

SHERIFFDOM OF GRAMPIAN HIGHLAND AND ISLANDS AT ABERDEEN

[2025] FAI 20

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DETERMINATION

BY

SHERIFF ANDREW MILLER

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

into the death of

MUHAMMAD ARSHID

ABERDEEN, 7 April 2025

For the Crown: Mr G. Burton, Procurator Fiscal Depute

DETERMINATION

The sheriff, having resumed consideration of the evidence and information presented at the Fatal Accident Inquiry into the death of Muhammad Arshid, Determines in terms of Section 26 of the Inquiries into Fatal Accidents and Sudden Deaths Etc. (Scotland)

Act 2016 (“the 2016 Act”) that:

1. Muhammad Arshid was born on 3 February 1976.
2. In terms of Section 26(2)(a) of the 2016 Act, the death of Mr Arshid occurred at about 6.05pm on Thursday 26 October 2023 within Aberdeen Royal Infirmary.

3. In terms of Section 26(2)(b) of the 2016 Act, the accident resulting in the death of Mr Arshid occurred at approximately 11.30am on Saturday 21 October 2023 at Craigbank Drive, Cults, Aberdeen.

4. In terms of Section 26(2)(c) of the 2016 Act, the cause of Mr Arshid's death was:

- 1(a) hypoxic brain injury
- 1(b) traumatic cardiac arrest
- 1(c) crushed by motor vehicle

5. In terms of Section 26(2)(d) of the 2016 Act, the accident resulting in the death of Mr Arshid was caused when Vauxhall Meriva motor car registration DY60 EHD, which was owned by Mr Arshid and which he was using on the morning of 21 October 2023 for the purposes of his work as a delivery driver, rolled down Craigbank Drive, Cults, Aberdeen when Mr Arshid was outwith the car whereby, by precise means unknown, Mr Arshid came to be on the ground and the car came to rest with Mr Arshid underneath it, causing Mr Arshid to be crushed by the weight of the car.

6. In terms of Section 26(2)(e) of the 2016 Act, the precaution which could reasonably have been taken and, had it been taken, might realistically have avoided the accident which resulted in the death of Mr Arshid would have been for Mr Arshid to have engaged the parking brake of the car when he last exited it prior to the accident.

7. In terms of Section 26(2)(f) of the 2016 Act, no defects in any system of working contributed to the death of Mr Arshid or to the accident which resulted in his death.

8. In terms of Section 26(2)(g) of the 2016 Act, there are no other facts which are relevant to the circumstances of Mr Arshid's death.

Recommendations

In terms of Section 26(1)(b) of the 2016 Act and having regard to the matters set out in Section 26(4) of that Act there are no recommendations which, having regard to the circumstances surrounding the death of Mr Arshid, might realistically prevent other deaths in similar circumstances.

NOTE:

Introduction

[1] An inquiry was held at Aberdeen Sheriff Court on 28 March 2025 into the death of Muhammad Arshid. On the morning of Saturday 21 October 2023 Mr Arshid, then aged 47, was in the course of his employment as a self-employed delivery driver when he suffered fatal injuries as a result of being crushed under his car, which he was using that morning to make his deliveries. There are no known witnesses to, and there are no video images of, the circumstances of this accident. Emergency services were called by a member of the public who came upon the scene and found Mr Arshid under the car.

Mr Arshid was taken by ambulance to Aberdeen Royal Infirmary, where he was placed in a medically induced coma and he remained unconscious and ventilated until Thursday 26 October 2023, when life support was withdrawn with the consent of his family and he died.

[2] The circumstances of Mr Arshid's death were reported to the Crown Office and Procurator Fiscal Service. The inquiry was mandatory in terms of Section 2(3) of the

2016 Act, since Mr Arshid's death was the result of an accident which occurred while he was acting in the course of his employment or occupation.

[3] The first notice in relation to the inquiry, in terms of rule 3.1 of the Act of Sederunt (Fatal Accident Inquiry Rules) 2017 ("the 2017 rules") was issued by the Procurator Fiscal on 6 January 2025. A preliminary hearing in terms of rule 3.6 of the 2017 rules was held within Aberdeen Sheriff Court on 3 March 2025. The only participant in the inquiry was the Crown, represented by Mr Gavin Burton, Procurator Fiscal Depute. The family of Mr Arshid chose not to participate in the inquiry proceedings, although I was advised by Mr Burton that Mr Arshid's family were being kept advised of the progress of the proceedings by the Crown. I made an order allowing the evidence to be presented in the form of witness statements, documentary productions and photographs, in terms of rules 4.1(4) and 4.2 of the 2017 rules, with the exception of the evidence of two witnesses whom I asked the crown to cite to the inquiry hearing, namely Mr Stephen Ogilvie, the member of the public who summoned emergency services after discovering Mr Arshid trapped beneath his car and PC Andrew Ramsay, who attended the scene, investigated the circumstances and examined Mr Arshid's car.

