



M&S

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Mr Andrew H Haigh
Senior Coroner for Staffordshire (South)
No 1 Staffordshire Place
Stafford
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BY POST AND EMAIL [REDACTED]

2 February 2017

Dear Mr Haigh

INQUEST INTO THE DEATH OF MR ROY FREDERICK LAWTON

Response to Report to Prevent Future Deaths dated 9 December 2016 (the "Report")

I am writing on behalf of Marks and Spencer plc ("M&S"), in response to the Report which followed the inquest into the death of Mr Roy Frederick Lawton on 22 November 2016 (the "Inquest").

Firstly, M&S should be grateful if you would send our sincere condolences to Mr Lawton's family. We were not aware of Mr Lawton's death or the Inquest until we read about it in the press on 25 November 2016. Accordingly, this is the first appropriate opportunity we have had to convey our sympathies to his family. We very much hope that your investigation into any steps which can be taken to minimise future risks will bring them some comfort.

Our understanding from the Report is that the evidence at Inquest showed that Mr Lawton fell asleep and dropped his cigar on to his M&S dressing gown (the "Gown") which resulted in a fire. The Report sets out your concern, which we understand is based on the evidence given by [REDACTED] of Codsall Community Fire Station (the "Fire Investigator") at the Inquest, that the Gown worn by Mr Lawton at the time of the fire was "highly inflammable". In view of this, you have asked whether anything can be done by M&S "in the production, importing or retail of this clothing either to reduce its inflammability or to warn customers as to the danger."

As you would expect, the concerns raised in the Report have been taken very seriously by M&S. The company prides itself on having rigorous systems in place to ensure that our products comply with (and usually significantly exceed) all safety requirements and include all appropriate warnings.

Upon receipt of the Report, we immediately contacted the Fire Investigator in order to properly identify the Gown. Based on the limited information and fabric available, we concluded that it was most likely to be the M&S "Mixed blue stripe coloured woven dressing gown" (the "Relevant Product").

The Fire Investigator informed us that his investigations undertaken for the Inquest had not involved any flammability testing of the Gown (or any similar dressing gown) by either the Fire Service or another body. M&S therefore instructed external experts, Intertek, to carry out a flammability test. Intertek are a global leader in the field of product testing, including flammability testing.

We were not provided with the remains of the Gown and accordingly provided Intertek with the Relevant Product from our store room. Intertek recommended applying the standard testing procedure used for bedding, which is amongst the most rigorous and stringent. The procedure involves placing a lit cigarette on top of, underneath and in between a fold of material. We followed the recommendation and the Relevant Product was subject to the testing procedure for bedding.

This testing closely resembled the circumstances of the fire in Mr Lawton's home. I attach a copy of the Flammability Test Report issued by Intertek which sets out the results of the test. The Test Report records that the cigarette burnt for between 17 and 19 minutes (depending on where it was placed on the Relevant Product) and then went out. No flame was produced and the fabric of the Relevant product did not burn or smoulder after the cigarette had gone out. The dressing gown therefore received a 'pass' for flammability.

Given the enclosed test results, we could not understand how the Fire Investigator came to the conclusion that the Gown was "*highly flammable*". This was particularly puzzling given that the Gown was not subject to any flammability testing as part of the Inquest process. We are also unaware of any testing carried out to ascertain whether or not an accelerant, such as aftershave, was present on the Gown.

We therefore contacted the Fire Investigator again to seek further clarification. He explained that he made the comment "*highly inflammable*" in the context of his concerns about industry wide legal requirements for the flammability of adult dressing gowns, which he believes are inadequate and allow some retailers to sell "*highly flammable*" adult dressing gowns. In the course of our communications, the Fire Investigator informed M&S that he was satisfied that the Gown worn by Mr Lawton was fully compliant with all legal requirements.

M&S does not have detailed information on the nature and extent of the concerns of the Fire Investigator regarding regulation in this area. We suspect, however, that they may emanate from the lack of any legal requirement to test adult dressing gowns for flammability before they are placed on sale.

Currently, the only requirement is to include a label on the gown stating: "*Keep away from fire and flames*". M&S goes significantly beyond this legal requirement in its flammability testing of adult dressing gowns, including carrying out a 'flash flame' test on its dressing gowns with raised fibres (which carry the greatest risk) and refusing to sell any raised fibre fabrics which fail this test. We also have a strict audit procedure to ensure that dressing gown labels contain the correct customer warning and that raised fibre fabrics pass the 'flash flame' test. We are therefore satisfied that M&S goes significantly beyond what is legally required to ensure the safety of its adult dressing gowns.

M&S has a great deal of sympathy for Mr Lawton's family who will understandably want to ensure that any lessons from Mr Lawton's death are identified. It is, however, clear from our communications with the Fire Investigator that his concerns lie with the industry wide legal standards for the flammability of adult dressing gowns. You will appreciate that, as a retailer, we do not have the power to carry out this type of legislative review. What we can do is take every reasonable step to ensure that our own customers are safe when wearing the products we sell. For the reasons set out in this letter, M&S is fully satisfied that it does so.

We hope that the above information and enclosed report is of assistance.

Yours sincerely



Regulatory Lawyer
Marks and Spencer plc