

Mr Alan R Craze  
HM Senior Coroner for East Sussex  
31 Station Road  
Bexhill-on-Sea  
East Sussex  
TH40 1RG

15<sup>th</sup> September 2017

Dear Coroner Craze,

**Response to Rule 43 letter following the fatal incidents at Camber Sands in July and August 2016**

Thank you for your letter of July 24, 2017. We were greatly saddened by last year's deaths at Camber Sands, and our thoughts remain with the families and friends of the young men who died.

We welcome the opportunity to respond to the matters of concern that you set out.

**Background**

Drowning and other water-related harms in the UK account for, on average, 600 deaths annually. Of these cases, accidental drowning deaths number, on average, 400 per year – approximately *one fatal drowning event every 22 hours*. This is higher than the number of accidental fire deaths in the home or cycling deaths on the road, yet, historically, drowning prevention has not experienced similar awareness levels or support.

The Royal Society for the Prevention of Accidents (RoSPA) is a national charity, currently marking its centenary, with no regulatory or enforcement powers. Our approach, within the existing structures for water safety, is to seek to influence, inform, coordinate activity and advise. A considerable amount of our resources are spent seeking to engage with government departments and local authorities to bring a coherent and focused approach to tackling the burden of drowning.



Our efforts, with many of the named organisations in your letter, have focused upon a voluntarily collaboration within the National Water Safety Forum (NWSF), for which RoSPA provides the secretariat. Primarily, this has been to track and identify drowning events, produce information and guidance and recently to produce

**The UK national drowning prevention strategy 2016-2026**, which was launched in February 2016 and which we understand was discussed during the Inquest.

Of particular relevance to our response are the following strategy targets:

- Every community with risk to have a water safety plan and risk assessment
- Every child to have the opportunity to learn swimming and water safety skills
- Increase in awareness of the everyday risks associated with water.

These three targets, agreed by members of the NWSF, are intended to address many of the immediate and underlying factors which we understand may have contributed to the loss of life at Camber Sands.

The full strategy can be read at [www.nationalwatersafety.org.uk/strategy/](http://www.nationalwatersafety.org.uk/strategy/) and next month's RoSPA National Water Safety Conference in Bristol will discuss how to take forward the strategy's delivery.

### **Matters of concern**

We have set out our response as per the points in your letter and here we address these in turn.

***(a) There are possibly lessons to be learnt in the circumstances of and the issues surrounding these deaths which may be of help to others on a national basis.***

We are of the opinion that wider lessons can be learnt from the fatalities in July and August 2016 at Camber Sands. Indeed, learning from accidents, near misses and other incidents – irrespective of whether they were high-profile tragedies, such as those at Camber Sands, or smaller-scale events – is an important part of risk management and is an approach that RoSPA has championed for many years.

In order to facilitate this learning, we believe action is required nationally by Government, particularly the clarification of duties held primarily by local authorities.





**(b) There appears to be no formal governance or control of risk management requirements. Should the present, virtually voluntary, structure be examined?**

We believe that the prevention aspects of the water safety system would benefit from a review.

Currently, there is ambiguity in terms of who has responsibility for managing water safety risks. The current prevention arrangements, particularly at a local level, are at best difficult to understand and interpret. At worst, arguably, these can inhibit possible duty holders from taking action to reduce risk.

It is important to stress that we do not believe these concerns extend to emergency response arrangements, which are governed by the UK Search and Rescue (SAR) framework.

Given that we believe that it is the prevention aspects of water safety that require the most scrutiny, we have focused our response upon these elements.

Our understanding of the regulatory framework for England is as follows:

Local Authorities as landowners, occupiers or managers of sites which the public use have duties towards staff under the *Health and Safety At Work etc Act 1974* (HASW). Duties towards the public are created via Section 3 of HASW. In situations where there is an “undertaking” within the meaning of Section 3, the duty-holder is required to take “reasonably practicable” measures to address the risks created. To what extent an undertaking exists and what are reasonably practicable responses have developed in the courts.

Breaches of these duties can give rise to criminal liability for organisations and individuals. The Health and Safety Executive (HSE) has set out a series of factors which it applies in determining enforcement action for Section 3 risks generally<sup>1</sup>, and where natural features are a factor<sup>2</sup>.

Occupiers or landowners have further duties towards visitors and trespassers on their sites under the *Occupiers Liability Acts 1957 & 1984*. Breaches of these duties give rise to civil liability which can result in court action and payment to make good.

Statutory responsibilities for local public health services are set out in the *Health and Social Care Act 2012*. The associated outcomes framework establishes the national

<sup>1</sup> <http://www.hse.gov.uk/enforce/opalert.htm>

<sup>2</sup> <http://www.hse.gov.uk/enforce/hswact/docs/situational-examples.pdf>



priorities that local authorities are expected to work towards, alongside those set locally. Reductions in accidents to children and young people, along with road transport accidents, are monitored. There is no explicit mention of drowning harm in the national framework<sup>3</sup>. Thus action is left to the local decision-makers to determine if the issue needs consideration.

