

RESPONSE TO REGULATION 28 REPORT
FROM HM CORONER FOR COVENTRY AND WARWICKSHIRE
DATED 15 JULY 2014
ARISING FROM AN INQUEST TOUCHING UPON THE DEATH OF
MISS MING TSUNG CHEUNG

Clarification of respondent

This response is submitted on behalf of Tesco Stores Limited. It is noted that whilst HM Coroner's Regulation 28 report dated 15 July 2014 (although sent under cover of a letter dated 18 July 2014) was addressed to Tesco plc it has already been explained in correspondence to HM Coroner that Tesco plc is not the proper recipient of such a report, being a holding company, and that Tesco Stores Limited is the legal entity which owns and operates Tesco's retail premises, and is therefore best suited to provide any response.

HM Coroner's concerns

In the Regulation 28 report HM Coroner has expressed his opinion that there is a risk that future deaths will occur unless action is taken and has highlighted "matters of concern" as follows:

"I heard evidence that the point where Miss Cheung crossed the road was used by many pedestrians and had developed into an unofficial crossing point. Anecdotally there was some evidence of near misses in terms of pedestrians being hit by vehicles. I heard evidence that a large Tesco sign obscured the view of Miss Cheung and the lorry driver. It may be that removal of the bottom wooden panels of the sign would be sufficient although I await to hear your response".

Tesco Stores Limited was not a party to the Inquest and has not had access to the evidence heard at the Inquest or the opportunity, by participating, to make an assessment of the evidence. Tesco Stores Limited has seen a copy, kindly provided by HM Coroner, of a document entitled "Fatal Collision Report" prepared by a member of the West Midlands Police Regional Collision Investigation Unit where the reported indirect evidence and evidence of opinion is ambiguous as to whether the Tesco sign had any actual causative role to play in the accident.

We are informed that a copy of the Regulation 28 report addressed to Coventry City Council has also been produced by HM Coroner. We have asked for this. As at the time of submitting this response a copy of that report has not been received. The right is reserved to revisit the contents of this report should sight of the contents of the Regulation 28 report addressed to Coventry City Council necessitate such a course of action.

HM Coroner has asked for any response to his Regulation 28 report to contain details of action taken or proposed to be taken, setting out the timetable for action, or otherwise explaining why no action is proposed.

Response

In making its response Tesco Stores Limited wishes to make clear its deep sympathy to the family and friends of Miss Cheung for their tragic loss.

Following the tragic accident involving Miss Cheung representatives of Tesco were involved promptly in discussions and meetings with local people and organisations who had concerns arising as a consequence of the accident involving Miss Cheung. These included representatives from the University of Warwick, West Midlands Police, Coventry City Council and the managing agents for the shopping complex site. It was apparent that the area where the accident took place had, as HM Coroner notes, become an unofficial crossing point to the shopping complex area (of which Tesco's store is only part) generally.

After discussions and meetings in early to mid-February it was agreed that, within the limitations which applied to each of them, the parties would consider what measures they might reasonably take to try and avoid any repetition of the tragic accident involving Miss Cheung.

As well as looking at matters which could be considered by themselves, some of those involved in these discussions agreed that a request should be put to Coventry City Council, as it had responsibility for the highway itself, to consider putting in place traffic calming measures on the highway.

Tesco Stores Limited arranged for a review on its behalf (and with particular reference to what it, as opposed to others, could do) of the area by one of the directors of Highways (UK) Limited who was also a Chartered Member of the Institute of Highways and Transportation.

His recommendation to Tesco Stores Limited in relation to the aspects over which it might reasonably and properly exercise control was that in order to reduce vehicle speeds and improve driver awareness on Tesco Stores Limited's part of the shopping complex area, the following measures ought to be taken:-

1. improve warning and speed signage at entrance;
2. install speed humps at entrance to slow vehicle speeds when entering the area;
3. install chicane railings to slow pedestrians about to cross Lynchgate Road before they stepped out onto the highway.

No recommendation was made in relation to the positioning or construction of the Tesco sign identified by HM Coroner.

The identified works were authorised and the works were commenced on 7 March 2014 and completed on 8 March 2014.

At a meeting with Warwick University and Coventry City Council on 15 April 2014 (in relation to different subject matter) the work which had been carried out by Tesco Stores Limited was reported as complete by the managing agents for the shopping complex. Coventry City Council reported that they were still awaiting the Police report following Miss Cheung's accident, did not plan on putting in any traffic calming measures, and requested that Tesco be asked to remove the wooden panels from the sign.

On 26 June 2014 Coventry City Council gave Tesco Stores Limited 4 weeks' notice to remove the sign (in its entirety) on the grounds that the sign was positioned on the adopted highway and being "mindful of the fact that the Police have indicated that the sign may have been a contributory factor in a recent fatal road traffic accident".

Discussions were conducted between the parties at a site meeting on 2 July 2014 as to whether it was necessary to remove the entire sign. It was agreed that consideration be given to the removal of the lower wooden panels. Discussions then took place with the supplier of the sign to ensure the wooden

panels could be safely removed without affecting structural stability, with confirmation being secured on 15 July 2014. The wooden panels were duly removed on 16 July 2014.

The attached documentation shows the following:-

4. Highways (UK) Limited proposed car park alteration plan (top plan) shows the proposals for speed limit warning signage, pedestrian chicane railings, speed hump warning signage and speed humps;
5. photographs (1) and (2) show the wooden panels removed from the Tesco sign;
6. photograph (2) shows the installed speed humps;
7. photograph (3) also shows the wooden panels removed from the sign;
8. photograph (4) shows the 5 MPH speed signage;
9. photograph (5) shows "look both ways" markings which the university has had painted on the Tesco Stores Limited side of the road (as well as on its side of the road);
10. photograph (6) shows the chicane railings installed by Tesco to slow the approach of pedestrians leaving the shopping complex to cross the highway towards the University of Warwick side of the road;
11. the image marked (7) shows the view along the road with the wooden panels in place on the Tesco sign, as extracted from Google Maps.

Tesco Stores Limited does not propose to carry out any further works or alterations as a result of any discussions or recommendations arising consequent upon the tragic accident involving Miss Cheung. Tesco Stores Limited will, as it does across its entire estate, continue to monitor and review all aspects of its operations to ensure that it complies with its legal duties as regards ensuring the health and safety of its employees and visitors to its stores.

Conclusion

Tesco Stores Limited believes that it has, within the clear limitations applying to what it has control over, done all that it can reasonably to ensure that pedestrians on its premises are protected from reasonably foreseeable risks to their health and safety.

Nothing in this response should be taken as an admission on the part of Tesco Stores Limited of liability of any description.