IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

COR 2019 003388

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 63(2)

*Section 67 of the **Coroners Act 2008***

Findings of:	Coroner Simon McGregor
Deceased:	Timothy Dale Fehring
Date of birth:	2 August 2003
Date of death:	28 June 2019
Cause of death:	1(a) Hypoxic-ischaemic encephalopathy complicating cardiac arrest in the setting of bronchopneumonia and gastroenteritis
Place of death:	Vienna, Austria.
Key words:	Minor, school excursion, overseas tour, international tour, Department of Education and Training, WorldStrides, hypoxia, encephalopathy, bronchopneumonia, gastroenteritis, acute gastritis, natural causes, reportable,

INTRODUCTION

1. On 28 June 2019, Timothy Dale Fehring was 15 years old when died of natural causes during an overseas school excursion. At the time of his death, Timothy lived at home in Ringwood North with his parents and sibling.

THE CORONIAL INVESTIGATION

2. Timothy's death was reported to the Coroner as it fell within the definition of a reportable death in the *Coroners Act 2008* (the Act). Reportable deaths include deaths that are unexpected, unnatural, or violent or result from accident or injury. The death of a person in care is a mandatory report to the Coroner, even if the death appears to have been from natural causes.

3. As a person of minor age on a public-school excursion, Timothy was in the care of the State at the time of his death. When a death in care is due to natural causes, section 52(3A) of the Act does not mandate an inquest. For the reasons set out below, I have been able to discharge my functions under the Act without requiring an Inquest hearing, so I have chosen not to exercise my discretion to hold one.

4. The role of a coroner is to independently investigate reportable deaths to establish, if possible, identity, medical cause of death, and surrounding circumstances. Surrounding circumstances are limited to events which are sufficiently proximate and causally related to the death. The purpose of a coronial investigation is to establish the facts, not to cast blame or determine criminal or civil liability.

5. Under the Act, coroners also have the important functions of helping to prevent deaths and promoting public health and safety and the administration of justice through the making of comments or recommendations in appropriate cases about any matter connected to the death under investigation.

6. Victoria Police assigned an officer to be the Coroner's Investigator for the investigation of Timothy's death. The Coroner's Investigator conducted inquiries on my behalf, including taking statements from witnesses – such as family, the forensic pathologist, treating clinicians and investigating officers – and submitted a coronial brief of evidence.

7. This finding draws on the totality of the coronial investigation into the death of Timothy Dale Fehring including evidence contained in the coronial brief. Whilst I have reviewed all the material, I will only refer to that which is directly relevant to my findings or necessary for narrative clarity. In the coronial jurisdiction, facts must be established on the balance of probabilities.[1]

MATTERS IN RELATION TO WHICH A FINDING MUST, IF POSSIBLE, BE MADE

Circumstances in which the death occurred

8. Tim Dale FEHRING was born on 2 August 2003 in Malvern, Victoria, to Barbara and Phillip (Dale) FEHRING. He was the youngest of two children, with his sister Emma being six years older. The family live in Ringwood North.

9. In 2017, Tim (as he is known in his family) started Year 7 at Blackburn High School. Two years later, whilst studying German in Year 9, Tim went to Europe on a school trip in June 2019 – the Blackburn High School Biennial International Cultural Tour.

10. The purpose of the tour was to develop student's leadership, independence, cooperative social interaction, and problem-solving skills. The goal was for students to become immersed in language and participate in cultural insights through guided tours, visits to museums and significant buildings, and hands-on activities.[2]

11. Preparations for the trip included getting the flu injection at his local GP clinic;[3] passport renewal and attending a Parent / Student information evening held at the school. Tim's mother, Barbara Fehring set up a WhatsApp conversation thread between her own and Tim's phones for ease of direct personal contact.

12. In accordance with Department of Education and Training (**DET**) policy[4] at the time of the planned tour, there were two staff members on the trip – Mr Vezey, one of the school's Assistant Principals, and Ms Taylor, the school's Business Manager.[5]

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[1] Subject to the principles enunciated in *Briginshaw v Briginshaw* (1938) 60 CLR 336. The effect of this and similar authorities is that coroners should not make adverse findings against, or comments about, individuals unless the evidence provides a comfortable level of satisfaction as to those matters taking into account the consequences of such findings or comments.

