

Mrs Rachael C Griffin
Senior Coroner for Dorset
Civic Centre
Bourne Avenue
Bournemouth
BH2 6DY

13 February 2025

Reference: Regulation 28 Report to prevent future deaths

Dear Mrs Griffin,

Thank you for your communication of 20th December. I have been asked by [REDACTED] (CEO) to respond on behalf of the RYA to the points raised.

Prior to doing so, it may be worthwhile providing some context about the RYA and, in particular, the extent of our authority.

The RYA is the national governing body for sailing and certain other forms of boating in the UK. We provide training courses for both recreational boaters and masters of small commercial vessels, with RYA qualifications for the latter being formally recognised for commercial use by the UK's maritime regulator, the Maritime and Coastguard Agency (MCA). RYA training schemes were first introduced in 1970, and now extend to 58 countries, with our training delivered through a network of 2,300 independently owned and operated "RYA Training Centres."

The RYA is also the Member National Authority for World Sailing, the international federation for the sport of sailing and accordingly has certain functions under the Racing Rules of Sailing.

Whilst the RYA has the authority to determine the standards for its courses and for the conditions under which RYA recognised training centres operate, it does not have the authority to determine or enforce standards for operations within either the recreational sector or small commercial vessel sector. This responsibility falls to the MCA as the UK maritime regulator, and to local harbour authorities who have certain powers within their respective jurisdiction.

That said, the RYA has always had a primary focus on safety and for that reason we take a proactive approach to influencing change where we can, either through influencing the behaviour of the boating public and commercial operators, or through work with organisations such as the Marine Accident Investigation Branch (MAIB) and MCA, and others.

The RYA supports regulation where this can be shown to be **proportionate, clear, and enforceable**. Where this is not the case the RYA believes that alternatives to regulation such as publicity, training and education are more appropriate techniques to influence behaviour.

I have consulted with colleagues across the RYA with regards the concerns you have expressed. Their responses are as follows:

1) Distinction between pleasure vessels and commercial vessels

The distinction between the requirements for commercial vessels and pleasure vessels has been a long-standing feature of UK maritime legislation.

Similar distinctions exist within the road transport sector where vehicles of the same type may be subject to different regulations depending on whether they are being used privately or commercially, and so differing standards of regulation based on use is common practice.

The Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998 defines a pleasure vessel as:

(a) any vessel which at the time it is being used is:

(aa) in the case of a vessel wholly owned by an individual or individuals, used only for the sport or pleasure of the owner or the immediate family or friends of the owner; or

(bb) in the case of a vessel owned by a body corporate, used only for sport or pleasure and on which the persons on board are employees or officers of the body corporate, or their immediate family or friends; and

(ii) on a voyage or excursion which is one for which the owner does not receive money for or in connection with operating the vessel or carrying any person, other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion; or

(b) any vessel wholly owned by or on behalf of a members' club formed for the purpose of sport or pleasure which, at the time it is being used, is used only for the sport or pleasure of members of that club or their immediate family, and for the use of which any charges levied are paid into club funds and applied for the general use of the club; and

(c) in the case of any vessel referred to in paragraphs (a) or (b) above no other payments are made by or on behalf of users of the vessel, other than by the owner.

The RYA believes that this definition results in an appropriate distinction between pleasure vessels and commercial vessels, and notes that regarding a pleasure vessel as a commercial vessel just because the owner takes friends onboard, permits another to use his boat, or allows it to be used to drop friends to other boats would be disproportionate, unclear and

unenforceable from a practical perspective. Alternatively, attempting to impose commercial regulations (which range from qualifications of skippers and crew through to design and maintenance and standards of the vessel) on all vessels would be disproportionate.

From a practical perspective, while the RYA notes the tragic circumstances of this case, the RYA questions if increased regulation would have changed the outcome, and notes that existing regulations applicable to the boat, including Section 100 of the Merchant Shipping Act, and a range of local byelaws, including a speed limit were ignored. Accordingly, the benefit of subjecting such vessels to additional regulation would appear to have limited benefit in comparison to raising awareness of the need to operate a boat in a safe and responsible way, irrespective of any underlying regulation.

