

18 APR 2019

FAO: Ms Penelope Schofield
Senior Coroner
Coroner's Service
West Sussex County Council
County Record Office
Orchard Street
Chichester
PO19 1DD

Dear Ms Schofield,

I write to respond on behalf of Park Holidays UK Limited ("the Company") to the Regulation 28 Report issued on 27 February 2019 following the inquest into the death of Mr Shane Henry Steven James Gray ("Mr Gray"). The Company has carefully considered the report and the concerns contained therein.

The Company takes its responsibility regarding the Health and Safety of their employees and visitors very seriously and were shocked to hear of the tragic death of Mr Gray. We wish to offer our sincere condolences, through your office, to the family and friends of Mr Gray.

We address each matter of concern in order:

- (1) There was inadequate signage in the particular area of the Site where Shane entered the Lake warning him that Swimming was not permitted.*

Chichester Lakeside Holiday Park ("the Park") contains 12 fishing lakes and is set over 150 acres. The Lake Mr Gray entered is known as "Leythorne Lake" ("the Lake"). The Lake is located at the right-hand side of the entrance to the Park and borders the A27. At the time of Mr Gray's death there were eight warning signs around the Park including one at the entrance to the Park which would be passed by all vehicular traffic. For pedestrians there was signage on all designated paths on the approach to the Lake.

The Company cannot be specific about where Mr Gray entered the water as no one from the Company witnessed the incident.

An Open Water Risk Assessment was carried out on 10 July 2018, before the incident. At that time, although extensive signage was in place at the Park, an action point was noted that the quantity of life rings and signage be reviewed. The new signage was ordered and delivered in August 2018 and was installed during August / early September. There are now 24 signs around the Park with two

signs on the Lake's edges, one on the "camp site side" and one on the opposing side along a designated pedestrian path. There are no signs along the edges that border the A27 due to the thick trees that border the lake/road.

The Company considers the number of signs around the Park as adequate to highlight the potential dangers of deep water and prohibit swimming.

(2) The area close to the Lake is to be occupied by families with young children and there is no physical barrier to prevent young children entering the Lake

The Company does not consider it to be practical to erect physical barriers around the Lake. Some of the lakes at the Park, including the Lake, are leased as syndicate lakes to nearby fisheries which means that the fisheries have a concession and are allowed to fish on the lakes. One of the lakes at the Park is also used for water skiing.

The Company does not agree a physical barrier is necessary in any event. The lakes are viewed as having "natural barriers" where they are surrounded by hedges, brambles or vegetation. Cleared areas around the lakes are manmade in order to allow the fishermen and water skiers access to the lakes. We would also note that it is not a legal requirement for bodies of water to be fenced off.

The Company is of the view that the risk of young children entering the lake is controlled by advice to parents contained in the holiday caravan rental safety information pack which states

"Your safety is paramount on the park and we strongly advise all those with children to be extra vigilant when they are walking or playing on the park unsupervised. Most of our lakes are fishing lakes and as such are not fenced off – please ensure you do not allow anyone to enter the lake to swim or paddle – these lakes can be very deep and are full of weeds and obstructions you cannot see.

In the event of an emergency signs and life buoys are located around each lake with emphasis on the approach routes. Raise the alarm immediately calling the emergency services stating the lake at which the emergency is at. Please also notify the Park Warden number which is again listed on the signs.

Dogs should not be allowed to access the water – it is not hygienic water "

(3) The signage that is in place in other parts of the sites in a text format (with no pictorial form) and therefore this signage does not provide for those individuals who cannot read or for children who are not of reading age

The Company would reiterate that children who are not of reading age are required to be supervised at all times whilst at the Park and parents are advised accordingly in the holiday caravan rental safety information pack.

The Company takes its responsibility for health and safety very seriously and will be, for the avoidance of any doubt, erecting pictorial signage alongside the existing signs to identify "no swimming" as a visual sign as well as the written word. The Company has ordered pictorial signage and envisages that this will be in place by June 2019.

(4) *Contractors who are working on the site are not directly made aware of the rules relating to the Lakes. Reliance is placed solely on these Contractors having seen the signs upon entering the site*

The Company carries out open water risk assessments for staff safety. These primarily relate to the Fisheries Wardens who do, on occasion, have need to access the water and/or lake edges. In this regard, the Company provides these wardens with life jackets to be used when undertaking such tasks. The Company does not agree that it would be practical to warn every contractor on site as to the dangers of the lakes, as a rule. The Company retains the services of contractors to carry out a number of different tasks, such as refuse collection and cleaning for example. It would be inappropriate to alert all contractors to all risks at the Park. Risk assessments are specific to the expected tasks and are only provided to staff who are to work directly on the lakes.

The Company also has a pre-qualifying questionnaire scheme, entitled the Contractor Competence Assessment Scheme ("CCAS") whereby all contractors are required to provide their risk assessments, method statements and proof of insurance to demonstrate that they are responsible contractors. The Company now retains a third party to manage the scheme and contractors are required to be part of the CCAS.

Although some reliance is, reasonably, placed on the contractors ensuring the health and safety of their own staff, the Company is prepared to provide for those contractors engaged by the Company to be given a leaflet about the lakes when they sign in at reception.

The Company is aware of its statutory and common law duties towards visitors at the Park and considers that the signage in place satisfies the Company's duty of care to ensure visitors' reasonable safety. Signage is situated on the entrance to the Park itself and also on the approach to each lake.

We have been advised that the House of Lords directed in Tomlinson v Congleton BC [2003] UKHL 47 that

"... any premise can be said to be dangerous to someone who chooses to use them for some dangerous activity. The fact that such people take no notice of warnings cannot create a duty to take other steps to protect them. It will be extremely rare for an occupier of land to be under a duty to prevent people from taking risks which are inherent in the activities they freely choose to undertake upon the land. If people want to climb mountains, go hang-gliding or swim or dive in ponds or lakes, that is their affair. Of course, the landowner may for his own reasons wish to prohibit such activities. He may think that they are a danger or inconvenience to himself or others. Or he may take a paternalist view and prefer people not to undertake risky activities on his land. He is entitled to impose such conditions, as the Council did by prohibiting swimming. But the law does not require him to do so."

The Company also submits that any contractors working on site are aware that swimming is prohibited in the lakes due to the signage around the Park.

Moreover, we have also been advised that the Court of Appeal held in English Heritage v Taylor [2016] EWCA Civ 448 that, in order to comply with their statutory duties, where it is not clear whether a risk is self-evident or not, an occupier may take reasonable measures to warn against dangers but the steps need be no more than reasonable steps. It is the Company's view that the steps taken to date to prevent reoccurrence of this incident are reasonable.

The Company therefore does not agree that anything more ought to, or can practically, be done to alert contractors to the rules relating to the lakes.

Following the inquest into the death of Mr Gray, the Company consulted the counsel of the Senior Environmental Health Officer from Chichester District Council ("the EHO") who visited the Park to review their safety management. The EHO was pleased with the Company's systems and their review of the Open Water Risk Assessment following the incident. He also agreed that the steps taken by the Company to date are practicable and appropriate in terms of seeking to prevent reoccurrence of this tragedy.

The Company does not take the incident lightly and is eager to ensure that this does not happen again and that the Park is a safe family holiday environment for all visitors.

We hope the above is of assistance and that it addresses all of the issues raised in the Coroner's report.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'J. Sills', written over a faint circular stamp or watermark.

Jeff Sills
Chief Executive Officer