[2] Appendix 13, Incident Debrief, Incident Management Team, Security and Emergency Management Division, 570.

[3] Exhibit 3, Forest Hill Family Clinic, 260.

[4] Joanna Alexander statement 184 [20]; Debrief 565.

[5] Ms Taylor statement 061 [4].

13. Mr Vezey had been a qualified teacher since 1995 and had been at Blackburn High School since 2011.[6] Ms Taylor has been with the school since 1998, the majority of which have been spent in her role as Business Manager.[7]

14. In the eight years prior to this tour, Ms Taylor had organised the overseas cultural tours and was one of the staff on seven previous tours.[8] Both staff had current qualifications in First Aid including CPR[9] and had worked together on an overseas school trip in 2017.[10]

15. School planning for the tour began about 18 months prior to departure and included Risk Management[11] documents, Parental consent forms,[12] School Council[13] and Regional approval[14] and registration on the Department of Foreign Affairs and Trade's (**DFAT**) Smart-Traveller website.[15] The school engaged an external, third party provider for the tour, WorldStrides, who provide educational student travel programs for schools.[16]

16. On 12 June 2019 an information evening was held for parents and students in accordance with DET policy.[17] Various presentations were made covering all topics related to the pending travel and activities. Tim's mother Barbara was particularly cognisant of contingency plans should one of the students or staff become unwell during the trip. The parents and students were told there would be people from WorldStrides Tour Operator who would be there to assist, and that medical attention would be sought if and when required.[18]

17. On 22 June 2019 the tour participants met at Melbourne Airport about midday and assembled for group photos before boarding the Thai Airways flight to Germany via Bangkok.

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[6] Mr Vezey statement 077 [1] and [2]. Note that Mr Vezey himself was unwell following this incident, and died before the completion of this investigation, and as such could not complete his participation in the investigation, nor respond to issues raised during the investigation.
[7] Taylor 061 [1].
[8] Ibid [3] and [4].
[9] Exhibits 8 and 9, First Aid Qualifications 288 and 296.
[10] Taylor 062 [12]; Vezey 077 [2].
[11] Exhibit 10, Risk Register, 300; Taylor 061 [6]; Vezey 077 [6]; Alexander 182 [11].
[12] Exhibit 7, 281; Taylor 061 [6] and [11]; Alexander 184 [15] and [23].
[13] Exhibit 5, BHS Activity Request for Approval Form, 274.
[14] Exhibit 6, Travel Application, 276.
[15] Taylor 061 [6].
[16] Vezey 078 [7]; Alexander 181 [16]-[18]; Exhibit 12, WorldStrides PowerPoint, 313.
[17] Taylor 062 [9]; Vezey 078 [7]; Appendix 12, Pre-trip briefing, DET Excursions policy, 553.
[18] Recollections on the specific questions / responses given vary amongst witnesses but generally related to health and wellbeing concerns.

18. During the afternoon of Sunday 23 June, after the group checked into their hotel in Berlin, they went for a stroll in the local area. Ms Taylor was told that Tim had been sick in a nearby bin, which he confirmed, suggesting the spicy food on the flights had upset his stomach. Ms Taylor assessed his mood, participation, and body language as being normal.[19]

19. On Monday 24 June, the "Sickbay attendance for First Aid treatment" document records Tim as having been given two Panadol tablets at 8.00am due to "stomach cramps" after "not eating all day yesterday and today".[20] The group went on a bike ride tour of Berlin which lasted about three hours with regular stops and Tim coped fine despite the heat, not showing any signs of illness.[21]

20. During the lunch break, Tim vomited into a nearby bin. He didn't seem to indicate he was severely sick, and the consensus was that he may have been suffering the effects of jetlag, different food, the heat, and change of climate. Staff were advised shortly afterwards and became aware of Tim vomiting a second time.

