

Your ref Case Ref LIV-B75-20  
Our ref RZJ/SCOS113-839145 (RZJ)

# Kennedys

**FAO: Sheriff Dickson**  
Edinburgh Sheriff Court  
DX:ED 550312, Edinburgh

Baird House  
4 Lower Gilmore Bank  
Edinburgh  
EH3 9QP  
United Kingdom  
t +44 131 225 6145  
f +44 131 226 4543  
DX ED19 Edinburgh

**kennedyslaw.com**  
t +44 131 659 9716  
rory.jackson@kennedyslaw.com  
31 March 2021

Dear Sirs

**DEATH IN CUSTODY - MARK BARRY, ADDIEWELL PRISON**  
**DATE OF DEATH: 04.03.2017**  
**FATAL ACCIDENT INQUIRY: JANUARY 2021**  
**RESPONSE TO SHERIFF DICKSON BY SODEXO JUSTICE SERVICES**

We refer to the above matter.

Within Sheriff Dickson's Determination dated 9 February 2021 a recommendation directed towards Sodexo Justice Services was made. The recommendation was split into three parts which fell to be considered and acted upon by Sodexo Justice Services, the operator of HMP Addiewell.

The recommendation issued by Sheriff Dickson was:

*"Sodexo should ensure, as far as reasonably practicable, that all staff trained on the 'Talk to Me' strategy are aware of (1) of the limited circumstances when a 'concern form' should be completed; (2) that a single member of staff, trained on the 'Talk to Me' strategy can place a prisoner on the 'Talk to Me' strategy by completing an 'initiation form' and (3) that once a prisoner is placed on the 'Talk to Me' strategy the procedures in finding of fact 19 must be followed, which must include at least one case conference taking place within 24 hours"*

To assist the court, we have addressed each of the three parts of the recommendation and noted the actions taken in response:-

Kennedys is a trading name of Kennedys Scotland, a multi-national practice regulated by the Law Society of Scotland. A list of partners is available upon request.

*Kennedys offices, associations and cooperations:* .Argentina, Australia, Belgium, Bermuda, Brazil, Canada, Chile, China, Colombia, Denmark, Dominican Republic, England and Wales, France, Guatemala, Hong Kong, India, Ireland, Israel, Italy, Mexico, New Zealand, Northern Ireland, Norway, Pakistan, Panama, Peru, Poland, Portugal, Puerto Rico, Russian Federation, Scotland, Singapore, Spain, Sweden, Thailand, United Arab Emirates, United States of America.

## 1 The limited circumstances when a 'Concern Form' should be used.

In July 2020, the Scottish Prison Service ('SPS') issued a Governors and Managers; Action, reference number 032A/20, which provided all Scottish Prisons, inclusive of HMP Addiewell, with guidance on the revised process for recording a communication of concern which is received for someone in our care. The guidance noted a change to the process in that the processing and recording of all concerns will now be completed electronically via an electronic concern form and recorded on Prisoner Records 2 system (PR2). Following the issuing of this guidance, all operational staff received a refresher training course on the Talk to Me process. This training included information on the limited circumstances in which a concern form should be used. All staff were issued with a communication which detailed the salient points of the electronic concern form process.

Sodexo engage two members of staff as trainers on the 'Talk to Me' program. The two members of staff attended a three day Train the Trainer course facilitated by the SPS at the Scottish Prison Service College. The trainers are fully aware of the limited circumstances in which a 'Concern Form' should be used under direction from SPS. To ensure that the trainers are fully compliant with the requirements incumbent upon them, the trainers are each required to deliver at least two training sessions each year; one refresher and one core session. Each member of staff within HMP Addiewell is required to attend a refresher course for the Talk to Me Strategy at least once every three years. If there is an identified need then staff would be required to attend a further refresher course.

