



Mr Guy Davies
His Majesty's Assistant Coroner for
Cornwall Coroners' Service,
Pydar House,
Pydar Street,
Truro,
TR1 1XU

[REDACTED]
Principal Inspector
HSE
Cobourg House
32 MAYFLOWER STREET
PLYMOUTH
DEVON
PL1 1QX
[REDACTED]
[REDACTED]

Date 31st March 2023

For the attention of Mr Guy Davies

Dear Sir

RE: REGULATION 28: REPORT TO PREVENT FUTURE DEATHS IN THE MATTER OF THE
INQUEST TOUCHING THE DEATH OF JAMES FRANCIS PARSONS

I write with regard to the report mentioned above, provided to me by [REDACTED], Environmental Health Officer at Cornwall Council on the 20th March 2023. [REDACTED] forwarded the report to HSE, as he felt some of the matters you identified in your report fell into HSEs regulatory remit.

To that end, I have considered your report and the specifics of your concern:

The MATTERS OF CONCERN are as follows. There were safety issues revealed at Porthleven Harbour, particularly in the evening when festival goers will have been drinking alcohol. Sections of the harbour wall feature sheer drops into water with no railings and trip hazards. The pier presents a particular risk due the absence of railings on one side with a sheer drop into water, and being poorly lit. For anyone falling from the pier, swimming to safety will be difficult due to current and the absence of access ladders or refuge area. The pier is sometimes closed to access by the public but was not closed at the time of the festival.

Porthleven Harbour is mainly concerned with recreational activities, including the mooring of privately owned pleasure boats. The Health and Safety at Work etc. Act 1974 only applies to Porthleven Harbour at locations where a work activity is taking place. That is paid work or where there is some form of remuneration, there is an employer/employee or self-employed person. Where the Act does not apply, HSE has no vires or regulatory powers.

Day to day, the only areas of the Harbour where a work activity takes place, appear to be the pier, where there is a crabbing operation and possibly on the steps leading to the Charter Fishing Boats, on the opposite side of the harbour. HSE has an enforcement role in both these very specific areas, in relation to the risk created by or related to those work activities only. The areas are highlighted in yellow on the following page. Where the risk is increased due to a festival or other public activity, this falls outside of HSEs vires. HSE has no vires at any other area of the harbour.

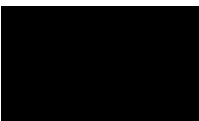


In relation to health and safety at the pier and the day-to-day commercial crabbing activities. The law requires the Dutyholder to undertake a risk assessment to identify the health and safety measures required to mitigate the risks associated to the operation at the dockside. Edge protection by way of fencing to prevent falls into water is rarely seen where fishing (crabbing) boats load and unload, as it impedes that operation and creates a bigger health and safety risk. It also inhibits the use of gangways. Instead, mitigation by way of the wearing of buoyance aids is accepted along with the supply of rescue buoyancy aids and sufficient ladders at the dock wall to enable anyone who falls in the water to get out or be rescued. The risk assessment should consider the risk to the public in work areas. It is noted that there is a chain fence restricting public access to the work area (pier). We will visit to review the health and safety arrangements at the commercial crabbing area with the Dutyholder, however an initial observation is that the Dutyholder appears in compliance with the Health & Safety at Work etc. Act 1974 at this area.

For festivals and other events where paid work exists, there is a work activity and the Health and Safety at Work etc. Act 1974 applies. HSE has no vires in relation to festivals, other public events or to the bars/cafes with seating near to the harbour edge. The vires falls to the Local Authority, in this case the licensing arm of Cornwall Council and their Environmental Health Office (EHO). It is appreciated that such events may increase the health and safety risks, in particular the risk of falls, at the harbour and pier. It will be for the event organiser and Porthleven Harbour & Dock Company to convince the EHO and the licensing office, that have taken sufficient action to address the increased risk of a fall to danger occurring during the festival due to an influx of people, alcohol and low lighting converging near to or having access to open edges. The organisers may need to put in place temporary control measures in to address the increased risk in particular areas. If there is a temporary increased risk at the pier area, it would be for the Event Organiser and Porthleven Harbour & Dock Company to take action to address it. As it does not relate to the crabbing operation but to the festival, enforcement of temporary measures would fall to the EHO and licensing office for enforcement.

If you require further clarity on any of the above or have any questions, please do get in touch.

Yours faithfully



Principal Inspector