21. On the walk to dinner Tim was again sick into a street bin. He had no explanation for his vomiting, although it was becoming evident that he had lost his appetite. Ms Taylor offered to help him buy his preferred food from a supermarket, however Tim declined.[22] He was encouraged to keep hydrated.[23]

22. Tim was messaging his mum, telling her that he had been sick, but he was positive he would get over it and was considering different food he could eat.[24] Ms Taylor spoke with Barbara via phone about Tim's vomiting. Mr Vezey and Ms Taylor thought Tim was feeling homesick even at this early stage of the trip.[25]

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[19] Taylor 061 [31]-[33].
[20] Exhibit 16, Sickbay and first aid attendance record, 351; The record indicates Panadol was given at 8.00am on 24 June. However, Cf Vezey 085 [45], B. Fehring 054 [45] and Annexure A, 207 (10.11pm AEST = 2.11pm CET) which seem to indicate Panadol had not been considered until the afternoon of 24 June. Taylor does not mention same in her statement or notes.
[21] Exhibit 30, 443, Photos 9 and 10.
[22] Taylor, 067 [41].
[23] Ibid [42]. Vezey 084 [39]
[24] B. Fehring 053 [39], Annexure A, 206 at 9.51pm AEST.
[25] Exhibit 23 @0m25s; Vezey 085 [50] and [51]; Taylor 067 [43].

23. Tim woke on Tuesday 25 June to be feeling very unwell. He called his parents and had a long conversation that morning while in his room.[26] He expressed feelings of wanting to go home because he was sick. His parents thought homesickness may have been part of the problem, but Tim denied this.[27]

24. Ms Taylor and Barbara spoke on the phone and exchanged text messages again, during a train trip to Munich. Barbara told Ms Taylor that advice from the family GP was to buy some Ranitidine and / or Omeprazole[28] tablets for Tim. He became distant from other students, partly because they didn't want to get sick from any bug he may be carrying, and partly because he was not as cheerful as he had been.[29]

25. Ms Taylor took Tim to a chemist where he explained how he was feeling, and they were given Buscopan[30] tablets, described by the pharmacist as equivalent to Ranitidine or Omeprazole. Tim was given two Buscopan tablets at 8.00pm[31] but didn't eat any dinner.[32]

26. On Wednesday 26 June Tim woke up early and messaged his mum asking her to get him home. He expressed dissatisfaction about how he was being treated[33] and disbelieved about his sickness. However, staff, students, and family believed that Tim was telling different stories to different people depending on whom he was talking with.[34] Although there is divergent evidence here, I am satisfied nothing causative turns on it, given his subsequent medical attendances and the ultimately shared objective of the parents and staff to assist Tim to get home.

27. Barbara and Ms Taylor then spoke and exchanged messages again, and Barbara requested Tim be taken to see a doctor. Barbara spoke with Tim and told him about her request that he go to the doctor.[35]

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[26] Beswick 098 [20]; Exhibit 21, Vodafone invoice, 370, 25 Jun 3:21:19pm AEST, 17m57s.
[27] Beswick 098 [20] and [21]; Patrick Gulliver statement 128 [15].
[28] B. Fehring, 054 [49]; Taylor, 069 [60]; Annexure B, 211 at 6.49pm AEST.
[29] Beswick 101 [53] and [55]; Phillips 106 [27], [51] and [52]; Zeniou 118 [27]; Joyce 136 [19]; Exhibit 23 @9m50s.
[30] Hyoscine butylobromide.
[31] Taylor 069 [60]; Exhibit 16, Sickbay, 351.
[32] Taylor 069 [59]; Zeniou 118 [19]; Gulliver 129 [20].
[33] Phillips 106 [28]; Cf Beswick 102 [74] and [75]; Phillips 110 [63]; Martin Strain 115 [39]; Zeniou 120 [38]; Laurie 126 [36]; Gulliver 131 [36] and [37]; Joyce 138 [28].
[34] B. Fehring 055 [66]; Annexure A, 209 - 27 June 5.21pm to 5.26pm; Annexure D, 221 – 28th June 3.03pm to 3.04pm; Taylor 061 [51]-[52], [67]; Beswick 097 [45] and [46]; Phillips 104 [28], Laurie 122 [22]; Joyce 134 [28].
[35] Annexure D, 216 at 4.05pm, 4.26pm, 8.33pm, 9.21pm AEST.

