FINDINGS and COMMENTS of Coroner Robert Webster following the holding of an inquest under the *Coroners Act* 1995 into the death of:

Dorothy Jean Atkins

Contents

Record of Investigation into Death (With Inquest)

Coroners Act 1995

Coroners Rules 2006

Rule 11

I, Robert Webster, Coroner, having investigated the death of Dorothy Jean Atkins, with an inquest held at Devonport in Tasmania, make the following findings.

Hearing dates

4 and 5 August 2022

Representation

Counsel Assisting the Coroner: Mrs Madeleine Wilson SC

Counsel for Mrs Wendy Smith: Mr Greg Richardson

Counsel for Mr David Baldock: Mr Mark Doyle[1]

Notice of hearing

Notice of the dates for this inquest was given to Ms Atkins' daughter, Mrs Wendy Smith, her son Mr David Baldock and to her grandson Mr Matthew Baldock. Notice was also given to Mr Bernard Malone who was living with Ms Atkins and her son at the date of her death. Notice was given by letter and that letter also gave notice of a case management conference (CMC) which was to be held on 23 June 2022. The CMC proceeded on 23 June 2022 and Mr Richardson appeared for Mrs Smith at that time. He had advised my office he had been retained by Mrs Smith to seek leave to appear for her at the inquest by letter of 2 June 2022. Mr David Baldock, Mr Matthew Baldock and Mr Malone also appeared. I set out the purpose of the CMC and I confirmed the dates of the inquest and that Mrs Smith, Mr David Baldock and Mr Malone had been served with a summons to give evidence at the inquest. Counsel Assisting summarised the proceedings and set out what the issues to be determined were. The inquest was then adjourned for hearing to 4 August 2022.

Preliminary matters

Introduction

[1] Mr Doyle was instructed to attend only on 5 August 2022 and participate when Mr David Baldock gave evidence. He did not file any submissions on behalf of Mr Baldock.

1. Dorothy Jean Atkins (aka Baldock) (Ms Atkins) died on 9 July 2017, aged 83, at Weegena in Tasmania. Weegena is approximately 43 km south east of Devonport and 15 km west of Elizabeth Town.

2. Ms Atkins' death is subject to the *Coroners Act* 1995 (the "Act") because it is a reportable death; that is a death which occurred in Tasmania being a death *"that appears to have been unexpected, unnatural or violent or to have resulted directly or indirectly from an accident or injury"* [2]. A coroner has jurisdiction to investigate a death if it appears to the coroner that the death is or may be a reportable death.[3] Although an inquest in this case was not mandatory[4] an inquest into this death may be held if the coroner considers it desirable to do so.[5]

3. On the basis of the evidence tendered at the inquest I make the following formal findings pursuant to section (s) 28(1) of the Act:

   (a) The identity of the deceased is Dorothy Jean Atkins;

   (b) Ms Atkins died in the circumstances set out further in this finding;

   (c) The cause of Ms Atkins' death was meningitis with sepsis with the likely source of infection being a large and deep decubitus ulcer of the sacrum.

   (d) Ms Atkins died on 9 July 2017 at Weegena in Tasmania.

Coroner's jurisdiction and functions

4. In Tasmania, the coroner's functions are set out in s28(1) of the *Coroners Act* 1995 ("the Act"). By this section, the coroner is required to find the identity of the deceased, how death occurred, the cause of death and when and where death occurred. By s28(2), a coroner may make comment on any matter connected with the death; and by s28(3), a coroner must, whenever appropriate, make recommendations with respect to ways of preventing further deaths and on any other matter that the coroner considers appropriate.

5. Coroners complete their written findings pursuant to s28(1) into a reportable death after receiving documentary evidence in the investigation. In a small proportion of reportable deaths,

[2] See s3 of the Act and the definition of *reportable death* at paragraph (a)(ii) and (iv).
[3] See s21(1) of the Act.
[4] Because it did not fall within s24(1) of the Act.
[5] See s24(2) of the Act.

the coroner will hold a public inquest, which almost always involves the calling of oral testimony to further assist the coroner in his or her investigation function and subsequently, in the making of findings. Many of the public inquests held by coroners in Tasmania are made mandatory by the Act.[6] The remaining inquests are held because the coroner considers that a public inquest is desirable in the particular circumstances of the investigation.[7] I considered it desirable to hold an inquest in this instance because of the issues to be ventilated in the investigation (as listed below) and further there is a real question as to the adequacy and the quality of care provided to Ms Atkins prior to her death.

6. When investigating any death, a coroner performs a role very different to other judicial officers. The coroner's role is inquisitorial; whereas in criminal or civil proceedings the proceedings are adversarial; that is one party against another. In these proceedings I am required to thoroughly investigate the death and answer the questions (if possible) that s28 of the Act asks. Those questions in s28(1) include who the deceased was, how she died (that is the circumstances surrounding Ms Atkins' death), what was the cause of her death and where and when it occurred. This process requires the making of various findings, but without apportioning legal or moral blame for the death. A coroner is required to make findings of fact from which others may draw conclusions.
7. A coroner does not have the power to charge anyone with a crime or an offence. In this case I have no power to charge anyone with any breach of the criminal law arising out of the death the subject of the investigation. No charges will be laid against anyone arising out of the inquest process. Nor is it my role to review what the Director of Public Prosecutions did or did not do. A coroner also does not have power to determine issues associated with an inheritance or other matters arising from the administration of deceased estates.

8. As noted, one matter that the Act requires is that a finding be made about how death occurred. It is well settled that this phrase involves the application of the ordinary concepts of legal causation. Any coronial inquiry necessarily involves a consideration of the particular circumstances surrounding the particular death so as to discharge the obligation imposed by s28(1)(b) upon the coroner.
9. A coroner may comment on any matter connected with the death into which he or she is enquiring. The power to make comment *"arises as a consequence of the [coroner's] obligation to make findings … It is not free ranging. It must be comment "on any matter connected with the*

[6] S24(1) of the Act.
[7] S24(2).

death" … It arises as a consequence of the exercise of the coroner's prime function, that is, to make "findings".[8]

10. The standard of proof applicable to a coronial investigation is the civil standard. This means that where findings of fact are made a coroner needs to be satisfied on the balance of probabilities as to the existence of those facts. However, if an investigation reaches a stage where findings may reflect adversely upon an individual, the law is that the standard applicable is that set out in the well-known High Court case of *Briginshaw v Briginshaw*, that is, that the task of deciding whether a serious allegation is proved must be approached with great caution.[9]

Issues at inquest

11. Given s28 of the Act, the scope of this inquest was as follows:
    - The cause of death of Dorothy Atkins.
    - The physical and mental condition of Ms Atkins at the time of and prior to her death, including details of any medication and/or treatment provided or recommended regarding her care.
    - The provision of services to assist in the assessment of Ms Atkins' care needs and implementation of those care needs. (ie ACAT[10] assessments, care providers, checks and balances etc).
    - The circumstances surrounding Mr Baldock's appointment as Ms Atkins' carer and how he fulfilled that role during the period of his appointment, up until her death.
    - The quality and adequacy of care provided to Ms Atkins by Mrs Smith and Mr Baldock up to and at the time of her death.
    - The financial arrangements made regarding Ms Atkins' care and upkeep.

