

SHERIFFDOM OF LoTHIAN AND BORDERS AT EDINBURGH

[2026] FAI 16

EDI-B1656-25

DETERMINATION

BY

SHERIFF PETER McCORMACK

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

into the death of

WILLIAM UNDERWOOD

Edinburgh, 7 April 2026

DETERMINATION

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

When and where the death occurred

1. In terms of section 26 (2) (a) of the Act, William Underwood, born 30 June 1939, died on 11 October 2023, aged 84 years. He died in His Majesty's Prison Edinburgh, 33 Saughton Road, Edinburgh, EH11 3LN where he was in legal custody.

When and where any accidents resulting in the deaths occurred

2. In terms of section 26 (2) (b) of the Act, there was no accident that resulted in his death.

The cause or causes of the death

3. In terms of section 26 (2) (c) of the Act, the causes of death of William Underwood were: complications of prostate cancer, chronic kidney disease, hypertension and ischaemic heart disease; and cerebrovascular disease.

The cause or causes of any accidents resulting in the death

4. In terms of section 26 (2) (d) of the Act, there was no accident that resulted in the death.

Precautions

5. In terms of section 26 (2) (e) of the Act, there were no precautions which (i) could reasonably have been taken and (ii) had they been taken might realistically have resulted in the death being avoided. There was no accident that resulted in the death.

System of working

6. In terms of section 26 (2) (f) of the Act, there were no defects in any system which contributed to the death. There was no accident that resulted in the death.

Other facts relevant to the circumstances of the deaths

7. In terms of section 26 (2) (g), there are no other facts which are relevant to the circumstances of the death.

RECOMMENDATIONS

8. No recommendations are made in terms of section 26 (1) (b) of the Act 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.

NOTE

Introduction

[1] A fatal accident inquiry was held at Edinburgh Sheriff Court on 25 March 2026 into the death of William Underwood. A preliminary hearing took place on 12 January 2026.

[2] Three parties were represented at the inquiry. Miss Laura Townsend, procurator fiscal depute, appeared for the Crown. Mr James Halley, solicitor, appeared for the Scottish Ministers as representing the Scottish Prison Service (“the SPS”). Miss Catriona Robertson, solicitor, appeared for Lothian Health Board (“the Health Board”). I was advised that the next of kin of Mr Underwood were content to be advised by the Crown as to proceedings and did not wish to participate directly.

[3] For the purposes of the inquiry parties tendered a signed joint minute of agreement which covered all the evidence, including witness statements, expert reports and other productions which required to be placed before the court. Due to the comprehensive nature of the joint minute, no parole evidence was led.

[4] I was grateful to parties for lodging written submissions in advance.

[5] All parties invited me only to make substantive determinations in respect of section 26 (2) (a) and (c).

The legal framework

[6] This inquiry was held under section 1 of the Act. It was a mandatory inquiry in terms of section 2 (4) (a) of the Act as Mr Underwood was in legal custody at the time of his death. The inquiry was governed by the Act of Sederunt (Fatal Accident Inquiry Rules) 2017 (SSI 2017 No. 103).

[7] In terms of section 1 (3) of the Act, the purpose of an inquiry is to establish the circumstances of the death and to consider what steps, if any, may be taken to prevent other deaths in similar circumstances. Section 26 requires the sheriff to make a determination which in terms of section 26 (2), is to set out factors relevant to the circumstances of the death, in so far as they have been established to his satisfaction. These are (a) when and where the death occurred; (b) when and where any accident resulting in the death occurred; (c) the cause or causes of the death; (d) the cause or causes of any accident resulting in the death; (e) any precautions which could reasonably have been taken and if they had been taken might realistically have resulted in the death being avoided; (f) any defect in any system of working which contributed to the death or to the accident; and (g) any other facts which are relevant to the circumstances of the death. In terms of sections 26 (1) (b) and 26 (4), the inquiry is to make such recommendations (if any) as the sheriff considers appropriate 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, and (d) the taking of any other steps, which might realistically prevent other deaths in similar circumstances. The procurator fiscal depute represents the public interest. An inquiry is an inquisitorial process and the manner in which evidence is presented is not restricted. The

determination must be based on the evidence presented at the inquiry. It is not the purpose of an inquiry to establish criminal or civil liability.

Summary

Overview

[8] William Underwood (born 30 June 1939) died on 11 October 2023, aged 84 years. He died in His Majesty's Prison Edinburgh, 33 Saughton Road, Edinburgh, EH11 3LN where he was in legal custody.

Background

[9] William Underwood, hereinafter referred to as Mr Underwood, was born on 30 June 1939. At the time of his death, he was 84 years old and he was being held in legal custody at His Majesty's Prison ("HMP") Edinburgh, 33 Saughton Road, Edinburgh, EH11 3LN.

