



Western

Australia

RECORD OF INVESTIGATION INTO DEATH

Ref: 4/16

*I, Sarah Helen Linton, Coroner, having investigated the death of **TPL (A Child)** with an inquest held at the **Perth Coroner's Court, Court 51, CLC Building, 501 Hay Street, Perth** on **2 February 2016** find that the identity of the deceased person was **TPL** and that death occurred on **11 January 2013** at **Princess Margaret Hospital** as a result of **bronchopneumonia and hypoxic brain injury following immersion (near drowning)** in the following circumstances:*

Counsel Appearing:

Sgt L Housiaux assisting the Coroner.

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SUPPRESSION ORDER

The name of the deceased and any identifying information are suppressed from publication. The deceased is to be referred to as TPL (a child).

INTRODUCTION

1. On 8 January 2013 TPL was a healthy six month old infant. That morning he was involved in a near drowning incident in a shower at his family home. Although he was resuscitated and given optimal medical care, he had sustained an unsurvivable hypoxic brain injury and he died three days later.
2. A subsequent police investigation indicated that TPL's death was preventable and public awareness of the circumstances of his death might prevent another such death occurring. Accordingly, the Acting State Coroner directed that a public inquest should be held into the death.¹
3. I held an inquest at the Perth Coroner's Court on 2 February 2016.
4. The documentary evidence included a comprehensive report of the investigation into the death prepared by the Western Australia Police.² Oral evidence was also heard from two witnesses.
5. The inquest focused primarily on the use of the baby "Bumbo" chair in the shower while unsupervised, which set of the chain of events that led to TPL's (the deceased's) death.

THE DECEASED

6. The deceased was born in Perth on 6 July 2012. He was the first child of both his parents.³
7. The pregnancy had been uncomplicated and the deceased was born at full term via vaginal delivery without assistance. He was healthy and a normal weight at birth. A routine neonatal examination was performed on 7 July 2012 and the results were normal. The deceased and his mother were discharged home from hospital a few days after the birth.⁴
8. The deceased adapted to a routine fairly quickly. He was formula fed from birth and slept in a cot in his own room from three weeks of age. He developed well and reached his childhood milestones as expected.⁵

¹ Section 22(1)(e) *Coroners Act 1996* (WA).

² Exhibit 1.

³ Exhibit 1, Tab 6 [6].

⁴ Exhibit 1, Tab 6 [11] – [12] and Tab 9.

⁵ Exhibit 1, Tab 6 [13] – [15].

9. The deceased developed a flat head due to favouring one side during his sleep, which led to monthly visits to a physiotherapist at Joondalup Health Campus to learn exercises to help strengthen his neck/head and to encourage his rolling and movement through ‘tummy time’.⁶
10. By six months of age the deceased was not able to sit up unassisted. He was able to roll unaided from his front to back and from his back to front, but wasn’t able to crawl.⁷ He was generally well other than some irritated gums due to teething⁸.
11. As is typical during a Perth summer, from late December 2012 to early January 2013 the weather was extremely hot. The deceased had been unsettled in the hot weather and his parents had been up late most nights trying to settle him to sleep. They had even resorted to taking the deceased out in the car late at night in an effort to get him to sleep.⁹
12. The late nights and disrupted sleep began to take its toll on the deceased’s mother. As can happen with many new mothers, she became exhausted and run down and generally felt unwell.¹⁰
13. To help the young mother and give her an opportunity to catch up on some sleep, it was arranged that the deceased’s paternal grandmother would take the deceased for a sleepover. The plan was for the deceased’s grandmother to collect the deceased, or the deceased to be delivered to his grandmother’s, at approximately 9.00 am on Tuesday, 8 January 2013.¹¹

SHOWERING WITH THE BABY ‘BUMBO’ SEAT

14. According to the deceased’s mother, the usual daily routine was for the deceased to shower with his mother in the morning and in the evening he would have a bath with his father.¹² The deceased enjoyed his shower and bath time with his parents.¹³
15. When showering with his mother the deceased would sit in his ‘Bumbo’ seat in the corner of the shower recess and play with a teething ring while his mother showered next to him.¹⁴

⁶ Exhibit 1, Tab 6 [15] – [16].

⁷ Exhibit 1, Tab 6 [17] – [18].

⁸ Exhibit 1, Tab 6 [74] – [75].

⁹ Exhibit 1, Tab 6 [19] – [20].

¹⁰ Exhibit 1, Tab 6 [21].

¹¹ Exhibit 1, Tab 6 [22] – [23].

¹² Exhibit 1, Tab 6 [29].