Evidence in the investigation

12. The documentary evidence at the inquest comprised exhibits C1 to C22. Also tendered at the inquest (by Mr Richardson) were two photo frames containing photographs of Ms Atkins which were marked C23. The exhibit list is annexed to this finding.
13. At the inquest, the following witnesses provided oral testimony:

    a) Colin O'Connor;

[8] See *Harmsworth v The State Coroner* [1989] VR 989 at 996.
[9] (1938) 60 CLR 336 per Latham CJ at 347 and Dixon J at 362 and 368-9.
[10] Aged Care Assessment Team.

b) Senior Constable Frank Kuric;

c) Dr Rosanne Devadas;

d) Dr Anthony Bell;

e) Graeme Jones;

f) Juanita Daniels;

g) Jacqueline Belbin;

h) Matthew Baldock;

i) Bernard Malone;

j) Wendy Smith; and

k) David Baldock;

Background

14. There was little information obtained by investigating police with respect to the life of Dorothy Atkins. Neither Wendy Smith nor David Baldock provided an affidavit to police or to this Court. Matthew Baldock, provided an affidavit and spoke with First Class Constable Stephen Anderson. He said his grandmother had lived at Shearwater or Port Sorell alone when he was a child then she had moved into her son, Paul Baldock's house and later she had lived with David Baldock. He recalled Ms Atkins lived with David Baldock in the Beaconsfield area before moving to Weegena, where she resided at the time of her death. He had never visited her home at Weegena and was not able to comment on the living conditions there. It appears Ms Atkins had seven children[11], the first of whom died as a young child. Her remaining sons, Robert, Paul, Peter and Tony appear to have had little to do with their mother after she began living with David Baldock. In the ten years before her death Matthew Baldock said he had seen very little of his grandmother, only running into her in town on the *"odd occasion".* He had seen her six months before her death and noted a decline in her mental state, and she

[11] Confirmed in Wendy Smith's evidence at Transcript (T) pages 104-105.

appeared unsure of who he was. He observed that she appeared frail, had lost weight and was quite pale. He estimated she weighed about 40 kilograms.[12]

15. At the inquest Matthew Baldock said he believed his uncle, David, had been his grandmother's carer for 12 to 13 years at the time of her death, however he had only ever visited her at her address in Beaconsfield when the caring arrangement commenced. He believed she needed a carer because of a shoulder injury and sight issues but had not discussed the matter with either David Baldock or Wendy Smith. He indicated that prior to David Baldock becoming her carer other family members had taken Ms Atkins to her medical appointments. He said that 11 years before her death, his grandmother had carried *"a bit of extra weight around her middle".*[13]

16. Matthew Baldock said he spoke to David Baldock at the CMC[14] and he had said that *"he was only trying to follow Nan's wishes, she had wanted to die at home"* and that he *"tried to do the right thing".*[15]

The circumstances leading to death

17. The undisputed evidence at inquest was that Dorothy Atkins died on the 9th July 2017 at 123 Hawley's Lane, Weegena, a small rural community located approximately 43 kilometres south-east of Devonport. At the relevant time, Mrs Atkins resided at the address with her son David Baldock and Bernard Malone.[16]

18. At approximately 4:30pm on Sunday 9 July 2017 an ambulance was called to attend 123 Hawley's Lane, Weegena in relation to the possible cardiac arrest of an 83 year old female, Dorothy Atkins, aka Baldock.[17]

19. Upon arrival, Paramedic Graeme Jones was met by David Baldock the son of Ms Atkins who led him to a bedroom at the residence. There he found the elderly female obviously deceased, lying on her back in a bed covered by bedding and clothed in night attire. It appeared to him that she had been deceased for at least 30 minutes. Officer Jones advised Mr Baldock that his

[12] Exhibit C9. At the inquest he estimated she had weighed 35 kilograms when he last saw her. She was pale and thin and her clothes did not fit her: T77 lines [30]-[43].
[13] T78 [2-]-[6].
[14] Held at the Devonport Magistrates Court on the 23rd June 2022.
[15] T79 [21]-[29].
[16] The property had been bought by David Baldock, Wendy Smith and her husband David Smith in April 2003- see Exhibit C22.
[17] Exhibit C6-ambulance records although her age is recorded incorrectly in those records.

mother had died and notified the radio room that the patient was deceased and that police would be required to attend the address. In conversations with Officer Jones, Mr Baldock indicated that his mother had not seen a general practitioner for some time and that she did not have a regular GP. Officer Jones observed the deceased was very emaciated and elderly. The bedroom and bed appeared to be in good order and was clean. The remainder of the house was also in good order and warm.[18] Officer Jones completed the declaration of life extinct[19].

20. At the inquest Officer Jones gave evidence he attached a cardiac monitor to Ms Atkins to confirm she was asystolic.[20] Although he was unsure where he had attached the ECG leads to her body, Officer Jones confirmed he did not move Ms Atkins and had not examined her back.[21]

21. Senior Constable Frank Kuric arrived at Ms Atkins' home at approximately 4.50pm. He entered the house and spoke to David Baldock, who identified the deceased as his mother Dorothy Jean Baldock (aka Atkins) DOB 8/03/1934. He said she resided at that address. Also present at the address was another resident, Bernard Malone. Senior Constable Kuric was taken to Ms Atkins' bedroom where he made similar observations to Officer Jones, namely that Ms Atkins was lying in a single bed, covered by a blanket and she was wearing socks and a nightie. She was lying on her back and appeared emaciated. The bedroom was warm and the bed and the bedroom appeared clean.[22]

22. Mr Baldock told Senior Constable Kuric that his mother had had a meal at about 1:00pm in the living area and had gone to bed at about 1:30pm. He said he had discovered her in bed at around 3:00pm with no signs of life. He stated this mother was always very thin and lightly built and that she had been virtually bed ridden for the past three weeks after having a fall. He said she was very tired and had lost her appetite. He claimed she had been to see her general practitioner Dr Karl Bright of Valley Road Medical Centre, Devonport about two months earlier with his sister Wendy Smith, as she suffered from dementia. This is not supported by the medical records. He stated she took no prescription medication and only took Panadol Osteo.[23]

---

[18] Exhibit C7-affidavit of Graeme Jones.
[19] Exhibit C2-Declaration of Life Extinct.
[20] Asystole is when the heart's electrical system fails, causing the heart to stop pumping.
[21] T68 [11]-[13] and [29]-[31] and T67 [11]-[12].
[22] Exhibit C11A-affidavit of Senior Constable Kuric.
[23] Exhibit C11A-affidavit of Senior Constable Kuric.

