

SHERIFFDOM OF GRAMPIAN, HIGHLAND AND ISLANDS AT INVERNESS

Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976

Inquiry into the circumstances of the death of Gary Ackland

Determination

by

Sheriff Principal Sir Stephen S T Young Bt QC

Inverness, 11 April 2007

In terms of the undernoted sub-sections of section 6(1) of the Fatal Accidents and Sudden Deaths Inquiries (Scotland) Act 1976 the sheriff principal determines as follows:-

Section 6(1)(a)

1. The late Gary Ackland (date of birth 13 December 1973) died at HM Prison, Porterfield, Inverness some time between about 5.20 pm and 6.45 pm on 28 June 2006.

Section 6(1)(b)

2. The cause of Mr Ackland's death was suicide by hanging.

Section 6(1)(e)

3. On 29 December 2003 Mr Ackland was detained in custody at HM Prison, Barlinnie, Glasgow. Subsequently, on 17 August 2004, he was sentenced at the High Court of Justiciary to three years imprisonment. The sentence was backdated to 29 December 2003 and he was released from HM Prison, Barlinnie, having served half of the sentence on or about 28 June 2005.

4. On 27 January 2006 Mr Ackland was detained in custody at HM Prison, Porterfield, Inverness. On 9 March 2006 he appeared before the High Court of Justiciary and was ordered to be returned to prison for a period of eight months in terms of section 16 of the Prisoners and Criminal Proceedings (Scotland) Act 1993.
5. On 27 March 2006 at Portree Sheriff Court Mr Ackland was sentenced to one hundred days imprisonment to be served consecutively to the sentence which had been imposed upon him at the High Court of Justiciary on 9 March 2006. As a result his expected date of liberation was 28 August 2006.
6. In the early hours of 1 April 2006 Mr Ackland was transferred from prison to Raigmore Hospital, Inverness, having taken an overdose of Olanzapine and Ibuprofen tablets. After treatment at the hospital he was returned to the prison at about 4.00 pm that same day.
7. On his return to the prison Mr Ackland was made the subject of the ACT 2 Care procedure. This is a procedure which has been established in the Scottish Prison Service to care for prisoners who are at risk of suicide or self-harm. All staff in the prison are trained in the procedure.
8. An immediate care plan was put in place for Mr Ackland, the effect of which was that he was given anti-ligature clothing to wear and he was held in an observation cell subject to contact every fifteen minutes.
9. An initial case conference was held the following morning, 2 April 2006, at 10.00 am. The outcome of this was that Mr Ackland was assessed as being at high risk and he continued to be subject to the same care regime as had been specified in the immediate care plan.
10. In the summary of the discussion at this case conference it was noted:

Gary is concerned about his girlfriend and this is where his problems come from.

11. On 3 April 2006 Mr Ackland was seen by the same prison doctor as had referred him to hospital in the early hours of 1 April 2006. On this occasion the doctor noted that he had found Mr Ackland “with normal mood” and that he had good verbal and eye contact but was complaining of insomnia.
12. On 4 April 2006 Mr Ackland was seen by Mr David Cameron as narrated in finding 29 below. A second case conference took place that same day at 3.10 pm. At this case conference Mr Ackland was assessed as being at low risk, and his care plan provided that he should be located in a normal cell wearing normal clothing and subject to contact every sixty minutes. The summary of the discussion at this case conference recorded:-

Gary much more positive now. He has spoken to his sister and this has helped him a great deal. He is happier at his partner’s situation now.

13. The final case conference took place at 3.00 pm on 6 April 2006. The outcome of this was that Mr Ackland was assessed as being at no apparent risk and the ACT procedure was terminated. In the summary of the discussion at this case conference it was noted:-

Gary is a lot more positive. Sorted out a lot of his negative outlook.

14. In common with most other prisoners, following his appearance at the High Court of Justiciary on 9 March 2006 Mr Ackland was assessed as being in need of medium supervision within the prison and he was allocated to a cell in B Hall which is where most of the convicted prisoners are held. Early in June 2006 it was decided that his supervision level should be reduced to low, and he was advised of this on 8 June 2006.
15. One result of this was that on 20 June 2006 Mr Ackland was transferred from B Hall to C Wing which has a more relaxed regime for prisoners than that

afforded in B Hall. There is one cell in C Wing which is described as a dormitory and which has accommodation for two prisoners, and each of the remaining cells within the wing is occupied by one prisoner. At the time of his death Mr Ackland was in fact the only prisoner in the dormitory cell.

