

SHERIFFDOM OF GRAMPIAN, HIGHLAND AND ISLANDS AT ABERDEEN

[2026] FAI 34

ABE-B855-25

DETERMINATION

BY

SHERIFF IAN WALLACE

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

into the death of

ROBERT EAN MCLEOD

ABERDEEN, 24 June 2026

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:

In terms of section 26(2)(a) (when and where the death occurred):

Robert Ean McLeod (hereinafter Robert McLeod), born 11 December 1980, who resided in Finzean, Banchory, Aberdeenshire, died at approximately 2100 hours on 18 November 2024 within Aberdeen Royal Infirmary.

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

The accident resulting in Robert McLeod's death occurred between 0900 hours and 0930 hours on 16 November 2024 in a field at Ennochie Farm, Finzean, Banchory, Aberdeenshire.

In terms of section 26(2)(c) (the cause or causes of the death):

The cause of Robert McLeod's death was a traumatic brain injury caused by being struck on the head by a metal ring feeder used for feeding cattle.

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

The accident was caused when a bale of hay, which was being lowered into a metal ring feeder from a double tine bale spike fitted to the front loader of a tractor, struck the side of the ring feeder. This caused the opposite side of the ring feeder to flip upwards and strike Robert McLeod on the head.

In terms of section 26(2)(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):

The precautions which could reasonably have been taken and might realistically have resulted in Robert McLeod's death being avoided are:

- i. Greater care could have been taken in ensuring that the bale of hay was correctly positioned before being lowered into the ring feeder.
- ii. Robert McLeod could have stood a safe distance from the ring feeder whilst the bale of hay was lowered into the ring feeder.

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

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

In terms of section 26(2)(g) (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.

NOTE

Introduction

[1] This was a mandatory inquiry held under section 2(4)(b) of the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Act 2016 (“the 2016 Act”) as Robert McLeod died as a result of an accident which occurred in the course of his employment.

[2] Robert McLeod’s death was reported to the Crown Office and Procurator Fiscal Service on 10 April 2025.

[3] The first notice in relation to this inquiry, in terms of the Act of Sederunt (Fatal Accident Inquiry Rules) 2017 (“the 2017 Rules”), was issued by the procurator fiscal on 7 October 2025.

[4] A preliminary hearing in terms of Rule 3.16 of the 2017 Rules was held at Aberdeen Sheriff Court on 3 December 2025. A further preliminary hearing was held on 3 December 2025.

[5] The inquiry proceeded on 17 March 2026 and 22 April 2026 at Aberdeen Sheriff Court. The only participant in the inquiry was the procurator fiscal, represented by Ms Duffus, procurator fiscal depute. The nearest relatives of Mr McLeod, his employer, and the Health and Safety Executive had all received due intimation but declined to take part.

[6] All hearings in this inquiry proceeded by Cisco Webex video conferencing.

Form of evidence

[7] Evidence was allowed to be presented in the form of affidavits, witness statements and productions. I had regard to:

- Witness statements from Ean McLeod and Jean McLeod (Robert McLeod’s father and mother); neighbours who had attended shortly after the accident; and medical staff involved in his treatment;
- An affidavit from Nicky Smith, inspector with the Health and Safety Executive (“HSE”);
- A report by Peter Dodd, HSE, Specialists Division – Mechanical Engineering;

- An HSE document entitled “Safe working with bales in agriculture”;
- Photographs of the scene after the incident; and
- Post-mortem and toxicology reports.

[8] The procurator fiscal further submitted a substantial notice to admit information under Rule 4.12 of the 2017 Rules.

Legal framework

[9] The purpose of the inquiry is set out in section 1(3) of the 2016 Act as being to establish the circumstances of the death and to consider what steps (if any) might be taken to prevent other deaths in similar circumstances.

[10] In terms of section 26 of the 2016 Act the inquiry must determine certain matters, namely when and where the death occurred, when and where any accident resulting in the death occurred, the cause or causes of the death, the cause or causes of any accident resulting in the death, any precautions which could reasonably have been taken and might realistically have avoided the death or any accident resulting in the death, any defects in any system of working which contributed to the death, and any other factors relevant to the circumstances of the death. It is open to the sheriff to make recommendations in relation to matters set out in section 1(4) of the Act.

[11] The procurator fiscal represents the public interest. The inquiry is not intended to establish liability, either criminal or civil. The inquiry is an exercise in fact finding, not fault finding. It is not open to me to engage in speculation. The inquiry is an inquisitorial process.

The facts***Background***

[12] Robert McLeod was born on 11 December 1980 and died on 18 November 2024.

He was 43 years old at the time of his death.