[4] The inquiry hearing took place before me within Aberdeen Sheriff Court on 28 March 2025. The crown was again represented by Mr Burton. Mr Arshid's family chose not to attend. In accordance with the order I had made at the preliminary hearing, the only witnesses called were Mr Ogilvie and PC Ramsay. Otherwise the evidence was

presented in the form of witness statements, documentary productions and photographs.

[5] I am grateful to Mr Burton for his assistance in relation to the presentation and analysis of the evidence concerning the circumstances of the tragic death of Mr Arshid.

The Legal Framework

[6] Sections 1 and 2 of the 2016 Act are in the following terms:

“1 Inquiries under this Act

- (1) Where an inquiry is to be held into the death of a person in accordance with sections 2 to 7, the procurator fiscal must—
 - (a) investigate the circumstances of the death, and
 - (b) arrange for the inquiry to be held.
- (2) An inquiry is to be conducted by a sheriff.
- (3) The purpose of an inquiry is to—
 - (a) establish the circumstances of the death, and
 - (b) consider what steps (if any) might be taken to prevent other deaths in similar circumstances.
- (4) But it is not the purpose of an inquiry to establish civil or criminal liability.
- (5) In this Act, unless the context requires otherwise—
 - (a) ‘*inquiry*’ means an inquiry held, or to be held, under this Act,
 - (b) references to a ‘*sheriff*’ in relation to an inquiry are to a sheriff of the sheriffdom in which the inquiry is, or is to be, held.

2 Mandatory inquiries

- (1) An inquiry is to be held into the death of a person which—
 - (a) occurred in Scotland, and
 - (b) is within subsection (3) or (4).
- (2) Subsection (1) is subject to section 3.
- (3) The death of a person is within this subsection if the death was the result of an accident which occurred—
 - (a) in Scotland, and
 - (b) while the person was acting in the course of the person's employment or occupation.
- (4) The death of a person is within this subsection if, at the time of death, the person was—
 - (a) in legal custody, or

- (b) a child required to be kept or detained in secure accommodation.
.....”

[7] The specific matters to be determined by the court are set out in section 26 of the 2016 Act, which is in the following terms:

“26 The sheriff’s determination

- (1) As soon as possible after the conclusion of the evidence and submissions in an inquiry, the sheriff must make a determination setting out—
 - (a) in relation to the death to which the inquiry relates, the sheriff’s findings as to the circumstances mentioned in subsection (2), and
 - (b) such recommendations (if any) as to any of the matters mentioned in subsection (4) as the sheriff considers appropriate.
- (2) The circumstances referred to in subsection (1)(a) 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—
 - (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) any defects in any system of working which contributed to the death or any accident resulting in the death,
 - (g) any other facts which are relevant to the circumstances of the death.
- (3) For the purposes of subsection (2)(e) and (f), it does not matter whether it was foreseeable before the death or accident that the death or accident might occur—
 - (a) if the precautions were not taken, or
 - (b) as the case may be, as a result of the defects.
- (4) The matters referred to in subsection (1)(b) are—
 - (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.
- (5) A recommendation under subsection (1)(b) may (but need not) be addressed to—
 - (a) a participant in the inquiry,
 - (b) a body or office-holder appearing to the sheriff to have an interest in the prevention of deaths in similar circumstances.

- (6) A determination is not admissible in evidence, and may not be founded on, in any judicial proceedings of any nature.”

[8] Thus, in terms of Section 1(3) and (4) of the 2016 Act, the purpose of a Fatal Accident Inquiry is to establish the circumstances of the death and to consider what steps (if any) might be taken to prevent other deaths in similar circumstance, but not to establish civil or criminal liability or blame. It is an inquisitorial, as opposed to an adversarial, process, in which the Procurator Fiscal represents the public interest.

Summary of Relevant Facts and Circumstances

Locus

[9] The relevant features of the location of this accident are illustrated by photographs 2 and 7 from production 4, the book of photographs produced by the crown for the inquiry hearing, which are appended to this determination with the consent of the Procurator Fiscal. Craigbank Drive, Cults has a T-junction with Kirk Brae at its southern end. That junction is shown in the distance in photograph 2. From that junction, Craigbank Drive runs generally northwards and continues for several miles through the Countesswells area towards Aberdeen city centre.

[10] A driver who turns from Kirk Brae onto Craigbank Drive encounters, after 50 metres or so, an entrance to West Craigbank Crescent on the left (west) side of Craigbank Drive. That entrance is shown in the right foreground in photograph 2 and on the left on photograph 7. Somewhat confusingly, that entrance is signed as West Craigbank Way, but I understand that the mouth of the junction there is in fact West

Craigbank Crescent, and that West Craigbank Way is accessed via a further junction within West Craigbank Crescent. West Craigbank Crescent has its other (northern) junction with Craigbank Drive a further 50 metres or so to the north of the junction shown in photographs 2 and 7, on the left (west) side of the road beyond the police car which is shown in the distance in photograph 7.

