

**SHERIFFDOM OF GRAMPIAN, HIGHLAND AND ISLANDS AT INVERNESS**

**[2021] FAI 57**

INV-B142-21

DETERMINATION

BY

SHERIFF GARY AITKEN

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

into the death of

**ADAM JAMES REID**

Inverness 2 December 2021

**Determination**

The sheriff, having considered the information presented at the inquiry, determines in terms of the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016, (hereinafter referred to as “the 2016 Act”):

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

The late Adam James Reid, born 15 August 2001, died between 14.16 and 14.25 hours on 21 February 2020 on the west verge of the C1701 Dingwall to Heights of Dochcarty road at the foot of a downhill straight known as Stoney Brae and immediately uphill of a sharp bend.

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

The accident resulting in death took place between 14.16 and 14.25 hours on 21 February 2020 on the west verge of the C1701 Dingwall to Heights of Dochcarty road at the foot of a downhill straight known as Stoney Brae and immediately uphill of a sharp bend.

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

The cause of the death of said Adam James Reid was 1(a) crush asphyxia due to, or as a consequence of, (b) being crushed by a quadbike.

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

The cause of the accident resulting in the death of said Adam James Reid was that while he was riding a quadbike registered number SY67 AAO southwards, namely downhill, at the foot of said Stoney Brae said quadbike left the road on the west side, mounted the verge, and entered a ditch, causing the quadbike to rotate, overturn and trap him beneath it. The reason for the quadbike leaving the road is unknown.

**In terms of section 26(2)(e) of the 2016 Act (any precautions which (i) could reasonably have been taken and (ii) had they been taken, might realistically have resulted in death, or any accident resulting in death, being avoided)**

Given that the precise mechanism of the accident which resulted in the quadbike being ridden by Mr Reid leaving the road is unknown it cannot be determined whether there are precautions which might realistically have resulted in that accident being avoided.

**In terms of section 26(2)(f) of the 2016 Act (any defects in any system of working which contributed to the death or the accident resulting in death)**

Given that the precise mechanism of the accident which resulted in the quadbike being ridden by Mr Reid leaving the road is unknown it cannot be determined that there were defects in any system of working which contributed to the death or the accident resulting in death.

**In terms of section 26(2)(g) (any other facts which are relevant to the circumstances of the death)**

There are no other facts relevant to the circumstances of the death of said Adam James Reid.

## **Recommendations**

**In terms of sections 26(1)(b) of the 2016 Act (recommendations (if any) as to (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)**

There are no recommendations made.

## **NOTE**

### **Legal framework**

[1] This inquiry was held in terms of section 1 of the 2016 Act and was governed by the Act of Sederunt (Fatal Accident Inquiry Rules) 2017 (hereinafter referred to as “the 2017 Rules”). This fatal accident inquiry was presented by the Crown as a mandatory inquiry in terms of section 2 of the 2016 Act as Mr Reid died as a result of an accident in the course of his employment or occupation. It appears from the submissions that there may be some debate about whether or not Mr Reid was in the course of his employment at the time of his death. While that distinction would be of fundamental significance in other types of legal proceedings I do not consider that it is of any real importance in the context of a Fatal Accident Inquiry.

[2] The purpose of this inquiry is set out in section 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. It 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 Crown, in the form of the Procurator Fiscal, represents the public interest.

[3] In terms of section 26 of the 2016 Act the inquiry must determine certain matters, namely where and when the death occurred, when 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 subsection 4 of section 1 of the 2016 Act.

[4] Whether or not Mr Reid was in the course of his employment, the circumstances of his death are such that an inquiry would be merited to fulfil the overarching purpose of the 2016 Act, namely to try to learn lessons for the future. Had the Crown not taken the view that Mr Reid was, or arguably was, in the course of his employment I would not have been at all surprised, and indeed would have anticipated, that the Lord Advocate would choose to exercise her discretion to hold an inquiry into Mr Reid's death in any event. Mr Donaldson very properly conceded that point in submissions. I consider that it is both unnecessary and inappropriate for me to make a finding as to whether or not Mr Reid was in the course of his employment. The purpose of this inquiry is to provide a public exploration of the circumstances of his untimely death and, if possible, to draw any conclusions which may prevent such an event occurring in the future.

## **Introduction**

[5] This inquiry was held into the death of Adam James Reid. He was an 18 year old man who was employed as an apprentice mechanic. He died on 21 February 2020 when he was trapped under a quadbike which he had been riding and which left the roadway and overturned.

[6] Preliminary hearings were held at Inverness Justice Centre on 13 October 2021 and 26 October 2021. It was clear that much of the evidence was not likely to be disputed and the Crown undertook to prepare a joint minute of agreement.

[7] The inquiry proceeded at Inverness Justice Centre on 22 November 2021. Mr Urquhart, Procurator Fiscal Depute, represented the Crown. Mr Donaldson, solicitor, represented Mr Reid's employer, Frank Nicol Farm and Garden Machinery Ltd. No other parties were represented. Members of Mr Reid's family attended the inquiry. I am grateful to them for their attendance and hope that the inquiry process was of some assistance to them. Sadly, it is not always possible to provide all the answers which a grieving family might understandably want from an inquiry. Parties lodged a substantial joint minute of agreement. I accepted the facts set out in the joint minute of agreement. The findings in fact listed at paragraphs [11] to [34] below are derived from the joint minute of agreement.

[8] The Crown also lodged an inventory of documentary productions as follows:

1. Album of photographs
2. Post Mortem Examination Report dated 25 March 2020
3. Collision Investigation Report

4. Learner Progress Review
5. Health and Safety Policy document
6. Risk Assessment documents
7. Workshop Job Card Policy
8. Drivers' Work Instructions Policy
9. ATV Testing Policy
10. ATV Testing Risk Assessment

[9] In addition the Crown lodged an inventory of labelled productions as follows:

1. CCTV recording – Frank Nicol Farm and Garden Machinery Ltd
2. Dashcam recording – Amanda Fraser
3. CCTV recording – West End Garage
4. CCTV recording – GlenWyvis Distillery

[10] The Crown lodged a list of witnesses as follows:

1. Paul Reid, father of the Mr Reid, c/o the Procurator Fiscal, Inverness
2. Janice Sinclair, mother of Mr Reid, c/o the Procurator Fiscal, Inverness
3. Frank Barrie Nicol, Frank Nicol Farm and Garden Machinery Ltd,  
Dingwall
4. David Alexander Norrie Nicol, Frank Nicol Farm and Garden Machinery  
Ltd, Dingwall
5. Kenneth Urquhart, Frank Nicol Farm and Garden Machinery Ltd,  
Dingwall
6. Neil Smith, Frank Nicol Farm and Garden Machinery Ltd, Dingwall