Occasionally the SPS shall review the Talk to Me Strategy and training to ensure that it is still fit for purpose. If there are any substantial changes to be made then these are communicated to Sodexo by way of a GMA (Governors Managers Action / Advice). The appropriate information is disseminated to staff and the key stakeholders make any changes required. Each month the Suicide Prevention Co-ordinator for Sodexo attends the Local Suicide Prevention Co-ordinators Forum where each establishment is able to share best practice, update on any local Talk to Me activities and issues and where the SPS are able to update all establishments of any changes to national policy. This is a great resource for Sodexo.

Use of the 'Talk to Me' program by Sodexo at the Addiewell facility is a contractual requirement. Compliance with the programme is one of a number of key performance indicators (KPIs) upon which Sodexo is critiqued when applying for the licence to run the facility. To ensure compliance with all aspects of the contract, a full time 'Contract Controller', employed by SPS is present at the establishment. The Contract Controller ensures that Sodexo comply with each aspect of the contract between SPS and Sodexo.

Any non-compliance with the contract by Sodexo is reported back to senior Sodexo management.

**2 The ability of a single member of staff to place a prisoner on the 'Talk to Me' strategy by completing an initiation form**

All new staff are fully trained on 'Talk to Me' during their initial training course. Moreover, Sodexo performed a refresher training course last year for all operational staff on the 'Talk to Me' program. The training package included a PowerPoint Presentation and worked through a number of fictional examples including the use of a Concern form and the Talk to Me program in general in order that attendees of the course have the best possible understanding of the approach to be taken.

Sodexo schedules regular training of staff to ensure compliance with all SPS procedures including how an individual is put on the 'Talk to Me' programme. Sodexo has ensured that in spite of the Covid Pandemic training has continued to be carried out as close to normal as possible following all Covid guidelines. This includes training new staff on the 'Talk to Me' programme.

To monitor compliance of the 'Talk to me' Programme at Addiewell, 'Talk to Me' booklets are reviewed by way of audit by the Business Intelligence Unit with the most recent snap audit taking place in July 2020 coinciding with the refresher training. This process not only ensures that staff are using the most recent edition of the 'Talk to Me' booklet and methods but also ensures that guidance given to staff at 'Talk to Me' training sessions is being implemented in live situations. The audits are designed to ensure compliance with the highest SPS standards

The local Suicide Prevention Co-ordinator performs audits of the completed 'Talk to Me' books. The outcome of the audit process is fed back to stakeholders and relevant staff. Any areas for improvement are identified and actioned at following training sessions or via individual intervention with those members of staff who require it. This process has proven to be a useful tool in addressing any lacunas in the knowledge of staff.

In addition, Sodexo have introduced a 'Safer Community' meeting attended by key stakeholders. This meeting is held on a fortnightly basis and any issues with Talk to Me, the audits and the implementation of the program are fed back to that group. These meetings have been found to be enormously useful and action points from these meetings are regularly implemented by the business. There are approximately ten Managers involved in the meeting (which is chaired by the Head of Operations) who are able to reinforce messages received from the meeting to their staff.

**3 That once a prisoner is placed on the Talk to Me strategy the procedures in finding in fact 19 must be followed which include at least one case conference taking place within 24 hours.**

As a result of the decision reached in the present case, a purpose made presentation was delivered to all staff to be read via email. Managers of individual teams were then instructed

Edinburgh Sheriff Court

to reinforce the learning outcomes (including the process of at least one case conference taking place within 24 hours of a Talk to Me strategy being initiated) at their weekly meetings after the refresher email was sent to all staff.

The presentation, together with the advances in training and effectiveness made since the death of Mr Barry, ensure that Sodexo staff are fully trained and compliant with the requirements of the 'Talk to Me' program. Internal measures including audits, training requirements and a closer, more consistent relationship with SPS have been designed to ensure that Sodexo have implemented every possible safety measure to avoid the tragic events surrounding the death of Mr Barry.

Should Sheriff Dickson wish to hear anything further regarding the above or be provided with any copies of documents then we shall attend to this immediately.

Yours faithfully



**Kennedys**