28. At 10.00am Tim was given two Buscopan tablets[36] and then the group went on a walking tour. Tim did parts of the tour but left with Ms Taylor to sit in the shade. He appeared exhausted and was visibly pale and had noticeably lost weight.[37]

29. In the afternoon, Ms Taylor took Tim and two other students to see a doctor at the Munich Children's Hospital. Tim was thoroughly examined, which included blood pressure, temperature, a check of his chest and his mouth for dehydration and other symptoms. A urine sample was also taken.[38] Medical records indicate a diagnosis of "Obstipation[39] accompanied by confirmed gastroenteritis", and he was given a suppository and a script for a suppository.[40] Translated medical notes indicate the recommended treatment as, "Ensure adequate fluid intake, Vomex[41] 1 x 150mg/d as required".[42]

30. Ms Taylor mentioned to the doctor that Tim was homesick, and the doctor confirmed that his symptoms could be connected to this.[43] Ms Taylor was diligent to ensure Tim was ok to leave the hospital, not wanting to rush the process at all.[44] This hospital visit lasted between four and six hours. Tim's parents were advised of the hospital visit via SMS.[45] At this stage, the staff believed they were dealing with homesickness and constipation, which the doctor had said would be causing the vomiting.[46]

31. With a partial diagnosis of constipation, the staff were encouraging Tim to eat fruit and continue to drink water. The doctor had said that he should be feeling better by the following afternoon.[47]

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[36] Exhibit 16, Sickbay, 351.
[37] Beswick 100 [40] and [42]; Phillips 109 [49]; Laurie 124 [25]; Gulliver 130 [27]. Cf: Exhibit 3, 266, 22 Feb 2019 - 60.8kg; Exhibit 17, 354 - 57.1kg; Exhibit 26, 396 - 52kg; Exhibit 28, 425 – 57kg.
[38] Taylor 070 [72]; Laurie 124 [20]; Phillips, 107 [35].
[39] Severe constipation.
[40] Exhibit 17, Munich Children's Hospital Notes (and Translated notes), 354; Exhibit 19, Prescription, 359.
[41] Dimenhydrinate.
[42] Ibid.
[43] Taylor 071 [74].
[44] Laurie 124 [20].
[45] B. Fehring 055 [63], Annexure B, 212 - 27 June at 4.54am AEST; Taylor 071 [76]; Taylor, Attachment, 227-8.
[46] Taylor, 071 [75].
[47] Ibid 071 [77], Vezey 087-8 [60], [61].

32. On Thursday 27 June, the group travelled to Vienna, Austria. During the trip, staff continued to encourage Tim to eat foods that would help with his constipation, such as fruit and grain bread[48] and to continue to drink water[49]. After arriving, the group went on a walking tour of the city and Tim walked around carrying a 'vomit bag' although he asked not to go at all.[50] He had not improved and was walking slowly and looked puffed out and tired.[51] He was pale and had black circles under his eyes.[52] Tim had told the staff that he wanted to go to hospital, but staff considered that he was trying to avoid doing the planned activities such as the afternoon's walking tour.[53] Mr Vezey called and spoke with Barbara about the situation.[54]

33. At dinner, Tim didn't eat and remained at the table with Mr Vezey while Ms Taylor and the other students left the restaurant to explore the town. They stayed at the table for 90 minutes after which Tim vomited all that he had eaten.[55]

34. Late that evening (Vienna time) the staff contacted Tim's parents to discuss his condition and what had occurred during the day. Tim was present for these calls. The decision was then jointly made for Tim to return home to Melbourne.[56] Staff also advised the school's Principal, Ms Joanna Alexander.[57]

35. Arrangements were made for Tim to return home, including a signed authority from his parents to travel as an unaccompanied minor, a flight was booked for 3pm Saturday 29 June, insurance considerations via QBE and assistance via the tour company WorldStrides. Barbara advised staff that a doctor's certificate was required to say he was capable to fly home.[58]

36. On Friday 28 June, Barbara spoke with Tim about going to the doctor to get a certificate so he could fly home, and she encouraged him to follow staff instructions and present well to the doctor so that a certificate would be granted.[59] Tim was then taken to a doctor's clinic.