[11] Craigbank Drive is almost level at its junction with Kirk Brae but it rises as it extends northwards, with the gradient increasing and the road becoming steeper as it travels north beyond the two entrances to West Craigbank Crescent. It eventually levels out closer to the city.

Summary of evidence

[12] According to the statement of Mr Edward Graham, aged 58, the depot manager for B-Spokes Limited, Mr Arshid began delivering parcels for the company in June 2022. He was self-employed and worked part-time. Although drivers who are new to this work are generally allocated between 40 and 50 parcels to deliver in the course of a single round, at an early stage of his work for the company Mr Arshid requested a second round and he would therefore usually be given between 70 and 100 parcels to deliver during a day. On the morning of Saturday 21 October 2023 Mr Arshid attended at the B-Spokes depot at 45 Minto Avenue, Altens, Aberdeen and collected a quantity of parcels for delivery in the Cults area of the city. He left the depot to begin his deliveries at about 10.20/ 10.25am. He was due to return to the depot in the early afternoon to collect a further consignment of parcels for delivery in the Bucksburn area of the city.

However, he did not return to the depot or make contact. He was not due to work on Sunday 22 October. When he failed to attend to collect parcels for delivery on Monday 23 October Mr Graham tried unsuccessfully to contact him by phone. Later that day Mr Graham was visited by police officers, who told him that Mr Arshid had been involved in a car accident on Saturday 21 October. Having understood that Mr Arshid still had undelivered parcels in his car at the time of the accident, Mr Graham's statement confirms that he would still have been in the course of his work at that time.

[13] According to the statement of a member of the public who was within a house in West Craigbank Crescent on Saturday 21 October 2023, a parcel was delivered to the house at 11.30am that morning. It is understood that the house in question was near to the southernmost entrance to West Craigbank Crescent (the entrance shown in photographs 2 and 7). The recipient did not know Mr Arshid, but his electronic delivery record (production 10), which is understood to have been generated by Mr Arshid using an app on his mobile phone to scan labels affixed to the parcels delivered by him in the course of his round, confirms that the last delivery he made that day was to this particular house at 11.30am that morning. The recipient's description of the delivery driver corresponds with the description of Mr Arshid. The recipient noticed nothing out of the ordinary about the driver, other than that he appeared slightly harassed and unkempt.

[14] Stephen Ogilvie, aged 59, was in Cults in the course of his work that morning. At around 11.30am he was driving his work van on Kirk Brae when he turned left on to Craigbank Drive. As he drove up the slope of Craigbank Drive he became aware of a

black Vauxhall car on his left (passenger) side. The car was parked diagonally across the pavement, with the rear wheels on the pavement and the front of the car at the kerb, facing towards the roadway but slightly uphill, 25 metres or so before the first (southernmost) junction with West Craigbank Crescent. Photographs 2 and 7 show the position of the car relative to its surroundings including the southernmost entrance to West Craigbank Crescent. As Mr Ogilvie drove up the hill past the black car, he noticed that there appeared to be something under the car, which he initially thought may be an object stuck under the car or perhaps someone working on the underside of the car. After passing the car, Mr Ogilvie took the next left turn into West Craigbank Crescent, parked his van and walked back to the black car to check that everything was in order. The weather was windy with heavy rain. As he approached the black car he realised that there was a man (Mr Arshid) wedged underneath the driver's side of the car. Mr Ogilvie did not know Mr Arshid. Mr Arshid was lying on his back under the car with his head and the top of his shoulders protruding from under the driver's door at a point close to the front wheel on the driver's side. His head was pointing generally down the slope of Craigbank Drive. He was completely unresponsive and the entire weight of the car appeared to be resting on his body. His face was purple and bloated and he was salivating and "bubbling" at the left corner of his mouth. It was clear to Mr Ogilvie that the position of the car left Mr Arshid no room or clearance to breathe. He was unresponsive to Mr Ogilvie's attempts to communicate with him.

[15] Mr Ogilvie noted that the engine of the black car was running and the keys were in the ignition. He could see a damaged mobile 'phone lying close to Mr Arshid.

Mr Ogilvie initially thought that Mr Arshid had been run over by the car and that the driver had made off. He called 999 and requested that emergency services attend. He waited beside Mr Arshid until the first ambulance arrived. Mr Ogilvie confirmed in his evidence that, with the exception of a few cars which passed the scene while he was there, he saw no one else around and in particular that there were no pedestrians around.

[16] According to the statements of paramedic Stewart Richardson, aged 47 and ambulance technician Christopher Pettitt, aged 37, they received an emergency call at 11.30am on Saturday 21 October 2023 arising from Mr Ogilvie's 999 call. They made their way to the scene immediately and arrived at 11.45am. Mr Richardson's statement described the weather at the scene as "horrible," with heavy rain. They were flagged down by Mr Ogilvie and directed to a black car. A man (Mr Arshid) was trapped underneath the driver's door of the car with his body underneath the car and his head and shoulders protruding close to the front wheel on the driver's side. He was lying on his right side and the weight of the car was pressing down on the left side of his torso. Mr Richardson noted that Mr Arshid's face appeared to be blue, puffy and swollen. On Mr Richardson's initial assessment, he was unconscious and not breathing or responding. Mr Richardson could find no evidence of a pulse. Mr Richardson noted several parcels visible in the rear of the car. The car's engine was running. Mr Richardson attempted to open the driver's door in order to switch off the ignition, but the door appeared to be locked.