16. The prisoners have the use of various payphones within the prison to make calls to persons outside the prison. Each time a prisoner makes a call he dials his PIN and the cost of the call is charged to his telephone account which is topped up as and when required from his personal funds. All such calls are recorded and approximately 10% of them are monitored by the staff of the prison, chiefly for security purposes.
17. In November 2005 Mr Ackland had met Miss Naomi Atwood, and they had become engaged to be married on 31 December 2005. They had been living together until Mr Ackland had been detained in prison on 27 January 2006. Thereafter they wrote letters frequently to each other, Miss Atwood visited him regularly and he telephoned her more or less daily from the prison. They intended that their marriage should take place at Christmas 2006.
18. On 27 June 2006 the Reverend John McEwan went to see Mr Ackland in his cell in C Wing. Mr McEwan is one of a team of four part-time chaplains at the prison. He has been trained in the ACT procedure. He had heard that Mr Ackland had been moved to C Wing and went to see him to congratulate him. They spoke together for about twenty minutes during which Mr Ackland talked positively about his plans for the future and his forthcoming marriage to Miss Atwood. At one point in the conversation he mentioned that he had previously attempted to commit suicide and he spoke of having had an out of body experience on that occasion which had reinforced his religious faith. His last words to Mr McEwan were: "I'll see you on Sunday, Father", or words to that effect. There was nothing about their meeting which gave Mr McEwan any cause for concern that Mr Ackland might be contemplating suicide.

19. Dr A G Hay is a consultant psychiatrist at New Craigs Hospital, Inverness. He has a special interest in forensic psychiatry. In the normal course of events he does one and a half sessions per week at the prison.
20. Dr Hay saw Mr Ackland in the prison on five occasions, namely 27 January, 6 February, 6 and 16 March and 5 June 2006.
21. Before his admission to the prison on 27 January 2006 Mr Ackland had previously had a number of admissions to hospital on psychiatric grounds both in Glasgow and at New Craigs Hospital. In particular, he had been admitted to New Craigs Hospital between 27 April and 2 May 2002 for assessment of paranoid ideas and suicidal ideation and had been diagnosed as “probable personality disorder”. He had subsequently been re-admitted between 17 May and 9 June 2002 and had been reviewed by three consultant psychiatrists, none of whom had felt that he had an underlying psychotic illness. On that occasion his discharge diagnosis had been of “anti-social personality disorder” and “drug/alcohol misuse”.
22. Mr Ackland had again been admitted to New Craigs Hospital between 29 and 31 October 2005 with a diagnosis of “acute situational crisis”. This had followed threats of self-harm in the context of relationship difficulties with his then girlfriend with whom he had had an argument the night before his admission. At the time he had felt unable to cope and had slit his wrists but it had not been thought that he needed prolonged hospital admission as there had been no evidence of any underlying major mental illness.
23. When he was seen by Dr Hay on 27 January 2006 Mr Ackland told him that he had previously been admitted to New Craigs Hospital with a diagnosis of paranoid schizophrenia. As indicated, this was not strictly correct. At that time Dr Hay did not have access to Mr Ackland’s Inverness based psychiatric case notes, but he had seen them by the time he saw Mr Ackland again on 6 February 2006. He was aware from these notes that it had previously been suggested that Mr Ackland had experienced psychotic episodes in the past and might be suffering from schizophrenia.