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[48] Ibid 071 [77], [79]; Vezey 088 [61], [62].
[49] Taylor 071 [79]; Joyce, 138 [32].
[50] Taylor 072 [80]; Vezey 088 [64]; Strain 114 [26]; Zeniou, 119 [29]; Laurie 124 [26]; Gulliver, 130 [26]; Exhibit 23 @3m45s.
[51] Strain 112 [26].
[52] Ibid [25]; Joyce 139 [36]; Exhibit 30, Photo 15, 451.
[53] Taylor 072 [80]-[81]; Vezey 088 [64]; Exhibit 23 @4m45s.
[54] Taylor 072 [82]; Vezey 089 [64].
[55] B. Fehring 056 [73]; Vezey 089 [67]; Joyce 139 [34].
[56] B. Fehring 056 [72]; Taylor 072 [83]; Vezey 090 [69]; Exhibit 23 @8m10s, @10m20s.
[57] Alexander 185 [28]; Exhibit 22, Taylor phone log, 28/06/19 @8.20am AEST, 384.
[58] B. Fehring 056 [78] and [79]; Taylor 072 [86]; Vezey 090 [74]; Appendix 8, Terry Bennett, 496 [18].
[59] B. Fehring 056 [79]; Beswick 101 [59]; Annexure D, 221 at 3.07pm; Exhibit 21, Vodaphone – 28 June, 3:46:17pm AEST 370.

37. Upon arrival at the doctor's surgery, he appeared to become anxious and didn't want to go in.[60] Tim, Ms Taylor and Mr Vezey all spoke with Barbara, and all tried to reassure and encourage Tim to see the doctor so he could return home. Staff were concerned about Tim's mental wellbeing, and his ability to travel home unaccompanied.[61]

38. At my request the interested parties made submissions about whether Tim was 'coached' about his presentation for this medical appointment.

39. The standard of proof for coronial findings of fact is the civil standard of proof on the balance of probabilities, with the *Briginshaw* gloss or explications.[62] Adverse findings or comments against individuals in their professional capacity, or against institutions, are not to be made with the benefit of hindsight but only on the basis of what was known or should reasonably have been known or done at the time, and only where the evidence supports a finding that they departed materially from the standards of their profession and, in so doing, caused or contributed to the death under investigation.

40. Having had the benefit of those submissions, I am not satisfied to the *Briginshaw* standard that any coaching occurred but have been able to find as follows.

41. Mr Vezey asked Dr Schrems for medication that Tim could be given to manage his anxiety, due to homesickness, to enable him to travel home. Mr Vezey did not ask the doctor to make any physical examination of Tim,[63] although Mr Vezey explained and provided documents relating to Tim's visit to the Munich Children's Hospital two days prior.[64] A fit-to-fly certificate was also requested.[65] Dr Schrems spoke with Tim and noted he appeared tired and pale faced, although "did not appear truly sick". No tests were performed[66] and a prescription for Lorazepam 1mg, ½ tablet was provided.[67]

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[60] B. Fehring 056-7 [80] – [82]; Taylor 073 [95]; Vezey 091 [75].
[61] Taylor 074 [99]; Vezey 091 [77]; Exhibit 23 @13m35s.
[62] *Briginshaw v Briginshaw* (1938) 60 CLR 336 at 362-363: 'The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding, are considerations which must affect the answer to the question whether the issues had been proved to the reasonable satisfaction of the tribunal. In such matters "reasonable satisfaction" should not be produced by inexact proofs, indefinite testimony, or indirect inferences…'.
[63] Vezey 092 [79]-[82]; Dr Schrems statement 142 [4]; Beate Schrems statement 146 [2]; Phillip Fehring statement 157 [85]; Slatyer 172 [78] and 175 [107]; Barbara Crowe statement 191 [16].
[64] Vezey 092 [79]; Dr Schrems 142 [4], [5]; B. Schrems 146 [2].
[65] Dr Schrems 142 [4]; B. Schrems 146 [2]; Beswick 097 [59]; Exhibit 23 @11m35s.
[66] Vezey 092 [82]; Dr Schrems 142 [5]; P. Fehring 157 [85]; Slatyer 172 [86].
[67] Vezey 093 [85]; Dr Schrems 142 [8]; Exhibit 26, Univ.-Prof Daniele Risser, 396.

