IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2008 2158

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 60(2)
*Section 67 of the **Coroners Act 2008***

I, HEATHER SPOONER, Coroner having investigated the death of AUDREY SVIKERS

without holding an inquest:
find that the identity of the deceased was AUDREY JOYCE SVIKERS
born on 1 January 1935
and the death occurred on 20 May 2008
at 23 Ebden Avenue, Black Rock 3193
from:

1 (a) EFFECTS OF FIRE

Pursuant to section 67(2) of the **Coroners Act 2008**, I make findings with respect to **the following circumstances**:

1. Mrs Svikers was aged 73 when she died. She was bedridden and lived alone at her home situate at 23 Ebden Avenue, Black Rock since the death of her husband in 2006. Mrs Svikers was profoundly deaf. She was also mute and unable to walk. Mrs Svikers was a heavy smoker.

2. A police investigation was conducted into the circumstances surrounding the death. Following the death of her husband, Mrs Svikers received in-home care from AccessCare Southern as part of a Community Aged Care Package(CACP). Despite numerous attempts by AccessCare Southern to provide them, Mrs Svikers repeatedly refused attempts to install smoke alarms. She was confined to her bed on the first floor of her two-storey house and had refused to move to the ground floor. Mrs Svikers was a heavy smoker and care workers had identified evidence of burns on her bedding from cigarettes. She had several cognitive assessments, which indicated she was competent to make decisions.

3. It was apparent that on 20 May 2008 a carer attended the home of Mrs Svikers at 7.00am as was usual. Mrs Svikers was observed to be in good spirits and pleased with a recent haircut and new pyjamas. Later that day at about 9.37pm emergency services received a series of calls alerting them to a fire in the second storey at 23 Ebden Avenue, Black Rock. The Metropolitan Fire Brigade were on the scene within minutes and found the second storey and roof alight. After extinguishing the blaze a systematic search revealed the charred remains of Mrs Svikers on the floor of her kitchen. A hole in the kitchen ceiling revealed the bedroom of Mrs Svikers above where her remains were located. The fire investigation revealed that the pattern of damage was consistent with the fire starting at around the bed of the deceased. There were no signs of force, struggle or accelerant. The cause of the fire was deemed to be the ignition of a combustible material such as the mattress or bedding. Although the source of ignition was not determined, ignition by a smouldering cigarette was deemed to be most likely.

4. An autopsy was performed by Dr Sarah Parsons, Forensic Pathologist at the Victorian Institute of Forensic Medicine (VIFM). She formulated the cause of death and commented:

> *'The cause of death in this 73 year old female is that effects of fire. Only human remains were identified.*
>
> *Toxicological analysis on post mortem specimens has detected paracetamol."*

5. A comprehensive Fire Investigation Report was prepared by the Metropolitan Fire and Emergency Services Board (MFB) Fire Investigation and Analysis Unit. Attached to the report was a statement of Ms J. Harris, Community Aging Strategist. The Coroners Prevention Unit (CPU)[1] were requested to review the issues relevant to the death.

6. Ms Harris identified the following issues relevant to the death of Ms Svikers:

   - *Mrs Svikers had been assessed by the regional Aged Care Assessment Service;*
   - *Mrs Svikers was allocated a package of "in home" care services provided by AccessCare Southern;*

[1] The Coroners Prevention Unit is a specialist service for coroners created to strengthen their prevention role and provide them with professional assistance on issues pertaining to public heath and safety.

- *AccessCare Southern provided a Case Manager whose role was to negotiate, coordinate and monitor the care provided to and in consultation with the client. As is common in the provision of these services, AccessCare Southern brokered the actual "in home" services provided by a care worker through another agency;*

- *AccessCare Southern advocated with Mrs Svikers in relation to the installation of a smoke alarm but she declined; and*

- *AccessCare Southern took steps to establish Mrs Svikers cognition did not impair her ability to understand issues related to her safety.*

7. Ms Harris also noted that there were no specific obligations for community care providers to ensure the provision of safe environments for their clients, including basic home fire safety. However, a consideration of the *Occupational Health and Safety Act 2004* could identify that a client's home is a community care provider's workplace, involving the various duties to protect themselves and others from harm.

8. MFB estimate that nationally, nearly 900,000 older people living with a disability receive in-home community care. With an aging population and increasing availability and demand for community care in the home, this section of the community is expected to rapidly increase.

9. There are four main areas of in-home community care available which can be categorised according to the coordinating agency:

   a. Department of Health

      i. Home and Community Care (HACC).

   b. Transport Accident Commission

      i. Client services for injuries associated with motor vehicles.

   c. Department of Health and Aging

      i. Extended Aged Care at Home (EACH).

      ii. Community Aged Care Package (CACP).

d. Department of Veterans' Affairs

i. Veterans' Home Care

10. The types of care provided by CACPs are defined by the *Community Care Subsidy Principles 1997*,[2] which are made under subsection 96-1 (1) of the *Aged Care Act 1997* (Cth).[3] These Principles define the types of care that constitutes community care. While home fire safety does not feature in the definition of community care, it does include following types of care which may be applicable to fire safety:

a. *Home maintenance, including modification, reasonably required to maintain the home and garden in a condition of functional safety and provide an adequate level of security* (12.5 (i) page 4); and

b. *Other services required to maintain the person at home* (12.5 (m) page 5).