24. On this occasion Mr Ackland told Dr Hay that he was feeling stressed following a bad visit from his girlfriend and that in addition he was worried about a forthcoming court appearance. He did not display any signs of any ongoing psychotic symptomatology, his mood appeared within the range of normal and, while he reported some difficulty sleeping associated with his feelings of stress, he did not otherwise display signs and symptoms consistent with an ongoing depressive illness. Nor was he suicidal.
25. When he saw Mr Ackland on 6 March 2006 Dr Hay again found no evidence of underlying illness, and in particular no evidence of underlying psychosis which might appear to have a drug related origin. At that time Mr Ackland had been prescribed Olanzapine 10mg daily, but this was being given to him largely because of its tranquillising effect rather than its anti-psychotic properties.
26. Dr Hay saw Mr Ackland on 16 March 2006 in order to prepare a report in connection with Mr Ackland's forthcoming appearance at Portree Sheriff Court. On this occasion Dr Hay did not detect in Mr Ackland any evidence of underlying mental illness and had no formal recommendations to make in his report.
27. When Dr Hay saw Mr Ackland for the last time on 5 June 2006 he noted that assessment of his mental state was unremarkable and that he remained on Olanzapine 10mg daily "for its major tranquilliser other than its anti-psychotic properties". On this occasion Mr Ackland's main concern was poor sleeping, and Dr Hay suggested various practical steps that he might take to alleviate this but declined to prescribe any medication to help him sleep. They talked about Mr Ackland's eventual release from prison on 28 August 2006 and Dr Hay advised Mr Ackland to contact him nearer the time if he wished so that arrangements could be made for him to be seen by the local psychiatric services (and specifically the addictions team).
28. In summary, in his various contacts with Mr Ackland Dr Hay never detected in him any underlying psychotic symptoms or suicidal ideation.

29. On 4 April 2006, while he was subject to the ACT procedure, Mr Ackland was seen by Mr David Cameron who is a mental health nurse who works very closely with Dr Hay. Mr Cameron subsequently made a note of this interview in Mr Ackland's prison medical records in the following terms:

Gentleman agreed to see me but did not want history taken. Recently has thought about taking own life as both he and his fiancé are struggling. Feeling much better after seeing fiancé on Sunday and making pact to see through this. Making plans for future. No clinical depression or major mental illness evident. Given self help material.

Dr Hay was on annual leave at that time but, if necessary, Mr Cameron could have arranged for his colleague Dr Owen to see Mr Ackland in Dr Hay's absence. Evidently Mr Cameron did not think that this was necessary.

30. During the morning of 28 June 2006 Mr Brian Mann, a residential officer at the prison, was carrying out induction interviews with newly admitted prisoners in the programmes room which is next to the prison laundry. At about 11.00 am he received a telephone call from Miss Atwood. She asked to speak to Mr Ackland and explained that the matter was urgent and that she had been speaking to him the night before but could not remember everything that had been discussed during their conversation. Mr Mann told her that it would not be possible for her to speak to Mr Ackland there and then since he was in the middle of an induction interview and that in any event prisoners were not allowed to receive telephone calls from outside the prison. But he told her that he would let Mr Ackland know that she had telephoned and had said that it was urgent that he should contact her.
31. Not long afterwards, at the end of the induction period, Mr Mann encountered Mr Ackland and asked him to come with him to the programmes room where he told him about the call he had received from Miss Atwood. Mr Ackland asked if he could make a welfare call to her and he said that he had no credit on his

telephone account which would allow him to call Miss Atwood from one of the payphones in the prison.

32. A welfare call by a prisoner is made using one of the internal telephones in the prison rather than a payphone. This means that the call is paid for by the prison and it is not monitored in the same way as calls from the payphones. But in accordance with prison policy a prison officer is present when a prisoner makes a welfare call.
33. Mr Mann agreed to Mr Ackland's request for a welfare call, and he duly made this from the programmes room in Mr Mann's presence.
34. Mr Mann of course could only hear Mr Ackland's side of the conversation. Mr Ackland asked Miss Atwood to come and see him that night in the prison and they would discuss matters. He then said to her, "You're back on drugs, aren't you?" or words to this effect. He again asked her to come up and visit him in the prison that night. From what he could hear Mr Mann deduced that Miss Atwood must have responded that she would not visit him (Mr Ackland) that night. Mr Ackland appeared to Mr Mann to become agitated and his voice was raised. In view of this Mr Mann told him that it was time to finish the call. Before he did so, Mr Ackland spoke briefly to someone whom he called Jonathan (who was Miss Atwood's brother) and asked him to look after Miss Atwood. He then spoke briefly again to Miss Atwood herself and asked her once more to come and visit him in the prison that night. The impression Mr Mann got was that she again refused, and at this Mr Ackland put the telephone down.
35. Mr Mann then took Mr Ackland back to C Wing. As they went there it appeared to Mr Mann from the look on Mr Ackland's face that he was angry. They got to C Wing at about 11.40 am where, in Mr Ackland's presence, Mr Mann asked the residential officer then in charge, Mr John Benson, if he would arrange for Mr Ackland to make another welfare call later that day and he told Mr Benson that Mr Ackland was upset and worried about his girlfriend.