7. David Alexander Smith, Keoldale Sheep Stock Club, Durness
8. William Roderick MacIntyre, Tulloch Farm, Dingwall
9. Fraser Hill, c/o the Procurator Fiscal, Inverness
10. Amanda Fraser, c/o the Procurator Fiscal, Inverness
11. Alan Coles, c/o the Procurator Fiscal, Inverness
12. Trevor Campbell, c/o the Procurator Fiscal, Inverness
13. Martin Watson, Drynie farm, Dingwall
14. Jeremy Astill-Brown, c/o the Procurator Fiscal, Inverness
15. Marisa Algeria Astill-Brown, c/o the Procurator Fiscal, Inverness
16. Mary Rosalind Reid, c/o the Procurator Fiscal, Inverness
17. Robert Mackay, Scottish Fire and Rescue Service, Dingwall
18. Kenneth Ross, Scottish Fire and Rescue Service, Dingwall
19. Jacqueline Finnegan, Scottish Ambulance Service, Inverness
20. Dr Kyle Murray, MBChB, Accident and Emergency Department,  
Raigmore Hospital, Inverness
21. Dr Natasha Inglis, FRCPath, Raigmore Hospital, Inverness
22. Colin Marshall, Constable, Police Service of Scotland, Dingwall
23. Mark Campbell, Constable, Police Service of Scotland, Dingwall
24. Christopher Donaldson, Constable, Police Service of Scotland, Dingwall
25. Jeanelle Tonner, Constable, Police Service of Scotland, Dingwall

I heard oral evidence from Frank Barrie Nicol, Neil Smith and David Alexander Norrie

Nicol. Although lodged, none of the video footage contained in the labelled productions

was played during the inquiry. The contents of the video footage is referred to in the joint minute of agreement.

### **The facts**

[11] At the date of his death on 21 February 2020 Adam James Reid was aged 18, having been born on 15 August 2001. He was single and lived with his parents in Muir of Ord – about seven miles from his place of work in Dingwall. He was a fit and healthy young man with no significant medical history.

[12] Mr Reid was employed as an apprentice mechanic by Frank Nicol Farm and Garden Machinery Ltd, Strathpeffer Road, Dingwall and was nearing the end of the second year of his apprentice mechanic's course. The apprenticeship involved block release to attend the Bosch Automotive Training Facility (the "Bosch College") in Doncaster for a number of week-long courses. He had two more blocks to complete before the end of the second year of his apprenticeship. There was a potential to complete a third year at the discretion of the college which leads to a more advanced qualification and Mr Reid had been identified as an appropriate student for the additional year. The Bosch Apprentice Scheme included training in the safe operation of all-terrain vehicles (ATVs or "quadbikes"). Prior to working at Frank Nicol's, he had been employed for almost a year at a Subaru garage in Beauly. Mr Reid had been riding quadbikes since he was four or five years old. He was the holder of a Provisional UK Driving Licence.

[13] During the period Mr Reid was employed by them, Frank Nicol Farm and Garden Machinery Ltd, Strathpeffer Road, Dingwall ("Frank Nicol's") was a family-run private limited company in Dingwall. The directors were five members of the Nicol family and their parts manager. David Nicol was acting managing director and was at the time of the accident responsible for running the workshop where the deceased worked. He was also Mr Reid's line manager. On 21 February 2020 David Nicol was away on a family trip and not at the business' premises. On that day, the most senior director present was Frank B Nicol, eldest son of the eponymous founder. Frank B Nicol had overall responsibility for administration including health and safety policy and control of records. As well as the directors, two of whom - Frank Nicol snr and his wife Wilma - were inactive, the company employed 19 others. The business combined a garden centre, nursery, outdoor clothing shop and coffee shop but also sells pet food, light farm machinery, ATVs, tools, power mowers and the like. In addition, they carried out repairs and servicing to ATVs and lawnmowers.

[14] The premises of Frank Nicol's occupies the site of a former dairy in a rough triangle bounded on the south by the railway line; on the west by the premises of Travis Perkins, builders' suppliers; and on the north-east by the A834 which at this point is named Bridgend Avenue then Strathpeffer Road. There is customer car parking at the north-west corner of the yard. The entrance to the curtilage of the business is through a double gate at the extreme north of the western boundary onto a short access road shared with Travis Perkins set at right angles to the main Strathpeffer Road. The area in

front of Travis Perkins is concreted over and, whilst off the roadway, is a place to which the public have access.

[15] The locus of the fatal accident in which Mr Reid was killed was immediately uphill of a sharp bend on the steep C1071 Dingwall to Heights of Dochcarty road at Dochcarty Brae on a section known locally as “Stoney Brae.” The C1071 heads generally northwards from the A834 Strathpeffer road. Frank Nicol’s premises are about 1.7 km from the locus but 90 metres lower down. Travelling from Frank Nicol’s to the locus, in the first kilometre the road climbs barely 10 metres. Within the 30 mph limit the C1071 is known as Dochcarty Road. As the C1071 starts to climb, Dochcarty Road leaves it and sweeps round into a Council housing estate to the east, while the C1071 road, now renamed Dochcarty Brae, continues northwards and becomes increasingly steep. Shortly thereafter, heading northwards and uphill, the road leaves Dingwall, enters countryside and the speed restriction changes from 30 mph to the national speed limit of 60 mph.

[16] At the locus the C1071 road is single track with passing places. It is about 6 metres wide and has a surface of hot rolled asphalt which is of a generally poor state of repair with areas of wear throughout and potholed in places, although there were no potholes at or near the point at which Mr Reid left the road. However, at the point on the road where the accident occurred there was some gravel wash on the road as a result of winter weather. Travelling southwards from the top of the road at Heights of Dochcarty there is a warning sign for a steep gradient on the east verge. A series of bends leads to a straight section which descends towards a right-hand bend. Just before

the right-hand bend is the entrance to the GlenWyvis Distillery where there is CCTV covering the view towards the road. Prior to entering the right-hand bend, about 314 metres south of the warning sign, the downward gradient increases. After the right-hand bend the road straightens for about 71 metres and descends at a gradient of 11.5°. This straight, known as Stoney Brae, culminates at the sharp left-hand bend immediately above which Adam Reid left the road. At this point the gradient is 15% or 11° (approx. 1 in 5). A grass verge leading to a drainage ditch runs down the west – offside or right-hand side for those travelling downhill – of the road uphill of the bend. On the outside (south-west) apex of the bend there is a junction with a field entrance.

[17] Crown documentary Production no 1 is a set of seven true photographs taken at the locus on and immediately after 21 February 2020.