23. During his evidence Senior Constable Kuric said Mr David Baldock indicated he had been the long term carer for his mother[24]. He agreed he helped Mr O'Connor move Ms Atkins onto the gurney by taking hold of her by the lower half. He did not see her feet beneath her bed socks or notice the condition of her hands, fingers or fingernails. He did not check her body for signs of injury or disease.[25] He said had he been aware of the autopsy findings then this would have raised concerns about her personal care and medical care, which would have prompted more thorough questioning and investigation of the scene and of the care of Ms Atkins.[26]

24. Senior Constable Kuric said David Baldock indicated to him, that the fall that had rendered his mother virtually bedridden for the past three weeks was *"not anything significant"*, it was minor and it was implied that a medical professional had not been consulted in relation to the fall.[27] He stated that he did not enquire of David Baldock or Bernard Malone what medications they took[28] and Mr Baldock had not told him about his mother's ulcer.[29] He gained the impression that the arrangements were that Wendy Smith would take Ms Atkins to her medical appointments.[30] In dealings with Wendy Smith she had told Senior Constable Kuric that her brother David was a very caring man and loving son and that he would not have done anything to jeopardise his mother's health. She stated that her mother had always been very small and slight.[31]

25. Colin O'Connor, a mortuary ambulance officer, was tasked to attend Ms Atkins' home at approximately 5:35pm. In his evidence he indicated he arrived about an hour later.[32] After speaking with Senior Constable Kuric, Officer O'Connor viewed the body of the deceased. He noted she was lying on a bed on her back. Her body was covered up to her neck with a blanket, with her arms by her side and her feet together. He noted that "*from the position of the lady, it appeared she had been laid out similar to how a nursing home would prepare a deceased person for collection".* He noticed no odour or staining to the bedsheets when Ms Atkins was removed from her bedroom. He then conveyed her to the Launceston General Hospital and subsequently to the Launceston Mortuary.[33]

---

[24] T30 [6]-[7].
[25] T31 [8]-[23].
[26] T32 [1]-[31].
[27] T34 [8]-[21].
[28] T34 [37]-[40].
[29] T35 [4]-[6].
[30] T35 [13]-[26].
[31] T36 [42]-T37 [11].
[32] T18 [28]-[29].
[33] Exhibit C10-affidavit of Colin O'Connor.

26. During his evidence at the inquest he said he had not observed the deceased's hands or fingers, nor her feet. He stated that she appeared to have been cleaned.[34] He had not deliberately looked at her body underneath her nightie and did not see any part of her body or any injury or sores. He said that he and Senior Constable Kuric had moved her onto the gurney, he had lifted her by the shoulder area, generally under the shoulder blades, while Senior Constable Kuric had been at the feet, and that usually involves lifting by the calf/ankle area.[35] He had never seen someone *"laid out"* in a family home and it was unusual but he had not spoken to the occupants of the house to ascertain who had done it or whether they had nursing experience.[36]

27. Mr O'Connor said if he had been aware of the autopsy findings that would have raised concerns *"to some degree"* and he would have brought it to the attention of a police officer or the Coroner's office. However he said he had not been concerned by Ms Atkins' weight and that *"we frequently get people that size"* and that usually people who had been sick would be in the 30 kilogram range, saying it tended to be dependent on their health, rather than their age.[37]

28. Telephone records[38] were obtained during the investigation. They show that there was contact between Bernard Malone's phone and Wendy Smith's home phone line on the day of Ms Atkins' death. A summary of the telephone records is as follows.

29. The records establish that in July 2017 Bernard Malone had a mobile phone registered in his name while Wendy Smith had a landline and two mobile numbers. No telephone numbers appear to have been registered in David Baldock's name.

30. At 15:37 on 9 July 2017 (approximately half an hour after David Baldock told police he had discovered his mother with *"no signs of life"*[39]) the mobile phone registered to Bernard Malone phoned Wendy Smith's home phone and a call was logged for 29 seconds.

---

[34] T21 [5], T [22]-[23].
[35] T21 [20]- T22 [11].
[36] T22 [25]-T23 [4].
[37] T24 [10]-T25 [7].
[38] Exhibits C13 to C16.
[39] Exhibit C11-affidavit of Senior Constable Kuric.

31. Seven minutes later a SMS was sent from Wendy Smith's mobile phone to Mr Malone's mobile and Mr Malone's mobile sent back a SMS. At 15:44:26 Mr Malone's mobile then telephoned Wendy Smith's landline for 83 seconds.

32. A further brief SMS exchange took place at approximately 7:30pm that night between those mobile phones.

33. On 10 July 2017 there were further brief SMS exchanges between the same mobiles shortly before 3:00pm and another exchange after 6:00pm.

34. On the 11 July 2017 there are records of SMS messages being exchanged between Mr Malone's phone and Mrs Smith's phone as well as a record of one significant voice call from Mr Malone's mobile to Mrs Smith's home phone at 10:18am, lasting 7½ minutes and another one the following day, on 12 July 2017 from Mr Malone's mobile to Mrs Smith's home line for 3½ minutes.

The cause of death

35. Dr Roseanne Devadas, a forensic pathologist conducted a post mortem[40] on 10 July 2017. During her external examination of Ms Atkins, Dr Devadas noted she was 140 cm in length and weighed 24.5kg. There was significant global muscle wasting and very minimal subcutaneous fat with quite obvious bony prominences. She noted there was faecal soiling under Ms Atkins' fingernails[41] and her toe nails appeared dystrophic[42]. The toe nails were extremely long and curled under.[43] There was an ulcer of the right posterior heel. The perineum showed anal prolapse, sores of both inner thighs and ulceration of the perineal area. The posterior aspect of the body showed a large *'decubitus ulcer'*[44] or *'pressure sore'* over the sacrum and several sores over the upper back and behind the left knee. Both knee joints appeared enlarged.

36. During the internal examination of the respiratory system, Dr Devadas noted there was *"soft white material resembling toothpaste, possibly a softened aspirated pill fragment".*

---

[40] Her report is exhibit C4.
[41] This indicated Ms Atkins had been incontinent and that had caused a skin irritation and she had been scratching: T46 [9]-[13].
[42] The deceased's toenails were weakened and crumbly and not growing correctly: T45 [11]-[17].
[43] Dr Devadas said during her evidence that it would take months to grow the toenails to that length, leading to difficulties balancing and walking: T45 [41]- T46 [7].
[44] Decubitus ulcers, also called pressure ulcers or bedsores, are injuries to skin and underlying tissue resulting from prolonged pressure.

37. Toxicology results[45] confirmed that caffeine and nicotine/continine had been detected, as had irbesartan[46] (which is used to treat hypertension) and a therapeutic level of paracetamol.

38. Dr Devadas noted that the deceased's low body weight and small organs with low organ weights, were consistent with a poor nutritional state or inadequate oral intake. During her evidence Dr Devadas said the absence of subcutaneous fat was indicative of a long term process of weight loss; that is over a number of months not weeks. She said the effect of Ms Atkins' general condition on her physical wellbeing would generally lead to difficulty mobilising, healing, nutritional difficulties, cognitive impairment, weakness and fatigue.[47] Dr Devadas noted that her weight loss could be associated with age related anorexia and a loss of appetite. However, in those cases she said it was necessary to consult a medical practitioner to ensure optimal nutritional status.[48]

39. In her opinion the cause of death was:

"…meningitis with sepsis with the likely source of infection being a large and deep decubitus ulcer of the sacrum. The body showed a level of general poor hygiene with faecal soiling of the fingernails evident".[49]

The autopsy revealed:

"…evidence of poor nutritional state, multiple pressure sores with large decubitus ulcer over the sacrum and evidence of meningitis and probable sepsis."[50]

40. Dr Devadas noted Ms Atkins' son was her senior next of kin and primary care giver. In her opinion there was evidence of *"carer's neglect including poor nutritional status, poor hygiene and grooming of toenails and severe decubitus ulcers."* She noted there was no sign of physical abuse and her hair was well maintained and dyed[51].