36. Mr Mann had had previous experience of prisoners requiring welfare calls and was aware that it was common for prisoners to be angry and/or distressed in such situations. He was familiar with the ACT procedure and knew that this procedure could have been set in motion for Mr Ackland if he had had any reason to think that he was at risk of suicide or self-harm. As it was, while he could see that Mr Ackland was angry and upset, nothing in what he said or did that day in his presence caused Mr Mann to think that he might be at risk of suicide or self-harm.
37. Mr Benson was on the early shift that day, namely from 7.00 am to 1.00 pm. He had seen Mr Ackland in the morning when he had woken him up, and Mr Ackland had thereafter gone to work in the prison laundry.
38. After Mr Mann had spoken to him Mr Benson explained to Mr Ackland that it would not be possible to arrange for him to make a welfare call until the next change of shift. The reason for this was that welfare calls could not then be made from C Wing so that Mr Benson would have had to take Mr Ackland elsewhere in the prison to make the welfare call. This in turn would have meant that Mr Benson would have had to lock C Wing up since he was the only officer on duty there at the time.
39. Mr Ackland went to his cell but returned to Mr Benson shortly afterwards and again asked him if he could make a welfare call. Mr Benson explained that this would not be possible until the shift change at about 12.45 pm and at this Mr Ackland was, in Mr Benson's words, "a bit impatient".
40. At the same time Mr Benson checked Mr Ackland's financial account and found that he had some cash available. He therefore arranged for the sum of £10 to be credited to his telephone account. The effect of this was to allow him to make a telephone call from one of the payphones in the prison. Mr Benson told Mr Ackland that he had done this and he (Mr Ackland) seemed satisfied.
41. Mr Ackland thereafter telephoned Miss Atwood from one of the payphones in the B Hall recreation room. The call began at 12.45 pm and lasted a little over

forty two minutes. Crown Production 4 is a transcript of this call. In the course of it Mr Ackland spoke mainly with Miss Atwood, but he also spoke briefly with her brother at one point in the conversation. In summary, while there were moments of tenderness, the majority of the conversation was extremely stressful for both Mr Ackland and Miss Atwood. Not surprisingly, Mr Benson was able to hear that Mr Ackland's voice was raised during the conversation.

42. Another residential officer, Mr Nigel Kelman, arrived in C Wing to relieve Mr Benson at about 12.45 pm. Mr Benson gave Mr Kelman a brief explanation of the morning's events and then ended his shift at 1.00 pm. At this point Mr Ackland was still speaking on the telephone. In Mr Benson's experience it was very common for prisoners to have arguments with their loved ones outside the prison and there was nothing about Mr Ackland's situation that day to make Mr Benson think that he need have any cause for concern on Mr Ackland's account. In particular there was nothing that Mr Ackland said or did which gave Mr Benson any cause to think that he ought to consider making him subject to the ACT procedure.
43. Mr Kelman saw Mr Ackland when he returned to C Wing after making the telephone call to Miss Atwood. Mr Ackland spoke briefly to Mr Kelman but said nothing about the telephone call, and in particular expressed no concern about what had been said during the call. He seemed all right to Mr Kelman. He went back to his cell after Mr Kelman had told him that there was still time for him to go for exercise and he had responded that he did not want to do so. In Mr Kelman's experience there was nothing remarkable about this since prisoners often did not want to go for exercise.
44. Mr Kelman had to go on a training course that afternoon and he was relieved at about 2.00 pm by another residential officer, Mr Allan McKenna. Mr McKenna saw Mr Ackland only once that afternoon, shortly after 2.00 pm, when he saw him briefly in his cell. Mr McKenna did not speak to Mr Ackland on that occasion. During the afternoon he neither saw nor heard anything which gave him any concern about Mr Ackland.