[10] On 2 December 2022, Mr Underwood was remanded to HMP Addiewell whilst awaiting sentencing. (Crown Production 15 at page 40)

[11] On 16 January 2023, Mr Underwood was sentenced to 3 years imprisonment with an earliest date of liberation of 31 May 2024. (Crown Productions 15 at pages 38 and 39)

[12] On 17 February 2023, Mr Underwood was transferred to HMP Edinburgh.
(Crown Production 15 at pages 4 and 69)

[13] Mr Underwood died at approximately 2100 hours on 11 October 2023.
(Crown Productions 17 and 23)

[14] Mr Underwood's life was pronounced extinct at 0310 hours on 12 October 2023.
(Crown Production 3)

Productions

[15] Crown Production 1 comprises the Death Certificate of Mr Underwood dated 18 October 2023 completed by Professor Ralph BouHaidar.

[16] Crown Production 2 comprises the final post-mortem report issued on 19 October 2023 and written by Professor Ralph BouHaidar, Consultant Forensic Pathologist, following post-mortem examination of the body of Mr Underwood.

[17] Crown Production 3 comprises the Pronunciation of Life Extinct certificate for Mr Underwood dated 12 October 2023 at 0310 hours.

[18] Crown Productions 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 comprise the medical records of Mr Underwood.

[19] Crown Production 14 comprises the care plan put in place for Mr Underwood at HMP Edinburgh commenced on 21 February 2023.

[20] Crown Production 15 comprises the Death in Custody Folder of documentation and records maintained by the SPS in relation to Mr Underwood.

[21] Crown Production 16 comprises the Death in Prison Learning Audit Review (known as the DIPLAR) report carried out at HMP Edinburgh following Mr Underwood's death. After any death in custody this type of review is carried out by the SPS.

[22] All productions were agreed to be true and accurate copies of the originals, and the contents of the productions were agreed to be accurate.

Witnesses

[23] Statements were taken and lodged as Crown Productions from the following witnesses:

- Kofi Benefo, Health Care Assistant, c/o Police Service of Scotland (CP17);
- Aidan Beveridge, Prison Officer, c/o Police Service of Scotland (CP18);
- Ann Bonner, Mr Underwood's next of kin, c/o Police Service of Scotland (CP19);
- Rachel Kemp, Medical Director, c/o Police Service of Scotland (CP20);
- Laura McConnell, Senior Charge Nurse, c/o Police Service of Scotland (CP21 and CP22);
- Hazel McLaughlin, Health Care Assistant, c/o Police Service of Scotland (CP23);
- Lorraine Mitchell, Nurse, c/o Police Service of Scotland (CP24); and
- Barbara Mundweil, Doctor, c/o Police Service of Scotland (CP25).

[24] The statements of those witnesses were agreed to be uncontroversial and equivalent to parole evidence.

Provision of Healthcare in Scottish Prisons

[25] On 1 November 2011, the responsibility for the provision of healthcare to prisoners transferred from the SPS to the NHS (Health Board Provision of Healthcare in Prisons (Scotland) Directions 2011). Since then, individual regional NHS health boards have been responsible for the delivery of healthcare services within prisons in Scotland which fall within their geographical ambit for the provision of medical care.

Medical history

[26] Mr Underwood had a medical history of chronic kidney disease stage 4, essential hypertension, prostate cancer, atrial fibrillation and impaired left ventricular function which were managed *ad hoc* within the prison environment. He had previously suffered from a stroke in 2015 and Transient Ischaemic Attacks in 2020 and 2022. (Crown Production 8 at page 29 and Crown Production 21)

[27] Mr Underwood refused dialysis for his kidney disease on a number of occasions and had stated he would only want dialysis as a last resort. (Crown Production 6 at pages 7 and 17)

[28] On 3 January 2023, HMP Addiewell medical staff received a letter from Dr Claire Nolan (Renal Monklands) confirming that Mr Underwood's bloods could be forwarded to her for surveillance and that Mr Underwood was for conservative management only. (Crown Production 4 at page 5)

[29] On 20 March 2023, Barbara Mundweil made a referral for Mr Underwood to the renal medicine team at Edinburgh Royal Infirmary. (Crown Production 7 at page 3)

[30] On 20 April 2023, Mr Underwood was admitted to Edinburgh Royal Infirmary due to doctors' concerns regarding his blood results. He was diagnosed with symptomatic anaemia. (Crown Production 6 at page 3 and Crown Production 10)

[31] On 22 May 2023, Mr Underwood was admitted to Edinburgh Royal Infirmary with worsening breathlessness. This was attributed to his anaemia. The renal consultant considered that dialysis would do more harm than good for Mr Underwood. It was

recommended that Mr Underwood be started on Mircera to treat the anaemia. (Crown Production 8 at page 2 and Crown Production 6 at page 21)