2) Alcohol and Boating

The RYA promotes safe and responsible recreational boating. It encourages boaters to behave responsibly and understand the impacts of alcohol and believes that those involved in the operation of a watercraft should not be under the influence of alcohol (or any other substance).

The RYA does not support the implementation of Section 80 of the Railways and Transport Safety Act 2003 as drafted on the basis that the safe operation of a boat does not always fall to a single person, which raises the practical issue of who onboard a recreational boat should be subject to alcohol limits. Further practical considerations arise around the difficulties of enforcing alcohol limits while at sea, (outside of areas patrolled by Harbour Authorities).

The RYA notes that while there is no specific offence relating to the operation of a pleasure vessel while under the influence of alcohol, Section 100 of the Merchant Shipping Act 1995 imposes an obligation on the owner of a ship to take all reasonable steps to secure that the ship is operated in a safe manner. Accordingly, if a vessel is operated in an unsafe way as a result of alcohol, the owner of that vessel may be prosecuted. Focusing on the impact on safety rather than imposing an arbitrary alcohol limit allows for a more flexible approach to be taken and ultimately would allow action to be taken even if a maximum alcohol limit had not been reached. Focusing on the owner rather than skipper also removes the difficulty of ascertaining who onboard the vessel is responsible at a given time and emphasises the requirement for the owner to retain responsibility for the operation of their vessel even when they are not onboard.

Additionally, local harbour authorities generally have powers to implement local bylaws relating to the safety of water within their jurisdiction. Poole Harbour Commissioners already have a bylaw which requires vessels to be navigated with care and caution, at such speed and in such a manner as not to endanger lives or cause injury or be a nuisance, thereby covering a vessel being operated in an unsafe way as a result of alcohol and at high speed.

As a result, the RYA believes that appropriate means already exist to address concerns relating to alcohol and recreational boating. Accordingly, the RYA does not believe that implementing Section 80 of the Railways and Transport Safety Act 2003, or otherwise introducing an arbitrary alcohol limit for recreational boat users would be proportionate, effective, or indeed, enforceable, and instead recommends that effort is focused on issuing guidance to the recreational community around the impacts of alcohol and utilising the existing legislative frameworks when it is appropriate to do so.

3) Lifejackets

The RYA is of the view that a lifejacket or buoyancy aid should be worn at all times unless it is safe to take it off.

Any decision to mandate the carriage of personal flotation devices for all vessels would be a matter for the Secretary of State for Transport and not for the RYA. The practical difficulties of enforcing the carriage of lifejackets are highlighted, given that pleasure vessels are not subject to the same inspection regime as commercial vessels, and it is also noted that the existing legislation applicable to commercial vessels does not mandate the wearing of a lifejacket unless there is an emergency or risk of entering the water, and accordingly applying the commercial standard would not result in a blanket requirement to wear a lifejacket or buoyancy aid. Therefore, the RYA remains of the opinion that the need to wear a lifejacket or buoyancy aid on a pleasure vessel is best communicated via education and training rather than legislation.

4) Use of Support Boats

The RYA is concerned by any adverse perceptions around particular boating activities. Accordingly, the RYA will be talking to a range of event Organising Authorities to gather evidence around the use of support boats to establish if the perception around a poor culture associated with support boats is accurate, and if so, what steps are proportionate address this.

The RYA acknowledges that events held in public waters often see a number of boats in the vicinity of the event, but notes that these may be spectator boats or general water users and may not fall within the definition of support boat, or indeed, be part of the event. The RYA wishes to encourage the safety of all water users, and therefore imposing requirements on event Organising Authorities is not felt to be a holistic solution, or indeed effective given an Organising Authority has no jurisdiction over boats outside of their events. If it is believed that boats in the vicinity of an event are operating either unsafely or in breach of the existing definition of pleasure vessel, then this is a matter for the relevant harbour authority and not the Organising Authority.