45. Some days before 28 June 2006 Mr McKenna had met Mr Ackland when he was on his way to work in the prison laundry. They had exchanged some banter about the fact that Mr Ackland had got a job in the laundry and it had appeared to Mr McKenna that Mr Ackland was particularly pleased about this.
46. At that time Mr Alistair McFarlane was one of the other prisoners resident in C Wing. He too was working in the prison laundry and noted that Mr Ackland appeared to be enjoying his work there as much as it was possible to enjoy working in the laundry.
47. Not long after he had finished his telephone call to Miss Atwood Mr McFarlane saw Mr Ackland sitting in the C Wing recreation room with his head in his hands. Mr McFarlane went and spoke to him for about ten minutes. Mr McFarlane had the general impression that Mr Ackland was experiencing what he described as “woman trouble”. When he spoke to Mr Ackland, he said that he was “pissed off” (or words to that effect) with his girlfriend. Mr McFarlane tried to cheer him up but he got the impression that Mr Ackland did not really want to talk about the matter. In Mr McFarlane’s experience it was common for prisoners to have trouble with their wives or girlfriends so that there was nothing remarkable to him about Mr Ackland’s behaviour that afternoon. In particular, there was nothing to cause Mr McFarlane to be worried for Mr Ackland’s welfare.
48. Soon after having this conversation with Mr Ackland Mr McFarlane went back to work in the prison laundry. Mr Ackland did not do so, but in Mr McFarlane’s experience there was nothing particularly unusual about this.
49. When he returned later that afternoon to C Wing from the laundry Mr McFarlane saw Mr Ackland in his cell playing a computer game with another prisoner. Mr McFarlane asked Mr Ackland how he was and he responded that he was all right.
50. Mr McFarlane spoke to Mr Ackland again at about 5.00 pm when he was returning to his cell with his evening meal. He asked Mr Ackland if he was not

going to collect his meal and Mr Ackland responded that he was going to have some toast. At that stage he was standing at the door of his cell.

51. Mr Kelman returned to C Wing from his training course at about 4.15 pm. He next saw Mr Ackland shortly after 5.00 pm. He was sitting in his cell watching television. Soon afterwards he came out and asked Mr Kelman if it was too late to use one of the prison payphones. Mr Kelman told him he could have ten minutes for this purpose. There was nothing out of the ordinary about Mr Ackland's manner at that stage.
52. Mr Ackland proceeded to make two telephone calls. Crown Productions 5 and 6 are transcripts of these calls.
53. The first call was to Miss Atwood's home. It lasted forty five seconds. Mr Ackland spoke to a man named John and asked whether Miss Atwood was there. The man told Mr Ackland in short that Miss Atwood had gone out, that he did not know where she was and that she had not said when she would be back.
54. The second call was to Miss Atwood's mobile telephone and lasted a little over three minutes. Mr Ackland spoke to Miss Atwood who told him, in short, that she was in a bar with three men. Mr Ackland expressed concern that she was out drinking with other men when she was engaged to be married to him. At that point the conversation was cut off because the battery on Miss Atwood's telephone had run down.
55. After making these two telephone calls Mr Ackland returned to C Wing but displayed no sign of upset or distress when Mr Kelman saw him.
56. Shortly afterwards, at about 5.20 pm, Mr Kelman locked all the prisoners in C Wing, including Mr Ackland, in their respective cells since it was time for the prison staff to go for their tea.

57. Mr Kelman returned to C Wing at about 6.30 pm. He had various tasks to perform at that stage including assisting another prisoner in C Wing, Mr George Gourlay, to remove some rubbish. After completing these tasks, at about 6.45 pm he unlocked the doors of the cells of the remaining prisoners in C Wing, including the door of Mr Ackland's cell. But he did not look into Mr Ackland's cell at that point.
58. At about 7.00 pm, or shortly before, Mr McFarlane went to Mr Ackland's cell to see how he was. He opened the door and saw Mr Ackland hanging from the door frame of the toilet cubicle. He immediately called for assistance from Mr Kelman who came at once with Mr Gourlay.
59. Mr Kelman and Mr Gourlay entered the cell and Mr Kelman released the ligature around Mr Ackland's neck while Mr Gourlay held his weight. They lowered Mr Ackland to the floor and Mr Kelman began to give him mouth to mouth resuscitation while Mr Gourlay massaged his heart.
60. The alarm was raised and an ambulance was called. For the next forty minutes or so efforts were made, firstly by the prison staff and then by the ambulance staff, to revive Mr Ackland, but all to no avail since he was already dead when he had been lowered to the floor by Mr Kelman and Mr Gourlay.
61. Detective Sergeant Iain Anderson of the Northern Constabulary was also called to the prison and he entered Mr Ackland's cell at about 7.25 pm. He saw what appeared to be a recent laceration on each of Mr Ackland's wrists, and there were two pools of blood on the floor of the cell. On a worktop surface he found two blades which had been removed from the head of a safety razor which itself had been thrown into the waste paper bin. Mr Ackland had used one or other or both of these blades to cut his wrists before hanging himself.
62. On a small table beside the head of the lower of the two bunks in the cell there was a sealed envelope and two second class stamps lying loose on top of it. The envelope had been addressed by Mr Ackland to Miss Atwood at her home address. Inside the envelope was a letter to Miss Atwood in Mr Ackland's