[32] On 28 June 2023, Mr Underwood was admitted to Edinburgh Royal Infirmary with worsening renal function on the background of a recent illness. Mr Underwood was told that his kidneys were at a stage where they were barely functioning and he would likely die from his renal failure. Mr Underwood told medical staff he did not want to be in hospital and would prefer to be back at HMP Edinburgh. Medical staff at HMP Edinburgh were informed that they should cease checking Mr Underwood's bloods and move towards a palliative end of life focus. (Crown Production 11, Crown Production 6 at page 38 and Crown Production 6 at page 41)

[33] On 28 June 2023, hospital doctors discussed putting a Do Not Attempt Cardiopulmonary Resuscitation (DNACPR) in place with Mr Underwood. He was in agreement with it. (Crown Production 6 at page 13)

[34] On 30 June 2023, a DNACPR was put in place for Mr Underwood. (Crown Production 13)

[35] On 31 July 2023, Mr Underwood was seen by practice nurse Elaine McAdam, along with palliative consultant Dr Rachel Kemp and palliative care nurse specialist Jennifer Gallacher from Marie Curie. Mr Underwood stated that he did not want to go to the hospice. (Crown Production 4 at page 12)

[36] On 22 August 2023, Mr Underwood was moved into a larger, disabled access cell with a hospital bed in it to support his increasing care needs. (Crown Production 15 at page 4)

[37] On 30 August 2023, Mr Underwood was seen by Elaine McAdam, along with Dr Rachel Kemp and Jennifer Gallacher. It was agreed that he would continue to be monitored as required. (Crown Production 4 at page 12)

[38] On 5 October 2023, Mr Underwood was seen by Elaine McAdam. She was told by carers that he was now unable to get up. She noted that he seemed comfortable in bed and informed him that she would review him further at the weekend and contact the palliative care team if required. (Crown Production 4 at page 13)

[39] On 10 October 2023, Mr Underwood was seen by Elaine McAdam for review. Following the review, she contacted Marie Curie to discuss Mr Underwood's end of life care. There were no hospice beds available. It was agreed Mr Underwood would be kept comfortable where he was and would be visited by the Marie Curie healthcare team on Thursday, 12 October 2023. (Crown Production 4 at page 13)

Death

[40] On 11 October 2023, Mr Underwood was seen by Iona Robertson for a welfare check. He was not responsive to voice, with laboured breathing, but she considered he appeared to be pain free. (Crown Production 4 at page 13)

[41] On 11 October 2023, prison staff contacted Mr Underwood's next of kin to inform her of his declining health. His next of kin was informed that he was not expected to last the night and she was offered the opportunity to visit Mr Underwood that evening. (Crown Productions 16 and 19)

[42] At approximately 1830 hours, Mr Underwood's next of kin and other family members attended the prison and were taken to Mr Underwood's cell. They remained in his cell until approximately 2000 hours. (Crown Productions 16 and 19)

[43] Between 2000 hours and 2100 hours, healthcare assistants Hazel McLaughlin and Kofi Benefo checked on Mr Underwood at regular intervals. (Crown Productions 17 and 23)

[44] At approximately 2100 hours, Hazel McLaughlin and Kofi Benefo entered Mr Underwood's cell and found him unresponsive. They did not make any efforts to resuscitate Mr Underwood due to the DNACPR in place. They notified prison staff that Mr Underwood appeared to be deceased. (Crown Production 23)

[45] Prison officers then called a "Code Blue" over the radio to summon assistance. (Crown Production 17) A "Code Blue" is an emergency call used in prisons to convey quick and specific information and to initiate a timely and effective response. A "Code Blue" signifies an individual who is experiencing severe breathing difficulties and may or may not be responsive.

[46] Paramedic Steven Clingan attended the prison and pronounced Mr Underwood's life extinct at 0310 hours on 12 October 2023. (Crown Production 3)

Post-mortem

[47] On 17 October 2023 a view and grant post-mortem examination of Mr Underwood's body was conducted by Professor Ralph BouHaidar, Consultant Forensic Pathologist. (Crown Production 2)

[48] Cause of death was certified as 1a) Complications of prostate cancer, chronic kidney disease, hypertension and ischaemic heart disease; and 2) Cerebrovascular disease.

(Crown Production 2)

Submissions

[49] All three parties, namely the Crown, the SPS and the Health Board, invited me to make findings under section 26 (2) (a) and (c). No submissions were made in respect of heads (b), (d), (e), (f) or (g) of section 26 (2) by the Crown or the Health Board. It was also submitted for the SPS that heads (b), (d), (e), (f) and (g) were inapplicable in the circumstances of this case, and that no recommendations should be made under section 26 (4).

Discussion and conclusions

[50] I have made findings as to the date and place of death under head (a) and the causes of death under head (c). These matters are uncontroversial and are supported by the evidence. Due to the death having been caused by long standing disease, heads (b), (d), (e), (f) and (g) are inapplicable, and there are no recommendations to be made under section 26 (4).