**SHERIFFDOM OF GLASGOW AND STRATHKELVIN AT GLASGOW**

**[2024] FAI 30**

GLW-B74-24

DETERMINATION

BY

SUMMARY SHERIFF VINCENT LUNNY

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

into the death of

**WILLIAM TUCKER**

Glasgow, 27 June 2024

The Summary Sheriff, having considered the information presented at an inquiry on 20 June 2024 under section 26 of the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Act 2016 finds and determines:

(1) That in respect of section 26(2)(a), William Tucker born 10 January 1945, was pronounced dead at 1420 hours on 5 October 2022. He was at that time a prisoner in HMP Low Moss, 190 Crosshilll Road, Bishopbriggs, Glasgow G64 2QB.

(2) That in respect of section 26(2)(c), the primary cause of death was ischaemic heart disease due to coronary artery atheroma with a potential contributing cause being chronic myeloid leukaemia.

(3) I have no findings to make under paragraphs (b), (d), (e), (f) or (g) of section 26(2) of the Act.

(4) I have no recommendations to make under section 26(1)(b).

**NOTE:**

**Legal framework**

[1] This Inquiry was held under section 1 of the 2016 Act. This was a mandatory inquiry in terms of section 2(1) and (4) of the 2016 Act as Mr Tucker was in legal custody at the time of his death. The purpose of the inquiry was to establish the circumstances of the death and to consider what steps, if any, might be taken to prevent other deaths in similar circumstances.

**Procedural history**

[2] The Procurator Fiscal issued notice of the inquiry on 16 January 2024. A preliminary hearing took place at Glasgow Sheriff Court on 11 March 2024. Ms Ramage, Procurator Fiscal Depute appeared for the Crown. Mr Bell appeared for the Scottish Prison Service (SPS). No other parties appeared. No other parties sought to engage with the inquiry.

[3] The inquiry took place on 20 June 2024. The Crown was again represented by Ms Ramage. The SPS was now represented by Mr. Richmond. No other parties were present. I was advised by Ms Ramage that although the family of Mr Tucker were not present nor represented at the inquiry, they nonetheless had shown an interest in the proceedings and were being updated by the Crown as to progress and outcome.

[4] Two joint minutes of agreement were tendered on behalf of the parties and these were received by the court. Ms Ramage read out the terms of both the Joint Minutes of Agreement.

[5] Parties did not lead any parole evidence. I considered parties' decision on this to be entirely appropriate given the evidence that Mr Tucker had died from natural causes which were known about in advance of his death.

**Circumstances**

[6] The following narrative is taken from relevant passages of the first agreed Joint Minute:

> "Background
> 1. On 11 January 2019, at the High Court in Glasgow, Mr Tucker was found guilty of a number of charges. He was remanded to custody within HMP Barlinnie for the preparation of a Criminal Justice Social Work report.
>
> 2. On 30 January 2019, Mr Tucker was sentenced to a term of imprisonment totaling 13 years. He was imprisoned to HMP Barlinnie.
>
> 3. On 2 April 2019, an appeal against sentence was considered and subsequently refused by the High Court of Justiciary.
>
> 4. On 18 June 2020 Mr Tucker was transferred to HMP Low Moss.
>
> Medical History and Treatment
> 5. On 11 January 2019, on admission to HMP Barlinnie, Mr Tucker was medically assessed by a nurse who noted his diagnosis of Chronic Obstructive Pulmonary Disease for which he was prescribed inhalers.
>
> 6. On 11 January 2019, as part of the admission process, Mr Tucker was subject to a Talk To Me risk assessment as part of the Scottish Prison Service's suicide prevention strategy. It was noted Mr Tucker was conversing well and maintaining good eye contact. He denied any thoughts of self-harm or suicide and was considered no apparent risk.