handwriting. It was dated 27 June 2006. In it Mr Ackland referred to a telephone conversation he had had with Miss Atwood that evening and, in short, expressed in explicit terms his anger and distress at her and her behaviour.

63. At about 7.40pm a prison doctor attended and pronounced Mr Ackland's life extinct.
64. Mr Ackland's body was subsequently examined by Dr Mark Ashton, a consultant pathologist at Raigmore Hospital, Inverness. Dr Ashton found a 40mm long laceration on each of Mr Ackland's wrists. These injuries were not in themselves life threatening. In the report which he subsequently prepared at the instance of the procurator fiscal Dr Ashton recorded that his examination of Mr Ackland's body had "shown features entirely in keeping with a hanging death".

Note

[1] At this fatal accident inquiry the procurator fiscal appeared on his own behalf and solicitors appeared on behalf of the Scottish Prison Service, the Scottish Prison Officers Association and Miss Atwood.

[2] Section 6(1) of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 provides that at the conclusion of the evidence and any submissions thereon, or as soon as possible thereafter, the sheriff shall make a determination setting out the following circumstances of the death so far as they have been established to his satisfaction –

- (a) where and when the death and any accident resulting in the death took place;
- (b) the cause or causes of such death and any accident resulting in the death;
- (c) the reasonable precautions, if any, whereby the death and any accident resulting in the death might have been avoided;

(d) the defects, if any, in any system of working which contributed to the death or any accident resulting in the death; and

(e) any other facts which are relevant to the circumstances of the death.

[3] In many cases following a fatal accident inquiry I have not thought it necessary to make detailed findings in fact under section 6(1)(e) of the Act. But in this case I have decided that it might be helpful to Miss Atwood, Mr Ackland's parents and perhaps other members of his family to give an account of the events which led to Mr Ackland's death. It would be idle to pretend that the account which I have given in the findings in fact set out above is altogether comprehensive. Only a reading of the full transcript of the evidence and a consideration of all the productions which were put before the court would give a complete picture of these events as it emerged during the inquiry. Instead I have sought to give a fair summary of what seem to me to have been the salient facts which were established by the evidence.

[4] It was suggested that I should find that Mr Ackland died at 7.40 pm which was when his life was pronounced extinct by the doctor who was called to the scene. But I think it is clear that he was already dead by the time that he was lowered to the floor of his cell by Mr Kelman and Mr Gourlay at around 7.00 pm. It is possible that he hanged himself between the time when the door of his cell was unlocked at about 6.45 pm and the time when he was discovered by Mr McFarlane. But this seems unlikely and I think it much more probable that he hanged himself some time between 5.20 pm and 6.45 pm that day when he could be confident that he would not be disturbed.

[5] In the death certificate which he signed Dr Ashton certified that to the best of his knowledge and belief the cause of Mr Ackland's death was hanging due to (or as a consequence of) depression. It appears that Dr Ashton was advised that Mr Ackland had had a history of paranoid schizophrenia and depression, so it is understandable that he should have thought that depression may have played a part in Mr Ackland's death. But it is plain from the evidence of Dr Hay that at the time of his death Mr Ackland was not in fact suffering from a depressive illness in the conventional sense understood nowadays by psychiatrists.