- The first image is a view southward (i.e. downhill) on the C1071 at Stoney Brae;
- Below the first image and on the same page the second image shows the northbound (i.e. uphill) approach to the locus. Almost immediately centre in the photograph in line with the centre line of the road it is possible to make out on the grass verge a pile of road grit for treating the road in wintry conditions. This grit pile did not feature in the accident. The deceased and his quad bike came to rest in the ditch just a few metres uphill of the grit pile;
- On the second page the third and fourth images show the locus, quadbike registered number SY67 AAO after it had been righted by firefighters, and Mr Reid's body beneath a white sheet;

- The fifth image, being the first image on the third page, shows Mr Reid's body in its resultant position after the quadbike had been lifted off him;
- The sixth image shows the relative positions of Mr Reid's body and the quadbike after the quadbike had been lifted off him by firefighters;
- The final image, which unlike the others was taken by a Mary Reid (referred to in paragraph [30] below) when the accident was newly discovered, shows the quadbike in the position in which it was first discovered and Mr Reid's feet protruding from below the quadbike.

[18] At the time that Road Policing officers reached the locus, about 30 minutes after the accident, it was daylight, raining with sleet showers and the road surface was wet. According to the telemetry on the Police collision investigators' vehicle the air temperature was 8° centigrade. The road surface was seen not to be icy or frosted. Video footage in labelled productions 1 and 4 show intermittent sleet and rain showers at Strathpeffer Road, Dingwall and at the premises of the GlenWyvis Distillery in the minutes before the accident.

[19] On Tuesday 18 February 2020 Mr Reid had accompanied Kenneth Urquhart, another employee of Frank Nicol's, on a trip to Durness to deliver two new quadbikes to a farm run by the Keoldale Sheep Stock Club and to uplift two quadbikes, the two-year warranties for which had expired and which were being traded in. One of these was a red 500 cc single seat four-wheeled Suzuki King Quad registered number SY67 AAO weighing about 300 kilogrammes which was both then and at the time of fatal accident to Mr Reid in good working order with no known mechanical faults or defects.

[20] The quadbikes had been transported on a flatbed trailer towed by a pick-up. Mr Reid was the front seat passenger on the trip. In a blizzard on the return leg of the journey the pick-up left the road and rolled onto its roof. The trailer, which was written off, became unhitched and ended up on its side, although the quadbikes stayed on. The other quadbike was seen to have suffered accident damage but there was no obviously visible damage to the Suzuki SY67 AAO. Neither Mr Reid nor Kenneth Urquhart was injured in the accident. The trailer and quadbikes were recovered to Frank Nicol's yard on Friday 21 February 2020.

[21] On Friday 21 February 2020 Mr Reid was due to work at Frank Nicol's from 8.00 to 12.30 then from 13.00 to 15.00. His practice was to travel to work by train from Muir of Ord and to get a lift home from a workmate. Around lunchtime Frank B Nicol drove Mr Reid to Dingwall railway station to buy a ticket as on Sunday 23 February he was due to travel to college in Doncaster as part of his apprenticeship training. Mr Reid offered to come into work for something on the intervening Saturday, but Frank B Nicol told him not to worry as he would be off to Doncaster the following day.

[22] After lunch on Friday 21 February 2020 Mr Reid had been working on a lawnmower until shortly before 14.00, about an hour before he was due to go home. He was not due to return to work at Frank Nicol's premises until Monday 2 March 2020.

[23] William "Rory" Macintyre has confirmed that every time Frank Nicol's wanted to test a quadbike Frank B Nicol phoned him to confirm they could have access to their usual testing area on a hill on his land at Tulloch Farm, above the Heights of Dochcarty. Rory Macintyre received no such phone call on 21 February 2020.

[24] Crown labelled production no. 1 - CCTV from Frank Nicol's records that at 13.57 (shown as 13.59 on the video) on Friday 21 February 2020 Mr Reid, wearing a fleecy trapper-style hat, drove the quad into the workshop. At 14.09 (shown as 14.11) Mr Reid, now wearing a high visibility jacket and motorbike crash helmet was recorded driving the quadbike, which was now displaying trade plates, back out of the workshop. At 14.10 he left the curtilage of Frank Nicol's and turned left into Strathpeffer Road. At 14.11 he was recorded on labelled production no. 2 - a motorist's dashcam footage – and labelled production no. 3 – CCTV footage from the West End Garage, Dingwall (showing a time of 13.54) - turning right from Strathpeffer Road (the A834) onto Dochcarty Road.

[25] At a time he estimated as being about 14.15, a fencer, Alan Coles, was driving up the C1071 to a job at Lower Dochcarty Farm and had almost reached the turn off to his left, when a quadbike quickly emerged from the dirt track cum public footpath from Tulloch Castle. This track joins the C1071 directly opposite the entrance to Lower Dochcarty farm. Before he had fully emerged onto the asphalt road the driver of the quadbike stood on his brakes, spun the quadbike round to the right and came to a complete stop facing up the hill. As the young male rider looked at him over his shoulder, Alan Coles, who was indicating left, waved. The rider returned the wave and started riding the quad up Dochcarty Brae. As he drove away, Alan Coles noticed that the quadbike was displaying a trade plate. Coles later stated, "I just turned left into the farm and never thought a thing of it. I just thought it was a young lad mucking about on a quad."

[26] CCTV at Drynie Farm, which is further north and uphill of Lower Dochcarty Farm, recorded that the time at which a visitor, Trevor Campbell, returned to his Landrover was 14.16. As Mr Reid was not recorded on the Drynie Farm CCTV, Police did not seize a copy of the footage. At the time Trevor Campbell returned to his Landrover he saw someone in a Hi-Viz jacket riding a red quadbike past the Drynie Farm road end on the straight section of the C1071 before Stoney Brae, i.e. travelling uphill and below - but in the direction of - the locus. Campbell believed he heard the sound of the quadbike for long enough for it to have passed the locus at Stoney Brae travelling uphill.

[27] Crown labelled production no. 4 - CCTV footage from the Glen Wyvis Distillery - shows that the CCTV was on at the relevant time and pointing in the direction of the C1071 road. Labelled production no. 4 has been checked but Mr Reid and the quadbike do not appear on the footage. It appears therefore that he had turned before reaching the distillery and had begun to descend again. Tulloch Farm is north and uphill of the distillery turn-off.

[28] Fraser Hill, whose house overlooks the area of Rory Macintyre's land on which Frank Nicol test ATVs, had been working in his garden that afternoon and believed he would have seen if anyone had been on a quadbike on that land on Friday 21 February but did not see anyone.

[29] At about 14.25 Jeremy and Marisa Astill-Brown, who live up beyond the Heights of Dochcarty, were driving with their daughter and nephew down towards Dingwall when on Stoney Brae they saw a quadbike upturned in the ditch. They stopped and

Jeremy Astill-Brown got out to find a helmeted man trapped under the quad. His wife phoned the emergency services at 14.28.

[30] At around the same time one of their neighbours, 77-year-old Mary Reid who was travelling to a supermarket in Dingwall, happened upon the scene. In case one was required for any investigation, the Astill-Browns asked her to take a photograph with her phone. Having done so and realising she could not help further and that the emergency services had been summoned, she continued on her journey. She stopped at Frank Nicol's on the way to ask if the quadbike in her photograph was one of theirs. The photograph she took is referred to at paragraph [17] above.

