# REGULATION 28 REPORT TO PREVENT FUTURE DEATHS THIS REPORT IS BEING SENT TO: The Chief Executive, Highways England, House, 1 Walnut Tree Close, Guildford, SURREY, GU1 4LZ 2. CORONER 1 I am Andrew McNamara, assistant coroner, for the coroner area of Nottinghamshire. CORONER'S LEGAL POWERS 2 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. **INVESTIGATION and INQUEST** 3 On 25 January 2016 Miss Mairin Casey, Senior Coroner, commenced an investigation into the death of Shahbaz Salim Bhim and Shana Sutaria. The investigation concluded at the end of the inquest on 21 September 2017. The conclusion following the inquest was that Mr. Bhim's and Miss. Sutaria's medical cause of death was: 1. a. Multiple traumatic injury. The summary of the facts was: At approximately 22.30 on 3 December 2015 the deceased were driver and passenger respectively in a BMW vehicle, registration number travelling Southbound along the A46 close to the junction with the A606 at Widmerpool. It was raining heavily. By reason of the presence of standing water in the vicinity of the railway bridge which passes over the A46 and a gulley identified as SBA 14 in a diagram dated 3 February 2016, the vehicle in which the deceased was travelling left the carriageway, passed through a gap in the vehicle restraint barrier and came to rest in Fairham Brook. The drain from gulley number SBA 14 was blocked and unable to cope with the volume of water generated by recent rainfall. It is likely the deceased survived that collision and climbed from the vehicle to the verge alongside the A46. Shortly after the deceased's vehicle left the carriageway, a Citroen van, registration number \_\_\_\_\_, driven by \_\_\_\_ and travell came unsighted upon the standing water which caused and travelling at approximately 65 m.p.h. to lose control of the van. The van left the carriageway and slid along a section of vehicle restraint barrier passing over Fairham Brook. In the course of the van's uncontrollable slide along the barrier the deceased were struck and sustained fatal injuries. They were pronounced dead at the scene. The conclusion was: **Road Traffic Collision CIRCUMSTANCES OF THE DEATH** As above. **CORONER'S CONCERNS** 5 During the course of the inquest the evidence revealed matters giving rise to concern, namely: The drain SBA 14 was blocked and unable to cope with the volume of water 1. generated by recent rainfall;

- 2. The vehicle restraint barrier at the location of the road traffic collision (Highways England's location code being X-465224,Y-328926) was and is not continuous. Accordingly:
- a. it failed to prevent the vehicle in which the deceased were travelling from leaving the carriageway; and
- o. resulted in vehicle being able to mount the barrier passing over Fairham Brook.

In my opinion there is a risk that future deaths will occur unless action is taken. In the circumstances it is my statutory duty to report to you.

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

- c. The scene of the collision is in a natural 'bowl' and that, unless effectively drained, it is a point at which standing water will accumulate during and/or after heavy rainfall;
- d. The gap in the vehicle restraint barrier (Highways England's location code X-465224,Y-328926) at the entrance to the land owned and/or occupied by (and registered at the Land Registry under title number NT514257) is a hazard to traffic in that it permits vehicles to pass unimpeded from the carriageway.

#### 6 ACTION SHOULD BE TAKEN

In my opinion action should be taken to prevent future deaths and I believe you or your organisation has the power to take such action.

#### 7 YOUR RESPONSE

You are under a duty to respond to this report within 56 days of the date of this report, namely by 17 November 2017. I, the coroner, may extend the period.

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.

## 8 COPIES and PUBLICATION

I have sent a copy of my report to the Chief Coroner and to the following Interested Persons:

- 1. The families of the late Shahbaz Salim Bhim and the late Shana Sutaria;
- 2. Highways England, c/o The Government Legal Service;
- 3. Nottinghamshire Police;
- 4. AMEC Foster Wheeler:
- 5. Osborn Abas Hunt (Solicitors for AMEC ), Elizabeth House, 8A Princess Street, Knutsford, WA16 6DD DX: 22952 Knutsford;
- Head of Claims & Insurance, Virgin Media Services, Mayfair Business Park, Broad Lane, Bradford, BD4 8PW;
- 7. AOne+, Valley House, Valley Street North, Darlington, DL1 1TJ;
- 8. Clyde & Co Claims LLP (Solicitors for AOne+), Chancery Place, 50 Brown Street, Manchester, M2 2JT;

I am also under a duty to send the Chief Coroner a copy of your response.

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.

## 9 22 September 2017 Signed: Andrew McNamara

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