

REGULATION 28: REPORT TO PREVENT FUTURE DEATHS (1)

*NOTE: This form is to be used **after** an inquest.*

	<p>REGULATION 28 REPORT TO PREVENT FUTURE DEATHS</p> <p>THIS REPORT IS BEING SENT TO:</p> <ol style="list-style-type: none">1. Secretary of State for Transport2. Chief Executive Officer of the Royal Yachting Association (RYA)
1	<p>CORONER</p> <p>I am Rachael Clare Griffin, Senior Coroner, for the Coroner Area of Dorset.</p>
2	<p>CORONER'S LEGAL POWERS</p> <p>I make this report under paragraph 7, Schedule 5, of the Coroners and Justice Act 2009 and Regulations 28 and 29 of the Coroners (Investigations) Regulations 2013.</p>
3	<p>INVESTIGATION and INQUEST</p> <p>On 16th May 2022 I commenced an investigation into the death of David John Haw, born on the 9th September 1997 who was, therefore, aged 24 years at the time of his death.</p> <p>The investigation concluded at the end of the inquest on 17th December 2024.</p> <p>The medical cause of death was:</p> <p>Ia Drowning</p> <p>The conclusion of the Inquest was unlawful killing.</p>
4	<p>CIRCUMSTANCES OF THE DEATH</p> <p>On the evening of the 1st May 2022, David attended a prize giving event at Poole Yacht Club, Poole as part of Poole Regatta having been a member of crew for the vessel Off Beat. At just after midnight on the 2nd May 2022 having left the event, David as a passenger with others, boarded on a ridged hull inflatable boat (RHIB) called Fargo, which was a support boat being used for another boat at Poole Regatta.</p> <p>The RHIB travelled to Poole Quay Boat Haven, dropped 3 people off and left there at 0.15 hours at which point David was sat in the bow of the deck of the vessel. At 0.18 hours RHIB Fargo collided with Diver Buoy in Poole Harbour, Poole causing David to be thrown out of the vessel into the water. He</p>

disappeared and was later recovered from the water on the 14th May 2022, about 100 metres from Diver Buoy.

At the point of the collision the RHIB was being helmed at excessive speed, approximately 30 knots, which is 3 times the speed limit for the waters, which was not a safe speed. The helm of the vessel did not hold appropriate qualifications to helm the boat at night and was under the influence of alcohol at the point of the collision. There was no pilotage plan for the journey, nor was there a safety briefing or offer to passengers to use lifejackets. There was no challenge by the helm to David about his position sitting in the bow of the deck. The helm used a navigation app on a phone which is not an approved method of navigation and would negatively impact on night vision. The helm failed to keep a proper look out.

5 **CORONER'S CONCERNS**

During the course of the inquest the evidence revealed matters giving rise to concern. In my opinion there is a risk that future deaths could occur unless action is taken. In the circumstances it is my statutory duty to report to you.

The **MATTERS OF CONCERN** are as follows. –

- (1) As the Royal Yachting Association (RYA) state in *Addendum A (RYA) - Recommended Notice of Race Wording to their Guidance and Good Practice*, “Sailing is by its nature an unpredictable sport and therefore inherently involves an element of risk.”

Vessels that operate on the water are categorised as either pleasure or commercial vessels under current legislation and the legal requirements governing the design, construction and operation are very different, with commercial vessels being more heavily regulated. The definition of a pleasure vessel is provided under Regulation 2 of [The Merchant Shipping \(Vessels in Commercial Use for Sport or Pleasure\) Regulations 1998](#) and any vessel that does not meet the definition under regulation 2, is a commercial vessel.

I have concerns that pleasure vessels are being used in a manner, and in conditions, that would be very similar to commercial vessels without the same safety mitigation. For example, there is no requirement to have a safety briefing prior to a journey on a pleasure vessel, whereas there is on a commercial vessel, however the risks may be the same, which can include death.