The *Civil Contingency Act 2004* sets out duties upon local authorities, fire and rescue services (FRS) and the Maritime and Coastguard Agency (MCA) as Category 1 responders to assess risk for areas for which they are responsible, and to work with Category 2 responders such as the HSE. Locally, such action manifests in the form of “integrated risk management plans” (IRMPs) through which some FRS, such as East Sussex, address drowning harm from both the prevention and emergency response aspect, as does the MCA nationally.

The effect of the above statutory framework is that we have a national system that is well equipped to address drowning emergencies, after the fact, through the UK SAR framework. Yet, one that is comparably poor at identifying and preventing the causes of the fatalities.

Further, the existing statutory framework has evolved in such a way that it can, arguably, inhibit possible duty-holders from acting to reduce water safety risks, or only take steps after a fatality in a reactive manner.

The effect is that moral or reputational risk arguments become the dominant factors in the rationale to explore or address drowning risks proactively among duty-holders.

As you correctly note in your letter, charities such as RoSPA and RNLI, or executive agencies such as the MCA and FRS, are then left to be the prime actors in reducing or managing these risks.

Given the lack of clear duties, responsibilities and indicators, it is very difficult to identify and mitigate risks ahead of time.

To address this, we suggest the following:

(i) That the Government undertakes a review of the current system of risk management for the *primary prevention* of drowning harm, and how the UK compares to other leading nations such as Australia, New Zealand, Canada, Germany and Ireland, along with similar injury risk themes such as road traffic or fire risks.

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<sup>3</sup> <http://www.phoutcomes.info/>





(ii) That the Government explores statutory options equivalent to those offered by *The Road Traffic Act 1988*. A duty upon local authorities to assess and develop measures to address water safety harm could be usefully explored.<sup>4</sup>

(iii) Clarification should be sought from the Camber Sands local HASW enforcing authority and the HSE on the issue of whether consideration was given to use of existing enforcement powers under HASW with regards to these incidents

(iv) RoSPA is currently revising its water safety advice for owners and duty-holders of inland waters. Subject to resources, we will look to review the equivalent advice for coastal and beach environs by the end of 2018.

***(c) Changes include;***

***(i) Possible climatic effects***

The findings of the Pitt Review in 2007 led to additional statutory powers and operational changes as to how the country adapts and responds to climatic risks, namely surface water flooding and coastal inundation events, such as those seen in the summer of 2004 at Boscastle.

The local and national plans sit within civil contingencies frameworks as noted earlier. The water-related risks within IRMPs typically are infrequent events that affect multiple people, property and communities.

As noted earlier, we believe these plans to be robust for the risks they are seeking to mitigate. However, they address different scenarios to those which account for the majority of fatal drowning events.

Seasonal variations, such as periods of warmer weather and bank holidays, correlate with both fatal and non-fatal incidents. In our opinion, this is most likely due to the greater number of visits to open water spaces. RoSPA and members of the

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<sup>4</sup> Section 39 of the Road Traffic Act provides to the Secretary State for Transport and local authorities' powers to address road safety. Including; 3(a) must carry out studies into accidents arising out of the use of vehicles, and; 3(c) must, in the light of those studies, take such measures as appear to the authority to be appropriate to prevent such accidents. (<http://www.legislation.gov.uk/ukpga/1988/52/section/39>)

NWSF plan prevention activities to coincide with these periods, and step-up communication activity ahead of expected warm weather.

Effective beach managers regularly manage these peaks, and plan for these variations in service provision.

***(ii) Differences in ethnic origin and languages spoken by current visitors***

Understanding and planning for the variety of demands that any group of visitors present is a central competence for the effective beach manager. For example, kite surfers will want different facilities and features to dog walkers or families, and will require tailored approaches to minimise risks and disruption.

It has been understood for some time that *all visitors* pay little attention to physical safety information, at best spending seven seconds considering a signboard, for example, and, further, that text-based approaches are less well comprehended by all groups.<sup>5</sup>

It is also well accepted that just providing information on hazards, does not necessarily affect behaviour. For example, a study on the information provided on rip currents at Bondi Beach, Australia, had no discernible positive, and sometimes a negative, effect upon subsequent safety decisions and behaviours.<sup>6</sup>

The risks of open-water – particularly temperature and cold water shock – are not well understood within the general population. We believe this to be a principal underlying factor in many drowning deaths. For this reason, raising general awareness is a central ambition within the drowning prevention strategy.

Steps we have already taken include:

- The development of a UK and global standard for signs and symbols for water safety, addressing some of the limitations outlined above (ISO 20712). These have been designed in *such a way that little or no country-specific language skills are required*. Comprehension testing was a part of the development phase for these. The same symbols that are on now on British beaches can be found in the USA, France and Japan etc.

<sup>5</sup> Operational research and comprehension testing towards the UK and ISO standard sign development.

<sup>6</sup> Operational research between academia and Surf Lifesaving Australia to support the development of the ISO standard.





- The production of collective interpretation guides for the UK on “how to implement” these standards
- Improvements to the incident taxonomy for the WAID system, the UK’s drowning database, have been developed. These include more detailed information on the person involved.

