. On 31 July 2021, following a case conference his observations were reduced to 30 minute intervals. On 3 August 2021, a second case conference was convened, and his poor health and low mood were noted. Observations were reduced to 60 minute intervals. On 8 August 2021 a third case conference was convened, when he was deemed no apparent risk and removed from observations;

9. On 31 July 2021 Dr Senthill GP, carried out an admission consultation with Mr Hooks within HMP Low Moss. Dr Senthill recorded that he suffered from Bell's palsy that caused paralysis to the right-hand side of his face, asthma, vertigo and falls;

10. On 1 February 2022, Mr Hooks consulted with Dr Senthill regarding pain and discharge coming from his right ear. Dr Senthill prescribed Ciproxin ear drops and an antibiotic. On 16 February 2022 Mr Hooks consulted with nursing staff to advise that the pain in his ear was getting worse and he was very dizzy. The nurse noted discharge coming from his ear, took observations and referred him to the GP the following day. On 17 February 2022 Mr Hooks consulted with the GP who prescribed a further course of antibiotic ear drops. Mr Hooks was reviewed by the nurse on 23 February 2022 who

noted fluid and swelling of his ear. She noted that they would discuss oral antibiotics with the GP;

11. On 25 February 2022 Mr Hooks was reviewed by NHS staff within HMP Low Moss in relation to his ongoing, long-lasting ear pain with increasing pain and discharge. A non-emergency ambulance was requested to transport him to Glasgow Royal Infirmary, Accident and Emergency department for assessment. He was prescribed ear drops and was returned to HMP Low Moss in the early hours of 26 February 2022;

12. On 26 February 2022, Mr Hooks attended an outpatient appointment at the Queen Elizabeth University Hospital, Glasgow. He was thereafter admitted to Ward 11B where he received a CT scan of his head and neck and also an MRI scan due to a suspected lymphoma in his face and a mass behind his ear. He remained within Ward 11B until he was discharged back to the care of HMP Low Moss on 4 March 2022;

13. On 4 March 2022 following discharge to HMP Low Moss, Mr Hooks was visibly upset and reported to staff that he did not get good news. He was subject to a Talk To Me risk assessment as part of the Scottish Prison Service's suicide prevention strategy and was placed on 30 minute observations. A case conference was convened on 5 March 2022 and he reported being nervous about his diagnosis, observations were reduced to 60 minute intervals. A second case conference was convened on 8 March 2022 and was attended by Mr Hooks' daughter and wife to provide support to him. He was deemed no apparent risk and was removed from observations;

14. Further tests were conducted to investigate suspected lymphoma between 4 and 17 March 2022;

15. On 28 March 2022 an NHS multidisciplinary team confirmed the presence of advanced marginal zone lymphoma;

16. On 4 April 2022, Mr Hooks reported to NHS staff within HMP Low Moss that he was very dizzy, he appeared unsteady on his feet and was being sick. Observations were taken and an ambulance was arranged to take him to hospital. He was admitted to Ward 53 Glasgow Royal Infirmary;

17. On 26 April 2022 Mr Hooks was transferred to the Beatson Hospital for palliative radiotherapy. He underwent three sessions of radiotherapy between 27 April 2022 and 29 April 2022;

18. On 29 April 2022 Mr Hooks was transferred to Ward 29, Glasgow Royal Infirmary;

19. On 30 April 2022 at approximately 2200 hours Mr Hooks' breathing changed suddenly. A Do Not Attempt Cardiopulmonary Resuscitation (DNACPR) certificate was in place due to his frailty and advanced lymphoma;

20. On 30 April 2022 at 2228 hours Dr Michael McLuskey pronounced Mr Hooks' life extinct within Ward 29 of Glasgow Royal Infirmary;

21. Mr Hooks' death was certified by medical practitioner Maureen Milligan and was recorded as:

1a: Marginal Zone Lymphoma

2: Prostate Cancer; Asthma

Conclusions

[7] Gerard Hooks was a 76 year old man who suffered from a number of health conditions. He was given appropriate medical treatment during his time in custody. On 28 March 2022 he was diagnosed with advanced marginal zone lymphoma. On 4 April 2022 he complained that he was feeling dizzy and was being sick. He was transported under Scottish Prison Service escort to Glasgow Royal Infirmary. On 26 April 2022 he was transferred to the Beatson Hospital for palliative radiotherapy where he underwent three sessions of radiotherapy before being transferred back to Glasgow Royal Infirmary. On 30 April 2022 at 2228 hours Mr Hooks' life was pronounced extinct. No resuscitation attempts were made due to a Do Not Attempt Cardiopulmonary Resuscitation certificate due to his frailty and advanced lymphoma. Sadly for Mr Hooks, despite the medical intervention and the care he received, his condition continued to deteriorate until his death. Having considered the treatment provided to Mr Hooks at HM Prison, Low Moss and subsequently at Glasgow Royal Infirmary and the Beatson Hospital, I am satisfied that he was well cared for throughout and that there is nothing more that could have been done for him. Given these circumstances of his death I am satisfied, as submitted by parties, that only findings in terms of paragraphs (a) and (c) of section 26(2) of the Act should be made in this case.

[8] I am grateful to parties for their preparation for this Inquiry as a result of which all the evidence was agreed and no witnesses were required to attend.

[9] I wish to conclude this Determination by expressing my sympathies and condolences, along with those of the parties who appeared at the Inquiry, to the family and friends of Mr Hooks.