41. Dr Devadas says the following in her report:

---

[45] Exhibit C5.
[46] Irbesartan is used to treat high blood pressure (hypertension).
[47] T42 [18]-T43 [16].
[48] T43 [39]-T44 [14].
[49] Exhibit C4 page 6.
[50] Exhibit C4 page 6.
[51] Exhibit C4 page 6. Note that Wendy Smith denied her mother dyed her hair and indicated that it was her natural colouring. T154 [37]-T155 [15].

"Neglect is the failure of a caregiver to meet the needs of an elderly person by way of failure to provide adequate food, hydration, clothing, shelter, hygiene or social stimulation. In active neglect, there is wilful failure to provide care. In passive neglect, there is an unintentional failure to give care related to the caregiver's own failing health, ignorance or other reasons."

42. She noted that:

"Pressure ulcers develop when persistent pressure on a bony site leads to the obstruction of capillary blood flow to the associated soft tissues, causing necrosis… Preventative measures include repositioning the body every 2 hours to allow for better circulation to the affected skin and soft tissues, and optimising nutrition. Pressure ulcers are more common in those who are old, immobile and incontinent…[n]ot all pressure ulcers are reflective of improper care…[c]haracteristics of pressure ulcers associated with neglect include multiple ulcers and deep ulcers that extend to bone"[52]

43. Dr Devadas gave evidence at the inquest that pressure sores generally form over bony prominences. She said Ms Atkins had been lying in position for a long period of time and did not have much subcutaneous fat to protect the skin in those areas. The pressure causes loss of blood flow and therefore necrosis[53] of the skin in those areas, which breaks down and causes an ulcer. Dr Devadas said that in a hospital setting the patient would be turned regularly. She said the decubitus ulcer was quite advanced and was ulcerating to the soft tissue. She said it was at stage 4 which is the most advanced stage. She estimated the diameter of the ulcer to be 20 centimetres.[54] Dr Devadas said pressure ulcers can develop pretty rapidly, within a day. However in this case she was of the opinion that the sacral ulcer had developed over a period of days to weeks, which was caused by lying in the one position and not being turned or moved.[55]

44. Dr Devadas stated that there were two ulcers (one over the spine and the sacral ulcer)[56] which were present at the time of death but that other lesions over the rib cage and behind the knee could be the result of being moved post mortem due to the fragility of the skin.[57] Mr O'Connor

[52] Exhibit C4 pages 6-7.
[53] The death of body tissue.
[54] T46 [36]-T47 [39].
[55] T56 [30]-[38].
[56] T48 [41]-[44].
[57] T49 [1]-[3].

and Senior Constable Kuric gave evidence of moving Ms Atkins onto the gurney, which may account for these lesions.

45. Dr Devadas said the advanced state of the sacral ulcer would have led to injuries to the vessels in that area and if those blood vessels were exposed to bacteria then bacteria would have entered the bloodstream causing septicaemia or blood poisoning that could have seeded in the lining of the brain to cause meningitis. She said that the bacteria that were cultured from swabs of the brain were bacteria normally found in the colon. She was therefore of the opinion Ms Atkins was incontinent and the bacteria from her bowel movement had entered the ulcer and the bloodstream and the lining around the brain. She said that the bacteria can develop into meningitis and sepsis quite rapidly, within hours or days.[58] She expected the ulcer would produce oozing or bloodstaining on clothing or bedding that the ulcer was in contact with.[59]

46. Dr Devadas said during her evidence she did not see any signs of violence on Ms Atkins' body and her concern was directed to neglect because of her hygiene, and the presence of multiple ulcers including one which extended to the bone.[60] She said the decubitus ulcer that she observed would have required debridement, scraping off the tissue on top and it would have required dressings and antibiotic treatment. She said that incontinence can be managed with sanitary pads and diapers, catheters and relief of constipation.[61]

47. Dr Devadas advised that given the presence of nicotine and caffeine in the toxicology results it was likely Ms Atkins had consumed caffeine and nicotine on the day of her death.[62]

The physical and mental condition of Ms Atkins at the time of and prior to her death

48. In addition to the report of Dr Devadas medical records obtained from Valley Road Medical Centre[63] disclose Ms Atkins' first contact with that practice took place on the 8 June 2000. She began seeing the general practitioner (GP) Dr Karl Bright on 8 April 2016. At that time her past medical history was recorded as: osteoarthritis, hypertension, dermatitis, chronic shoulder pain due to rotator cuff tears and pathology, an anterior vaginal prolapse repair (2000), peptic ulcer (1992) and cholecystectomy (1985). At the first consultation with Dr Bright he says she

[58] T49 [5]-[20].
[59] T49 [37]-[41].
[60] T51 [34]-T52 [4].
[61] T52 [43]-T53 [8].
[62] T41 [38]-[44].
[63] Exhibit C8. Apart from the initial consultation on 8 April 2016 Dr Bright also saw Ms Atkins on the 27 May 2016, 9 June 2016 and 15 July 2016.

appeared not to be on any medication. She had last been prescribed a blood pressure medication (Tenormin) on 2 September 2013.

49. In 2014 and 2015 the practice wrote to her, care of her daughter's address, inviting her to participate in a free bone health check and annual health assessment, however it appears she did not attend these assessments.

50. Ms Atkins suffered a significant injury to her shoulder following a fall in Geelong in 1998, which featured prominently in the records. She consulted Dr Bright mainly in relation to her chronic shoulder pain, for which he suggested she try Panadol Osteo and subsequently he prescribed her Norspan patches to assist with her pain management. In June 2016 they had agreed on a care plan for her to access a podiatrist in the community for feet care. She was also advised, in the presence of her daughter, to present to the clinic monthly for pain/medication reviews. No specific care orders or instructions were given to her family regarding her care at home. A phone message notifying her that she was due for a care plan review appears not to have been responded to in December 2016.

51. During her last consultation at the practice on 15 July 2016 she presented as looking well and she appeared to be comfortable, apart from her ongoing chronic shoulder pain.

52. Referred to throughout the medical records are observations Ms Atkins was *"getting very frail"*[64] or it was recorded she had lost weight.[65] Despite these entries there is no measurement of her weight recorded in these records.

53. Medical records kept by the Mersey Community Hospital[66] were also examined. They spanned the period November 1961 to September 2003. From these records it can be ascertained that for most of her adult life the deceased's weight fluctuated between 52- 60 kilograms. The last known recording of her weight was in 2003 when she weighed 52 kilograms.

