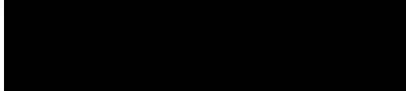




Department
for Environment
Food & Rural Affairs

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www.gov.uk/defra

Karen Dilks
Coroner's Court
Civic Centre
Barras Bridge
Newcastle upon Tyne
NE1 8QH


Our ref:

01 July 2021

Dear Ms Dilks,

I am writing in response to the 'Regulation 28' report dated on 29 December 2020 and sent to our offices on 7 May 2021.

On behalf of the Department for Environment, Food and Rural Affairs (Defra), I would like to take this opportunity to acknowledge the concerns you have raised regarding the tragic incident which resulted in the death of Marian Clode on 2 April 2016.

Defra are undertaking a package of reforms to the rights of way system which will lead to improvements in various areas, including an improved capacity for landowners to move certain rights of way on their land. Under provisions known as the 'Right to Apply', landowners will be able to make formal applications to local authorities to extinguish or divert rights of way from their land with a right of appeal to the Secretary of State if the authority refuses or fails to respond. These applications will be considered on a case by case basis and the outcomes cannot be guaranteed. Guidance will however encourage local authorities to remove public rights of way wherever possible from premises where privacy, safety and security are of a significant concern, including family gardens and working farmyards.

We have discussed the details of this specific case with the Health and Safety Executive (HSE), Britain's national regulator for workplace health and safety. HSE is the enforcing authority for incidents involving cattle on farms. HSE are already aware of this case and have provided the below information relevant to this situation. An overview of HSE procedures is published online:

<https://www.hse.gov.uk/foi/internalops/og/ogprocedures/index.htm>

HSE investigates incidents following a specific procedure for this type of incident.

<https://www.hse.gov.uk/foi/internalops/og/og-00058.htm> and determines if farms have established control methods giving consideration to their Agriculture Information Sheet (AIS) 17 (<https://www.hse.gov.uk/pubns/ais17ew.pdf>) and other documented standards.

The legal duty on the farmer under the Health and Safety at Work etc Act 1974 is to manage their herd so the animals within it present a low level of risk to members of the public using public rights of way. HSE's published guidance sets out the hierarchy of control measures they would expect the farmer to have considered and where possible implemented, before considering additional measures such as offering a voluntary alternative route.

Examples of control measures include eliminating the risk by grazing cattle in fields without public access or segregating people from the cattle by use of fixed or temporary fencing; keeping cows with young calves in other fields; arranging field infrastructure so that animals and people are kept apart (e.g. feed and water away from the path or stiles); moving animals from fields with paths at busy times (e.g. bank holiday weekends).

HSE analyse and review cattle incidents each year looking for potential trends which are published each year: <https://www.hse.gov.uk/aboutus/meetings/iacs/aiac/index.htm>.

HSE has engaged with Natural England to look at cattle data, to enable them to analyse if there are patterns in land use that are prevalent with regard to incidents. Natural England administers grant schemes so that farmers could be paid to consider alternative land management methods that reduce the risks to walkers.

Yours sincerely,



Deputy Director for Access, Landscapes, Peatland and Soil - **ALPS**
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