

SHERIFFDOM OF GRAMPIAN, HIGHLAND AND ISLANDS AT PETERHEAD

[2026] FAI 50

PHD-B53-26

DETERMINATION

BY

SHERIFF ALAN SINCLAIR

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

into the death of

ARTHUR DUNCAN

PETERHEAD, 7 October 2026

Findings

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 (“the Act”) that:

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

The late Arthur Duncan, born 5 January 1952 (“Mr Duncan”) died at 1635 hours on 13 August 2024 at HMP Grampian, South Road, Peterhead.

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

No accident occurred, the death having come about as a result of natural causes.

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

The cause of death was disseminated carcinoma of the lung and Chronic Obstructive Pulmonary Disease.

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

No finding can be made, the death not having occurred by way of accident.

5. In terms of section 26(2)(e) of the 2016 Act (reasonable precautions which may realistically have prevented the death):

There were no precautions that might realistically have resulted in the death being avoided.

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

Mr Duncan's death was not contributed to by any systemic defect or failure in the management or care of Mr Duncan during his time within HMP Grampian.

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 which are relevant to the circumstances of the death.

Recommendations

In terms of section 26(1)(b) of the Act, no recommendations are made.

NOTE

Introduction

[1] This is a mandatory inquiry in terms of section 2(4)(a) of the Act, because Mr Duncan died whilst he was in legal custody within HMP and YOI Grampian.

The participants and their representatives at the inquiry

[2] The procurator fiscal, who represents the public interest, issued notice of the inquiry dated 28 April 2026 in terms of the Act of Sederunt (Fatal Accident Inquiry Rules) 2017 (“the Rules”).

[3] There was a preliminary hearing at Peterhead Sheriff Court on 10 June 2026 and the hearing of the inquiry took place on 7 August 2026. All hearings took place by way of Webex.

[4] Prior to the preliminary hearing the following parties indicated their intention to participate at the inquiry:

- i) The Scottish Ministers on behalf of the Scottish Prison Service; and
- ii) Grampian Health Board.

[5] Ms Kelly, procurator fiscal depute, appeared for the Crown. Ms Osborne, advocate, appeared for Grampian Health Board and Ms Brett, solicitor, for the Scottish Ministers on behalf of the Scottish Prison Service (“SPS”). The family were not represented as an interested party. All parties invited me to make only formal findings in terms of paragraphs (a) and (c) of section 26(2) of the Act. None of the parties invited me to make any recommendations.

The statutory framework

[6] The inquiry was held under section 1 of the Act and was governed by the Rules.

The purpose of such an inquiry is set out in section 1(3) of the 2016 Act and 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. An inquiry is an inquisitorial process and it is not the purpose of an inquiry to establish civil or criminal liability.

The evidence

[7] No oral evidence was led at the inquiry. In advance of the hearing the participants entered into a joint minute of agreement. The Crown also lodged a number of productions. In terms of the joint minute the parties were agreed *inter alia* that the productions were what they bore to be. The following factual findings are derived from the joint minute of agreement.

Facts

Background

[8] Arthur Duncan was born on 5 January 1952. At the date of his death, he was aged 72 years.

[9] Mr Duncan was a prisoner serving a sentence of life imprisonment, having been convicted of murder in October 1970. At the time of his death, he was detained in legal custody within HMP Grampian, South Road, Peterhead.

Responsibility for prison healthcare

[10] On 1 November 2011, responsibility for the provision of healthcare services to prisoners was transferred from the Scottish Prison Service to the National Health Service under the Health Board Provision of Healthcare in Prisons (Scotland) Directions 2011. Grampian Health Board is the relevant regional health board responsible for healthcare services within HMP Grampian.

Mr Duncan's medical history

[11] Mr Duncan had a past medical history of asthma, Chronic Obstructive Pulmonary Disease (COPD), mild cognitive impairment, chronic back pain, and essential tremor. He had an extensive history of smoking.

Lung cancer diagnosis and treatment assessment

[12] On 26 January 2024, a chest X-ray carried out at Peterhead Hospital revealed a soft tissue mass in the right upper lobe, which was assessed to be lung cancer.

[13] On 7 February 2024, Mr Duncan was seen within HMP Grampian by Dr Leven, who advised him of the likelihood of cancer and that further referrals were required. Mr Duncan was experiencing shortness of breath and reported finding his cell cold.

[14] Following referral to the chest clinic at Aberdeen Royal Infirmary, it was determined that radical treatment was not an option due to the size of the tumour, Mr Duncan's extensive smoking history, and his COPD. Mr Duncan was frail, mobilised

with a stick, and had suffered several recent falls. Palliative systemic anti-cancer therapy was not clinically appropriate.