11. Commonwealth funded community care service providers are required to participate in a quality review process as defined by the Community Care Common Standards.[4] The Standards define a range of expected outcomes, including the requirement to assess and manage risk which may be applicable to home fire safety in client's homes:

a. *Expected Outcome 1.6 – Risk Management*

The service provider is actively working to identify and address potential risk, to ensure the safety of service users, staff and the organisation.

12. The MFB and the Australasian Fire Authorities Council (AFAC) have developed a basic home fire safety curriculum that is included into the national Community Services Training Packages. This will mean that new workers in the community care sector will have basic home fire safety training, including an understanding of the vital need for smoke alarms. The curriculum is focussed both on the occupational health and safety aspects of community service work, but also to the duty of care to clients.

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[2] http://www.health.gov.au/internet/main/publishing.nsf/Content/ageing-legislat-aca1997-prindex.htm - accessed 1 June 2012.

[3] The Aged Care Act 1997 is administered by the Australian Government Department of Health and Aging.

[4] http://www.health.gov.au/internet/main/publishing.nsf/Content/ageing-publicat-commcare-standards.htm - accessed 1 June 2012.

13. In 2011, the MFB commissioned a review of fatal fires in the Metropolitan Fire District between the financial years of 2000 and 2010, and examined the involvement of older people and people with disabilities.[5] The review identified 62 preventable[6] residential fire fatalities, and had the following findings:

- *Older people (65+) and people with disabilities had an increased risk of fire fatality, making up 66% (n=41) of all fatalities.*
- *People aged 65 and older were 3.7 times as likely to be a fire fatality as the general population.*
- *People with a disability were 4.2 times as likely to be a fire fatality as the general population.*
- *Smoking materials were the leading cause of preventable residential fires, accounting for 34% (n=21) of fatalities.*
- *The most common room of origin in fatal fires was the bedroom, accounting for 46% (n=28) of fatalities.*
- *Most homes did not have working smoke alarms, with 58% (n=36) of fatalities occurring in homes with a non-existent or non-functioning smoke alarm.*
- *Most fire fatalities occurred at night, with 69% (n=38) of fatalities occurring between 8:00PM and 8:00AM.*
- *63% (n=36) of all fire fatality victims lived alone, which made people who lived alone 7.1 times as likely to be a fire fatality as the general population.*
- *19% (n=12) of fatalities were known to be hoarders.*
- *At least 35% (n=22) of fatalities were smokers.*

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[5] Aufiero, M., Carlone, T., Hawkins, W. and Murdy S. 2011. *Analysis of Preventable Fire Fatalities of Older People and People with Disabilities: Risk Reduction Advice for the Community Care Sector.* The determination of age and disability was established using Fire Investigation Reports.

[6] *Preventable* was defined as a fire that was started *accidently* (unintentionally).

14. The MFB review also undertook a detailed qualitative analysis into six fatal fires involving community care clients to determine the key high-risk features of each incident. This analysis identified:

- *Smoke alarms were not always present and could have helped alert the occupant or neighbours to the fire emergency, which could have helped notify emergency services more quickly.*
- *Failure to be alerted to the fire reduced the time that the occupant had to respond.*
- *Each individual has unique needs and identifying the specific fire risks for each person can help in preventing fires.*
- *Failure to quickly notify emergency services was a large factor that contributed to the fatality.*

15. The MFB review also considered the circumstances of Mrs Svikers' death and concluded:

- *In this case, what could have been done was limited by the unwillingness of the deceased to address her own fire safety, but it raised concerns on the installation of smoke alarms in general. In addition to the increased risk of the care recipient, it also brings up the issue of occupational health and safety standards for care workers, and exposure for the service provider agencies involved.*
- *While smoke alarms are already mandated in Victoria, cases like this highlight the need for the community care sector to ensure this standard is met. In this instance, a smoke alarm linked to a personal alarm and/or a smoke alarm for people who are Deaf[7] (sic) may have provided the opportunity for the occupant to escape the room*

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[7] Please note: Deaf Australia Inc. have endorsed the following terminology:

1. "Deaf" is used to describe those people who use Auslan to communicate, and identify themselves as members of the signing Deaf community;
2. "deaf" is a general term used to describe people who have a physical condition of hering loss of varying degrees irrespective of which communication mode they use; and
3. "hard of hearing" is used when referring to people whose primary communication mode is speech.