The Racing Rules of Sailing (as set by World Sailing) provide that an Organising Authority should issue a Notice of Race and go on to detail what an Event Organiser should include in that Notice of Race. Accordingly, it is for each Organising Authority to determine what is appropriate for its own event, and the RYA is unable to mandate particular provisions.

However, while an Organising Authority may decide to include provisions around the use of support boats during the event, (for example stating that support boats should not interfere with racing or should be used in a certain way) an Organising Authority has no jurisdiction to impose rules on participants (or support boats) after the event has ended, and it would not be appropriate for an Organising Authority to detail how participants should travel to and from an event after racing, or from an event after prizegiving has concluded, even if they choose to travel by boat rather than car.

There appears to be some confusion regarding the purpose of a risk statement in the template Notice of Race. A risk statement is not intended to impose additional rules on competitors or to remind competitors of their legal obligations, but to draw the specific risks of participating in the event to the attention of participants for the purposes of managing the Organising Authorities' liability, given that exclusion of liability clauses are generally ineffective. Therefore, if an Organising Authority wants to include specific provisions around the use of support boats (so far as it relates to the operation of support boats within the bounds of the event) then this should be done within the general sections of the Notice of Race, and not within the risk statement.

While the RYA does not believe it appropriate for an Organising Authority to be required to influence the behaviour of boats in the vicinity of an event, such as boats unconnected with the event or boats used after hours or after the event has finished, the RYA is actively encouraging all Organising Authorities to have safety management systems in place for their activities. A safety management system should include consideration of applicable risks and detail the steps taken to minimise the risks identified. This will vary by event; however, the RYA is aware that some Organising Authorities of events in coastal areas have already considered laying on water taxis between venues or to return crews to competing yachts and therefore reduce the need for private boats to be used for transferring people. While this would not be a solution for every event, encouraging Organising Authorities to put in place measures tailored to their specific event is believed a more pragmatic solution than attempting to introduce blanket requirements.

Powers to take action

As set out above, the RYA is not a regulator, and accordingly is unable to take direct action either in respect of general recreational boating or under the Racing Rules of Sailing to impose the changes suggested. However, the RYA has the ability to offer advice and guidance and will continue to take steps to highlight the importance of behaving responsibly on the water, together with encouraging Organising Authorities to explore event specific opportunities to promote safety afloat.

Conclusion

To conclude, the RYA strives for safety afloat, and recognises the coroner's concerns, however the RYA believes it appropriate to maintain a distinction between the requirements for commercial vessels and the requirements for pleasure vessels, and highlights that changing the current definition is likely to result in uncertainty and lead to disproportionate consequences.

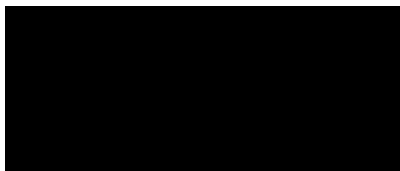
The RYA believes the existing legislative regime provides appropriate tools to address the current concerns, and notes that a successful prosecution was brought under current legislation. Indeed, given that existing legislation was ignored immediately prior to the accident it cannot be said that introducing additional legislation would have resulted in a different outcome, and accordingly the RYA suggests that continued publicity and education remains a more powerful solution than increased legislation.


The RYA does not believe that event Organising Authorities are best placed to tackle inappropriate vessel use within the vicinity of their events and believes the purpose of the risk statement within the Notice of Race has been misunderstood. However, the RYA will be working with Organising Authorities to both establish if there are any specific trends around support boats, and to support Organising Authorities in best managing the risks associated with their particular events.

In its commitment to safe and responsible boating, the RYA will of course be continuing to raise awareness of the need for responsible behaviour to both its members and to Organising Authorities, as well as the wider boating community.

Please do not hesitate to contact me should you require further clarification.

Yours sincerely,




Head of Legal
Royal Yachting Association