42. While Mr Vezey sorted the bill and paperwork, Tim said it was hot and stuffy and he went outside into the hallway area to wait while Mr Vezey completed payment.[68]

43. When Mr Vezey left the clinic, he found Tim sitting on the floor; vomit on his clothing and blood coming from his nose.[69] Initially Mr Vezey thought Tim was sleeping because he didn't rouse when Mr Vezey shook him, and due to his lack of sleep during the trip.

44. Mr Vezey immediately but unsuccessfully tried to summon help from the doctor's clinic by banging on the door, and when that failed, at 11.08am he tried to call[70] but was only able to text Ms Taylor at 11.10am that he wanted to talk to her.[71] A series of texts between the two then occurred whereby Mr Vezey sought medical help. The relevant portions of the texts are as follows:[72]

- 11.10am, Mr Vezey, "Please call me."
- 11.15am, Ms Taylor, "I can't get through to you."
- 11.16am, Mr Vezey, "Are you outside the entrance? Tim is extremely unwell… I am on the first floor outside the doctors. I cannot wake him."
- 11.17am, Ms Taylor, "Do you want an ambulance? ..."
- 11.18am, Mr Vezey, "Yes."
- 11.18am, Ms Taylor, "Geoff do you?"
- 11.19am, Mr Vezey, "I need medical people. He has vomited all over himself. Blood is coming out of his nose and I cannot wake him. He is in a trance."
- 11.25am, Mr Vezey, "The doctor is helping me now."
- 11.27am, Ms Taylor, "Ambulance is coming."

45. Sometime shortly after his usual 10.30 am closing time on a Friday, Dr Schrems had come across Tim in the hallway with Mr Vezey nearby indicating that Tim was sick.[73] Dr Schrems immediately began heart massage having already recognised the seriousness of the situation.[74] A defibrillator was brought out from the clinic and attached to Tim's chest, however the device indicated asystole[75] and did not give a shock. Cardiopulmonary resuscitation (**CPR**) was commenced and continued for about 5-7 minutes when ambulance staff arrived.[76]

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[68] B. Schrems 146 [5]; Vezey 077 [85]; Exhibit 23 @16m30s.
[69] Vezey 077 [88]; Exhibit 23 @17m15s; Dr Schrems 142 [11].
[70] Vezey 093 [87] and [88].
[71] Ibid; Taylor 074 [102]; Exhibit 22, Phone log, 383.
[72] See Vezey 093 [88] for the full sequence.
[73] B. Schrems 146 [8]; P. Fehring 157 [81], [86] and [92]; Slatyer 171 [76], [80], [87] and [107]; Crowe 192 [16d]; Cf: Vezey 094 [89]. Dr Schrems has no explanation for why neither he nor his assistant heard Mr Vezey's door knocks, but it is conceivable that they were momentarily engaged elsewhere with their office lock up routines. With the subsequent death of Mr Vezey, this aspect of the investigation cannot now be taken any further.
[74] Dr Schrems 142 [10]; B. Schrems 146 [10].
[75] Ibid [11].
[76] Ibid.

46. Tim was initially conveyed on a stretcher by road to an air ambulance, with CPR efforts continuing, where he was transferred to Vienna Centre for Social Medicine, Paediatric Intensive Care Unit (**PICU**).[77]

47. Mr Vezey called Ms Alexander to advise her of Tim's collapse and subsequent transfer to hospital.[78] Ms Alexander then called Tim's parents and told them that Tim had been taken to hospital in Vienna.[79]

48. On arrival at the hospital helipad, Dr Wagner, the treating PICU physician noted among other things, that Tim's pupils were at "maximal dilation", indicative of a lack of oxygen leading to brain injury.[80]

49. Dr Wagner attempted to regain a heartbeat and a computed tomography (**CT**) scan was performed which indicated severe swelling of the brain.[81] Despite the intensive care measures to obtain a consistent heartbeat, Tim passed away at 1.22pm Friday, 28 June 2019.[82]

