

SHERIFFDOM OF DUNDEE SHERIFF COURT

[2025] FAI 40

DUN-B371-25
DN23004024

DETERMINATION

BY

SHERIFF GEORGE ALEXANDER WAY

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

into the death of

GARRY ANDERSON

Dundee 20 September 2025

DETERMINATION

The sheriff having considered the information presented at the inquiry, Determines
in terms of section 26 of the Act that:

1. Garry Anderson (“Mr Anderson”) was born on 5 December 1960.
2. In terms of section 26(2)(a), Mr Anderson died around 1516 hours on 24 August 2023 at Ninewells Hospital Dundee.
3. In terms of section 26(2)(b), an accident occurred sometime between 1000 and 1040 hours on at The Premier Inn Dundee West Hotel, Kingsway Dundee where Mr Anderson worked as a general assistant.
4. In terms of section 26(2)(c), the cause of the death was (a) blunt force head injuries and (b) an uncontrolled decent from height.

5. In terms of section 26(2)(d), there is insufficient evidence to establish the cause of the said accident which occurred.

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

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

8. In terms of section 26(2)(g), there no other factors relevant to or contributed towards the accident.

RECOMMENDATIONS

No recommendations are made.

NOTE

[1] On 17 September 2025 at Dundee Sheriff Court a public inquiry was held under the 2016 Act into the death of the deceased Mr Garry Anderson.

[2] Preliminary hearings were held at Dundee Sheriff Court by teleconference. The deceased was survived by his daughter, Mrs Carrie Millar and his two granddaughters aged 19 and 13 years. It was agreed that the family of the deceased would not be separately represented but that they fully participated with the investigations of the inquiry team and would continue to observe proceedings. The Crown was represented by Laura McManus, procurator fiscal and the deceased's employers Whitbread Group PLC would be represented by Laura McCabe solicitor.

[3] It was further agreed that all evidence would be in documentary format: a Joint Minute of Agreed Facts, reports, statements or Affidavits. No oral testimony would be adduced.

[4] The inquiry was held in terms of the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Act 2016.

[5] The inquiry was governed by the Act of Sederunt (Fatal Accident Inquiry Rules) 2017.

[6] In terms of sections 1(3) and (4) of the 2016 Act, the purpose of the inquiry was to establish the circumstances of the death and consider what steps (if any) might be taken to prevent other deaths in similar circumstances. The purpose of the inquiry was not to establish civil or criminal liability.

[7] In terms of subsections (1)(a) and (2), in relation to the death to which the inquiry relates, the sheriff's findings as to (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, and any other facts which are relevant to the circumstances of the death. Mr Anderson was an employee of Whitbread Group PLC and worked primarily as a member of the Reception Team at the Premier Inn Dundee West Hotel, Kingsway, Dundee.

[8] The Joint Minute of the parties agreed the facts and circumstances as these. The Whitbread Group PLC is a public limited company which owns and operates the Premier Inn hotel brand. They operate over 900 hotels across the United Kingdom and Germany, including the Premier Inn at Kingsway, Dundee, where Mr Anderson worked.

[9] Mr Anderson was an experienced member of staff at Premier Inn Dundee West, having worked in the hotel for over 10 years. He was highly motivated and took great pride in his work. In addition to welcoming and attending to guests at the hotel reception, he regularly assisted with general maintenance tasks and odd jobs around the hotel. He assisted the duty manager with completing "Work Safe", a weekly checklist that was circulated by the Safety and Security team of Whitbread Group Plc. He was regarded, by the Hotel Manager, Andrew Duthie, to have been good at ensuring all health and safety measures were up to date and in place.

[10] On 19 or 20 August 2023, Mr Anderson approached the Deputy Hotel Manager, Jada Smith, and asked if he could clean an outdoor walkway to the rear of the hotel. The outdoor walkway is accessed through a door from the hotel reception. It leads to guest bedrooms. On the right side of the walkway, there is a wall which is part of the main hotel building. The restaurant is in this part of the main building. On the left side of the walkway there is another, lower part of the building which is the "office" part of the hotel reception. This part of the building has a flat roof. The ground surface of the walkway is formed of concrete paving slabs. The walkway is outdoors. The first part of

the walkway is protected by a roof covering which is formed of transparent Perspex panels.

[11] Having asked Jada Smith if he could clean the outdoor walkway, Mr Anderson agreed that he would use a pressure washer to clean the walkway from ground level. Mr Anderson then remarked that the Perspex panels over the walkway were dirty. Jada Smith told Mr Anderson that he would not be going up on the roof. Mr Anderson stated that he would not be going on the roof, remarking that he was too old for that.

[12] The pressure washing task was first discussed on 19 or 20 August, but Mr Anderson did not carry it out until Tuesday 22 August 2023. Mr Anderson began the task of power washing the outdoor area at around 10:00. Jada Smith was sitting in the restaurant at that time. Windows in the restaurant provided a view over the outdoor walkway. Jada Smith could see and hear Mr Anderson carrying out the power washing at ground level. Jada Smith then left the restaurant and went to reception to book in some guests.

[13] A customer in the restaurant, Marc Shortel, was aware of a male member of staff power washing the windows and path outside. This male member of staff was Mr Anderson. The witness then became aware of Mr Anderson being on the flat roof which is on the other side of the walkway from the restaurant. No other witness saw Mr Anderson on the flat roof. Mr Shortel was still in the restaurant when he heard a noise that he described as a "scuff". This drew his attention outside. He looked out of the window and saw Mr Anderson fall through a gap in the Perspex panels and on to the walkway below.