[31] The Fire and Rescue Service was the first of the emergency services to arrive. They found that the quadbike was on its nearside but that handlebars were across Mr Reid's neck just below the bottom of his helmet. It took four firefighters to roll the quadbike off Mr Reid. One of the firefighters unfastened and removed Mr Reid's open-faced helmet, then the firefighters stood back to allow the medical and paramedical staff who had now arrived to assess him. A car carrying an Accident and Emergency doctor and nurse practitioner had travelled in convoy with the ambulance and it was the doctor, Dr Kyle Murray, who examined Mr Reid and at 15.03 pronounced life extinct. The Road Policing officers arrived at 14.56 but after the ambulance and immediately started their investigation.

[32] On 25 February 2020 an autopsy was conducted by Dr Natasha Inglis, consultant pathologist at Raigmore Hospital, Inverness. She ascertained that there were no injuries to the soft tissues of the neck, the carotid arteries were patent, and the cervical spine was

intact. The cause of death was asphyxia secondary to being crushed by a quadbike. Toxicological analysis revealed a blood alcohol level of 8 milligrams of alcohol per 100 millilitres of blood. That level is well below the statutory drink driving level. Alcohol did not featured as a cause of the incident. There was no trace of medicinal drugs or drugs of abuse in his blood.

[33] Police collision investigation officers were among the first police officers on scene on 21 February and they immediately started carrying out the usual investigation. Crown documentary production no. 3 is their collision investigation report. Two suitably qualified Road Policing officers carried out a mechanical examination of the quadbike and reported no defects that would have contributed to the collision. From gouge marks in the verge and ditch, damage to trees and shrubbery and corresponding vegetation caught in various parts of the quadbike and in a crack in the visor of the helmet Mr Reid had been wearing, they concluded that Mr Reid had been driving the quadbike southwards, i.e. downhill, when the accident occurred. Their reconstruction of events reads:

“- 8.2 The Suzuki Kingquad 500cc motor vehicle registration number SY67AAO was being ridden south, travelling downhill at the locus and has left the road at the offside near the start of the left hand bend. This is confirmed by the three furrow marks in the west verge made by the two front wheels and rear offside wheel.

- 8.3 The rider of the Suzuki motor vehicle lost control and entered the drainage ditch where the front of the vehicle pitched nose down and into the west bank of the ditch. This is confirmed by the three furrow marks diverging on the west verge and the gouge marks in the banking of the drainage ditch. This is also confirmed by the debris lodged in the skid plate of the vehicle and the damage to the skid plate.

- 8.4 The Suzuki motor vehicle has then rotated anti-clockwise and rolled onto its nearside, coming to rest facing north within the drainage ditch. This is confirmed by the damage to the front nearside of the Suzuki motor vehicle. This is also confirmed by the mud adhering to the nearside of the vehicle and the walls of the nearside tyres. –

8.5 During the course of the collision, the deceased has fallen from the rider's position and has become trapped underneath the nearside of the Suzuki motor vehicle. This is confirmed by the damage to the deceased's helmet and the mud adhering to it along with the image provided in Digital Image. [I.E. Mary Reid's photograph]"

And the Police Collision Investigators' conclusions are: -

"- 9.1 The deceased was riding the Suzuki motor vehicle south towards the locus. It has entered the west verge before pitching nose down into the drainage ditch where it rotated anti-clockwise and came to rest on its nearside, with the deceased beneath it. –

9.2 It is our opinion that the deceased was wearing a helmet at the time of the collision. The helmet was found damaged with mud and other debris from the verge adhering to it and was near the vehicle.

- 9.3 It is not known why the Suzuki motor vehicle entered the west verge and the reasons for this cannot be determined by the marks at the locus. Whilst braking may have been applied, the furrow marks located show no evidence of locked wheels and are indicative of a rolling wheel. Some degree of steering has been applied owing to the divergence of the furrow marks from the verge towards the drainage ditch.

- 9.4 There were no mechanical defects that would have contributed to this collision and no evidence of any other vehicle involved. Excessive speed, rider inattention or inexperience may be contributory factors and cannot be ruled out."

[34] Mr Reid's mobile phone was found zipped in one of his pockets and could not have been being used at the time of the collision.

[35] Mr Reid was an experienced and competent rider of quadbikes.

[36] Mr Reid was a competent mechanic who was progressing well in his apprenticeship. His skills were such that he would have been offered the opportunity to complete an additional third year of study to obtain an enhanced qualification.

[37] Prior to working on the quadbike registered number SY67 AAO Mr Reid sought and was granted permission from Frank B Nicol to “look” at said quadbike.

[38] Mr Reid brought the quadbike into the workshop at his employer’s place of business. He placed it on the ramp at his workstation in the workshop. Prior to taking the quadbike out on the public roads he attached trade plates to the quadbike and put on a high visibility jacket and a crash helmet.

[39] Mr Reid drove from the workshop to the C1071 road at Stoney Brae. He drove up the hill there but turned prior to reaching the GlenWyvis Distillery junction. On his return down the hill the quadbike left the road on the offside, as described in paragraphs 8.2 to 8.5 of Crown Production 3 and quoted in paragraph [33] above. The reason for the quadbike leaving the road has not been established.

### **The evidence**

[40] Frank Barrie Nicol gave evidence that he is one of the directors of Frank Nicol Farm and Garden Machinery Ltd. The business operates from premises on Strathpeffer Road, Dingwall. It is a small family business and at the time of Mr Reid’s death employed about 19 people. Mr Reid was employed by the business as an apprentice mechanic. Frank Nicol stated that he knew all the employees. His brother, David, was the acting managing director at the time of the incident and is now managing director.

On the date of the incident Frank Nicol was the most senior person present at the business premises.

[41] He recalled giving Mr Reid a lift to the station to get a railway ticket to travel to college in on the Sunday. He accepted that Mr Reid had offered to come in to work on the Saturday but could not recall why. He accepted that his brother David and another director had visited Mr Reid's family after the incident but could not recall whether he had spoken to David prior to that meeting. He could not recall Mr Reid offering to come in on the Saturday to work on the quadbike which was involved in the incident.

[42] Frank Nicol described each job in the workshop being given a job sheet. Unless the job related to a pre-booked appointment the job sheets were added to the bottom of the pile and the staff would take the job sheet from the top of the pile and work on it, asking for assistance if necessary.

[43] He described the Bosch College which Mr Reid attended as running four Suzuki approved courses in relation to ATV's, 2 wheeled vehicles, cars and marine. The courses are parallel but there is some cross over between the ATV and 2 wheeled courses.

[44] The business of Frank Nicol's includes sales and servicing of ATV's and quadbikes along with repair of garden machinery. He stated that Mr Reid was involved in the full range of workshop duties, not just quadbikes.

[45] Frank Nicol stated that he thought Mr Reid had just finished his lunch. His understanding was that Mr Reid had been working on a pedestrian lawnmower. He did not know whether or not that work was finished.