54. In July 1998 she is described as living with her son, Paul Baldock at Sassafras, whereas in July 2000 her son, David Baldock is named as her next of kin. At the time she was described as looking *"very frail for her age".*[67]

[64] 16 February 2011.
[65] 28 January 2011, 22 June 2012 and 8 February 2013.
[66] Exhibit C20.
[67] 66 years.

55. The coronial medical advisor, Dr Tony Bell, conducted a review of the medical evidence and the report of Dr Devadas and prepared his own report.[68] He noted Ms Atkins had died at home in poor condition. Over a forty year period, between 1963 and 2003 Ms Atkins had maintained a weight of between 52 to 60kg. The last record of her consulting a GP was in July 2016 and at that time it was intended that she would be reviewed monthly. No dispensed medications had been issued since July 2016 from pharmacies in the area.

56. Dr Bell noted changes associated with normal aging increase nutritional risk for older adults. Data suggests that up to 71% of older adults are at nutritional risk or are malnourished. Malnutrition is associated with an increased mortality risk. He says problems of elder abuse, neglect and exploitation are common and identified a number of common warning signs for elder mistreatment or abuse, including:

- advanced age (greater than 80 years old);
- disability in self care;
- dementia;
- depression;
- history of hip fracture;
- history of stroke;
- social isolation;
- poor socioeconomic status;
- external family stressors;
- inappropriate or excessive medications, or conversely, the failure to obtain required medications;
- malnutrition;
- dehydration; and
- pressure ulcers.

Dr Bell believed "*this case meets many of the warning signs that elder abuse is occurring*".

[68] Exhibit C19.

57. At the inquest Dr Bell said Ms Atkins' body mass index of 13 was indicative of malnutrition and would produce a high risk of death. He explained that in that state she would have used all the subcutaneous fat stores, followed by muscle bulk and connective tissues, her production of white blood cells would be affected and the ability of the immune system to fight infection and repair trauma would be compromised.[69]

58. Dr Bell identified the following factors as being indicative of carer's neglect: advanced age (83), malnutrition, pressure ulcers, the absence of regular visits to Ms Atkins' GP in the 12 months before her death (especially in light of her doctor's request for monthly reviews), the absence of evidence of any medication being prescribed to her or being dispensed to her in the 12 months before her death, and the presence of a prescription drug, Ibersartan in her blood when there was no evidence of its source.[70]

The appointment of Mr David Baldock as his mother's carer, what services were provided and what were the financial arrangements regarding her care and upkeep

59. It is known that David Baldock was the deceased's carer and had been so for many years. The autopsy findings raise concerns as to adequacy of care provided to Ms Atkins up to and at the time of her death. The inquest therefore examined the appointment of David Baldock as his mother's carer and whether her medical and other needs were being adequately met.

(a) Carer's payments

60. Juanita Daniels, the Manager of Centrelink, Devonport gave evidence at the inquest. She said that the carer's payment is paid to somebody who is caring full time for a person and is a full pension payment. Whereas the carer's allowance is paid to people who assist with caring for a person. A carer's supplement is paid to a carer (a person receiving either of the aforementioned payments) at the end of the financial year. Ms Daniels was unable to say what criteria needed to be satisfied to have someone appointed as one's carer. She was unable to cite, or expand on the eligibility test on the Services Australia website. Similarly she was unable to give any information about the Adult Disability Assessment Determination (ADAT) testing. She said *"frail aged"* meant a person was frail in nature and they would require some support for their daily tasks. She agreed that one must be both frail and aged to be classed as *"frail aged"* but was not able to say at what age that started. Ms Daniels was unaware whether or

[69] T59 [24]-T60 [2].
[70] T60 [41]-T61 [32].

not the carer's payment was subject to review. She said Jacqueline Belbin, the team leader for the carer's team, would be in a better position to answer those queries. She was unaware of whether the carer was given any instruction as to what their basic obligations were or whether a carer required any form of qualification or whether there was any policy to check or follow up what a carer is actually doing.[71]

61. Jacqueline Belbin, Team Leader at Services Australia in Devonport also gave evidence. She said she was the Carer's Team Leader. She advised that to obtain a carer's payment the proposed carer needed to complete a claim form and obtain a health care professional report from the treating health professional of the person to be cared for. However Ms Belbin was unable to say whether the carer needed to be an Australian resident, or what criteria the person needing care was required to meet on the ADAT score to be eligible. She was unable to say how the ADAT was assessed. She was unable to provide a clear definition of *"frail aged"* other than to say that the person needs *"help and care"* and that it refers to *"an elder person"*. She said she was not aware that a carer was given any guidance as to what their obligations were when caring for a person, rather it was just assumed that a carer would know that they need to provide adequate nutrition, provide adequate access to medical care, and obtain proper medication and administer it. She said the review processes were dependent on the contents of the medical report and that it was something that was only done if the person who assessed the application in the first place puts something into the system to suggest that a review may be appropriate in the future. She indicated that unless the review process is flagged at the assessment stage or there is a *"tip off"* there are no checks and balances to ensure that the person receiving care, is receiving adequate care. Nor was she aware of any automatic review periods; for example after ten years. The payment is an income supplement for the carer and there is no expectation from Centrelink it is to be used to assist the person being cared for.[72]

62. The Intelligence Service of Tasmania Police obtained, on my behalf, limited records from Centrelink on 18 August 2022 related to Mr David Baldock's Centrelink payments. The records establish that the carer's payment and pension supplement were approved on the 29 October 2001. The carer's allowance was approved on the 6 December 2001. The records did not contain any of the original claim forms or health care professional reports in support of the application to be a carer. The records do not reveal the results of the ADAT testing or the basis

[71] T7-11.
[72] T125-139.

for Ms Atkins requiring care. The carer's payment was cancelled on the 15 September 2017 at the conclusion of the 14 week bereavement period.

63. During the period that Mr Baldock was in receipt of carer's related benefits, it appears that some attempts were made to review the arrangements. Despite numerous attempts to contact Mr Baldock in 2003, it appears no review was carried out at this time. Letters were sent to Mr Baldock in December 2003 and October 2005 requesting a review. The only record of a review actually taking place appears to be a record of a telephone conversation in January 2006 in which Mr Baldock responded to standard questions to the effect that there had not been any change in their circumstances. It appears that no documentary evidence of Ms Atkins' circumstances was sought during any of the review periods.

64. Bank records[73] were obtained in the course of the coronial investigation. They show that Ms Atkins received a Centrelink pension. Her son, David Baldock received a carer's pension, carer's supplement and carer's allowance. A summary of the bank accounts is as follows.

65. Ms Atkins held a Westpac bank account[74]. Statements spanning the period 18 September 2015 to 16 March 2018 were obtained. Ms Atkins' address was given as 43 Torquay Road, East Devonport which is the address of her daughter. Ms Atkins was in receipt of a Centrelink pension which was paid into this account. It was her only source of income. She received fortnightly payments of about $880 and cheques were regularly drawn on the account in the sum of $800 for the same payment period.