¹³ Exhibit 1, Tab 6 [32].

¹⁴ Exhibit 1, Tab 6 [30] – [31].

16. The deceased's parents had purchased the Bumbo seat new from a retail store.¹⁵ The deceased had begun using it from approximately four months of age, usually in the living room when watching television and when showering in the morning.¹⁶
17. The Bumbo seat is manufactured by Bumbo International, a South African company. The seat is designed to support babies to sit upright unassisted and is marketed as suitable for babies as soon as they can support their heads unaided. It is constructed of a single piece of moulded foam and the underneath of the seat is hollow.¹⁷ The seat is considered to be safe for its intended use, provided it is used only on the floor and with adult supervision.¹⁸
18. The Bumbo seat instructions for safe use in the manual include a warning to never use the Bumbo seat in or near water to avoid drowning.¹⁹
19. The seat purchased by the deceased's parents had a warning sign printed on the rear of the seat. The warning sign read:

WARNING
NEVER USE ON A RAISED SURFACE
NEVER USE AS A CAR SEAT OR BATH SEAT
DESIGNED FOR FLOOR LEVEL USE ONLY
NEVER LEAVE YOUR BABY UNATTENDED
AS THE SEAT IS NOT DESIGNED TO BE
TOTALLY RESTRICTIVE AND MAY NOT
PREVENT RELEASE OF YOUR BABY IN THE
EVENT OF VIGOROUS MOVEMENT.²⁰

20. Despite the instructions against use in water and the presence of the warning sign, the deceased's mother states that she was unaware that the Bumbo seat was not designed for use in water. To the contrary, because of the colour, the rubbery material it was made from and the fact it was easy to dry, she thought it was specifically designed for use in water. She also thought that the stability and support that the Bumbo provided for the baby was intended to assist with showering and bathing.²¹

¹⁵ Exhibit 1, Tab 6 [76].

¹⁶ Exhibit 1, Tab 6 [78].

¹⁷ Exhibit 1, Tab 2, p.5; Exhibit 2.1.

¹⁸ Exhibit 2.1.

¹⁹ Exhibit 1, Tab 19.

²⁰ Exhibit 1, Tab 2, p.5 and Tab 15, Photo 10.

²¹ Exhibit 1, Tab 6 [78] – [79].

EVENTS ON 8 JANUARY 2013

21. At approximately 4.00 am on 8 January 2013 the deceased woke for his feed. His mother gave him a bottle of formula. He drank all of the formula and was then returned to his cot where he went back to sleep.²²
22. At approximately 6.00 am the deceased woke again. He was still hungry so his mother gave him a further half bottle of milk. At this time he seemed fine and was his normal, happy self. The deceased's father usually left for work around this time, so the deceased and his mother were at home alone from approximately 6.00 am.²³
23. The deceased's mother then began to gather some things together to pack the deceased's overnight bag for his planned sleepover. While doing so she decided to take the deceased into the bathroom for his daily shower.²⁴
24. The deceased's mother decided not to follow the usual shower routine that morning. She was still feeling generally exhausted and was also experiencing severe stomach cramps that morning. As a result, she decided not to have a shower with the deceased.²⁵ The deceased's mother's plan was to get the deceased showered and dressed so he would be ready to go to his grandmother's house.
25. The deceased's mother took the deceased into the bathroom and removed his nappy. She then sat him in the Bumbo chair, which was in the usual position within the shower recess. After placing the deceased in the Bumbo chair she turned the shower on and tested the temperature. Once she was satisfied with the water temperature the deceased's mother tilted the shower head up slightly so that the water would spray down slightly on the deceased's legs. The flow of water was going fast enough to catch the deceased's legs but not to reach his head or upper body.²⁶
26. The deceased's mother handed the deceased his yellow duck teeth ring, which was a toy he was able to grip properly. She then left the deceased alone in the shower, with the shower door slightly open. The deceased's mother then left bathroom and went into the toilet, which is next door to the bathroom. She could not see into the bathroom or see the deceased from the toilet.

²² Exhibit 1, Tab 6 [25].

²³ Exhibit 1, Tab 21 [5].

²⁴ Exhibit 1, Tab 6 [27] – [28].

²⁵ Exhibit 1, Tab 6 [33].

²⁶ Exhibit 1, Tab 6 [35] [37].