[46] He stated that Mr Reid came and spoke to him. He stuck his head in at Frank Nicol's office door and said "Can I go and look at a quad bike?" Frank Nicol stated that he replied "Yes, you can go and look at it." Mr Nicol emphasised the word "look" in his evidence. He stated that he did not draw any inference from what Mr Reid said. He did not know whether Mr Reid had finished his work. He stated that Mr Reid did not say which quad bike. Frank Nicol said that he carried on with his work.

[47] He stated that his understanding was that Mr Reid would take the quad bike into the workshop and strip down the plastics. He estimated that process would take an hour. Mr Reid was due to finish work at 3.00pm and would not be back to work for a week.

[48] He was aware that the quad bike in question had been in an accident earlier in the week. He did not know what state it was in after the accident. It needed to be stripped down and checked. The first thing would be to get a job card made up for stripping down the quad bike. Mr Reid had not done so. Mr Nicol stated that he was unaware of what the next job in the pile of job cards was at that time. He stated that nothing should be touched with a spanner unless there was a job sheet in place. That was the position even if it was a small job. Mr Nicol expected that the quad bike would be stripped down to check it over and see if there was any damage. He stated there was absolutely no way the quad bike should have been on the road before it was checked. It could have had brake failure, frame damage or anything.

[49] Mr Nicol explained that his office is approximately 5 metres from the workshop. However, from his office he cannot see into the workshop. The workshop is located

behind the parts' store. Mr Nicol's office is on the left side of the parts counter, at the rear of the shop, as the customer is facing the parts' counter. Although his office is not far from the workshop, he cannot see into the workshop. He described big double doors at the back of the workshop to allow vehicle access. To gain access to the rear of the workshop, a vehicle would need to be taken round the main building and in at the back. He was not in a position to see that from his office.

[50] Mr Nicol stated that he expected Mr Reid to strip down the plastics on the bike. Mr Nicol was later told by one of the employees that Dr Reid's wife had come in and showed him a photograph. Mr Nicol looked at the photograph as well. He recognised the registration plate of the quad bike and the trade plates as being from his business. At that time he thought the quad bike was still in the workshop. He grabbed a van and drove up to the location of the incident. He got there before the emergency services. There were people there already. He had forgotten his mobile telephone and so went back to the business to get it and then went back up to the scene. By that time the ambulance was there. He anticipated that matters were serious as he saw the air ambulance hovering but flying away without landing. He suspected that Mr Reid had died. The road ambulance was already at the scene before the air ambulance arrived.

[51] Mr Nicol said he was spoken to by the police on a number of occasions. He identified Mr Reid to the police.

[52] Mr Nicol stated that he had previously worked for Highland Council and was involved in carrying out risk assessments. On re-joining the family business he became responsible for health and safety policies. He was referred to Crown production No. 5,

the Frank Nicol's Health and Safety Policy Document. He explained that this was a generic document which was then filled in for the business. He stated that various directors and employees have responsibility in terms of the policy. It was originally drawn up on 20 September 2006 and has been reviewed every year or so since. He stated that he had drawn up risk assessments for the work they do.

[53] Mr Nicol was referred to Crown production No. 6 and described these as generic risk assessment forms which had been filled in for his business. He described three steps on each page. The first step identifies hazards. The second step identifies the people affected. The third step indicates the controls to be applied to mitigate the risks. He was referred to the third page of the production, dealing with under 18s in the workshop. One of the hazards was identified as a lack of awareness of risks. He stated that Mr Reid was under 18 when he started working for Frank Nicol's. However, he explained that this risk assessment had been done as the business took pupils from Dingwall Academy for work experience for a maximum of a week. The risk assessment had been carried out in relation to those work experience pupils more than anything else. That particular page had been drawn up on 5 November 2013.

[54] Mr Nicol was then referred to the third last page of the document where the significant hazards had been identified as company vehicles reversing in the yard. The following page dealt with vehicles on plinths. He accepted that these were the only hazards identified in relation to vehicles. He stated that the policy on testing vehicles was contained in different documentation.

[55] Mr Nicol was referred to Crown production No. 7, which he described as being the policy in relation to job sheets. This document was read by Mr Urquhart. Mr Nicol accepted that the job sheet was principally used to know how much to charge customers. It was important that any parts used and labour time was recorded on the job sheet. He stated that a copy of this document is on display, laminated, in the workshop office. Job cards are all held in the workshop office, which is physically within the workshop, not within Mr Nicol's office.

[56] Mr Nicol stated it can be difficult to assess what the problem with a quad bike is. It may be necessary to ride it to test it after it has been checked for safety first. Sometimes it is necessary to ride it to diagnose the problem and to ride it again to check that the repair has been successful. He described an agreement with Rory Macintyre in relation to where quad bikes can be tested.

[57] Mr Nicol was referred to Crown production No. 9, which states the process to be involved for testing quad bikes on Mr MacIntyre's land. This document was read out by Mr Urquhart. Mr Nicol stated that this policy document is also displayed in the workshop office.

[58] Mr Nicol was referred to Crown production No. 10, which details a risk assessment for testing quad bikes on Mr MacIntyre's land. He accepted that he gave a copy of that document to the police on 18 September 2020. Although undated, he stated that the document had been in force for years and years and probably since about 2000. The document was read by Mr Urquhart. Mr Nicol explained that T-CLOC is an abbreviation of Tyres and Wheels, Controls, Lights and Electrical, Oil and Fluids, and

Chassis. He explained that the abbreviation EASI stands for The European All Terrain Safety Institute. Mr Nicol explained that the production is a document which is kept in the health and safety file. The health and safety file is controlled by him. The employees know it exists, but not what is in it. The ATV testing policy would be discussed verbally with a new employee prior to them attending at Mr MacIntyre's land on the first time to carry out a test. An employee would also be accompanied to the hill on their first occasion.

[59] Mr Nicol stated that the EASI training is training on ATVs, namely quad bikes, and what he described as side-by-sides, a buggy very similar to a quad bike but with a passenger seat and a driver's seat side-by-side. Mr Nicol stated that the T-CLOC check would take a good 20 minutes or so to perform.

[60] Mr Nicol confirmed that he had supplied CCTV from his business premises to the police. It was put to him that at 13.59 Mr Reid could be seen riding the quad bike into the workshop. At 14.11 he could be seen coming out of the workshop wearing a hi-vis jacket and a crash helmet with trade plates on the quad bike. Mr Nicol stated that the time interval was insufficient to carry out a T-CLOC check. He stated that the crash helmets were kept in the workshop office. The trade plates are kept in the workshop. Every employee is issued with their own hi-vis jacket.