[17] Scottish Fire and Rescue personnel arrived quickly and raised the car on “lifting cushions,” which enabled Mr Richardson and Mr Pettitt to remove Mr Arshid from under the car and place him in their ambulance. They carried out initial checks for any penetrative injuries (there were none), applied a pelvic binder against the possibility of a pelvic fracture and introduced IV fluids. They commenced CPR, in the course of which they received four or five ‘ROSC’ (Return of Spontaneous Circulation) notifications from their equipment, which were never sustained.

[18] At an early stage Mr Richardson and Mr Pettitt were joined at the scene by colleagues from the Emergency Medical Retrieval Service (EMRS) (North), including Dr Pamela Hardy. Resuscitation and assisted ventilation continued at the scene and Mr Arshid was given drugs by the medical staff. He remained unconscious. By 12.45pm he was stable enough to be taken by ambulance to Aberdeen Royal Infirmary, where he arrived at 12.55pm.

[19] According to the statement of Dr Pamela Hardy, consultant in emergency medicine at Doctor Gray’s Hospital, Elgin, she was on duty on the morning of Saturday, 21 October 2023 as part of the Emergency Medical Retrieval Service (EMRS) (North) and was called to the scene of this incident at 11.41am, arriving on scene at 11.57am along with paramedic David Saxby. On arrival, Dr Hardy was advised by the witnesses Richardson and Pettitt that Mr Arshid had been in cardiac arrest when removed from underneath the car and that he had no detectable breathing or pulse prior to their commencement of CPR.

[20] Dr Hardy and David Saxby continued to treat Mr Arshid along with the witnesses Richardson and Pettitt. Dr Hardy noted that Mr Arshid had a very red face and upper torso, that he was bleeding into the whites of his eyes and that his lower trunk and legs were pale. Both of his lungs appeared to be inflated. His pelvis was splinted with a binder due to the likelihood of a pelvic fracture. He was given intravenous fluids and drugs. His airway was intubated and he was given oxygen and ventilated using a bag valve. An intermittent spontaneous output was detected and, after further chest compressions and the administration of adrenaline, spontaneous output was established, which was maintained until Mr Arshid arrived at Aberdeen Royal Infirmary, when Dr Hardy handed over care to staff within the emergency department at 12.59pm. Mr Arshid had remained unconscious throughout.

[21] Jason Cowie, aged 52, was a watch commander with the Scottish Fire and Rescue Service based at Mounthooly, Aberdeen on Saturday 21 October 2023. He received an emergency call to attend this incident at 11.32am that morning and immediately made his way there with a number of colleagues. His statement describes the weather as “pretty horrible... really rainy and windy.” Ambulance personnel were already on scene by the time Mr Cowie and his colleagues arrived. By this time Mr Arshid, who was trapped under the car, had an oxygen mask on but displayed no signs of life. His face was purple. He was trapped under the driver’s side of the car with his head protruding from the driver’s side, towards the road. The car engine was running. Mr Cowie instructed his colleagues to use airbags to raise the car so that Mr Arshid could be removed and placed into the back of the waiting ambulance. Two of

Mr Cowie's colleagues assisted the medical personnel with CPR. Mr Cowie and his colleagues left the scene at 12.14pm.

[22] According to the statement of Dr Andrew Laurie, a consultant physician based in Ward 201 of Aberdeen Royal Infirmary, Mr Arshid was admitted to the ward on Saturday 21 October 2023 following emergency procedures carried out in the Accident & Emergency Department. Mr Arshid was in a critical and life threatening condition on admission to the ward. He had multiple rib fractures (the second to fifth and seventh ribs on his right side and the first to tenth ribs on his left), bilateral lung contusions, bilateral haemothoraces (blood in the space between the lungs and the chest wall), a fracture of the sacrum (a bone at the base of the spine) and bilateral pelvic fractures. He also had bilateral fractures of the L4 transverse processes and a fracture of the L3 right transverse process (bony projections on the sides of the spinal vertebrae at these locations). Mr Arshid was placed in an induced coma and ventilated. An initial CT scan did not show any acute brain pathology, but when efforts were made on Tuesday 24 October 2023 to restore him to consciousness, he showed no sign of neurological recovery and a repeat CT scan on Wednesday 25 October showed the presence of diffuse hypoxic brain injury. After discussion with Mr Arshid's family, life support was discontinued on Thursday 26 October 2023 and Mr Arshid was pronounced dead by a doctor on the ward at 6.05pm that day.

[23] Dr Laurie's statement expresses his opinion that Mr Arshid appeared to have been under the car in cardiac arrest for some time and that from that point his injuries were unlikely to be survivable.