- (2) Further in relation to pleasure vessels, there is currently no legislation prohibiting the use of alcohol or drugs by those who are helming a vessel for private or pleasure use, whereas for those helming a commercial vessel, there is. *The Railways and Transport Safety Act 2003* was enacted on 10th July 2003. Section 78 & 79 of that Act created an offence for professional mariners to perform their duties if impaired by alcohol, with Section 81 setting a prescribed limit for alcohol consumption. This position is very similar to an offence of driving a motor vehicle under the influence of alcohol. Under Section 80(3) there is a specific offence applicable to non-professional mariners of operating a vessel underway whilst under the influence of alcohol or drugs, however it is not currently

in force. Accordingly, it is not illegal to helm a pleasure vessel under the influence of alcohol or drugs. Helming a vessel under the influence of alcohol or drugs could lead to a future death given the impact alcohol and drugs have upon perception, control, judgement and decision making.


- (3) Further, I have a concern that personal floatation devices, such as lifejackets or buoyance aids are not legally required to be carried on all vessels, nor is there any legal requirement to wear lifejackets. The current legalisation, *The Merchant Shipping (Life-Saving Appliances and Arrangements) Regulations 2020*, only requires pleasure vessels of over 13.7 metres in length to carry lifesaving appliances. I have concern that the lack of life saving appliances on all vessels could lead to future deaths.
- (4) Finally, I have concerns about the use of support boats, often RHIBs, at sailing events or regattas, and particularly when they are used outside of the designated sailing time but in a way linked to the event, for example to transport people to and from the organised social events linked to the regattas, where often there is alcohol available.

I have concerns that there is a culture of using such support boats as a form of taxi particularly at the social events, albeit not for pecuniary gain. This means they could come under the definition of a pleasure vessel and as those helming these vessels may be in drink, they may not take necessary precautions and safety measures given the lack of regulations. Further the owner and operator of the vessel may not be aware, as was the case in David's death, of the use of the vessel in this way, or of the identity of those on board which may result in the vessel falling under the commercial vessel definition for the purposes of those journeys with the appropriate regulations not being followed.

Under Rules 89 and 90 of the *World Sailing Racing Rules of Sailing (RRS20212024Finalwithbookmarks-[27255].pdf)* (*The Rules*) there is a requirement for race organisers to issue a "Notice to Race" and "Sailing Instructions" for the race. Under Appendix J to *the Rules*, at paragraph J2.2, it is stated "*Unless included in the notice of race, the sailing instructions shall include those of the following that will apply: (9) restrictions on use of support boats, plastic pools, radios, etc.; on trash disposal; on hauling out; and on outside assistance provided to a boat that is not racing*".

The RYA in their guidance recommend a risk statement is used by race organisers for sailing events, however, the RYA guidance does not contain a specific section to deal with the use of support boats. I am concerned there is a lack of guidance to organisers of race events to ensure that the owners, operators and skippers/helms of vessels are aware of the responsibilities around use of support boats during the period of sailing events, which could lead to a future death.

As an example of a Notice to Race, I have been provided with this year's Poole Regatta ([found here](#)).

"6	<p>ACTION SHOULD BE TAKEN</p> <p>In my opinion action should be taken to prevent future deaths and I believe you have the power to take such action.</p>
7	<p>YOUR RESPONSE</p> <p>You are under a duty to respond to this report within 56 days of the date of this report, namely by 14th February 2025. I, the coroner, may extend the period.</p> <p>Your response must contain details of action taken or proposed to be taken, setting out the timetable for action. Otherwise, you must explain why no action is proposed.</p>
8	<p>COPIES and PUBLICATION</p> <p>I have sent a copy of my report to the Chief Coroner and to the following Interested Persons:</p> <ul style="list-style-type: none">(1) David's Family(2) [REDACTED](3) The Maritime and Coastguard agency <p>I have also sent it to the following who may find it useful or of interest:</p> <ul style="list-style-type: none">(1) The UK Harbour Masters Association(2) The British Ports Association(3) UK Major Ports Group(4) The National Water Safety Forum(5) The Royal Life Saving Society(6) Local Government Association <p>I am also under a duty to send the Chief Coroner a copy of your response.</p> <p>The Chief Coroner may publish either or both in a complete or redacted or summary form. He may send a copy of this report to any person who he believes may find it useful or of interest. You may make representations to me, the coroner, at the time of your response, about the release or the publication of your response by the Chief Coroner.</p>
9	<p>Signed</p>  <p>Rachael C Griffin HM Senior Coroner for Dorset 20th December 2024</p>