7. On 12 January 2019, Mr Tucker was reviewed by the prison GP, Dr. Daly. His notes reflect that Mr Tucker was a heavy smoker and Nicotine Replacement Therapy was prescribed, repeat prescriptions were continued and Dr. Daly noted that Mr Tucker was open, relaxed, good eye contact, euthymic and reactive with no thought of self-harm or suicide.

8. On 21 January 2019, Mr Tucker was assessed by a member of the healthcare team due to experiencing tightness in his chest. He was referred to a GP. On 23 January 2019, Mr Tucker was reviewed by Dr Senthill who noted cough and known diagnosis of COPD.

9. On 30 January 2019, following sentence at the High Court, Mr Tucker was subject to a Talk To Me risk assessment as part of the Scottish Prison Service's suicide prevention strategy; he was not considered at risk from self-harm.

10. On 10 February 2019, following a self-referral, Mr Tucker was reviewed by the medical team regarding urology issues. Urine Specimens were requested for urinalysis.

11. On 12 February 2019, medical records note that the urinalysis disclosed no active disease and Mr Tucker was given a GP appointment for assessment.

12. On 22 February 2019, Mr Tucker was assessed by the Prison GP, Dr. Shah, regarding a suspected Urinary Tract Infection. Dr. Shah prescribed an antibacterial medicine and routine bloods were requested.

13. On 1 March 2019, Glasgow Royal Infirmary Laboratory contacted HMP Healthcare regarding abnormal results from routine blood samples. An urgent GP appointment was issued, and an urgent referral was made to Urology.

14. On 4 March 2019, Mr Tucker was reviewed by the prison GP Dr Senthill. Dr Senthill examined Mr Tucker and completed a referral letter noting that Mr Tucker's prostate was enlarged.

15. On 8 March 2019, Mr Tucker was reviewed by the prison GP Dr Senthill. It is recorded in the medical records that Mr Tucker's blood film was suggestive of myelodysplasia (MDS - a rare blood cancer) and a referral letter was issued to Haematology department at Glasgow Royal Infirmary.

16. On 12 March 2019, Mr Tucker attended an outpatient appointment at Glasgow Royal Infirmary, he was reviewed by Miss Mary Brown, Consultant. Miss Brown noted Mr Tucker's prostate was enlarged and arranged for further investigations to take place by way of MRI and bone scan.

17. 12 April 2019, Mr Tucker attended an outpatient appointment at Glasgow Royal Infirmary with Dr. Catherine Bagot, Consultant Haematologist. Dr. Bagot instructed further investigations by way of bone marrow biopsy and fixed a further review within the Haematology clinic on 13 May 2019.

18. On 30 April 2019, Miss Mary Brown, Consultant wrote to Mr Tucker's GP within HMP to confirm that pathology had revealed a tumors and that she would discuss his case at the Multi-Disciplinary Team meeting.

19. On 2 May 2019, Mr Tucker was reviewed by Miss Mary Brown Consultant Urological Surgeon she confirmed the presence of a tumour and noted that he was awaiting a bone scan. Mr Tucker was supported on return to HMP Barlinnie by medical staff.

20. On 31 May 2019, Mr Tucker attended an outpatient appointment at the Haematology Clinic, Glasgow Royal Infirmary. Dr. Travers, Consultant Haematologist confirmed a diagnosis of Myelodysplastic syndrome (MDS), with associated cytopenia. Dr. Travers confirmed in his letter to HMP Health care that the Mr Tucker would '*only be fit for supportive care*'.

21. On 7 June 2019, Mr Tucker refused to attend an outpatient appointment at Stobhill hospital Oncology department. A new appointment was issued for 12 July 2019.

22. On 18 June 2019, Mr Tucker was admitted to Glasgow Royal infirmary via ambulance with increased shortness of breath. He was treated for pneumonia and was discharged to HMP Barlinnie on 23 June 2019.

23. On 12 July 2019, Mr Tucker commenced a three-year course of Hormone therapy. He remained under the care of the Oncology team and received regular reviews.