[61] He stated that on 21 February 2020 he was not asked to telephone Rory Macintyre in relation to testing a quad bike on his land. He was sure that did not happen. He stated that until Mrs Reid showed him the photograph on her mobile phone he thought that Mr Reid was still in the workshop. He recognised Mr Reid's boots when

he got to the scene. Until then he did not know who had been riding the quad bike at the time of the incident.

[62] He stated that his brother David did most of the induction with Mr Reid and was directly involved in the supervision of his apprenticeship. He stated that he himself had only supervised Mr Reid on Mr MacIntyre's land if out to try out new quad bikes such as a new model or a new brand. It was not uncommon to take new machines out on to the hill to see how they performed. He stated that it was mainly the staff in the workshop who were dealing with ATVs who would go. Some staff may only be involved in electrical work on the ATVs and not on the mechanical side.

[63] He stated that he had seen Mr Reid riding quad bikes on these occasions. He could not say how often. He and his brother David do a quad bike assessment of competence together. They kept checking during his apprenticeship. Mr Nicol stated that Mr Reid was a highly competent operator of quad bikes. Their business does not offer the EASI training to apprentices. It was previously offered as part of the Bosch college course. They had previously put another apprentice through that college course. Mr Nicol was unaware that the course had not been offered to Mr Reid. He only found that out a couple of days prior to giving evidence at the inquiry. He described the EASI course as being very basic. Mr Reid was very competent and would not have benefitted from the course.

[64] Mr Nicol stated that he was not involved in the day-to-day supervision of Mr Reid. He stated that his son had left the business in September 2019. His son had been working while Mr Reid was there. His son had also been a mechanic in the

business. Due to his son leaving it meant there was more work for everyone else to do.

He accepted that the workshop foreman also suffered from ill-health and confirmed that the workshop foreman was not present on the date of the incident as he was off ill.

Mr Nicol stated he could not comment on whether Mr Reid was supervised less after his son left. He accepted that there was more work as they were two mechanics short and stated that his brother David, who was a trained mechanic, was going into the workshop himself to work. Mr Reid was doing his work unsupervised. Mr Nicol had no concerns about him. Mr Reid got glowing reports on his work from the college. A copy of those documents was provided to his employer. Mr Reid's skill levels were increasing.

Mr Reid was about to go on a block released college and had one further block release before completing his course. Mr Nicol was aware that the course could be extended by a year to secure a higher qualification. He stated that the business would definitely have put Mr Reid forward for that. That would extend his apprenticeship. Mr Nicol also stated that once qualified the business would have wished to keep Mr Reid on as an employee.

[65] In cross-examination, Mr Nicol was referred to Crown production 10 and to the final line. Training could either be EASI training or an in-house competence check. He stated that Mr Reid had ridden in the presence of himself and his brother David on manufacturers' test days. He described the test site as being 500 acres of hill, track, bog, a river to drive through, gorse, grass, sheep and rocky areas. There were flat areas and also a steep rise. He considered the business was exceptionally fortunate to have access to a site like that. He stated it might be necessary to take a quad bike there to check for

intermittent faults. He stated that he has done all the intermittent fault testing since this incident. The process of testing can take an hour or an hour and a half.

[66] Mr Nicol stated that the two quad bikes, including the one involved in the incident, had been returned from a sheep stock club. Quad bikes can be very hard worked but he stated that that particular customer carries out regular servicing and looks after their machines well. He stated that Mr Reid had serviced two other quad bikes for the same estate while he was up there with a colleague picking up the two quad bikes that were brought back to the business. Mr Nicol confirmed that the business had supplied the quad bikes in the first place.

[67] Of the two quad bikes which were brought back, one was clearly written off. That was clear from a cursory glance. The other one, which was involved in the fatal incident, needed to be checked over. That process would involve stripping it down, checking the frame, checking the wheel bearings, checking the brakes and removing the sump guard. He estimated that it would take an hour to remove the plastics, 20 minutes to remove the sump guard, 10 minutes to carry out a check and an hour to strip the front brakes. He confirmed that Mr Reid was capable of carrying out all of those steps without any trouble at all.

[68] Mr Nicol stated that even if the quad bike had not been involved in an accident, it would still have gone through the workshop prior to resale. Quad bikes are supplied with a 3 year manufacturer warranty but the business might offer a 6 month warranty to a customer. Such vehicles would be sent to auction if they were not in a condition for resale from the business premises.

[69] Mr Nicol stated that he is a former EASI instructor. He was in an accident and had to give up instructing. He has provided EASI training to customers who have purchased new quad bikes, even if not purchased from his business. He stated that manufacturers of quad bikes offer a free course to all buyers. He stated that the customers of his business were mostly professional, not leisure users.

[70] He stated that if he had any concerns about Mr Reid's competence to ride a quad bike he could have dealt with that, but he had no such concerns.

[71] He stated that his brother, David, mainly deals with the apprenticeships. His son had also gone through the apprenticeship process. He considered that the apprenticeship was a good mechanical apprenticeship. Tutors come from the college and visit the business premises on a regular basis. Assessments on the apprentices are carried out on a quarterly basis. These assessments are done by the course leader.

[72] Mr Nicol was referred to Crown production No. 4, which he confirmed were the assessments for Mr Reid. These assessments are carried out both at the college and at the workplace.

[73] There was no re-examination.

[74] Neil Smith stated that he is a mechanic employed by Frank Nicol Farm and Garden Machinery Ltd. He works in the workshop. He has been working there since about October 2019. He was working on Friday 21 February 2020. He knew Mr Reid. He stated that they worked together. Mr Smith explained that he has a background as an auto electrician and would help Mr Reid out with electrical issues. Generally, Mr Reid did his work and Mr Smith did his.

[75] Mr Smith recalled that on 21 February 2020 Mr Reid had been working on a lawn mower. He stopped, but Mr Smith did not know if the job was complete or if Mr Reid was waiting for a part. Mr Smith was then aware of Mr Reid driving a quadbike into the workshop. He asked Mr Reid, "Are you back on quads?" as Mr Reid had previously mainly worked on quadbikes. Mr Reid put the quadbike up on his ramp. Mr Smith did not know why. There could be various reasons. The ramp was Mr Reid's usual workspace. Mr Smith was working on a lawnmower on his own ramp. He could not recall if that was for service or repair. He stated that he was not paying much attention to what Mr Reid was doing. He was doing something to the quadbike, but Mr Smith did not see what that was. He saw Mr Reid riding the quadbike out of the workshop wearing a crash helmet, as he always did when road testing quadbikes. Mr Reid did not say anything. Mr Smith stated that employees just got on with their own work.

[76] Mr Smith said that he would help Mr Reid with an electrical problem but that was very rarely and did not happen a lot.

[77] Mr Smith recalled that someone came in to the workshop and said that Mr Reid had had an accident. They would go home early, at 3pm on a Friday. It was coming up to that time. Mr Smith went home. He got a telephone call at home later that day and was told that Mr Reid had died.