[13] He resided in Finzean, Banchory, Aberdeenshire, with his mother and father.

[14] At the time of his death, Robert McLeod was a full-time employee of Ennochie Farm Partnership. This is an agricultural limited partnership. Robert McLeod's father, Ean McLeod, is a general partner of the partnership.

[15] The partnership leases and farms land, including at Ennochie Farm, Finzean, which is owned by Finzean estate. Land in the area has been farmed by the McLeod family for generations.

[16] Robert McLeod grew up assisting his father on the family farm. He left home at the age of 16 to study computer software. He worked full time as a business support manager until 2019. During that period, he would regularly return to help his father on the farm. In 2020, he returned to work full-time on the farm.

The events of 16 November 2024

[17] At approximately 0900 hours on 16 November 2024, Robert and Ean McLeod left their family home to attend a field at Ennochie Farm. The plan was to feed hay to cattle.

[18] Ean McLeod drove a New Holland tractor. The tractor had a front loader attached which was fitted with a double tine bale spike. The two metal spikes were

each 70cm in length. Ean McLeod used the spikes to spear a hay bale, which he then carried to Ennochie Farm. Robert McLeod followed in a separate vehicle. A photograph of the tractor with front loader is shown below¹.



[19] In the cattle field there was a galvanised metal circular livestock ring feeder. It sat, unsecured, on level ground. It was 1.2 metres high and 1.8 metres in diameter. A photograph of the ring feeder with a hay bale inside is shown below.



[20] The hay bale was to be deposited into the ring feeder. The hay bale was wrapped in a wire mesh around its circumference to maintain the bale's shape during handling and transportation.

¹ Both photographs were taken by Police Scotland after the incident and the annotated photographs produced here are contained in the HSE report submitted by Peter Dodd.

[21] When Robert and Ean McLeod arrived in the field, they proceeded to carry out the task of depositing the hay bale within the ring feeder. Ean McLeod began to lower the bale on the metal spikes to a height where Robert McLeod could cut the mesh that extended around the bale before it was lowered into the ring feeder. When sufficient mesh had been cut away, Ean McLeod lowered the tractor attachment further to allow the bale to slide from the spikes into the ring feeder.

[22] Robert McLeod stood by the ring feeder in a position that was directly opposite the front of the tractor operated by Ean McLeod.

[23] As the bale slid from the spikes, it struck the top edge of the side of the ring feeder closest to Robert McLeod. This caused the other side of the ring feeder (that closest to the tractor) to rear up and flip over in Robert McLeod's direction and strike him on the head. Robert McLeod fell to the ground and was rendered unconscious.

[24] Ean McLeod, who had witnessed the incident from the cab of the tractor, immediately went to help his son. He then went to a nearby property to tell neighbours who quickly alerted the emergency services. Ean McLeod then returned to his son, accompanied by his neighbours.

[25] Robert McLeod lay unconscious on the ground. He was bleeding from a significant head wound. Neighbours maintained his head in a position to enable him to breathe while they awaited the emergency services.

[26] Approximately 15 minutes after emergency services were alerted, paramedics arrived on the scene. Robert McLeod was taken to Aberdeen Royal Infirmary and admitted to the intensive care unit. Medical staff attempted to save his life, but his

parents were informed on the date of the incident that nothing could be done to save him. He was assessed for organ donation, and life was pronounced extinct at 2103 hours on 18 November 2024.

Post accident investigations

Post-mortem examination

[27] On 29 November 2024 a post-mortem examination was carried out. The cause of death was found to be an unsurvivable traumatic brain injury. This was consistent with having been struck by a metal ring feeder. There was no trace of alcohol or drugs found in Robert McLeod's system.

HSE investigation

[28] An investigation was carried out by the HSE. Peter Dodd (Specialists Division - Mechanical Engineering) attended at the scene on 20 November 2024. He produced a report dated 18 December 2024. This found there had been no material breach of health and safety legislation that contributed to Robert McLeod's death. There were no identified defects in the tractor or ring feeder.

[29] The ring feeder was of a metal welded construction. It was 1.8 metres in diameter and 1.2 metres in height. It was slightly distorted/damaged. This was assessed to be attributable to normal wear and tear. The approximate weight of the ring feeder was 80 kilograms.

[30] The diameter of the hay bale was 1 metre. It was appropriately proportioned to fit into the ring feeder. The estimated weight of hay bale was between 200 and 300 kilograms. The hay bale was therefore approximately 2.5 to 3.5 times the weight of the ring feeder and was capable of causing the ring feeder to flip if it struck its edge.