24. Between July and August 2020, Mr Tucker received radical radiotherapy to his prostate.

25. Medical records confirm that Mr Tucker's general health varied from the point of diagnosis, he had auditory, mobility and dental issues, his COPD worsened and he had ongoing issues relating to his cancer. He was admitted to hospital on three occasions with infection, swollen abdomen and COVID-19.

26. On 25 April 2022, Mr Tucker attended Stobhill hospital as an outpatient and received a colonoscopy. Mr. Stevens, Consultant colorectal surgeon diagnosed Diverticulosis and colonic polyps.

27. On 29 August 2022, Mr Tucker was admitted to Glasgow Royal Infirmary by ambulance with suspected urinary sepsis. He was treated with antibiotics and supportive treatments guided by his consultant Haematologist. Whilst in hospital Mr Tucker had a Pulmonary Embolism and several infections. Despite numerous platelet and blood transfusions his cytopenia and sepsis did not resolve, and a decision was taken in discussion with Mr Tucker that he would be moved to palliative care with a life expectancy of 2 – 3 weeks.

28. On 20 September 2022, medical records confirm that Mr Tucker was offered a transfer to hospice care under supervision of escorting staff by the Consultant of the palliative care team, Ms. Diamond, however Mr Tucker declined as he wished to return to custody. Mr Tucker's family had visited him during his stay and were informed of his condition.

29. On 24 September 2022, as per Mr Tucker's wishes he was discharged to HMP Low Moss. A DNACPR dated 2 September 2022 was in place and hospital medical staff liaised with HMP to ensure that level of care required could be provided. He was discharged to the care of HMP Low Moss with home oxygen and anticipatory medication. The discharge letter from Glasgow Royal Infirmary confirms that Mr Tucker was assessed by the palliative care team and that it was Mr Tucker's wish to return to HMP Low Moss to spend time with friends.

30. On 28 September 2022, Dr. Graham Whyte from Marie Curie Hospice Stobhill visited and assessed Mr Tucker to discuss a care plan and possible transfer to hospice. Mr Tucker agreed he would transfer to a hospice however advised Dr. Whyte he was not ready to transfer at that time. On 30 September 2022, Mr Tucker completed a care plan with the assistance of Healthcare staff, Mr Tucker indicated that he '*wants home but if not manageable wants to remain here for as long as possible then move to a hospice.*' In the section titled "My concerns", Mr Tucker answered *'I don't want to die in Low Moss, if I have to I want my wife here, if she can't due to time then Steve Martin*'. Mr Tucker also indicated the '*I just want my family to be OK and I don't want to die in pain but I hate medication'.*

31. On the morning of the 5th of October 2022, Mr Tucker reported feeling unwell, he appeared jaundiced, tired and had been vomiting. Dr. Whyte, palliative consultant was contacted by the healthcare team to advise of Mr Tucker's deterioration and a visit was arranged to allow Dr. Whyte to assess Mr Tucker's priority for a hospice bed. Healthcare team contacted Mr Tucker's wife to advise of his deterioration and update her on potential transfer to a hospice.

32. At approximately 1300 hours healthcare staff contacted Mr Tucker's family and requested they attend HMP as Mr Tucker had deteriorated again.

Nursing staff remained with Mr Tucker at this time and ensured that he was not in any pain or discomfort.

33. At approximately 1315 hours Mr Tucker's breathing became more laboured and his pallor changed. As per Mr Tucker's wishes his friend, Steve Martin, was brought to visit him and remained with Mr Tucker.

34. Mr Tucker's respirations ceased at approximately 1415 hours and at 1420 hours Dr Senthill pronounced life extinct.

35. On 11 October 2022, at the Queen Elizabeth University Hospital, Glasgow, Dr. Youd carried out a Post Mortem examination of Mr Tucker. Cause of death was determined as

1a: Ischaemic heart disease due to
1b: Coronary artery atheroma
2: Chronic Myeloid Leukemia

Scottish Prison Service

36. On 12 December 2022 a Death in Prison Learning, Audit, and Review, or DIPLAR, was carried out. The DIPLAR Report identified no learning points for the Scottish Prison Service. "

**Submissions by the parties**

[7] I had the advantage of written submissions lodged by both parties in advance of the inquiry on 20 June 2024. Both parties adopted their respective written submissions. Neither party wished to expand on what was contained in their written submissions.

