

Mr R Travers  
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Chief Executive

**Dr Richard Judge**

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Date: 29 June 2016

Our ref: CE-87-16

Your ref: Rtdoc/02512-2015/Reg28/23-3-2016

Dear Mr Travers

**Re: Mr Alan Dimbleby (deceased) Regulation 28 Report to Prevent Future Deaths**

Thank you for your letter of the 23 March regarding Alan Dimbleby's tragic death on 23 July 2015.

You asked me to consider two issues:

- (a) whether; operator seat restraints should be fitted to self-propelled sprayers; and
- (b) whether HSE guidance Agricultural Information Sheet 37 requires revision to remove self-propelled sprayers from the class of vehicles where operator seat restraints may not be needed or may not be appropriate.

On the first issue, the use of seat restraints has to be considered in conjunction with the design of the machine. If a seat restraint is to be effective in an overturn situation it must be in conjunction with a roll over protective structure (ROPS). A ROPS is a protective structure intended to provide the operator with a protective zone to reduce the risk of injury. Vehicles fitted with ROPS are fitted with seat restraints so that the operator remains within the protective zone. In 2009 the relevant standard was revised and required seat belt anchorage points if the sprayer was fitted with ROPS. However the standard, which was most recently revised in 2013, allows the manufacturer to choose how to reduce the risk of an overturn, or to mitigate the likelihood of injury in an overturn and ROPS is only one of the options

available. Not all sprayers manufactured now, or in the past, will have a ROPS cab.

Where a non-ROPS cab is present, which is particularly likely on older machines, the fitting and wearing of seat restraints is not recommended as it can increase the risk of injury in the event of a roll over. A non-ROPS cab is not designed to, nor will it have been tested to demonstrate that it can, withstand the forces to which it is exposed during a roll over. Consequently, in an overturn, the structure is likely to deform, and penetrate the zone occupied by the restrained driver resulting in a risk of serious personal injury. Additionally, on older machines regardless of whether or not they have ROPS fitted, there may not be any suitable anchorage points for seat restraints and fitting them may be unfeasible.

The key to preventing an overturn on sloping ground is for employers to assess the work, including travel to and from the site in question, to select the right equipment for the conditions, to ensure the work is planned so that it can be carried out safely and to ensure that the operator is trained and competent for the task. Where a risk of overturning has been identified as significant, one of the means by which this can be reduced is to specify a machine fitted with ROPS and operator restraint. HSE's guidance about overturning vehicles<sup>1</sup> gives a range of practical considerations that the employer needs to consider when planning the work. Overall we cannot advocate a policy that all self-propelled sprayers be fitted with seat restraints.

HSE works with the relevant British Standards (BSI) and European Standards (CEN) committees on agricultural machinery safety, and we will raise this issue at the next appropriate meeting for the consideration in future revisions of the applicable standards.

On your second point, concerning HSE guidance on the use of seat restraints<sup>2</sup>, similar constraints apply to how far this can be changed. Our guidance has to apply to the full range of self-propelled work equipment (including those fitted with ROPS and those not fitted with ROPS). It gives advice on the steps that should be taken to comply with health and safety legislation. The guidance is not intended to be comprehensive, and does not cover every possible configuration of self-propelled work equipment. Very specifically we cannot recommend the use of seat restraints for a vehicle that is not also fitted with a ROPS for the reasons given above. We do nonetheless keep all of our guidance under review and at the next opportunity we will consider whether the wording can be revised to better inform the choice of vehicle when working on slopes.

In your report (Section 6) you state that HSE is in a position to draw these concerns to the appropriate authority in Portugal who has the power to take action. We do not understand the reference to Portugal which does not appear to have any relevance to this incident. Therefore, we do not intend to take this action.

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<sup>1</sup> <http://www.hse.gov.uk/agriculture/topics/machinery/farm-vehicles-2.htm>

<sup>2</sup> AIS 37 Operator seat restraints for tractors and mobile work equipment in agriculture and forestry

Yours sincerely

A handwritten signature in black ink that reads "Richard Judge". The signature is written in a cursive style with a large initial 'R' and a long, sweeping tail on the 'e'.

**Dr Richard Judge**  
**Chief Executive**