[15] The Scottish Prison Service and Grampian Health Board agreed that the appropriate course of management was supportive palliative care to maintain Mr Duncan's comfort within the prison environment.

Do Not Resuscitate order

[16] On 2 April 2024, Mr Duncan was examined by Dr Reid at HMP Grampian. He presented with shortness of breath, and analgesia was prescribed for pain management. On the same date, Dr Reid discussed and instituted a Do Not Resuscitate (DNR) order with prison nursing staff. This was a clinical decision based upon Mr Duncan's terminal diagnosis and was not discussed with Mr Duncan.

Deterioration in Mr Duncan's condition

[17] On 1 August 2024, Mr Duncan's condition visibly deteriorated. He presented with fatigue, a cough, and breathlessness. A hospital bed was ordered for his cell due to the tumour obstructing his airway and his breathing difficulties. Transfer to an acute hospital setting was deemed to offer no medical benefit, and there was no acute clinical indication for admission.

[18] On 8 August 2024, Mr Duncan was examined by Dr Phillips, who noted that his oxygen saturation levels had decreased. On that date, he was transferred to an accessible cell on the Ellon Wing of HMP Grampian.

[19] On 12 August 2024, Mr Duncan deteriorated further. His oral pain medication was replaced with a transdermal patch, and supplemental oxygen was administered for comfort. His oxygen saturation levels were noted to be extremely low and unsustainable with life.

The final hours of Mr Duncan's life

[20] On 13 August 2024, Mr Duncan continued to deteriorate:

- i) At approximately 0650 hours, he was found on the floor of his cell toilet, having fallen.
- ii) At approximately 0705 hours, Nurse Blessings attended and assisted Mr Duncan back into bed, where oxygen was administered.
- iii) At approximately 0730 hours, Mr Duncan fell again and was assisted into his shower chair.
- iv) At approximately 0830 hours, Dr Cardno examined Mr Duncan, noted he had been on oxygen overnight, and assessed that he was approaching the end of his life.
- v) At approximately 0905 hours, Mr Duncan's next of kin were notified of his deteriorating condition.
- vi) At approximately 1000 hours, Nurse Janine Hay attended to monitor Mr Duncan, administering Midazolam and Morphine at around 1045 hours for end-of-life comfort.

- vii) At approximately 1050 hours, Nurses Stuart and Watt noted Mr Duncan's respiratory rate was elevated at 30 breaths per minute.
- viii) At approximately 1119 hours, upon the clinical instruction of Dr Cardno, supplemental oxygen therapy was discontinued as part of end-of-life care.
- ix) At approximately 1123 hours, Mr Duncan's next of kin arrived and remained with him until around 1403 hours.
- x) At approximately 1245 hours, Nurses Stuart and Hay administered further doses of Midazolam and Morphine.
- xi) Between 1405 hours and 1455 hours, nursing staff attended to adjust Mr Duncan for comfort and maintain observations.
- xii) From 1455 hours, continuous observations were maintained successively by Prison Officers Docherty, Mackie, and Chalmers.
- xiii) At approximately 1625 hours, Prison Officer Chalmers noted Mr Duncan's breathing had become laboured and summoned Prison Officer Mackie.
- xiv) At approximately 1635 hours, Prison Officers Mackie and Chalmers observed that Mr Duncan had ceased breathing.
- xv) At 1643 hours on 13 August 2024, Nurse Julie Stuart formally pronounced life extinct within HMP Grampian.

Post-mortem examination findings

[21] A view and grant post-mortem examination was conducted on 22 August 2024 by Dr Deirdre McKenna, forensic pathologist. The cause of death was certified as:

- i) Disseminated carcinoma of the lung; and
- ii) Chronic Obstructive Pulmonary Disease.

Audit and review

[22] On 7 November 2024, a Death in Prison Learning, Audit, and Review (DIPLAR) was conducted by the Scottish Prison Service and Grampian Health Board. The review identified no substantive learning points arising from Mr Duncan's death.

Conclusion

[23] The formal findings I am required to make in terms of the Act are set out at the beginning of this determination. There were no matters in dispute at this inquiry.

[24] At the time of his death Arthur Duncan was a 72-year-old man who had been suffering from a number of health conditions including cancer of the lung, diagnosed in early 2024. Prison staff dealt with his condition appropriately and he was given appropriate medical care. The cause of Mr Duncan's death was disseminated carcinoma of the lung and Chronic Obstructive Pulmonary Disease.

[25] I wish to thank all parties, and their representatives, for their professional, efficient and helpful approach to this inquiry. I also wish to record my condolences to the family and friends of Mr Duncan.