66. On the 5 July 2017 (four days before Ms Atkins' death) $300 was withdrawn from her account, leaving a balance of $2819.35. Two days after her death, a cheque was drawn in the sum of $2600. A further pension payment of $888.30 was made on the 13 July 2017 into the account and on the 8 September 2017 a cheque was drawn on the account in the sum of $1100, leaving a balance of $7.65.

67. It was ascertained David Baldock had a bank account with the Bank of Us.[75] He was in receipt of a Centrelink carer's pension which was typically made up of two payments paid fortnightly, one in the sum of $124.27 and the other in the sum of $877.10 or thereabouts. With the exception of two cheque deposits, in the sum of $8250 and $13000, the Centrelink carer's pension was Mr David Baldock's only source of income.

[73] Exhibits C17A and C17B.
[74] Account Number 737604534261
[75] Account Number 100061432

68. Having reviewed the accounts there is no evidence David Baldock or Wendy Smith were incorrectly accessing or spending their mother's pension.

(b) Care arrangements

69. Bernard Malone gave evidence at the inquest. He first met David Baldock and Ms Atkins when they moved to a property on the Frankford Highway about 12 years before Ms Atkins' death.[76] He would see her nearly every day.[77] David Baldock was her carer and he *"couldn't do much more for her"*.[78] He cooked, cleaned the house and took care of the mortgage. Wendy Smith took her to the doctor and shopping weekly, on a Friday. He described that as a standing arrangement.[79] At that time he believed Ms Atkins suffered from dementia.[80] When David Baldock and the deceased moved into Weegena, he moved in with them. [81] The arrangement with Wendy Smith continued at that time, however David Baldock would usually transport his mother to his sister Mrs Smith.[82]

70. From his observations Ms Atkins needed a carer because she could not cook or clean for herself due to the shoulder injury.[83] He claimed that when he first met her at Frankford she weighed *"probably 30 kilos, wringing wet"*.[84] He said she would shuffle but that her ability to get around, declined in the last week of her life.[85] He said she had a fall two to three weeks before her death but he was unsure whether she consulted a doctor.[86] He did not indicate she had become bedridden. He believed that up until her death, Ms Atkins was able to bathe herself and attend to her toileting needs. He believed she was taking Panadol Osteo at the time of her death. He was not concerned about her weight because she drank Milo and ate a sandwich every day and had a solid meal at night.[87]

71. Mr Malone said Ms Atkins did not smoke at the time of her death but he did.[88] He also said he did not take any medication nor did David Baldock, that he knew of.[89] He stated Ms Atkins did

[76] T84 [21]-[30].
[77] T84 [43].
[78] T85 [11].
[79] T85 [15]-[30].
[80] T85 [35]-[39].
[81] T86 [31]-[44].
[82] T88 [8[-[13].
[83] T89 [31]-[34].
[84] T90 [1]-[2].
[85] T90 [4]-[10].
[86] T90 [43]-T91[5].
[87] T90-T92.
[88] T93 [13]-[22].
[89] T93 [27]-[29].

not drink tea or coffee and to his knowledge it was always milo.[90] Contrary to this evidence are the toxicology results which showed the presence of nicotine and continine as well as caffeine and Irbesartan in Ms Atkins' blood.

The quality and adequacy of care provided to Ms Atkins

(a) Bernard Malone

72. Mr Malone said that apart from David and Wendy Smith, Ms Atkins' only other visitor was her grandson Callan and sometimes Wendy's son who he knew as Tippy.[91] He did not think David took her to see other family members and was not aware of him taking her to other activities, other than the pub in 2005-2006 and occasionally a drive.[92] He said while they lived at Weegena he was not aware of any medical or support services attending the home to assist in her care. Nor was he aware whether David Baldock ever made any enquiries to obtain any support.[93] He was not aware of David Baldock spending his pension or supplement on his mother's care, saying that the money mostly went on the mortgage.[94]

73. Mr Malone said Ms Atkins never expressed the wish to die at home, to him. She had however made it clear to him right back in about 2007 she was not going to be put into a hospital or home and that her doctor was under instruction not to put her into a home. She also told him that she had a "DNR" on her medical (records).[95]

74. Mr Malone was unaware of the deceased's ulcers prior to her death[96] and he was also unaware her toenails were severely overgrown, that she complained of any irritation caused by incontinence or that she had faeces under her finger nails.[97]

75. Mr Malone said he was present at the house when Ms Atkins' died. He telephoned the police, ambulance and David Smith so he could let his wife know.[98] He said prior to her death, after

[90] T95 [10]-[17].
[91] T94 [20]-[25].
[92] T94 [27]-T95 [5].
[93] T96 [7]-[13].
[94] T97 [7]-[9].
[95] T97 [11]-[20]. "DNR" means "Do not resuscitate".
[96] T95 [19]-[20].
[97] T97 [28]-[37].
[98] T97 [39]-T98 [2].

her lunch, David Baldock had sponged his mother.[99] He denied that she had been washed after her death or that her bedding had been changed.[100]

(b) Wendy Smith

76. Wendy Smith rekindled her relationship with her mother in or about 2006 after not seeing her for about 10 years.[101] At that time Ms Atkins was living at Frankford with David Baldock. Mrs Smith understood David Baldock was her carer and had been for some time. However she was not aware of what her mother's care needs were at the time that the application for the carer's pension was made. Her position was she did not question that arrangement given it had been in place for some time and was not her *"personal business"*.[102]

77. Mrs Smith confirmed she had maintained regular weekly contact, on a Friday, with her mother. Ms Atkins would attend Mrs Smith's home and they would go to Ms Atkins' bank first and she would write a cheque and cash it. This arrangement later changed and the deceased authorised Mrs Smith to operate the cheque account. They would also tend to the grocery shopping, clothes shopping and attend medical appointments on those days. Medical appointments were arranged at David Baldock's request or if the Ms Atkins requested them. Sometimes Mrs Smith washed her mother's hair.[103]

78. Mrs Smith said that her mother rarely went to the doctor.[104] On the occasions when she was prescribed norspan patches, Mrs Smith had obtained them from the pharmacist and had bought Panadol osteo over the counter for he mother. However Ms Atkins stopped wearing the norspan patches. Mrs Smith was unaware of the drug Irbesartan and had not fulfilled prescriptions for that drug.[105]

79. Mrs Smith indicated her mother began to slow down in the months before her death[106] and she had stopped coming to Mrs Smith's home about four months before her death, however Mrs Smith visited her at Weegena.[107] The last time she saw her mother was on the 4 July 2017,

---

[99] T98 [21]-[29].
[100] T98 [21]-[29], T98 [34]-T[10].
[101] Ms Atkins had a falling out with her 2 sons, Peter and Tony, in the late 1980s and they had nothing further to do with her until she died-T106 [18]-[29].
[102] T142 [10]-[34].
[103] T108 [26]-T109 and T110 [15]-[40].
[104] T110 [41]-[42].
[105] T111-T112 [24].
[106] T112 [35]-T113 [6].
[107] T114 [6]-[11].

she said she had been up and had lunch but was in bed for the entirety of Mrs Smith's visit. Mrs Smith did not see any sores or wounds but observed that she was losing weight.[108]