27. It seems the deceased's mother may have originally told family members that she was only away from the deceased for a couple of minutes time.²⁷ However, in her statement to police the deceased's mother estimates she was in the toilet for approximately 5 minutes. She could hear the shower running while she was in there but could not hear the deceased making any sounds nor any sounds that would cause her concern.²⁸
28. When the deceased's mother left the toilet she saw the deceased's favourite cuddly toy on the floor of his bedroom so she went into his bedroom and picked up the toy so that she could pack it. She took the toy into the living room and placed it in the deceased's overnight bag.²⁹ While in the living room the deceased's mother also found a few other items that she packed in the bag. She estimates she was in the living room for approximately 2 minutes.
29. After finishing packing the deceased's bag the deceased's mother walked back into the bathroom. In total, allowing approximately 5 minutes for the time spent in the toilet and 2 minutes in the living room, plus a short amount of time spent in the bedroom, the deceased had been alone in the shower for at least 7 minutes by that time, possibly more.
30. As the deceased's mother entered the bathroom she noticed that her feet became wet and she observed that the bathroom mat and towel that were on the bathroom floor in front of the shower were soaking wet. She then looked into the shower and was horrified to see the deceased floating face down, submerged in a quantity of water. The deceased's head was near the centre of the shower and his lower body was pointing towards the wall where the shower head is fixed.³⁰
31. The Bumbo seat was no longer in its original place but was now submerged in water and was positioned over the top of the shower plughole. The Bumbo seat appeared to be suctioned on to the drain hole. Because the shower drain was effectively plugged by the Bumbo seat, the water level in the shower recess had risen right to the top of the shower and was spilling out over onto the bathroom floor.³¹ The tiled hob of the shower measures 20 cm in height, so the deceased was in approximately 20 cm of water at that time.³²

²⁷ Exhibit 1, Tab 21 [39].

²⁸ Exhibit 1, Tab 6 [42] – [43].

²⁹ Exhibit 1, Tab 6 [46].

³⁰ Exhibit 1, Tab 6 [50] – [52].

³¹ Exhibit 1, Tab 6 [53] – [56].

³² T 17.

32. The deceased's mother immediately pulled the deceased from the water. She noted he was warm to the touch but he was unresponsive and his head felt heavy. She ran with the deceased straight to her neighbour's house to seek help as she didn't know how to perform CPR and was in a state of panic. The deceased's mother knocked hard on the neighbour's door and waited for the neighbour to answer. The neighbour didn't answer the door immediately but when she did she immediately took the deceased from his mother and commenced performing CPR while she told the deceased's mother to call an ambulance. The deceased's mother ran home, found her mobile phone and called to request an ambulance.³³
33. The emergency services operator gave the deceased's mother some instruction on how to do CPR so she returned to her neighbour and assisted her in performing CPR on the deceased while they waited for an ambulance to arrive. The deceased made no response to the CPR and remained blue in colour.³⁴
34. The ambulance officers arrived at the scene at 7.34 am. On arrival they noted that the deceased's airways were soiled and full of fluids, he was not breathing, he showed no sign of cardiac activity and his pupils were fixed and dilated. They suctioned his airways and took over resuscitation efforts while they transported him urgently to hospital. They rushed the deceased to Joondalup Health Campus and handed his care over to doctors at 7.44 am.³⁵
35. On arrival at the hospital the deceased still showed no cardiac rhythm although pulseless electrical activity was detected shortly afterwards. Advanced Cardiopulmonary resuscitation was continued by emergency doctors and by 7.58 am a return of perfusing cardiac rhythm was noted and he had a pulse rate of 133 beats per minute. The deceased was then placed on a ventilator. Arrangements were then made to transfer the deceased to the paediatric intensive care unit at Princess Margaret Hospital.³⁶
36. At the time of transfer the clinical picture suggested that the deceased had sustained a severe hypoxic (lack of oxygen) and/or ischaemic (inadequate tissue perfusion/blood flow) injury to his brain and that the prognosis was likely to be poor and most likely not survivable.³⁷

³³ Exhibit 1, Tab 6 [57] – [63].

³⁴ Exhibit 1, Tab 6 [64] – [66].

³⁵ Exhibit 1, Tab 8.

³⁶ Exhibit 1, Tab 9.

³⁷ Exhibit 1, Tab 9.

37. The deceased's prognosis did not improve once at PMH. On 9 January 2013 he developed some seizures and following further review a family meeting was held with the consultant to explain that he had suffered a catastrophic neurological event. In the afternoon of 10 January 2013 the deceased was extubated and given morphine for pain relief. He died in the company of his parents on the morning of Friday, 11 January 2013.³⁸

CAUSE OF DEATH

38. On 14 January 2013 the Chief Forensic Pathologist, Dr C T Cooke, conducted a post mortem examination of the deceased. At the conclusion of all investigations Dr Cooke formed the opinion that the cause of death was bronchopneumonia and hypoxic brain injury following immersion (near-drowning).³⁹
39. I accept and adopt the conclusion of Dr Cooke as to the cause of death.