**The Crown**

[8] The Crown invited me to make the mandatory formal findings only, i.e. to determine when and where the death of William Tucker occurred, and the cause or causes of his death in terms of sections 26(2)(a) and (c) of the 2016 Act.

[9] The Crown confirmed that it had not identified any systematic failures in the care of Mr Tucker in his time at HMP Lowmoss in terms of section 26(2)(f).

[10] The Crown had no submissions to make in respect of section 26(2) subparagraphs (b), (d), (e) and (g).

[11] I was not invited by the Crown to make any recommendations in terms of section 26(4).

**Scottish Prison Service**

[12] The written submissions for the SPS were in similar terms to those lodged on behalf of the Crown. I was again invited to make formal findings only in terms of section 26(2)(a) and (c) only. The evidence before the inquiry did not disclose any substantive issues for consideration. There was nothing that could have been done by the SPS, or anyone else, to prevent Mr Tucker's death. There was no evidence of any defect in a system of working which may have contributed to his death.

[13] I was invited to make no findings in respect of section 26(2) subparagraphs (b), (d), (e), (f) and (g).

[14] I was not invited by the SPS to make any recommendations in terms of section 26(4).

**Conclusions**

[15] I accept the submissions made on behalf of both parties in respect of which findings should be made in this inquiry; being the formal findings only in terms of section 26(2)(a) and (c).

[16] At the time of his death, Mr Tucker was a 77 year old man who suffered from a number of serious health conditions including heart disease, COPD and leukaemia. He had suffered from prostate cancer which I understand had been in remission. These conditions were reflected in the substantial medical records lodged by the Crown. There was no evidence before the inquiry that the medical care or prison care afforded to Mr Tucker was in any way substandard. I note however, notwithstanding the terms of the first Joint Minute of Agreement in relation to the DIPLAR Report (referred to at paragraph 36. above), that page 6 of the Report does refer to a learning point concerning the provision of palliative medication. It was noted that there was no agreement as to who would administer such medication should it be required at night. It is clear however from the DIPLAR Report that such medication was available if required but ultimately was not needed. I am satisfied that the DIPLAR Report does not disclose any issues to be addressed in my findings under section 26. There was no evidence that anything more could have been done to prolong Mr Tucker's life or prevent his death. The medical records and DIPLAR report indicate that significant efforts had been made by SPS and NHS staff to ensure that Mr Tucker was as comfortable as possible in prison and that he could die with as much dignity as could be afforded in the circumstances. He was treated with compassion. His wishes, indicated in advance by him in his

DNACPR ("Do not attempt cardiopulmonary resuscitation") and further discussed with a number of medical professionals, were respected insofar as they could have been; including having his friend Mr Martin present when he died, in place of his family who had been contacted and advised to come to the prison but were unable to arrive in time.

[17] I am satisfied on the evidence before the inquiry that section 26(2)(b) and (d) are not relevant, there having been no accident in this matter. I am further satisfied that there were no precautions which could reasonably have been taken to prevent the death of Mr Tucker or there being a lively possibility that his death may have been avoided in terms of section 26(2)(e)(i) and (ii). There were no defects in any system of working, which contributed to his death in term of section 26(2)(f). There was no other evidence before me of other facts relevant to the circumstances of Mr Tucker's death that fell to be included in my determination under section 26(2)(g).

[18] I have no recommendations to make in terms of section 26(4).

[19] I am satisfied that in all the circumstances formal findings should be made in this case. I have set out those formal findings above.

[20] I wish to express my thanks for the assistance provided by parties into this enquiry.