

**Report to Dr Elizabeth A Earland
H.M. Senior Coroner**

North Devon Council's response to your Regulation 28 Report to prevent future deaths.

Keenan John WALSH Deceased

Inquest: 23 - 25 May 2016, Devon County Hall, Topsham Road, Exeter

North Devon Council's (NDC) responsibilities for enforcing health and safety.

NDC is an authority responsible for enforcing health and safety by virtue of S18 Health and Safety at Work etc Act 1974.

The Health and Safety (Enforcing Authority) Regulations 1998 allocate responsibility for the enforcement of health and safety in holiday lets to local authorities where temporary or permanent accommodation is provided for more than 20 weeks.

In May 2013 HSE published the National Local Authority Enforcement Code (the Code). The Code was developed in response to the recommendation in "Reclaiming health and safety for all: an independent review of health and safety legislation" by Professor Ragnar Löfstedt for HSE to be given a stronger role in directing Local Authority (LA) health and safety inspection and enforcement activity and as an outcome of the Red Tape Challenge on health and safety.

The Code is designed to ensure that LA health and safety regulators take a more consistent and proportionate approach to their regulatory interventions. It sets out the Government expectations of a risk based approach to targeting.

In May 2016 the HSE issued Local Authority Circular (LAC 67/2 (rev 5)) to provide guidance and tools for priority planning and targeting these interventions to enable them to meet the requirements of the Enforcement Code.

The LAC identifies 10 activities/sectors where it is appropriate for local authorities to carry out proactive inspections. These are based on national priorities. This list does not include managing safety in swimming pools.

The LAC also allows for the development of local intervention plans which are based on a regional/district needs assessment. For a number of years swimming pool safety has been identified as a local priority in NDC's intervention plan.

NDC's performance in enforcing swimming pool safety

NDC's performance in relation to the proactive inspection of swimming pools is set out in Appendix 1.

While there are no swimming pool specific health and safety laws, officers require operators to comply with the general duties under the HSWA 74 and associated regulations.

Officers refer to and promote the guidance, issued by the HSE entitled 'Managing health and safety in swimming pools'. This is available at www.hse.gov.uk/pubns/books/hsg179.htm

There is no requirement to register/licence a swimming pool and this makes it more challenging for regulators such as NDC to maintain an up to date data base.

NDC's enforcement of health and safety at Bicclescombe Grange, Score View, Ilfracombe, EX34 8ET.

The operator has complied with the works the investigating officer set out in relation to health and safety contraventions regarding signage and access to the swimming pool. The operator has given a commitment to re profile the pool before the end of September 2016. This control was set out as a recommendation.

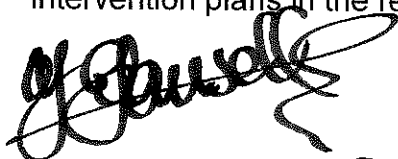
The Council is seeking counsel's opinion so that it can better advise its enforcement officers on the scope of S3(2) Health and Safety at Work etc Act 1974 (duties of self employed persons to persons other than their employees).

This opinion will be shared with the other local enforcing authorities in Devon via the Chief Environmental Health Officers Health and Safety Sub Group.

This will inform the development of all Local Authority intervention plans across Devon and the tourist industry in the county will be advised accordingly.

Summary

NDC will continue to invest resources in enforcing swimming pool safety, this is a local priority. NDC will share the outcome of this inquest and counsel's opinion with other health and safety local authority regulators in Devon, with a view to enhancing the effectiveness and consistency of all local authority intervention plans in the region.



Mike Mansell
Chief Executive
North Devon Council
28th June 2016