

Mr John Gittins  
H.M. Senior Coroner for North Wales (East and Central)

Dear Mr Gittins.

Re: Response from Denbighshire County Council (DCC) to Regulation 28 report regarding the death of Mr. Garry Arthur Colin Daltry

The tragic incident appears to have occurred by Mr. Daltry falling over the low wave wall that separates this section of the coastal path from the promenade.

According to our records, the coastal defences at Prestatyn were first constructed in the early 1950's however the defences we see today that include the promenade, the wave wall at the rear of the promenade, the access ramps and the steps down to beach were built in 1971 and have remained largely unaltered since then.

We have checked our records and have not found anything that suggests that a similar incident has occurred previously. From our search we have found six records for the last ten years which include three tripping incidents - none of which were in the location of the Beaches hotel, two for trips in potholes on the promenade and the other for any injury caused by a member of the public walking into the new art work at the Nova centre.

The promenade and its environs is a managed coastal area which has a level of risk associated with it. As a responsible organisation we manage this risk. Our risk management processes are based on the Health and Safety Executive's (HSE) principles and as such we recognise that the risk is calculated subjectively using the potential severity of an incident and the likelihood of such an incident occurring.

The HSE produced a document in 2001 called "Reducing risks, protecting people", in this publication the HSE describe a "Tolerability of Risk Framework" (ToR) for assessing the level of risk of death. The frame work separates the risk level into three regions which are: the unacceptable region, tolerable region and broadly acceptable region. For the risk level to fall within the broadly acceptable region the risk of death needs to be 1:1,000,000 or greater. Using conservative estimates of footfall on the Prestatyn promenade during the past 43 years and the knowledge of the recent tragedy we have assessed the ratio at greater than 1:1,053,500 which places the risk in the broadly acceptable region. Our assumptions for this assessment are attached as Appendix 1.

Because the overall risk is considered to fall within the broadly acceptable region DCC feels that any measures it puts in place to further reduce the risk must be carefully considered i.e. installing railings in selected areas may cause visitors to believe that where railings are absent no risk exists. We therefore feel that the installation of additional railings has to be assessed during the boundary to boundary inspection identified as one of our proposed actions.

In section 5 of the regulation 28 report it is identified that the area was not lit. The County Council does not have a duty to light highways and footpaths but has the discretion to do so. Fitting luminaires in this exposed vicinity is not considered to be reasonably practicable as the installation and maintenance costs would far outweigh any long term benefit to the public

In section 5 of the regulation 28 report it is identified that the wall could reasonably be considered to be a tripping hazard. The wall height on the path side is 520 mm high which equates to knee height for a person of six feet tall. It should be highlighted at this time that low walls are not that unusual in public places including coastal areas.

To help maintain facilities at an acceptable standard DCC carries out routine safety tours of the coastal areas under its control, issues identified during the tours are passed to the relevant section for remedial action to be carried out.

#### **Actions taken**

- Record search for incident data
- Visit to area of the incident by DCC Corporate Health and Safety. During this visit a number of issues were identified that have been risk assessed with recommendations being made to the responsible engineers. It should be noted that none of the issues relate directly to incident
- Confirm that routine monitoring is in place
- Calculation of risk level using the ToR framework

#### **Proposed actions**

- Engineers to review the prioritised actions identified in the risk assessment and carry out remedial actions as funding permits. Open timescale as none of the issues identified are considered to pose imminent danger
- Carry out a joint boundary to boundary inspection of the DCC coastal areas by the responsible engineers and Corporate Health and Safety by the end of 2014

## Appendix 1

### Footfall assumption used to calculate risk

- 1971 to 2014 = 43 years
- Conservative estimate of the footfall in the area during the main holiday period of six weeks is 200 individuals per day
- Conservative estimate of the footfall in the area during the remainder of the year is 50 individuals per day

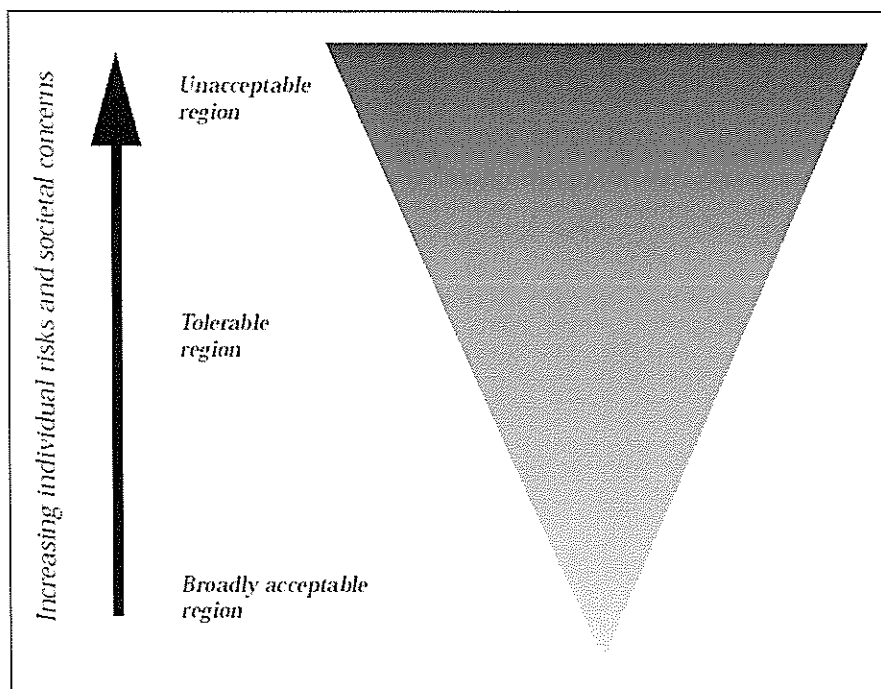
### Calculation

A) 200 individuals, seven days per week for six weeks per year for forty three years

Plus

B) 50 individuals, seven days per week for forty six weeks per year for forty three years

$$(200 \times 7 \times 6 \times 43) + (50 \times 7 \times 46 \times 43) = 1,053,500$$



**HSE framework for the tolerability of risk**

### ***Boundary between the 'broadly acceptable' and 'tolerable' regions for risk entailing fatalities***

130 HSE believes that an individual risk of death of one in a million per annum for both workers and the public corresponds to a very low level of risk and should be used as a guideline for the boundary between the broadly acceptable and tolerable regions. As is very apparent from Tables 1-4 at Appendix 4, we live in an environment of appreciable risks of various kinds which contribute to a background level of risk – typically a risk of death of one in a hundred per year averaged over a lifetime. A residual risk of one in a million per year is extremely small when compared to this background level of risk. Indeed many activities which people are prepared to accept in their daily lives for the benefits they bring, for example, using gas and electricity, or engaging in air travel, entail or exceed such levels of residual risk.

**From “Reducing risks, Protecting people” (HSE 2001)**