[24] PC Andrew Ramsay, aged 52, gave evidence. He has 17 years police service and has been attached to the road policing department based in Inverurie since 2014.

PC Ramsay is a highly experienced road policing officer who was authorised by the Chief Constable in 2014 to conduct vehicle examinations, having obtained qualifications relevant to that role. He has also been a forensic road policing investigator since 2016. He has performed the role of forensic road policing investigator in relation to around 120 road traffic incidents and carried out hundreds of vehicle examinations.

[25] On Saturday 21 October 2023 PC Ramsay was on duty with a colleague when they received a call at about 11.40am to attend this incident. They arrived a few minutes after midday, by which time local police officers, ambulance personnel and officers from Scottish Fire and Rescue were in attendance. By that stage Mr Arshid had been removed from beneath the car and was receiving treatment in the back of an ambulance.

PC Ramsay confirmed that the weather was very inclement that day, with heavy rain and high winds.

[26] PC Ramsay carried out brief observations of Mr Arshid's car and the surrounding area. The car doors were unlocked and the engine was off when PC Ramsay attended. He noted that the car's gearstick was in the neutral position and that the electronic parking brake was not engaged. He saw a large number of parcels within the car, including a number on the front passenger seat which had addresses in West Craigbank Crescent and elsewhere in the close vicinity of Craigbank Drive, consistent with Mr Arshid having been in the course of making deliveries in that neighbourhood at the time of the accident. PC Ramsay then escorted the ambulance to

Aberdeen Royal Infirmary, arriving at about 1pm. He and his colleague thereafter returned to Craigbank Drive, where PC Ramsay carried out duties as a forensic investigator.

[27] PC Ramsay identified Craigbank Drive and the position of Mr Arshid's car from photographs 2 and 7 and the other photographs produced by the crown.

[28] PC Ramsay confirmed that the photographs showed Mr Arshid's car in the position in which he saw it that day. PC Ramsay and his colleague looked for any marks on the road surface, surrounding verges and vegetation and on the bodywork and tyres of the car which might have shed light on the movements of the car, for example by indicating that it might have come into contact with another car or object. They found no such marks, other than 'cleaning' marks on the sill (the metal bar immediately below the doors) on the driver's side, between the front and rear wheels, consistent with that part of the car having come into contact with Mr Arshid. A training shoe believed to have been worn by Mr Arshid was located under the car, towards the front nearside (passenger side) wheel.

[29] Subsequent enquiries revealed that there was no street CCTV coverage of the relevant locations and no ring doorbell or other domestic CCTV footage relevant to the enquiry came to light. No car dashcam footage of the incident came to light during the investigation. PC Ramsay's subsequent examination of Mr Arshid's car disclosed that, although it was fitted with a dashcam, it had not recorded for some time, did not appear to be working and had not recorded any images from the day of the fatal accident.

[30] Mr Arshid's car was removed to a commercial yard. On Wednesday 25 October 2023 PC Ramsay and a colleague carried out an examination of the car. The findings of that examination are noted on production 3 vehicle examination report. The car was in reasonable condition for its age, with wear appropriate to its use for making deliveries. It had no mechanical defects which could have contributed to this incident. It had a manual gearbox and an electronic parking brake, operated by means of a button on the centre console close to the gear stick (photographs 20 and 21). The parking brake was found to be in good working order. It did not engage unless the button on the centre console was activated by the driver, whether the engine was running or not. When engaged, it prevented the car from moving. When engaged, the parking brake would automatically disengage when the car was put into gear in order to drive off. This was how the parking brake was designed to work. PC Ramsay found that the button to activate the parking brake required to be operated with a definite, deliberate action. He considered that it was possible that a driver could touch the button, intending to engage the parking brake, but with insufficient pressure to do so. However, when the parking brake was engaged, a light on the button would illuminate (photographs 20 and 21), as would an indicator light on the dashboard. Therefore there was no reason for the driver to be in any doubt as to whether he had engaged the parking brake.

[31] PC Ramsay's other finding of note in relation to the vehicle examination was that the driver's seatbelt was in the fastened position across the driver's seat, which suggested to him that the driver had done this deliberately in order to defeat the 'fasten seatbelt' warning indicator and alarm when driving the car without wearing the

seatbelt. PC Ramsay understood that this was a common practice amongst delivery drivers and explained that a driver whose journey does not exceed 50 metres between stops is exempt from wearing a seatbelt between those stops. The seatbelt was in good working order and the driver's use of the seatbelt had not contributed to this accident.

