



Home Office

Home Secretary
2 Marsham Street
London SW1P 4DF
www.homeoffice.gov.uk

Ms Catherine McKenna
HM Area Coroner for Greater Manchester North
[REDACTED]

27 September 2024

Dear Ms McKenna,

Dr JONATHAN HARVEY SHAW REGULATION 28 REPORT TO PREVENT FUTURE DEATHS

Thank you for your Regulation 28 report, dated 25 April 2024, that was sent to my predecessor following the inquest into the tragic death of Dr Shaw who died on 2 December 2023. I am very grateful to you for sharing your findings, and for the opportunity to reflect as the new Home Secretary on the processes that were in place around the time of Dr Shaw's death.

Your report has identified the following matters of joint concern to the Home Office, which you suggest has the potential to lead to future deaths, if left unaddressed:

- *The UK Border Force do not have the legal powers to seize a consignment of [REDACTED] because it is not a prohibited poison under the Poisons Act 1972. If there is an ongoing police investigation or police interest in a particular consignment, the UK Border Force can use section 19 of the Police and Criminal Evidence Act 1984 to stop the consignment and hold it. However, the holding power is limited to 30 days, after which the consignment must be released.*
- *There is no national guidance or training provided to Police Forces or the UK Border Force on joint working around the management of consignments of [REDACTED] from overseas which have been ordered by individuals inside the UK for the purpose of ending their own life. There is no legal requirement to alert the local police force before a consignment is released or to request a welfare check during which the recipient could be invited to agree to the safe destruction of the parcel by the police or UK Border Force.*

I am determined that we must ensure that all reasonable steps to prevent further loss of life are taken and the Home Office is actively exploring legislative and policy options, including working with or alongside officials of other Government Departments as appropriate, for the control of [REDACTED] (and similar substances) including how to ensure front line officers respond ethically to circumstances where the welfare of individuals is concerned.

As you have summarised, [REDACTED] is not a substance requiring any special authority to import into the UK and so where it has been correctly declared, Border Force have no powers to seize it under the Customs and Excise Management Act 1979, ("CEMA 1979"). You have also highlighted how, Border Force's CEMA powers are supplemented by the Police and Criminal Evidence Act 1984 ("PACE 1984") where, in some cases, Border Force officers acting as designated customs officials can exercise powers granted under S19. This does allow for seizure provided that the substance is the consequence of an offence. Suicide/self-harm however are not criminal acts.

[REDACTED] is a "reportable" poison listed in Part 4 of Schedule 1A of the Poisons Act, and therefore the Home Office work with retailers to raise awareness and emphasise their legal obligation to report suspicious activity for regulated and reportable substances. Our expertise in relation to substances of concern is also shared to inform their sales practices. The policy driver of the Poisons Act is to prevent terrorist use of explosives precursors or poisons so additionally, if, during the processing of suspicious activity reports, a safeguarding concern is identified by Counter Terrorism Policing, they will consider disseminating to police forces to consider a welfare check. Furthermore, the Act was amended in October 2023 to strengthen controls and enhance our suspicious activity reporting requirements, including new obligations for online marketplaces. As well as the requirement to report suspicious transactions, economic operators supplying any reportable substances must now demonstrate that its personnel are aware of which of its products contain listed substances and are instructed on their obligations.

Similarly, Border Force are working at pace alongside police colleagues to introduce measures to prevent any similar tragedies occurring. This includes development of specific national guidance for managing suspicious items which is currently lacking and improved sharing of information with police forces, and other relevant agencies where required, to safeguard vulnerable individuals to the full extent possible within the limits of its existing powers. This work is complex and, whilst underway, frontline Border Force staff who may encounter these consignments are actively being reminded of the steps they need to take with additional support available on a case-by-case basis.

Border Force, on whom the Regulation 28 Notice is focused, has no control over the extent of the powers granted to it by primary or secondary legislation but is working at pace with Home Office policy leads to understand how it can help to prevent similar tragedies occurring. Furthermore, Border Force will however engage with police and legal colleagues to consider whether powers can be invoked on behalf of police where other relevant offences may apply. For example:

- Suicide Act 1961 – section 2 "encouraging or assisting the suicide or attempted suicide of another person" which applies when;
 - there is sufficient evidence that the seller or exporter of the goods sold the [REDACTED] as a means to assist or encourage suicide; or
 - the consignment includes a "suicide pack" e.g. anti-sickness pills, sedatives etc.

By the nature of the importation in Dr Shaw's case, this particular offence would likely have occurred overseas and therefore outside of the jurisdiction of domestic law. There may though be other cases going forward where, depending on the precise circumstances, the police could reasonably conclude that this offence may have been committed, thereby permitting seizure of the [REDACTED] by Border Force or other agencies.

- Online Security Act, which will place duties on online services hosting user generated content to assess and mitigate the risks of illegal content that encourages or assists suicide may offer further opportunities. There is also a new offence making communications, which encourage or assist self-harm, illegal regardless of whether or not victims go on to injure themselves which came into force on 31 January 2024. Those convicted face up to 5 years in prison. As above, where an offence is identified, seizure under S.19 PACE may apply.

Responsibility for the regulation of substances under the Poisons Act falls within the remit of the Home Office, however the policy objective for this legislation and associated regulations relates to counter-terrorism risk reduction aims rather than health considerations and as such [REDACTED] has not been regulated. [REDACTED] is also imported for legitimate purposes such as food preservation. In addition, as this Act criminalises both the seller and the buyer, which also presents difficulties around issues such as suicide, self harm or substance abuse. Suicide is treated as a public health issue and is led by the Department of Health and Social Care (DHSC). My officials will therefore engage across government to highlight the issue. I have also written to the Health Secretary to ask that they consider this issue as part of the Suicide Prevention Strategy.

I would like to reassure you that this is an important issue for Border Force and the Home Office and we will continue to work to ensure our front line officers understand the risks that [REDACTED] presents. I will instruct my officials to work across government where other Departments may need to take action. We will also go further than focusing solely on [REDACTED], as whilst this was the substance used by Dr Shaw and the focus of your report, we recognise that future policy may need to also address threats presented by other substances as they emerge."

Yours sincerely,

[REDACTED]

[REDACTED]

Home Secretary