The extent to which ethnicity and language skills are a factor in drowning has not been quantified in the UK. We are currently exploring the feasibility of studying these factors. However, it is our understanding that information on these are not routinely recorded at Inquest.

We note, from your letter and media reports, that four of the drowning victims were undertaking education at college or university level.

We will report back on the feasibility of undertaking, or progress towards, a study of the role of ethnicity and language skills as a contributory factor, either directly or in conjunction with other members of the NWSF by the end 2017.

***(iii) Constant and fast changes in communications with the public, which everyone at this inquest agreed to be crucial to the educative process***

We agree that being able to communicate using a variety of methods and approaches is important, and have agreed a target within the strategy to address this.

Further, we agree that ensuring that organisations are up to date with this is a critical element of an effective beach management plan. As noted earlier, communications that lead to positive behaviours are difficult and expensive to execute at scale.

There is already a significant amount of free or low-cost resources and insights available.

The following is an overview of the opportunities at which the effective beach manager could engage with visitors/potential visitors and the types of resources available that could assist with this engagement:

- In schools, most notably at Key Stage 2 through swimming and water safety education, and aspects of the school PSHE framework. These are our only

whole-population level measures available, and are covered in more detail against your following point

- When potential visitors are researching/choosing a venue/activity, including by “Googling” or using social media/websites such as Facebook, Twitter, Instagram etc. Campaigns such as the RNLI’s #RespectTheWater<sup>7</sup> and HM Coastguard’s information films<sup>8</sup> have reached millions of people.
- Information and advice is reinforced en-route at service and train stations, on-the radio and billboards, in pubs and tourist accommodation.
- On arrival at the venue, such as the car park and other bottlenecks, and again at strategic points around the venue such as key footpath junctions. As mentioned earlier, we have standardised the information that can be provided at these points and provided free “how to” guides for managers. RoSPA also provides training and support to local authorities to help make rapid improvements and to develop integrated plans.
- Face-to-face information from a trusted person, such as a lifeguard, coastguard or fire officer.

Within the NWSF, steps have been taken to standardise and collectively approach safety information campaigns, and to make readily available these resources to beach and other managers.

For managers, events such as the RoSPA National Water Safety Conference, which takes place every 18 months to two years, and publications such as RoSPA’s Leisure and Education Journal, which is produced quarterly, aim to provide useful policy updates and practical guidance to those who work within water safety.

***(iv) Improvement, considered vital, of education and awareness of coastal dangers amongst children and those who live far from the sea.***

As noted earlier, provision of swimming and water safety at Key Stage 2 is our only truly population-level water safety intervention available in England. Approximately 50 per cent of children reach the required standard, leaving millions of school-aged children without the requisite skills to improve survival chances.

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<sup>7</sup> [www.respectthewater.com](http://www.respectthewater.com)

<sup>8</sup> <https://coastguardsafety.campaign.gov.uk/>





We continue to support Swim England and partners in their review of school swimming, aimed at removing the barriers to participation<sup>9</sup>.

Primarily through the RoSPA National Safety Education Committee, we will continue to develop, champion and inform the PSHE framework, which covers topics of personal safety and resilience, and to call for PSHE to become a statutory requirement.

***(d) Resources and monetary considerations & Powers of the Coastguard***

We would welcome further resources to address the burden of drowning, irrespective of which governmental department or agency leads the initiative. RoSPA and members of the NWSF maintain a positive working relationship with the MCA, with support from the Secretary of State's for Transport's office.

The question of further powers, we feel, would be best answered by a review. In order to address the drowning burden through national legislation and the extension of powers, consideration would need to be given to urban and inland areas not currently within the scope of the MCA.

***(e) There was pessimism expressed that any measure could prevent most deaths, only reduce them. In those circumstances should there be a consideration by central government of taking powers to restrict public use?***

We are very cautious of approaches that might result in the closure or restriction of access to current public spaces without a publicly available safety case being made.

Significant landowners such as The National Trust or Canals and Rivers Trust successfully manage sites that have significant hazards to the public without noticeable impacts or blanket restrictions. It is also worth noting that landowners and local authorities already close certain areas during cliff collapse or flood events.

Lifeguarded zones on beaches can be closed by use of the red flag system. Although these cannot provide an absolute guarantee, deaths within lifeguarded locations are extremely rare in the UK, and these are, in our opinion, the safest open water venues to swim.

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<sup>9</sup> [http://www.swimming.org/assets/Swim\\_England\\_Curriculum\\_Swimming\\_and\\_Water\\_Safety\\_Review\\_Group\\_Report\\_2017.pdf](http://www.swimming.org/assets/Swim_England_Curriculum_Swimming_and_Water_Safety_Review_Group_Report_2017.pdf)



If any consideration is to be given to further regulatory powers that may have an effect in terms of restricting access; we would prefer a model akin to the Scandinavian countries or the Scottish access laws, establishing a balanced package of rights and responsibilities. Useful lessons from the *Countryside Rights Of Way Act* could be applied, in which occupier's liability was reduced and concurrent access rights created.

We are happy for our response to be shared and published, and will report back to you on the actions we have taken.

Yours Sincerely,

[REDACTED]

[REDACTED]

Leisure Safety Manager

