

Mr P Nieto (Senior Coroner)
Derbyshire County Council
Coroner's Court
Town Hall
Chesterfield
Derbyshire
S40 1LP

Reference

[REDACTED]
Head of Local Authority & Safety Unit
Engagement and Policy Division
2, Victoria Place
Carlisle
CA1 1ER

Date 28th November 2023

For the attention of Mr Peter Nieto, Senior Coroner

Dear Sir

REGULATION 28 PREVENTION OF FUTURE DEATHS – COLD WATER IMMERSION

Thank you for your Regulation 28 report to Sarah Albon, HSE Chief Executive, in relation to the death of Ms Poole while participating in a cold water immersion activity. I am responding as the Head of Local Authority and Safety Unit at the Health and Safety Executive (HSE) which holds the operational policy lead for health and safety regulation of the leisure sector.

Your report raises as matters of concern, that cold water immersion providers have not received guidance from HSE or other appropriate bodies and that local authority environmental health departments are unclear whether they should and how they might monitor and oversee these providers.

Providers of cold water immersion services to the public are required to comply with the Health and Safety at Work etc. Act 1974 and the Management of Health and Safety at Work Regulations 1999. This legislation provides a framework for securing health, safety and welfare by requiring businesses providing cold water immersion services to identify risks to their workers and customers from their activities and to take action by putting in place suitable measures to manage those risks.

Businesses are also required to appoint a competent person(s) with the skills, knowledge and experience to recognise hazards and to assist with putting into place effective measures to protect workers and others from harm. There is no legal requirement for businesses to hold public liability insurance or to make first aid arrangements for customers. HSE does, however, strongly recommend that non-employees are included in assessments of first aid needs and that provision is made for them.

When assessing and managing risk, businesses should take account of relevant guidance. To help businesses comply with the law, HSE provides general guidance on health and safety such as HSE's health and safety basics for your business (<https://www.hse.gov.uk/simple-health-safety/index.htm>) as

well as targeted guidance for higher-risk industries and activities. HSE does not seek to provide guidance for all industries and activities as it is often the case that others are more knowledgeable or better placed to provide such guidance.

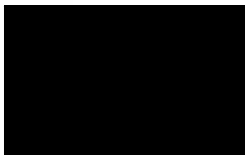
The risks associated with open water and cold water shock are well known and relevant guidance is available from multiple authoritative sources such as the RNLI (<https://rnli.org/safety/know-the-risks/cold-water-shock>) and the National Water Safety Forum (<https://www.nationalwatersafety.org.uk/adviceresources/open-water-swimming>). In addition, guidance is also widely available from local authorities and the emergency services such as that provided by Staffordshire Moorlands District Council (<https://www.staffsmoorlands.gov.uk/article/6759/Safety-around-open-water>) and Staffordshire Fire and Rescue Service (<https://www.staffordshirefire.gov.uk/your-safety/safety-outside/water-safety/>).

It is HSE's view that the regulatory provisions in place requiring cold water immersion providers to manage risks, together with the guidance available from multiple sources on the main risks involved, provide a suitable basis for businesses to provide activities safely and for local authorities to take regulatory action where required. Consequently, HSE will not be publishing specific guidance at this time for cold water immersion activities. However, as this is a newly emerging leisure pursuit we will keep this activity under review.

HSE will continue to support and liaise with our regulatory partners in local authorities who are predominantly responsible for the enforcement of work related health and safety legislation in this area. To increase awareness among local authority enforcement officers I have asked that this matter is raised at the national Local Authority Health and Safety Practitioner Forum (<https://www.hse.gov.uk/lau/national-committees.htm>).

I hope that the above information addresses the matters raised.

Yours faithfully



Head of Local Authority and Safety Unit