MANNER OF DEATH

40. Given the circumstances of the death, involving the sudden death of a young child, police were informed and an investigation was undertaken by officers from Major Crime Squad and the Coronial Investigation Unit (CIU), assisted by officers from the Police Forensic Division.⁴⁰
41. As part of the investigation, forensic investigation Officers attended the deceased's house and conducted a water flow test, using the deceased's Bumbo seat to simulate events. The seat was placed over the drain hole of the shower. It was observed that when the Bumbo seat was placed over the drain hole of the shower, an immediate suction was noted, pulling the Bumbo seat down to form a plug.⁴¹ Once the Bumbo seat blocked the drain hole, it took seven minutes and thirty seconds for the shower recess to fill and flow over the hob (with the water on full flow).⁴² The results of the forensic testing largely supported the deceased's mother's version of events, assuming that the seat moved fairly quickly to cover the drain hole and/or the deceased's mother was gone for slightly longer than she estimates.

³⁸ Exhibit 1, Tab 10.

³⁹ Exhibit 1, Tab 17.

⁴⁰ Exhibit 1, Tab 2.

⁴¹ T 18.

⁴² T 15; Exhibit 1, Tab 2.

42. It is noted that some family members went to the deceased's home on the day he was taken to hospital and they found the Bumbo seat still in the shower and the bathroom floor and carpet outside the bathroom were noticeably wet.⁴³ Senior Constable Lamb, one of the forensic investigation officers, explained at the inquest that they did not continue their testing to the extent of allowing the water to pool on the floor itself, out of consideration to the homeowners, but the water was certainly overflowing and running onto the bathroom floor after seven minutes and thirty seconds.⁴⁴
43. After conducting a preliminary examination of the deceased and the deceased's residence where the drowning occurred, the officers were satisfied that there was no evidence of criminality or any suspicious circumstances surrounding his death. The remainder of the police investigation was completed by Senior Constable Long from the CIU.
44. I acknowledge that the police officers did not attend the deceased's house to examine it on the day he was found in the water, so their assessment of the level of cleanliness of the house is not necessarily accurate as to how it was on the day of the event.⁴⁵ The deceased's paternal grandmother has indicated that she spent some time cleaning the house, so that the deceased's parents could come home to a tidy and ordered home.⁴⁶ It does seem from her account that the house was somewhat untidy, which is not surprising given the deceased's mother's account of her struggle with sleeplessness and general level of exhaustion at that time. There is no evidence, however, to suggest that the house was not safely inhabitable or that there were any safety concerns for the deceased prior to the events of this morning.
45. Senior Constable Long was unable to ascertain in her investigation whether the deceased was still seated in the Bumbo seat when it slid over the drain hole of the shower or if he had come out of the seat, thereby enabling the seat to move freely. It is relevant to note, in that regard, that since the death of the deceased the Bumbo seat has been the subject of an international voluntary recall by the manufacturer due to repeated incidents where infants have fallen out of the seat and been injured.⁴⁷ The problem apparently arises as babies are too easily able to wiggle out of the seats. The problem is exacerbated when the seat is used (contrary to instructions) on a raised surface, so that the child has further to fall. To solve the problem

⁴³ Exhibit 1, Tab 21 [20] – [23].

⁴⁴ T 15 – 16.

⁴⁵ T 18.

⁴⁶ Exhibit 1, Tab 21.

⁴⁷ Exhibit 2.1.

the manufacturer now fits a restraint belt to new models of the Bumbo seat, as well as providing a retro-fit free restraint belt to owners of earlier models, such as that purchased by the deceased's parents.⁴⁸

46. Given the known problem with infants managing to manoeuvre themselves out of the seats when unrestrained, it seems likely that this is what the deceased managed to do in the time he was left unsupervised. This would have then allowed the seat to move more freely, and float or slide the short distance from where the deceased's mother positioned it to cover the drain hole.⁴⁹
47. As noted by Senior Constable Long, if the rules indicated by the manufacturer for use of the Bumbo seat had been properly adhered to (namely not using it in water and/or not leaving a child in the seat unsupervised) the deceased's death could have been prevented.⁵⁰ However, the deceased's mother was a young, first-time mother who overlooked the manufacturer instructions and made false assumptions about the safety of the deceased in the seat in what is, for a young child, an inherently unsafe environment.
48. There is no suggestion that the deceased's mother deliberately put the deceased in harm's way. She simply made errors of judgment, when she was exhausted and unwell, that tragically had fatal consequences for her only child. It is clear from her statement that she deeply regrets her decision to leave him unsupervised for that period of time and was, and will forever remain, devastated by his death.
49. Based upon the evidence before me, I find that the manner of death was as a result of accident.