Terms such as "deaf and dumb", "deaf-mute" and "hearing impaired" are considered offensive and discriminatory.

http://www.deafau.org.au/info/terminology.php

of the fire or alerted the neighbours to the presence of fire in the home. People who are Deaf (sic) may be eligible for a government subsidy for specific smoke alarms.[8]

- *This fire was started by smoking materials igniting a bed; fire-retardant bedding and mattress could have prevented this ignition. In addition, placing high-sided ashtrays or sealed containers, as recommended by the MFB, would have provided places to properly discard smoking materials.*

16. The CPU also supported the MFB recommendations included in the brief of evidence:[9]

    - *[That] community care clients are advised that it is mandatory for all homes in Victoria to have a working smoke alarm. In homes where community care is provided and there is no smoke alarm, the installation of a smoke alarm is organised in line with service provision. In homes where smoke alarms are installed, these are checked to ensure they are in working order.*

    - *Service providers (should) undertake to routinely test smoke alarms during the normal provision of services to ensure they are in working order.*

17. In regards to the program to subsidise appropriate smoke alarms for the Deaf, the MFB claim that the uptake of the subsidy is negatively affected by narrow eligibility criteria, and they would seek to have this expanded to include age-related hearing loss.

18. It is apparent that Mrs Svikers unfortunately died from the effects of a large fire in her home that was probably caused by her smoking a cigarette in her bed.

COMMENTS

Pursuant to section 67(3) of the **Coroners Act 2008**, I make the following comment(s) connected with the death:

1. Cigarette smoking is known to dramatically increase the risk of residential house fires. Despite the introduction in 2010 of reduced fire risk cigarettes, combustible materials can still be ignited through contact with a lit cigarette.[10] Many fire services in the United Kingdom

[8] http://www.vicdeaf.com.au/content.asp?cid=30&t=smoke-alarm-subsidy

[9] Svikers Brief of Evidence – pgs 61-62

[10] Australian Competition and Consumer Commission: Mandatory Standard for Reduced Fire Risk Cigarettes. http://www.productsafety.gov.au/content/index.phtml/itemId/974720/fromItemId/974709.

provide packs of flame retardant bedding and furniture throw-overs to residents who smoke and who have a disability which would either increase their risk of causing a fire or impede their ability to evacuate in the event of a fire.[11]

2. While it does not appear that fire services in Australia have engaged this practice, I would encourage the MFB, CFA and community care service providers to consider whether the provision of flame retardant bedding to vulnerable elderly residents may be an effective intervention to reduce the incidence or severity of residential fires.

RECOMMENDATIONS

Pursuant to section 72(2) of the **Coroners Act 2008**, I make the following recommendation(s) connected with the death:

1. That during initial needs assessment, community care providers advise community care clients that it is mandatory for all homes in Victoria to have a working smoke alarm.

2. In homes where community care is to be provided and there is no smoke alarm, the installation of a smoke alarm is organised in line with service provision. In homes where smoke alarms are installed, these are checked by the community care provider to ensure they are in working order.

3. That community care providers promote regular testing and maintaining of smoke alarms to the client, their family and/or friends or provide assistance for their clients to test and maintain smoke alarms if required.

4. In homes where the client smokes, community care providers promote the use of high-sided ashtrays or sealed containers to allow for properly discarded smoking materials.

I direct that the recommendations in relation to the provision of community care services are distributed to all community care service providers operating in Victoria by the primary funding entities of the Aged Care Branch Victorian Department of Health, the Transport Accident Commission, the Commonwealth Department for Health and Aging, and Veterans' Home Care Commonwealth Department of Veterans' Affairs.

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[11] For example: Devon and Somerset Fire and Rescue Service, Cleveland Fire Brigade, Humbershire Fire and Rescue Service.

I direct that a copy of this finding be provided to the following parties for their information only:

Mr Alvis Svikers

Detective Senior Constable Daniel Sirianni, Brighton Crime Investigation Unit, Investigating Member

Metropolitan Fire and Emergency Services Board

Nick Easy, Chief Executive Officer

Commander Frank Stockton, Manager, Community Resilience

450 Burnley Street, Richmond VIC 3121

Country Fire Authority

Mick Bourke, Chief Executive Officer

Euan Ferguson, CFA Chief Officer

8 Lakeside Drive, Burwood East, VIC 3151

I also direct that a copy of this finding be distributed to the following parties for their action:

Victorian Department of Health

Aging and Aged Care Branch, Jane Herington, Director

50 Lonsdale Street, Melbourne VIC 3000.

AccessCare Southern

Robyn Jenkins, Manager

34 Brindisi Street Mentone Vic 3194

Commonwealth Department of Health and Aging

Jane Halton PSM, Secretary

GPO Box 9848,
Canberra ACT 2601, Australia

Transport Accident Commission

Janet Dore, Chief Executive Officer

60 Brougham Street, Geelong VIC 3220

Commonwealth Department of Veterans Affairs

Veterans Home Care

Ian Campbell PSM, Secretary

GPO Box 9998, Canberra ACT 2601

John Geary, Deputy Commissioner

300 Latrobe Street, Melbourne VIC 3000

Signature:

HEATHER SPOONER
CORONER
Date: 15 November 2012