50. Hospital staff called Mr Vezey and Ms Taylor and advised them of Tim's death.[83] Mr Vezey then called Ms Alexander with this news, who in turn told Tim's father, Dale.[84] At the time, Barbara was in the air flying back to Melbourne. She was met at the airport by close friends who gave her the news.[85]

51. An autopsy was conducted at the Centre for Forensic Medicine, Medical University of Vienna by Univ.-Prof. Dr. med. univ. Daniele U. Risser. Dr Risser summarised his findings as showing no evidence of a morphological visible natural cause of death or of a poisoning. On the other hand, copious bacteria and fungi were found in the lungs and in the blood, a constellation of findings that suggests a highly acute course of an infection which may have led in the end to a fatal cardiovascular failure.[86]

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[77] Exhibit 26, Risser, 396.
[78] Alexander 186 [30].
[79] Ibid [30] and [31]; B. Fehring 057 [85]; P. Fehring 154 [49]; Exhibit 21, Vodafone, 366.
[80] P. Fehring 155 [63]; Slatyer 167 [46] and [47].
[81] Slatyer 168 [52].
[82] Exhibit 26, Risser, 396.
[83] Exhibit 25 @0.50s, approx. 2.10pm.
[84] P. Fehring 155 [51]; Alexander 186 [32].
[85] B. Fehring 057 [86]-[88]; P. Fehring 155 [51] and [52]; Exhibit 21, Vodafone, 371, at 10:50:28pm from P. Fehring.
[86] Exhibit 26, Risser, 400.

52. Tim's body was repatriated to Victoria, and on 22 July 2019 a second autopsy was performed by Dr Heinrich Bouwer a specialist forensic pathologist at the Victorian Institute of Forensic Medicine.[87]

53. Dr Bouwer's autopsy revealed acute bilateral bronchopneumonia with stomach contents in small airways suggestive of aspiration as (the) underlying cause together with acute gastritis. In addition to information gleaned from Prof Risser's Expert Opinion, and concurring with that opinion, Dr Bouwer found that it is possible that a lethal cardiac arrhythmia (so called heart attack) was unmasked by the diarrhoeal illness with associated electrolyte imbalance with added strain on the cardiovascular system.

54. Dr Bouwer formulated a cause of death as *Hypoxic-ischaemic encephalopathy complicating cardiac arrest in the setting of bronchopneumonia and gastroenteritis*.[88] He is of the opinion that Tim's death is due to natural causes,[89] and I accept that opinion.

55. Tim's death is a *reportable death* as defined in the Act. The court's jurisdiction is invoked due to Tim ordinarily residing in Victoria at the time of his death, and subject to the second of the two-part definition, his death was unexpected.

56. Given the obvious vulnerability of people in the care of the state coroner I commissioned a further layer of expert review to assist me to decide whether this matter needed to go to Inquest or could be closed at the investigation phase with occasioning the intensive resource demands and stresses of that process.

57. The review of the case was conducted by Paediatric Registrar Bernie Cranswick and Emergency Department consultant Dr George Douros, both of the Coroner's Court Health Management Investigation Team (**HMIT**) within the Coroners Prevention Unit (**CPU**).[90] The review indicated that,

[87] Exhibit 28, Dr Heinrich Bouwer, Forensic Pathologist, Victorian Institute of Forensic Medicine, Medical Examiner's Report, 418.
[88] Exhibit 28, Bouwer 424, Cause of Death.
[89] Exhibit 28, Bouwer 425, Comments [7].
[90] The CPU was established in 2008 to strengthen the prevention role of the coroner. The unit assists the Coroner with research in matters related to public health and safety and in relation to the formulation of prevention recommendations. The CPU also reviews medical care and treatment in cases referred by the coroner. The CPU is comprised of health professionals with training in a range of areas including medicine, nursing, public health and mental health.

> This incredibly tragic case appears to be an unfortunate cumulation of multiple events – a slow deterioration with periods of Timothy appearing well, an element of homesickness, medical care in multiple non-English speaking countries, and then a sudden acute deterioration in an unfortunate location. CPU cannot identify a particular error in the medical care, and while the GP involved would have ideally done a more thorough investigation and determined that Timothy was unwell, the apparent description of why Timothy had come in to see him means that CPU cannot prescriptively say that he should have done more clinically. It is also unlikely that he could have escalated Timothy's care in time to prevent an arrest.