80. Mrs Smith stated that her mother had been a heavy smoker but had ceased smoking about a year before her death and to her knowledge had not smoked again.[109] Mrs Smith was unable to account for the presence of nicotine in the toxicology results other than to say she may have ingested it via the smoke of another smoker such as Mr Malone.[110]

81. Mrs Smith says her mother was of small stature; she was approximately 4 feet eight inches tall. Her shoe size was a size 2 and her clothes were a child's size 8 or 10.[111] When they had reconciled in 2006 she estimated that her mother weighed 45 kilograms. Mrs Smith said that she weighed 55 kilograms and her mother was shorter and lighter than her. She described her mother's weight loss journey *as "very very gradual"*.[112]

82. Mrs Smith said she did not have any concerns about her brother's care of their mother.[113] She stated her mother had expressed the wish to not die in an old person's home, that nothing be put in the paper and that she have a private cremation.[114] The decision to not publicise her death and have a private cremation was due to her falling out with some of her children. Mrs Smith said her mother's mental state had deteriorated over the last 2- 3 years. For example she had lost her dentures 12-18 months before her death and while Mrs Smith discussed replacing them with David Baldock, Ms Atkins had not wanted them replaced and so they did not (replace them). She also forgot she smoked.[115] She said she did not take her mother to get annual flu shots because her mother said *"I don't need them"*.[116] Mrs Smith indicated if her mother asked her not to do something, she did not do it. If she asked her to do something, then she would do it. She agreed that she did not discuss the benefits of her mother receiving an annual flu shot with her medical practitioner and was conscious of doing what her mother wanted and not imposing what might be best for her onto her.[117]

---

[108] T114 [10]-T115[25].
[109] T115 [27]-[39].
[110] T116 [4]-[9].
[111] T116 [29]-[44].
[112] T143 [17]-[30].
[113] T124 [19]-[21].
[114] T122 [1]-[19].
[115] T144 [4]-T145[4].
[116] T149 [32]-[39].
[117] T150 [4]-[19].

83. Mrs Smith did not have any discussions with her brother about getting an aged care assessment team to see their mother and assess whether she needed extra support and to her knowledge such an assessment never took place.[118] She had not taken her mother to the doctor after July 2016 because her mother did not indicate the need for an appointment and she *"didn't press the matter"*.[119] Mrs Smith was aware her mother had had a fall in the weeks before her death but did not discuss with her brother whether she needed to consult a doctor as she was getting around and did not complain. She was aware that her brother was treating a sore on her back but she did not see it. She also had not seen her mother's feet or evidence of faecal soiling in her fingernails, nor was she aware if she was incontinent.[120]

(c) David Baldock

84. David Baldock indicated that his mother had been living with him when she had a detached retina which had prompted him to make an application for a carer's pension, in about 1996 or 1997. He said Dr Haybittle filled out the paperwork (presumably a health care professional report) and the dole office completed the paperwork while his mother and he were there. He recalled the medical report indicated that the eye condition was a permanent disability. He stated that he did not receive any information from Centrelink as to what his obligations were towards his mother but he understood that his role was to *"meet the needs of my mother as best I could".* [121]

85. He said his mother weighed maybe 40 kilos when he started to care for her in 1996-1997 and that as she got older she seemed to get a little bit smaller.[122]

86. He agreed that from 2006 when Wendy and her mother reunited, he was not involved in her medical care.[123] He said he did not discuss with Wendy or with his mother what services could be engaged to assist with the care of their mother as *"for the most of it, she was more than capable".*[124]

87. David Baldock said his mother had a fall three weeks before her death. He had to carry her for the first week but thereafter she was able to shuffle about. He told his sister about the fall but

[118] T150 [37]-[42].
[119] T151 [5]-[12].
[120] T151 [21]-T153 [13].
[121] T159 [10]-T161 [6].
[122] T161 [24]-[33].
[123] T164 [27]-[40].
[124] T165 [31]-[34].

said that everything seemed fine. He accepted that he was wrong when he told police that his sister had taken his mother to the doctor following the fall. He did not think that she would have benefited from a medical consultation as she hadn't asked for one and *"was fine after the fall"*. He did not see the need to have her checked out independently. Mr Baldock was unaware that he could ask a doctor to arrange an aged care assessment for an elderly person. He had never discussed this or support services with Wendy Smith. [125] He had not considered support services because his mother *"didn't ever say that it was a requirement, she was fine as she was".*[126]

88. Mr Baldock claimed he sponge bathed his mother daily after the fall, including around her anus and genitals if required. He had not noticed the faecal soiling under her fingernails, nor her overgrown toenails. He thought that if he had been aware of the toenails he would have discussed consulting a podiatrist with Wendy, however she had not told him of the doctor's suggestion that their mother consult a podiatrist in the year before her death. He was also aware that the doctor had a pain management plan for his mother but that she did not want anything to do with that.[127] Mr Baldock said he did not administer any medication to his mother on the day of her death. He did not take medication at the time and was not aware of whether Mr Malone was taking medication. He said he had never been prescribed Irbesartan. He was unable to explain how Irbesartan was present in his mother's blood on the day of her death.[128]

89. Mr Baldock said his mother used to like to go to the pokies and have a flutter and enjoyed going for a drive, however she did not want to go out and talk to people and she was quite happy in the last few months of her life.[129]

90. Mr Baldock said he felt he gave Ms Atkins adequate nutrition and he was not concerned about her weight.[130] He was aware she had one sore on her back in the kidney/rib area, towards the middle of her back. He had been aware of it for 8-9 days before her death. He had cleaned it with gauze and diluted Dettol. He had used powder and ointment that his mother used to use

[125] T165 [36]-T167 [8].
[126] T189 [24]-[29].
[127] T167 [25]-T168 [31].
[128] T168 [36]-T169 [39].
[129] T170 [11]-[29].
[130] T171 [30]-[35].

on her hands. He said the ulcer was *"pretty bad early on"* but that it did not get any worse and remained about 2cm in size at the time of her death.[131]

91. Mr Baldock was shown a photograph of his mother's decubitus ulcer. He agreed that he had seen an ulcer in the approximate area depicted in the photograph but said it was *"never that bad"*. He claimed that the two ulcers he had seen (this one and the one towards the middle of the back) were about the same size and that he had last observed the sacral ulcer two days before her death (despite sponge bathing her daily, including on the day of her death). He could not explain why he had not noticed the sacral ulcer.[132]

92. Mr Baldock was not concerned that his mother was malnourished and was quite happy with the level of food she was getting. He claimed his mother regularly drank water, coffee and milo and had consumed soup on the day of her death. [133]

93. Mr Baldock denied cleaning his mother's body after her death, changing her nightie or bedsheets or tidying her bedroom. He agreed he had *"laid her out"* because he wanted her *"to look peaceful"*.[134] He denied putting socks on her feet or changing the bedding and clothing to avoid attending police or ambulance detecting the sacral ulcer. He denied neglecting to care for his mother, saying that he did what she wanted and he did not think there was anything more he could have done for her.[135]

Conclusions

94. Ms Atkins died of meningitis with sepsis with the likely source of infection being a large and deep decubitus ulcer of the sacrum.