[14] Jada Smith, who was in reception, heard a loud bang and came out to the walkway. She saw Mr Anderson lying on the ground of the walkway. He was injured. It was apparent that he had suffered a head injury. Jada Smith, along with her colleagues Laoise Bourke, Emma Slack and Carol Anne Patterson tended to Mr Anderson while the customer from the restaurant dialled 999 and requested an ambulance.

[15] One of the perspex panels from the roof covering was on the ground of the walkway. There was a gap in the roof covering where the perspex panel had come down.

[16] The handheld spray lance of the pressure washer was lying on top of the Perspex roof covering, on the panel immediately next to the gap created by the fallen panel. The spray lance was connected by a hose to the main body of the pressure washer machine, which was on the flat roof. A ladder was leaning against the back wall of the office, leading from the ground to the flat roof above the office.

[17] Jada Smith telephoned Mr Anderson's daughter, Mrs Millar, on or around 10:53 to advise her that her father had had a fall at work. She sent Mrs Millar a message at 11:22 to advise that Mr Anderson had left in an ambulance. Mr Anderson was taken to Ninewells Hospital where he was diagnosed as having suffered a subdural haemorrhage. He received treatment including neurosurgery. Despite treatment, his condition deteriorated, such that he could not recover. Life support continued in order that Mr Anderson could donate his organs, in accordance with his wishes as recorded on

the Organ Donor Register. With his daughter present, his life was pronounced extinct on 24 August 2023 at 15:16.

[18] Mr Anderson's body was subsequently taken to the Police Mortuary, Sir James Black Building, 9 Dudhope Crescent Road, Dundee, and was examined by Doctors Tamara McNamee and Alan Farnworth, Forensic Pathologists, on 30 August 2023. The cause of Mr Anderson's death, as recorded in the postmortem report was blunt Force Head Injury and uncontrolled Descent from Height.

[19] Samples of Mr Anderson's blood and vitreous humour were submitted for toxicological examination. These were examined by Eleanor Miller and Alice Seywright, both Forensic Toxicologists. Morphine was found to have been present in Mr Anderson's blood, in a concentration consistent with having been administered as part of medical treatment. No other drug was detected, nor was alcohol found.

INVESTIGATION

[20] Mr Anderson died as a result of an accident which occurred at work, and the circumstances were initially investigated jointly between the Police Service of Scotland and Dundee City Council Environmental Health, with oversight from the Crown Office and Procurator Fiscal Service. Witness statements, photographs and other documents were gathered in the course of the investigation. Dundee City Council Environmental Health were responsible for completing the investigation and reporting the circumstances to the Procurator Fiscal. Nick Noon, a Senior Environmental Health

Officer of Dundee City Council submitted his report to the Procurator Fiscal on 29 October 2024.

[21] Mr Noon's conclusions are set out in his sworn affidavit. He concluded that Mr Anderson was considered an experienced and reliable member of staff who, on occasion, advised less experienced members of staff in relation to health and safety matters. Mr Noon was unable to ascertain the reason why Mr Anderson chose to access the flat roof. Mr Noon was unable to ascertain the reason why, having accessed the flat roof, Mr Anderson fell.

[22] Mr Noon was unable to identify any health and safety failing on the part of Whitbread Group PLC which caused Mr Anderson to access the flat roof.

[23] Whitbread Group PLC cooperated with the Police Service of Scotland and Dundee City Council Environmental Health during the investigation. On 14 September 2023, Whitbread Group PLC installed edge protection around the flat roof. Photographs of the edge protection can be found in Crown Production 20, on pages 12 and 13. The decision to install edge protection was taken by Whitbread Group PLC. The absence of edge protection around the flat roof was not identified as a health and safety failing by Dundee City Council Environmental Health.

[24] The Crown productions were agreed to be accurate and where copies, to be equivalent to the originals.

[25] The witness statements lodged are incorporated herein and to be treated as the equivalent of parole evidence of the following witnesses: Carrie Millar, care of Dundee City Council; Laoise Bourke, care of Dundee City Council (DCC); Andrew Duthie, care

of DCC; Jada Smith, care of DCC; Carole Anne Patterson, care of DCC; Emma Slack, care of DCC and Marc Shortel, care of DCC.

[26] The affidavit lodged of Nick Noon, Acting Manager of the Food and Health and Safety Team, Dundee City Council Environmental Health is incorporated herein and is to be treated as the equivalent of parole evidence.

Conclusion

[27] I agree with all parties that the deceased's death was tragic and untimely. The fact that it remains unexplained must make the family's loss more keenly felt. It is, however, clear that Mr Anderson was a loyal and dedicated worker who was committed to do all he could to present his workplace as a safe and attractive environment for the hotel guests and his fellow workers. Whatever he was doing on the day of the fatal accident was what he appears to have always done: trying to achieve good results to the best of his ability. His loss is a tragedy for his family and workmates. I thank the parties for their assistance in conducting this inquiry. I wish to particularly commend them for the significant preparation and the efficient, sensitive manner in which they conducted the inquiry. I join with them in expressing sincere condolences to the family of the late Mr Anderson.