SAFETY ISSUES

50. This case is a sad example of the dangers of leaving young children unsupervised near water. Kidsafe WA notes that drowning is the leading cause of unintentional death in children under five years of age.⁵¹ The Kidsafe WA information sheet on "Drowning Prevention in the Bathroom" notes that child drowning is silent, sudden and very quick; it only takes a few seconds and as little as five centimetres of water for a child to drown.⁵²

⁴⁸ Exhibit 2.1.

⁴⁹ Exhibit 1, Tab 15, Photo 7.

⁵⁰ Exhibit 1, Tab 2, p.8.

⁵¹ T 4; www.kidsafewa.com.au.

⁵² www.kidsafewa.com.au – "Drowning Prevention in the Bathroom."

51. The Royal Lifesaving Society's national reports indicate that for the last three years children aged less than five years have accounted for a significant percentage of all drowning deaths in Australia. In 2013, 31 children (11%) aged between birth and four years old drowned. This figure fell to 20 children (8%) in 2014 but increased again to 26 children (10%) in 2015.⁵³ While swimming pools account for the majority of these drowning deaths, a number occur while children are bathing every year.⁵⁴
52. In the reports there are a number of 'keep watch' actions recommended for preventing child drowning and one of the key strategies recommended by the Royal Lifesaving Society is 'Active Supervision'. This is because in the reported cases of drowning in children under five, supervision was almost invariably either intermittent or lacking altogether. Active Supervision, means active adult supervision where a child is constantly watched by an adult, focusing all of their attention on the child, and the adult is within arms' reach of the child at all times.⁵⁵ The key elements of Active supervision are summarised as:

Be prepared, Be Within Arms' Reach, All of your Attention
and All of the Time.⁵⁶

53. Kidsafe WA reiterates this advice in relation to water safety in the bathroom, and includes the recommendation "[i]f you have to leave the bathroom, even for a second, take the child with you."⁵⁷
54. It scarcely needs stating that if the deceased's mother had followed this advice, it is almost certain that the deceased would be alive today. She bears a heavy burden for her inattention for those crucial minutes and I do not wish to add to that burden with my comments. However, it is important for other parents to understand how important it is to constantly supervise young children around water so that more tragic deaths, such as this one, are prevented.

CONCLUSION

55. The deceased was healthy six month old infant when he was placed in a running shower unsupervised at home. He was placed in what his mother thought was a safe position, in a Bumbo seat and with the water freely draining. However, the Bumbo seat was

⁵³ T 4 – 5; Exhibits 2.4 – 2.6.

⁵⁴ Exhibits 2.4 – 2.6.

⁵⁵ Exhibit 2.6, p.18.

⁵⁶ Exhibit 2.6, p.18.

⁵⁷ www.kidsafewa.com.au – "Drowning Prevention in the Bathroom."

expressly not designed for use in water and was unsafe for such use.

56. The deceased was then left alone, which was contrary to the Bumbo seat manufacturer's instructions, and also contrary to general recommendations for child safety around water.
57. The deceased was left alone for less than a quarter of an hour, but in that time the deceased came out of the Bumbo seat, the seat moved to block the drain hole and the shower filled up with approximately twenty centimetres of water. A child the deceased's age can drown in one quarter of that amount of water, and his immersion in this amount of water ultimately had fatal consequences.
58. Despite extensive efforts to save the deceased by his mother, the neighbour, ambulance officers and hospital staff, the deceased had suffered an unsurvivable brain injury when he was in the shower and he died a few days later.
59. The enormous pain and suffering felt by the deceased's parents and extended family at his loss is apparent from the materials before me. No one can doubt that the deceased's mother would do anything to go back in time and change the events that led to the deceased being unsupervised in the shower for those key minutes. Sadly, nothing can be done to alter those events now.
60. However, the account of his death is a timely reminder to other parents of why they must remain vigilant whenever their children are near water, whether it is at home or elsewhere.
61. It should also alert other parents who own a Bumbo seat to the need to carefully read the warnings on the product and be aware that it is not designed for use in the bath or shower. Further, any parents who own a Bumbo seat that is not fitted with a restraint belt should consider accessing the Bumbo Australia website to obtain a free restraint belt kit.

S H Linton
Coroner
11 April 2016