



Date: 17 May 2021

Kevin McLoughlin  
Coroner's Office and Court  
71 Northgate  
WF1 3BS

Communities, Environment and  
Climate Change  
Service Director: Property, Facilities, Health and Safety

Corporate Facilities Manager,   
Wakefield Council  
Wakefield One  
Burton Street  
WF1 2EB

Typetalk calls welcome

Dear Mr Mcloughlin

**Re:- Inquest touching the death of Elliot Peter BURTON, (deceased)**

I refer to your letter dated 30th April 2021, and the request to provide a response to the Regulation 28 Report to Prevent Future Deaths.

Please find enclosed what I hope is a comprehensive report in full response to the concerns you have raised and recorded in respect of the above case.

If you require any further information or detail please do not hesitate to contact me.

Yours sincerely

Corporate Facilities Manager

20 MAY 2021

Enc.

**CONFIDENTIAL**

TO Kevin McLoughlin  
OFFICE OF THE SENIOR CORONER  
Coroner's Office and Court  
71 Northgate  
Wakefield WF1 3BS

FROM [REDACTED] Corporate Facilities Management Manager  
Property, Facilities, Health and Safety  
Wakefield Council

RE **Inquest touching the death of Elliot Peter BURTON, (deceased)**  
Response to Regulation 28 Report to Prevent Future Deaths

DATE 17 May 2021

---

**1.0 Purpose of the Report**

- 1.1 To provide a comprehensive response to the Senior Coroner and address his concerns arising from the Inquest touching the death of Elliot Peter BURTON, (deceased).
- 1.2 The following report will update on all the safety actions taken to date by Wakefield Council in the location of the Kirkthorpe Weir, the Yorkshire Hydro Plant and the surrounding areas. It is intended to provide detailed assurances of the safety work already undertaken, the current and ongoing safety plans and projects in evolution.
- 1.3 The current strategy and plans are to undertake comprehensive physical works and construction projects. This is with aim to design and build robust physical barriers in the challenging and changing environments on the embankments adjacent the Kirkthorpe Weir. The result will be to prevent as far as is reasonably practicable, trespass to the Yorkshire Hydro Plant and access to the Weir on both sides of the river in this locale. This project is working in Partnership with the Yorkshire Hydro Plant – Foresight Group (YHP) and the Canals and River Trust (CRT). Wakefield Council have also been working in close liaison with the Health and Safety Executive from the outset of this case.

**2.0 Background**

- 2.1 Wakefield Council has taken a significant lead in formulating a safety strategy for the area surrounding Kirkthorpe Weir. The Council owns the land on both sides of the river at this point. The west bank is part of the area known as the Southern Washlands and has nearby fishing lakes, country side walks and public footpaths. The east bank is the location of the YHP Plant. The plant owners lease the land, but have full responsibility as occupier for their own construction, operations and buildings within this demise. This includes their security and perimeter management. CRT have ownership of approximately half of the Victorian weir construct. The council own the other half - but CRT take responsibility for its upkeep and general maintenance. The waterway

itself is the responsibility of CRT. Notwithstanding the complexities of ownership and responsibility, all parties have been cooperating to improve safety of the whole area since 2019 in respect of this case.

- 2.2 In early August 2019 shortly after the tragic events of Elliot Burton's death, a site inspection by Wakefield Council Officers, was undertaken to determine what immediate safety measures could be taken to prevent further occurrences or anything that posed an immediate danger to the public. At this stage no details of the death itself or exact location had been released. Both sides of the river were inspected along with the perimeter of the YHP plant.
- 2.3 On the 14 August the HSE met with colleagues from YHP and CRT. This was to look mainly at the west bank of the river. This is where it was stated was the location that Elliot traversed the weir to eventually gain access to the YHP plant on the east bank.
- 2.4 It was apparent from both visits that the west bank area was frequented as a popular spot to swim and fish by members of the public. It was agreed that some immediate measures could be taken to highlight the dangers of the fast flowing water. The Council and YHP over the coming weeks instigated the updating and adding of additional safety signage. This included warning of the dangers of the water, fall from heights and the Weir itself. Many of these signs were promptly vandalised and removed by persons unknown. The Council have been actively checking and replacing these since the incident. The signage has evolved to larger and more prominent notifications, and we have added the "What 3 Words" location data to each. This is a system the emergency services use to locate accurately anyone in distress in remote areas. There are several signs being replaced again this month due to vandalism.
- 2.5 In January 2020 the Council revised the risk assessment for the west bank. This resulted in not only replacing numerous signs, but we also erected several new fenced barriers in attempt to improve safety and restricting access to the Weir and waters' edge. The fencing construction at that time was limited. This area is heavy in vegetation, trees and swathes of wild Japanese knotweed. It has therefore been a very challenging environment to place physical barriers successfully.
- 2.6 During this time, consultation with all 3 parties and the HSE were looking at the more challenging aspect of preventing trespass to YHP from the river and particularly gaining access by members of the public traversing the Weir. Several engineering solutions were considered each with their own difficulties with construction in a fast flowing river. Some solutions were dismissed. They may have prevented trespass, but their inherent design upon scrutiny, potentially caused other foreseeable risks. Other solutions may not have withstood flood waters.
- 2.7 Further challenges to enable physical measures more quickly has been that the Weir construct itself is a listed structure. As such conservation planning consents and design have to consider Historic England Planning approvals. Ecological factors have also had to be considered in terms of the fish passes on the Weir for example, and DEFRA generally. This impacts on the final