[78] Mr Smith stated that Mr Reid always wore a helmet when riding a quad. He had only ever seen Mr Reid riding in or out of the workshop or in the yard. He accepted that a vehicle could be tested on the road or in the yard. Whether a vehicle needed a road test or not would depend on what was wrong with it.

[79] There was no cross examination.

[80] David Nicol stated that he is the Managing Director of Frank Nicol Farm and Garden Machinery Limited. The place of business is at Strathpeffer Road, Dingwall. He understood that he had come to give evidence in relation to the death of an employee, Adam Reid. Mr Reid was an apprentice Suzuki ATV mechanic. Mr Nicol recruited him. He was in overall charge of the workshop. He had served his time in the workshop himself. He is in charge of the apprenticeship scheme run by the business. Tutors come up from a college in Doncaster to see the students. He would be present at those meetings.

[81] Day-to-day supervision in the workshop would be carried out by the foreman, Willie Morrison, by Neil Smith or by Dylan MacAskill (his brother Frank's son). Mr Nicol stated that Dylan MacAskill had also been through the apprenticeship programme. He left the business in September 2019. He stated that it was company policy that no-one should work in the workshop alone. There should always be someone else working there too. He stated that for the first 3 to 6 months of an apprenticeship, the apprentice might work alongside another employee, depending on what skills they had and how quickly they learned. As the skills of the apprentice advanced, they would be able to work more on their own. If they had a problem they could come and ask – either Willie Morrison, Neil Smith or Mr Nicol himself. He accepted that Mr Morrison had ill-health and was off work at the time of the incident.

[82] Mr Nicol reiterated that no apprentice or other employee would be left alone in the workshop. He has attended at the workshop himself to ensure that employees have

not been working alone. If an apprentice was working on something unfamiliar that they had not done before, a colleague might work with them to allow them to gain the skills to carry out the task on their own and to improve their skills to pass their assessments.

[83] He stated that apprentices attend block release to college for a week at a time. The college is in Doncaster. Reports are sent back to the business to indicate how the apprentice is getting on. This includes assessment by tutors and also self-assessment by the apprentice themselves. Visits take place at the business premises by tutors to check on all aspects of an apprentice's work and to check that the work is being done to the standard expected on the course.

[84] Mr Nicol was referred to Crown production No. 4, which he confirmed are the learner progress reviews for Mr Reid. He stated that these discussions were done in his office by the tutor, Mick Sprenglewski. There would be a discussion between himself, Mick and Mr Reid. All three have some input into the document. It is a carbonated document and the business keeps the bottom copy. The reviews are numbered 01 to 04. Each review starts with a health and safety awareness section. The writing in the first review is Mick's writing. All four health and safety awareness sections were read by Mr Urquhart. Mr Nicol confirmed that there is a progress report on the apprentice on the back page of the individual reviews. All four progress reports were read by Mr Urquhart. Mr Nicol confirmed that the BKSB is an online system to allow apprentices to brush up on their English and Maths skills.

[85] He stated that overall Mr Reid was doing very well and was a really good apprentice to have. He was delightful at times, sometimes less so. Overall, he was a very good apprentice. He stated that the business intended to put Mr Reid forward for the optional third year of the apprenticeship. He was quite certain that Mr Reid had the ability to do that. Not all students do. He confirmed that the business was hoping to keep Mr Reid on after his apprenticeship.

[86] Mr Nicol stated that he had seen Mr Reid riding a quad bike and working on them. He stated that when Mr Reid had started with the business it was clear that he loved quad bikes, knew them, and had ridden them. That stood out in his interview. Mr Nicol stated that his brother Frank was an ex-trainer for EASI training. He stated that Mr Reid could ride a quad bike beyond the EASI standards. He stated that his view was that a quad bike should never be used, even simply being driven on to a ramp, without using a crash helmet. He confirmed that the business provided crash helmets. His view was that if a quad bike was being moved, the rider should be wearing a helmet. He indicated that his brother Frank was more involved in the quad bike training than he was.

[87] He stated that he had seen Mr Reid riding a quad bike and he would say that he was a very competent rider. He was aware that Mr Reid had a provisional driving licence. He stated that he was quite strict with the apprentices and with all employees that if a quad bike was being used on the road the rider must wear a helmet, display trade plates, L plates if a provisional licence holder and must obey all road traffic laws. He stated that he had told the employees that if they came back and had been stopped

by the police for speeding then their employment would be over. The rules are not to be broken on the road.

[88] He stated that he was away from the business premises on the day of the incident. He came back when his brother called him. He had obtained all his information as to what happened on that day second hand.

[89] Mr Nicol was asked whether there had been any changes at the business since the incident and stated that by far the biggest change was the loss felt by everyone in the business following the loss of a very valuable work colleague.

[90] He confirmed that, along with a work colleague, he visited Mr Reid's parents the day after the incident and told them what he understood at the time as to what had happened.

[91] He could not comment on the suggestion that Mr Reid was coming in to work on the Saturday to work on a quad bike. Mr Nicol stated he had been unaware that the two quad bikes were coming back until they arrived back.

[92] He stated that everyone at the business was very upset after the incident.

[93] In cross-examination Mr Nicol stated that the quad bike that had been returned from the sheep stock club was to be assessed by the business and a decision would then be taken if it would be retailed from the business or sold through auction. He estimated that a mechanical evaluation of the quad bike would take 2 or 3 hours. He confirmed that Mr Reid was competent to carry out that task.

[94] There was no re-examination.

**Crown submissions**

[95] Mr Urquhart produced written submissions. He invited me to make formal findings, in keeping with the information contained in the joint minute of agreement, the productions and the oral evidence. I concur with his submissions. I will go on to expand on my reasons, particularly in relation to the cause of the accident which resulted in the death of Mr Reid and whether there were any precautions which could reasonably have been taken that might realistically have resulted in the accident and therefore the death of Mr Reid being avoided, in the following section.

[96] Mr Urquhart explained that while it had initially been anticipated that there would be a challenge to the proposition that Mr Reid was acting in the course of his employment at the time of his death and that this inquiry was therefore mandatory, he understood that no longer to be the position.

[97] Mr Urquhart also submitted that his view was that as a provisional licence holder, Mr Reid was entitled to ride the quadbike he was using at the time of his death on the road, subject to displaying "L" plates.

**Submissions on behalf of Frank Nicol Farm and Garden Machinery Ltd**

[98] Mr Donaldson adopted the Crown submissions. He referred me to the decision of Sheriff Douglas J. Cusine dated 14 January 2011 relating to the fatal accident inquiry into the death of Michael Lindley Scott where Sheriff Cusine awarded expenses against the Crown for holding a mandatory fatal accident inquiry where the facts of the death were already in the public domain as a result of related criminal proceedings. However,

Mr Donaldson, very properly, made it clear that the current circumstances are very different. There has not been a criminal prosecution. He accepted that whether mandatory or discretionary it was right and proper that a fatal accident inquiry be held into the circumstances surrounding Mr Reid's death to air those circumstances in the public domain and he did not challenge the Crown's decision to do so.