[6] It is perhaps not surprising following the suicide of a prisoner within a prison that members of his family may think that something could or should have been done by the prison authorities to prevent this. This is especially so where, as in Mr Ackland's case, the prisoner has had a history of psychiatric problems and previous attempts at suicide. Here it is important not to lose sight of three points. In the first place, notwithstanding the fact of his imprisonment, a prisoner remains an autonomous human being and retains the ultimate responsibility (within the constraints of the prison system) to take care for his own life. Secondly, while the staff of a prison plainly have a duty to take all reasonable care of prisoners who are for one reason or another vulnerable and/or at risk of suicide or self-harm, there is a limit to what the staff can do in furtherance of this duty and I heard nothing in the evidence at this inquiry which made me think that more could or should reasonably have been done by the staff to prevent Mr Ackland committing suicide. And thirdly, whatever may have happened to him in the past, at the time of his death Mr Ackland was not suffering from any mental illness. The sad but simple fact is that, while of sound mind, he determined to end his life and proceeded to do so by hanging himself.

[7] It is equally clear that Mr Ackland made this decision in light of the anger and distress which he evidently felt at the time on account of the strain in his relationship with Miss Atwood. It is understandable that she may now regret what passed between her and Mr Ackland in the weeks, days and hours before his death. But she should certainly not think of herself as having been responsible for his death, nor should anyone else do so. It was his decision, and his decision alone, to end his life.

[8] It was submitted that a reasonable precaution whereby Mr Ackland's death might have been avoided would have been for Mr Kelman to have opened the door of Mr Ackland's cell fully when he unlocked it at 6.45 pm on 28 June 2006 rather than merely unlocking it but leaving it closed. The suggestion was that, if Mr Ackland had only just hanged himself, he might have been found in time to be resuscitated. Here it is important not to lose sight of the evidence of Dr Ashton which was to the effect that in a case of hanging consciousness is lost within five to ten seconds of the application of the noose. This deprives the brain of oxygen and death follows within three to five minutes. So Mr Ackland would have had to have hanged himself no more than five minutes before Mr Kelman unlocked his cell door if there was to have been any chance of

resuscitating him. It would of course be mere speculation to offer an opinion as to the precise time at which Mr Ackland hanged himself. If it is assumed that he did so only a minute or so before Mr Kelman unlocked the door of his cell, then I can understand how it may be said that a precaution whereby his death might have been avoided would have been for Mr Kelman to open the door fully after unlocking it and look inside the cell. But this begs the question whether such a precaution would have been a reasonable one (in other words, one for which there was a reason). Plainly Mr Kelman had no reason at all to suppose that Mr Ackland was going to hang himself that day and in the circumstances, while it would have been a straightforward matter for Mr Kelman to have opened the door and looked inside, I think that it would be a misuse of language to say that to have done so would have been a reasonable precaution whereby Mr Ackland's death might have been avoided.

[9] In addition to thinking that Mr Kelman should have opened Mr Ackland's cell door fully at 6.45 pm, Miss Atwood in her evidence also expressed the opinion, as I understood her, that his telephone conversations with her should have been monitored by prison staff at the time and that he should have been subject to the ACT procedure when he took his life. But her solicitor quite rightly did not press these points in his closing submissions. It was clear from the evidence of both prison officers and prisoners that "woman trouble" (as Mr McFarlane put it) was common among prisoners and there was nothing at all about Mr Ackland's behaviour which was apparent to others which indicated that he was at particular risk of suicide or self-harm. As for the suggestion that his telephone calls should have been monitored, it would scarcely have been practicable to have done this without spending a great deal of money which might have been spent better elsewhere. In any event it does not seem to me that anyone listening to these telephone calls would have any reason to suppose that there was anything more to them on Mr Ackland's side than a prisoner becoming very angry and upset at the behaviour of his girlfriend. And, as indicated, there was nothing particularly unusual about this, and certainly nothing to suggest that he would go and hang himself.

[10] There was a certain amount of discussion on account of the fact that Ibuprofen and Olanzapine were not detected in the blood specimen taken from Mr Ackland's body following his death. At the same time the urine specimen was insufficient to screen for the presence of drugs, including Ibuprofen and Olanzapine. Dr Ashton was asked about

this and stated quite candidly that he was “not entirely comfortable” with the subject (and I intend no criticism at all of him when I say this). In the circumstances I think that it would be unwise to seek to draw any conclusions from these findings about what medication Mr Ackland may or may not have been taking in the days immediately before his death.