[32] I asked PC Ramsay to comment on the descriptions given by various witnesses that the car's engine was running when they had arrived and Mr Richardson's perception that the doors appeared to be locked when he had arrived, given that the engine was off and the doors were unlocked when PC Ramsay arrived. PC Ramsay suggested that, in his experience, Scottish Fire and Rescue personnel would have gained access to the car and ensured that the engine was switched off before applying 'chocks' to stabilise the front and rear wheels prior to raising the car in order to allow Mr Arshid to be removed. Although the car had been lowered by the time PC Ramsay arrived, the chocks were still in place at that time. They had been removed by the time the photographs were taken. PC Ramsay did not specifically look into the question of whether the car was fitted with an automatic door locking mechanism but he expressed doubt that this particular make and model would have had that feature. He thought that, if the car had automatic door locking, he would have noted that on his vehicle examination report, which he had not done. He was unable to explain this apparent conflict of evidence, but the question of whether the doors had locked at some stage and, if so, how access had been gained was not an issue which appeared to be significant in the context of the circumstances of this fatal incident.

[33] It had not been possible for PC Ramsay to definitively establish how Mr Arshid's car had come to be in its resultant position or how Mr Arshid came to be trapped beneath it. However, based on his experience as a forensic investigator, his observations of the locus and his examination of the car, PC Ramsay offered the following interpretation of the available evidence. In the course of making his deliveries, Mr Arshid had stopped the car at an unknown point close to but uphill from its resultant position and had exited the car, leaving the engine running and without engaging the parking brake. The car had subsequently begun to roll down the slope of Craigbank Drive. On becoming aware of that, Mr Arshid had attempted to stop it by pursuing it, opening the driver's door, reaching in to the driver's compartment and steering the car towards the pavement on the west side of Craigbank Drive, in the course of which he had fallen to the ground in such a position that he became trapped under the car. PC Ramsay suggested that this interpretation of the evidence would explain the car's resultant position, parked diagonally across the west pavement of Craigbank Drive, facing slightly uphill.

[34] When asked to comment on the significance of the fact that the photographs appear to show that the front wheels of the car are straight as opposed to turned, PC Ramsay agreed that, at first glance, this might appear to suggest that the car had moved backwards in a straight line to its resultant position from a starting point diagonally opposite and slightly uphill from its resultant position. However, PC Ramsay suggested that the layout of the locus was not consistent with that explanation. It did not appear that there was a likely parking place for the car

diagonally opposite, and uphill from, its resultant position. Also, if the car had been rolling down the hill and Mr Arshid had managed to turn the steering wheel into a 'left lock' position in order to guide the car towards the western pavement, rather than allowing it to roll to the junction with Kirk Brae at the bottom of the hill, and the steering wheel had then been let go (for example, when Mr Arshid fell to the ground), the front wheels would naturally have straightened as the car continued to move backwards for a short distance before coming to rest. It was also possible that Scottish Fire and Rescue officers had opened the car and straightened the front wheels before applying chocks to the wheels in preparation for lifting the car.

[35] PC Ramsay suggested that the fact that the car had come to rest on the western pavement, rather than travelling to the verge behind the pavement, indicated that it had travelled far enough to pick up sufficient momentum to mount the pavement, which would have been unlikely if it had simply rolled in a straight line from the opposite side of the road, but that it was still travelling at comparatively low speed when it mounted the pavement. However, it had to be borne in mind that the car would inevitably have slowed when Mr Arshid became trapped underneath it. This complicated any assessment of the car's speed at the point when it mounted the pavement.

[36] For all of these reasons, PC Ramsay thought it likely that the car had rolled down the hill from a point further – but not very much further – up Craigbank Drive, rather than simply rolling diagonally across the road, and slightly downhill, from a point on the eastern side of Craigbank Drive. However, it was simply not possible to definitively establish the car's starting position or precisely how it had come to rest where it did.

Crown submissions

[37] Mr Burton made brief submissions, in the course of which he modified the outline written submissions which he tendered at the bar and which are lodged in process. Mr Burton invited me to make formal findings in relation to the matters set out in Section 26(2)(a), (b) and (c) of the 2016 Act. In relation to Section 26(2)(d) and (e) of the Act, Mr Burton was justifiably wary of speculation and his starting position was that no findings should be made in relation to those matters. However, following discussion he agreed that, even in the absence of eye witness or video evidence of the circumstances, it would be open to the court to draw inferences of fact from the available evidence with regard to the cause of the accident and any precautions which could reasonably have been taken to avoid it. Mr Burton agreed that, having regard to the whole evidence and in particular to PC Ramsay's evidence, there did appear to be a basis for the drawing of reasonable inferences in relation to these matters, namely: that the accident arose from Mr Arshid's failure to engage the parking brake when he last exited his car, probably in order to make his final delivery to the property in West Craigbank Crescent, and that whilst Mr Arshid was outside the car, it rolled backwards for a distance down Craigbank Drive and came to rest with Mr Arshid underneath it, causing him to be crushed by its weight; and that the reasonable precaution which might realistically have avoided the accident would have been for Mr Arshid to have engaged the parking brake of the car before exiting it for the final time.

[38] Mr Burton submitted that there was no evidence to indicate that the accident was contributed to by any defect in any system of working (Section 26(2)(f)) and that there were no other facts which were relevant to the circumstances of Mr Arshid's death (Section 26(2)(g)). The Crown's position was that there were no recommendations which, having regard to the circumstances surrounding Mr Arshid's death, might realistically prevent other deaths in similar circumstances (Section 26(1)(b)).