[99] Mr Donaldson agreed with Mr Urquhart's assessment that Mr Reid was entitled to ride the quad bike in question on the public road as the holder of a provisional driving licence, with "L" plates displayed.

[100] Mr Donaldson described Mr Reid as being competent, well liked and with a bright future ahead of him. He publically expressed his client's sympathy to Mr Reid's family.

### **Discussion and conclusions**

[101] In the First Notice for this inquiry Mr Urquhart identified the following matters as issues which may require to be considered in the course of the inquiry:

- whether Mr Reid was acting in the course of his employment
- the nature of the work being undertaken
- the relevant policy and procedures of his employers
- the training given to Mr Reid by his employer
- the supervision under which he worked

[102] In the Rule 3.7 note for the inquiry Mr Urquhart identified a further concern, namely whether Mr Reid's employer encouraged or permitted him to drive otherwise than in accordance with the terms of his provisional driving licence.

[103] Despite the police investigations, there is simply no evidence as to what caused the quadbike Mr Reid was riding to leave the road. There are any number of potential causes, some of which can be excluded and some which cannot. For instance, mechanical failure would be a possibility, but has been ruled out by the examination of the vehicle carried out by the police. Swerving to avoid an animal is a possibility, but cannot be ruled out. No doubt many more could be considered but that would be an exercise in speculation, which is not the function of this inquiry.

[104] At paragraph 9.4 of Crown Production 3, the Collision Investigation report, quoted in paragraph [33] above, the police officers conclude that excessive speed, rider inattention or inexperience may be contributory factors. These are opinions based on their experience as collision investigators and are factors which may be relevant in an incident of this nature, where a cause of the incident cannot be determined. The officers are entitled, indeed obliged, to speculate on possible causes in the course of their investigation. I make no criticism of them for expressing such an opinion. However, this inquiry is not an exercise in speculation. I must only rely on the evidence before me. There is no evidence of either excessive speed or rider inattention. It is clear to me that inexperience was not a factor.

[105] In situations like this, where the cause of the fatal incident cannot be determined it is very difficult to identify factors, which if changed, might realistically prevent that unknown cause. This limits the findings which I can make in this inquiry.

[106] In relation to the issues identified by Mr Urquhart, as referred to in paragraphs [1] and [4] above, I consider the issue as to whether or not Mr Reid was in the course of his employment to be something of a red herring in the context of a fatal accident inquiry. So far as such an inquiry is concerned the only significance of a person's employment status is in relation to whether the inquiry is mandatory or discretionary. Parties properly conceded that the circumstances of Mr Reid's death are worthy of public examination whether by mandatory or discretionary inquiry.

Accordingly, I make no finding as to whether or not Mr Reid was in the course of his employment at the time of his death. Any such finding which I did make could not, of course, be founded on in any other proceedings in any event.

[107] In relation to the nature of the work carried out, from the evidence I am satisfied that Mr Reid was carrying out a road test of the quadbike. The evidence before me clearly indicates that he was competent both to ride such a vehicle and to carry out a mechanical assessment of such a vehicle. His competence to ride was spoken to by Frank and David Nicol. Frank Nicol is a qualified trainer in relation to riding quadbikes. His competence as a mechanic is demonstrated both by the opinions of his employers and independently by the assessments recorded by his course tutor.

[108] I heard evidence from Frank Nicol in relation to the health and safety policies and procedures at Frank Nicol Farm and Garden Machinery Ltd. These appeared to be

appropriate. Frank Nicol described Crown productions 7 and 9 as being laminated and displayed in the workshop office. However, he stated that Crown production 10, a risk assessment in relation to ATV testing, as being kept in the health and safety file, which employees knew existed but did not know the contents. He stated that the document was referred to in the induction of employees. With hindsight, I consider that it would be desirable and possible for that document also to be displayed in the workshop office and for an induction checklist to be completed when a new employee starts with the business. Such a checklist could be retained by the business and a copy given to the employee. It could provide a signed confirmation for the future showing that employees have been made aware of various health and safety policies, including that on ATV testing. After careful consideration I have not included these views under Sections 26(2)(e), 26(2)(f), 26(2)(g) or 26(1)(b) above, because on the evidence I am not satisfied that had either or both of these steps been in place it would have made any difference to the events or the outcome on 21 February 2020. Nevertheless, Frank Nicol Farm and Garden Machinery Ltd may wish to reflect on these matters for the future. The point of an inquiry such as this is, after all, to learn lessons for the future.

[109] I have already dealt with Mr Reid's competence to ride and work on quadbikes. There is nothing in the evidence before me to suggest a defect in the training he received either from his employer or from his tutors on his college course.

[110] It is clear from the evidence that Mr Reid was trusted to work without direct supervision in the sense of having someone working with him on tasks. From the evidence he had proved to his employers that he could be so trusted. David Nicol gave

evidence that no employee would work alone in the workshop. There was evidence that Mr Reid could ask for assistance if required.

[111] Before taking the quadbike out on the road Mr Reid equipped himself with a high visibility jacket and crash helmet. He fitted trade plates to the vehicle. I am well aware that trade plates are necessary for using otherwise untaxed and uninsured vehicles on the public roads. There is no evidence before me as to whether or not he fitted “L” plates. I cannot make a finding in that regard. What is clear is that he gave some thought to his own safety and his obligations in relation to lawfully using the machine on the roads. In the evidence Mr Reid comes across as a conscientious and sensible worker. There is nothing to suggest that he had a cavalier attitude to road traffic legislation.

[112] There is one further aspect of the evidence which merits mention. Frank Nicol stated that Mr Reid asked for, and was given permission, to “look” at the quadbike. It is clear from his evidence that Frank Nicol did not consider that to be a purely visual inspection. He anticipated that Mr Reid would remove the plastic sections from the quadbike. Clearly, Mr Reid took the quadbike out on the public road. It would therefore appear that neither party of the conversation anticipated that “look” meant anything purely visual but now was there clarity between them as to what they did mean. With the benefit of hindsight it might have been preferable had Frank Nicol, the senior person in the conversation, clarified just what he considered the limits of a “look” to be. Once again, I have considered whether this should be included under Sections 26(2)(e), 26(2)(f), 26(2)(g) or 26(1)(b) above, and have concluded that on the

basis of the evidence, it should not. Clearer communication of tasks may be another matter upon which Frank Nicol Farm and Garden Machinery Ltd may wish to reflect for the future.

[113] I am obliged to Mr Urquhart and Mr Donaldson for their careful presentation of the evidence in this inquiry and to all the participants for the assistance which their involvement gave to the inquiry.

[114] In closing this Determination, may I once again express my condolences to the family and friends of Mr Reid. He was clearly a very conscientious, competent and talented young man who was well regarded and respected by both his employers and his colleagues. His loss is no doubt still keenly felt.