

Ms Anna Loxton
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Regulatory Inspector

Reference DER/Group 24

Date 27.9.19

Dear Ms Loxton

TITLE

DEATH OF JJ WILSON - REGULATION 28 REPORT – ACTION TO PREVENT FUTURE DEATHS

I refer to the above report which was sent to me by email on 18.7.2019. You kindly gave HSE an extension until 30th September to respond to the letter.

I have consulted with the relevant central policy section and HQ safety unit in preparing this HSE response.

At section 5 of the report you express concern about a lack of obligation 'for fire retardant overalls to be worn by test track drivers which creates a potential risk to death or serious injury in the event of a crash in circumstances similar to that which caused the death of JJ Wilson'

In support of this concern you highlight evidence heard that FIA Regulations do not require or stipulate clothing to be worn when testing a racing car on a test track. These Regulations are not made with regard to UK legislation or by HSE and are, in fact the regulations of the Sport's international governing body. Despite this the manufacturers of racing cars when instructing employees or third parties undertaking work for them under a master/servant relationship have a duty under UK legislation. The Management of Health and Safety Regulations 1999, Regulation 3 require the assessment of foreseeable risk from the activities to be completed and the findings of any assessment to be made known, and understood, by employees and any persons under their control.

Having reviewed the information and legislation in place, regarding the need for assessment of foreseeable risk, it is concluded that there is no gap when the applicable legislation in relation to duties and the workplace if the current requirements are implemented and instructions followed. HSE considers that no action is required because existing UK law includes the requirement to assess, along with many other risks surrounding the activity, the need for wearing of fire-retardant overalls.

The requirements within the FIA Regulations are outside the comment of the HSE but as said earlier FIA Sports rules and regulations are required to have notice and compliance to health and safety law and where there is a gap it is for them as the sport's governing body to close this gap and ensure compliance.

Yours

A handwritten signature in black ink, appearing to read 'D. E. Kelly', with a horizontal line underneath the name.


Regulatory Inspector