designs – which in turn have to be robust enough to withstand the extremes of the river, and not impact on the natural habitat of the surround areas.

2.8 Despite all the challenges, safety and the prevention of future deaths has been a priority throughout.

### 3.0 Current and Next Steps

3.1 In recognition of the demanding challenges to construct suitably designed physical barriers on both sides of the river in a short time, the Council has been undertaking regular manned security inspections to discourage anyone entering the water, and highlighting the dangers. This is undertaken specifically on hot weather days, holidays and alike as well as periodically through each month. This regime is recorded and has been in place since the summer of 2020. This security detail has also been extended to other still and flowing water body sites across the district where public have regular access.

3.2 There are 3 Phases of work associated with the safety works at Kirkthorpe Weir. Phase 1 has been the measures taken to date as noted. Phase 2 is a joint approach to design a suitable physical barrier to the perimeter of the YHP site on the river side. The concept of this has been in the feasibility and design stages since June 2020, with the first designs suggested in October 2020.

3.3 As noted several designs proved potentially unsuitable. New impetus and revisions were presented by January 2021. The final design being approved to progress to detailed design in March 2021.

3.4 This final detail is expected to progress through all planning approvals and consents by the end of May 2021.

3.5 Pending the planning approvals, procurement, manufacture and finally construction will then begin. All of this to completion is expected to take until October 2021. Caveats to the construction phase will be subject to environment conditions of the river (i.e. not in flood). The timeline could be shorter but allows for the anticipated planning approvals taking up to 60 days, which is the norm. We are of course pushing to expedite consents as soon as is possible.

3.6 Phase 3 is running in parallel to Phase 2. This is a solely Council led initiative, the concept of which was supported by the HSE. This is to add further fenced protection to the west bank of the river based on our revised risk assessment of the site.

3.7 A feasibility over the last 3 months has been underway to look at how we can add approximately 300m of fenced deterrent. This will improve safety, deter further and assist in preventing access to the Weir. This had to consider and overcome the challenges to undertake heavy construction of the mostly inaccessible terrain, and without detracting from the country side walk and ecological factors as noted.

3.8 A design option has been approved to progress and will include more robust signage. This will include information boards on the conservation of the area, and the purpose of the Hydro Plant opposite. We intend to install a new and a safe viewing platform of the Weir - which is intended to be both informative and provide safety awareness. This will assist in making the usual access

area to the Weir and river at this point as impassable as much as is possible, but also provide a controlled beauty spot viewing point for the countryside walk. This we feel will make the area more of a managed outdoor space and reduce the unauthorised access to the river itself.

3.9 The design and procurement of this fence and construct is underway and we anticipate completion of this element to be in mid July 2021

#### 4.0 Conclusion

4.1 After the tragedy that resulted in the death of Elliott Burton, Wakefield Council has been actively pursuing safety measures to prevent further deaths at the location of the Kirkthorpe Weir since August 2019. We have worked closely with the HSE throughout and all the associated parties involved. We have taken a lead to progress new and improved safety measures on both sides of the river. These endeavours are not without significant challenges due to the physical locale and natural elements to contend with. We are however confident that the schemes we are aiming to complete over the coming months will reduce the risk of recurrence as much as is possible. After the construction phases are complete we are planning several reviews and further feasibilities – to ascertain if the measures we have implemented are as effective as anticipated or if more can be achieved.

The Council are also linking its current still water body health and safety policies and procedures, to other areas of flowing water within the district. This is to look at where we can improve safety at other potential hazardous sites, with a consistent approach to water safety. This is ongoing and when complete, recommendations will be made to the Corporate Management Team for any rectification or interventions we may need to implement to improve safety.

 Corporate Facilities Manager