58. After receiving the benefit of two autopsies and an expert medical case review, together with a comprehensive brief of evidence I have concluded that I can discharge my statutory tasks without requiring an Inquest.

IDENTITY OF THE DECEASED

59. On 18 July 2019, Timothy Dale Fehring, born 2 August 2003, was visually identified by his father, Phillip Fehring.

60. Identity is not in dispute and requires no further investigation.

FINDINGS

61. The standard of proof for coronial findings of fact is the civil standard of proof on the balance of probabilities, with the *Briginshaw* gloss or explications.[91] Adverse findings or comments against individuals in their professional capacity, or against institutions, are not to be made with the benefit of hindsight but only on the basis of what was known or should reasonably have been known or done at the time, and only where the evidence supports a finding that they departed materially from the standards of their profession and, in so doing, caused or contributed to the death under investigation.

62. Pursuant to section 67(1) of the *Coroners Act 2008* I make the following findings:

    a) the identity of the deceased was Timothy Dale Fehring, born 02 August 2003;

[91] *Briginshaw v Briginshaw* (1938) 60 CLR 336 at 362-363: 'The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding, are considerations which must affect the answer to the question whether the issues had been proved to the reasonable satisfaction of the tribunal. In such matters "reasonable satisfaction" should not be produced by inexact proofs, indefinite testimony, or indirect inferences…'.

b) the death occurred on 28 June 2019 at Vienna, Austria, from *hypoxic-ischaemic encephalopathy complicating cardiac arrest in the setting of bronchopneumonia and gastroenteritis*; and

c) the death occurred in the circumstances described above.

63. Having considered all of the circumstances, I am satisfied that his death was the result of the acute and unexpected confluence of distinct medical conditions.

COMMENTS & RECOMMENDATIONS

Pursuant to section 67(3) and section 72(2) of the Act of the Act, I make the following comments and recommendations connected with the death.

A. **Comment:** With the benefit of hindsight, staff made the wrong judgement call that Tim's complaints were not sufficiently serious to justify him being excused from the afternoon walking tour on Thursday, 27 June, but that it cannot be established to the *Briginshaw* standard of proof that this amounted to any prevention opportunity, given their compliance at all times with the medical advice they received.

B. **Recommendation:** The Department of Education and Training increase the staff to student ratios on international trips, so the chaperones have more flexibility in accommodating student or staff illness whilst managing the remaining students.

C. **Comment:** Despite the fact that the staff had been in consultation with the parents and were acting in accordance with the parents' wishes about their son returning home, they should nevertheless have neutrally sought, and then followed, medical advice about Tim's wellbeing, rather than restricting the medical advice sought to that of management of travel anxiety.

D. **Recommendation:** The Department of Education and Training revisit the DET Excursions Policy considering these Findings.

E. **Comment:** Dr Schrems should have conducted a physical examination, including taking of blood pressure or use of a stethoscope, for a first-time patient prior to writing a script for anxiety medication.

I convey my sincere condolences to Timothy's family for their loss.

Pursuant to section 73(1B) of the Act, I order that this finding be published on the Coroners Court of Victoria website in accordance with the rules.

I direct that a copy of this finding be provided to the following:

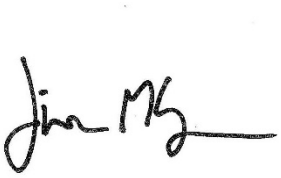
Ms Barbara & Mr Phillip Fehring, Senior Next of Kin

Erica Capuzza, Department of Education

Johanna Walker, Senior Next of Kin for Geoffrey Vezey

Sgt Darren Cathie, Coroner's Investigator

Signature:



CORONER SIMON McGREGOR

CORONER

Date: 12 July 2022

NOTE: Under section 83 of the ***Coroners Act 2008*** ('the Act'), a person with sufficient interest in an investigation may appeal to the Trial Division of the Supreme Court against the findings of a coroner in respect of a death after an investigation. An appeal must be made within 6 months after the day on which the determination is made, unless the Supreme Court grants leave to appeal out of time under section 86 of the Act.