95. An autopsy identified Ms Atkins weighed 24.5 kilograms and had significant global muscle wasting and minimal subcutaneous fat with bony prominences which were quite obvious. Her condition was indicative of neglect, by way of poor nutritional status and suggestive of a long process of weight loss. In addition there was evidence of poor hygiene, characterised by faecal soiling under the fingernails and the condition of her toenails, which was likely to affect her

[131] T172 [1]-T173 [41].
[132] T176 [6]-T178 [8].
[133] T179 [23]-[41].
[134] T180 [17]-[33].
[135] T181 [5]-[34].

balance and comfort. Dr Bell also noted Ms Atkins had not visited her general practitioner in the 12 months before her death, despite suggested monthly reviews addressing her pain management plan (which she discontinued) and podiatry needs. In addition she had not availed herself of free bone assessments and health assessments. Finally the absence of any medication being prescribed to her in that period and the presence in her blood of a medication that had not been prescribed to her and was from an unknown source, amounted to further evidence of neglect.

96. David Baldock was recognised as his mother's carer, given he was in receipt of the payments from the Commonwealth and therefore, as Mr Richardson submitted, this was one of the reasons why Mrs Smith was entitled to rely on her brother to provide proper care.[136] Ordinarily I would accept this submission if the evidence established Mrs Smith had nothing to do with her mother's care. However the evidence establishes Mrs Smith had assisted her brother in providing care to her mother which included her banking, shopping, medical needs and washing her hair. In those circumstances it cannot be said she is entitled to rely on her brother because she took on responsibility for some of the tasks. Both Mr Baldock and Mrs Smith appear to have relied heavily on their mother to tell them what her care needs were. Neither appears to have exercised independent judgment to ascertain whether the reasonable needs of their mother were being met. Further, neither Mr Baldock or Mrs Smith took the initiative to discuss their mother's care needs with her general practitioner or to seek information regarding medical assessments and available support networks that could benefit their mother. Flu shots and replacing her dentures were dismissed because their mother either did not like them or said she did not need them. A responsible carer would have acted in Ms Atkins' best interests rather than just accepting her views.

97. Mr Baldock cooked and cleaned for his mother and attended to the mortgage but apart from transporting her to Wendy Smith's home, it appears that little was done to stimulate Ms Atkins by way of outings or the pursuit of interests or hobbies. Having said that, it appears Ms Atkins preferred the company of her son and daughter and did not actively seek the company of others.

98. Mr Baldock received the carer's pension for approximately 20 years and yet it appears he was not instructed as to his obligations towards his mother, or educated in the supports

[136] The other reasons Mr Richardson submitted Mrs Smith was entitled to rely on her brother were he had provided care for in excess of 20 years and she had no knowledge of and could not reasonably be expected to have knowledge of the health issues found by the pathologist.

available to elderly people living in the community. As he had been appointed by the Commonwealth as his mother's carer and had received payments in return for the care provided normally there would, in such circumstances, be a contractual obligation to provide adequate care. However the facts in this case show there was little or no action taken by the Commonwealth to determine Mr Baldock's capacity or ability to provide the care he had agreed to provide, to provide direction on the standard of care necessary or to check on whether the care was in fact being provided and if so whether it was being provided to an adequate standard.

99. At the time of her death, it is clear Ms Atkins' health care needs were not being adequately met. Apart from those matters mentioned in [95], David Baldock's failure to detect a stage 4 decubitus ulcer with a diameter of 20cm, which had developed over days or weeks, is clear evidence of neglect.

100. Mr Baldock claimed he sponge bathed his mother daily, including her anus and genitals, and had last bathed her before lunch on the day she died. He claimed he was unaware of the extent of the ulcer although he had seen one in the same position two days earlier which he had been treating with Dettol and gauze. In my view if he did as he claimed, it is likely that he would have seen the sacral ulcer while bathing his mother.

101. In addition the medical evidence suggests the ulcer would have oozed blood and/or pus onto the bedding or Ms Atkins' clothing. In those circumstances, it is difficult to reconcile how Mr Baldock was not aware of the ulcer if he was tending to his mother on a daily basis, or why the sheets were not stained when Ambulance Tasmania and Tasmania Police attended the home after Ms Atkins' death.

102. Other anomalies apparent in the evidence include the presence of nicotine and continine in Ms Atkins' blood when she had not smoked for a year, and the presence of Irbesartan in her blood when she had not been prescribed it, no one else in the house had been prescribed it and no one could offer an explanation as to where it came from or who administered it to her.

103. That Ms Atkins was laid out and appeared to have been cleaned and her clothing and bedding was clean is inconsistent with the evident lack of hygiene noted in her fingernails, and the probable incontinence and sepsis associated with the sacral ulcer.

104. I find David Baldock and Bernard Malone in particular, were unreliable witnesses whose evidence attempted to present themselves in a more favourable light. Their denials of

cleaning Ms Atkins and/or tidying her room after her death are inconsistent with the medical evidence as are Mr Baldock's claims he regularly bathed his mother but did not notice the extent of the sacral ulcer in the days prior to her death.

105. I find that both David Baldock and Wendy Smith's desire to fulfil their mother's wish of dying at home was followed blindly. Neither of them exercised independent judgement as to what was in their mother's best interests. Instead they both relied on their mother to voice her concerns or desires, in circumstances where they were of the view her cognitive abilities were declining.

106. I find there are a number of facts suggestive of elder abuse (in the form of carer's neglect), namely inadequate medical care, inadequate access to community supports, inadequate hygiene and poor nutritional status, lack of appropriate medication and the ingestion of inappropriate medication from an unknown source.

107. Having said that I find there is no evidence David Baldock and Wendy Smith's neglect of their mother was intentional or motivated by the prospect of financial gain. It appears to have been reckless and is likely the result of ignorance and a lack of sophistication as to what Ms Atkins' care needs were, what support services were available and the need to act in a person's best interests, rather than merely acquiescing to their mother's expressed desires or failing to act when she expressed no view.

Comments and Recommendations

108. The circumstances of Ms Atkins' death are not such as to require me to make any recommendations pursuant to Section 28 of the *Coroners Act* 1995.

109. I find the lack of action taken in this case by the relevant Commonwealth Department[137], as set out in paragraph 98, and the lack of checks and balances highlighted by Ms Belbin in her evidence troubling. This is because the Commonwealth is using public money to pay for services provided by people who may not be capable of providing the necessary care and/or who are failing to provide any or any appropriate care. If the situation in this case is representative of what still happens today then by way of **comment** I say that is not appropriate. There should be checks and balances to ensure the proper expenditure of

[137] Services Australia.

public money and in those cases where it is determined that is not occurring not only will tax payer's money not be wasted, but more importantly, the more vulnerable members of our community who are not receiving care to a reasonable standard will be identified and the deficits in the care being provided rectified.

110. I acknowledge and thank Senior Constable Frank Kuric for his investigation.

111. I convey my sincere condolences to the family and loved ones of Ms Atkins.

Dated: 7 March 2024 at Hobart in the State of Tasmania.

Magistrate Robert Webster
Coroner