Analysis and conclusions

[39] In the absence of eyewitness or video evidence, the precise circumstances of the accident which led to the tragic death of Mr Arshid may never be known. However it appears to me that there is evidence from which the court can draw some reasonable inferences and conclusions, without indulging in speculation, with regard to the cause of this accident and the reasonable precautions which might realistically have avoided it.

[40] On Saturday 21 October 2023 Mr Arshid was in the course of his part-time employment delivering parcels in Cults, Aberdeen. His electronic delivery record (production no. 10) shows that his last delivery was made at 11.30am at a house in West Craigbank Crescent, Cults, close to the southernmost junction between West Craigbank Crescent and Craigbank Drive. That junction is situated close to, uphill from and on the same (west) side of Craigbank Drive as the resultant position of Mr Arshid's car and is shown in photographs 2 and 7. The timings of Mr Arshid's last delivery in West Craigbank Crescent (11.30am) and of the call to the ambulance crew of Mr Richardson and Mr Pettitt in response to Mr Ogilvie's 999 call (11.30am) and the resultant position of

Mr Arshid's car support the reasonable inference that the accident which caused Mr Arshid's death occurred immediately after he made that final delivery.

[41] According to the evidence of Mr Ogilvie, the first witness on the scene, and the statements of Mr Richardson, one of the first paramedics to arrive, and Mr Cowie, the Scottish Fire and Rescue watch commander, the engine of the car was still running when they arrived. In the absence of any evidence of third-party involvement, this supports the inference that the engine was running both at the point when the car arrived at its resultant position, with Mr Arshid underneath it, and when it had begun its journey to that resultant position.

[42] PC Ramsay later found that the car was free of any mechanical defects which could have contributed to this accident. He also found that the parking brake was in good working order and operating as it was designed to, but that it was not engaged when he carried out his preliminary inspection on arrival at the scene. This supports the inference that the parking brake was not engaged either at the point when the car arrived at its resultant position, with Mr Arshid underneath it, or when it had begun its journey to that resultant position.

[43] I accept PC Ramsay's general interpretation of the evidence with regard to the resultant position of the car in relation to the surrounding physical environment, namely that the car had travelled to that position from a starting point further up Craigbank Drive and that it had probably come to rest on the western pavement as a result of some action taken by Mr Arshid in an attempt to prevent the car from rolling down Craigbank Drive towards its junction with Kirk Brae at the bottom of the hill.

[44] In my view the evidence as a whole permits the reasonable inference that, in preparation for his final delivery in West Craigbank Crescent, Mr Arshid parked his car at some point on or close to the southernmost junction between Craigbank Drive and West Craigbank Crescent and that, when he got out of the car to make that delivery, he not only left the car in neutral gear and the engine running but that he also, probably due to inadvertence rather than deliberately, failed to engage the parking brake.

Mr Arshid's failure to switch the engine off, coupled with the fact that he appears to have left the driver's seatbelt fastened across the seat in the manner described by PC Ramsay, paints a picture of Mr Arshid attempting to minimise the time taken for individual deliveries. That impression is also consistent with the description given by the recipient of the final delivery of the harassed appearance of the driver. This context may explain how Mr Arshid may have inadvertently overlooked the need to engage the parking brake of his car before he exited in order to make his final delivery.

[45] It seems clear that, at some point after Mr Arshid exited his car in order to make that final delivery, the car began to roll down the slope of Craigbank Drive. The resultant position of the car would suggest that it rolled downhill backwards. In my view it is a matter of reasonable inference that Mr Arshid became aware that the car was rolling and that he pursued it as it travelled down the hill, with the intention of trying to stop it. Had the car continued to roll down Craigbank Drive, one possibility is that it could have emerged into the junction with Kirk Brae and potentially caused a collision there.

[46] It is clear that, in the course of this sequence of events, Mr Arshid fell to the ground when the car was very close to its resultant position, whereby the car rolled over him and he was crushed beneath it. Although we cannot know with any certainty how Mr Arshid came to be trapped under the car, the resultant position of the car, diagonally across the western pavement of Craigbank Drive (the same side of the road as the southernmost junction with West Craigbank Crescent) but pointing slightly uphill, is in my view consistent with Mr Arshid having managed to apply left steering as the car rolled backwards down Craigbank Drive, in an attempt to guide the car towards the western pavement. There is no other obvious explanation for the car's resultant position. An analysis in which the car was in the course of turning left, whilst travelling backwards, with Mr Arshid falling to the ground very close to the driver's side and the car continuing its turning motion for a short time until it came to rest on top of Mr Arshid, would in my view also be capable of explaining Mr Arshid's position under the car. I accept PC Ramsay's evidence that, even if the car's front wheels were in a 'left turn' position as it moved towards the western pavement of Craigbank Drive, they could easily have straightened as the car continued to move backwards for a short distance after Mr Arshid let go of the steering wheel, at or about the time when he fell to the ground. Alternatively, it may be that a Scottish Fire and Rescue officer gained access to the car and straightened the front wheels before the wheels were 'chocked' in preparation for the car being raised so that Mr Arshid could be extricated.