[31] The maximum height from the ground of the tine spikes on the front loader of the tractor was 2.87 metres. The spikes could tilt from the horizontal to a maximum of 59 degrees to allow a hay bale to slide off. In order for the edge of the ring feeder (when flipped up on its side) to pass underneath the front loader, the spikes on the front loader would require to be at least 2.16 metres above the ground (this being the hypotenuse of the right-angled triangle formed with the side and diameter of the ring feeder).

Submissions for the procurator fiscal

[32] The procurator fiscal submitted that the proximate cause of the accident resulting in Robert McLeod's death was that he stood too close to the metal ring feeder when Ean McLeod misjudged the placement of the bale as it dropped into the ring feeder, causing it to rear up and strike Robert McLeod on the head.

[33] The procurator fiscal further submitted that it would be open to the court to find that a reasonable precaution which, if taken, might realistically have prevented the death was that Robert McLeod could have stood a sufficient distance from the hay bale when it was being lowered into the ring feeder.

[34] The procurator fiscal submitted there was no information to suggest any defect in any system of work (section 26(2)(f)) and made no submissions in relation to other

facts relevant to the circumstances (section 26(2)(g)) or recommendations that could be made (section 26(4)).

[35] After hearing the procurator fiscal's submissions on 17 March 2026, I continued the inquiry to give the procurator fiscal an opportunity to provide further information and submissions in relation to: i) preventing any misjudgement of the positioning of the bale; and ii) securing the ring feeder to the ground. The inquiry called again on 22 April 2026 and the procurator fiscal elected to provide no further information and make no further submissions. I was content that I could proceed to make a determination.

Discussion and conclusions

[36] It is clear that Robert McLeod and Ean McLeod had a very close relationship. Witnesses describe them as working together on the family farm for many years. They were always seen together, and they always got on well together. It is therefore a particular tragedy that Robert McLeod lost his life when working with his father.

[37] On 16 November 2024 Robert and Ean McLeod were carrying out a routine job which they had carried out a number of times a day, over many years. They were both experienced in the task at hand, well used to the equipment, and well aware of the associated risks. There were no issues in relation to training and experience, or the equipment used, which contributed to Robert McLeod's death. There is no suggestion that there was some other procedure or mechanism that should have been followed. This inquiry therefore focusses on how the job was carried out on the morning of 16 November 2024.

[38] The hay bale was not correctly positioned before it was placed in the ring feeder. However, this misjudgement must be put into context. It is the sort of task that is likely to be misjudged from time to time. When carried out so regularly over many years, at some point a misjudgement is perhaps inevitable. Therefore, the primary focus should be on reasonable precautions which might prevent injury when such a misjudgement occurs.

[39] Robert McLeod was standing too close to the ring feeder. He had required to be close to the hay bale in order to carry out the job of cutting the wire mesh around the hay bale. After that, by standing close to the ring feeder he was at unnecessary risk of injury. He was at risk of being hit not just by the ring feeder, but also (perhaps more obviously) by the hay bale itself. There was a stone wall behind him, which may have prevented him moving further backwards. Nevertheless, standing further away is a simple precaution which could have been taken. Standing further away and to the side would have allowed him to be better seen by Ean McLeod and to assist in ensuring the bale was correctly positioned. It is unfortunately the type of simple precaution one might fail to take when carrying out a routine job.

[40] If the spikes of the front loader had been lower when the hay bale slid off, they may have blocked the edge of the ring feeder when it flipped up and prevented it hitting Robert McLeod. Generally, it will be safer to let a hay bale slide from the spikes from a lower height. However, I make no finding that a reasonable precaution would be to ensure a hay bale is released from a height which would ensure the spikes would block

the ring feeder. This precaution would likely provide a distraction from proper focus on the task at hand.

[41] I similarly make no determination to the effect that the ring feeder should have been secured to the ground. A presumed benefit of ring feeders is that they can be moved regularly and easily around a field. A precaution such as pegging a feeder to the ground wherever it is positioned is one that few farmers would be likely to put into practice in their busy working lives. Moreover, given the ground that such feeders are often positioned on, there is no guarantee that the feeder would stay secured when struck with a hay bale.

[42] Moreover, these other potential precautions (relating to the height of the front loader; and securing the ring feeder) would not guard against other risks caused by standing too close, such as being struck by a bale. In contrast, the simple precaution of standing at a suitable distance away provides protection from all dangers associated with a tractor offloading a heavy hay bale into a metal ring feeder.

Conclusion

[43] This inquiry must necessarily go over events in somewhat mechanistic detail. But the tragedy of this incident can be stated more simply. It was an understandable and everyday lapse of judgement which had cruel and catastrophic consequences for Robert McLeod and his family. I wish to express my deepest condolences to Mr and Mrs McLeod for their immeasurable loss.