[47] If indeed the car came to rest where it did because Mr Arshid managed to steer it towards the pavement while it was rolling backwards, it is a matter of reasonable

inference that he must have opened the driver's door in order to operate the steering wheel. A scenario in which Mr Arshid was attempting to steer the car left whilst keeping pace with it on foot, with the driver's door open as the car rolled backwards, would in my view be capable of explaining how he lost his balance and fell to the ground at a point in the car's motion which enabled it to come to rest on top of him.

[48] The evidence available at the inquiry did not allow me to resolve the conflict between the terms of the paramedic Mr Richardson's statement, to the effect that the car doors appeared to be locked and the engine running when he arrived, and PC Ramsay's evidence that the doors were unlocked and the engine was off when he arrived and that the car did not appear to have automatic door locking. However there is nothing to suggest that this issue was of any significance to the circumstances of this fatal accident.

[49] There is no evidence of the involvement of any third party. Mr Arshid's car had no mechanical defects which could have contributed to this accident. For the reasons I have given, I am satisfied that the effective cause of this accident was Mr Arshid's failure to engage the parking brake of his car when he exited it, leaving the engine running and the car in neutral gear, in order to make his final delivery at a point close to the southernmost junction between Craigbank Drive and West Craigbank Crescent.

Although Mr Arshid was in the course of his work as a delivery driver, there is no evidence that his failure to engage the parking brake of his car was in itself the result of any unsafe system of work. Although the evidence suggests that Mr Arshid was in the course of a busy round of deliveries and that he may have keen to complete his round

with minimal delay, ultimately the safe parking and operation of his car were his responsibility as the driver.

[50] All of the evidence available to me indicates that, having come upon this scene, Mr Ogilvie took swift action to summon emergency services and that emergency services arrived swiftly and took appropriate steps to extricate Mr Arshid and provide him with emergency medical treatment at the scene until he was stable enough to be taken to Aberdeen Royal Infirmary, where he received appropriate medical treatment. Unfortunately, having spent a period of time trapped under the weight of his car, Mr Arshid's injuries proved to be fatal.

[51] I have made formal findings in relation to the matters set out in Section 26(2)(a), (b), and (c) of the 2016 Act. In relation to Section 26(2)(b), I have given the time of the accident as 'approximately 11.30am,' on the basis that 11.30am is the time of Mr Arshid's final delivery to the address in West Craigbank Crescent, according to his electronic delivery record, and it is also the time when, according to the statements of paramedic Stewart Richardson and ambulance Technician Christopher Pettitt, they received the call, emanating from Mr Ogilvie's 999 call, to attend this incident.

[52] So far as Section 26(2)(d) and (e) of the Act are concerned, for the reasons I have given I am satisfied that, as a matter of reasonable inference, the accident which resulted in Mr Arshid's death arose from the fact that he failed to engage the parking brake when he exited his car on or close to the southernmost junction between Craigbank Drive and West Craigbank Crescent in order to make his final delivery to a house in West Craigbank Crescent, close to that junction. I am satisfied that Mr Arshid also left the

car's engine running. Although not an advisable course of action, I am satisfied that that would not have caused the car to roll down the hill if the parking brake had been engaged. The car, having rolled a distance of around 25 metres or so down Craigbank Drive whilst Mr Arshid was outside it, ultimately came to rest on the western pavement of Craigbank Drive with Mr Arshid underneath it, by precise means unknown, causing him to be crushed by the weight of the car. The precise circumstances in which that happened cannot be established with certainty but I have set out an analysis which appears to me to be consistent with the evidence and which appears to be capable of explaining how this fatal accident occurred.

[53] The reasonable precaution which would have avoided this accident was that Mr Arshid should, even if he left the ignition running, have engaged the parking brake of the car when he last exited it.

[54] In relation to Section 26(2)(f) of the Act, no defects in any system of working contributed to this accident or to Mr Arshid's death.

[55] In terms of Section 26(2)(g) of the Act, there are no other facts which are relevant to the circumstances of Mr Arshid's death.

[56] In terms of Section 26(1)(b) of the Act, and having regard to the matters set out in Section 26(4), there are no recommendations which, having regard to the circumstances surrounding Mr Arshid's death, might realistically prevent other deaths in similar circumstances.

[57] I wish to extend the court's condolences to Mr Arshid's family, who have suffered the loss of Mr Arshid in these most tragic and unfortunate circumstances. I

wish to record that Mr Burton also extended the condolences of the Crown to Mr Arshid's family.

Appendix

Photograph 002

OFFICIAL: SENSITIVE

445



OFFICIAL: SENSITIVE

002

OFFICIAL: SENSITIVE

450



OFFICIAL: SENSITIVE

007