



[REDACTED]

30 June 2021

HM Senior Coroner Kevin McLoughlin
Her Majesty's Coroner's Office and Court
71 Northgate
Wakefield
WF1 3BS

Dear Sir

Regulation 28 report - Elliot Peter Burton

Foresight Group ("**Foresight**") write in relation to the above Inquest heard on 30 April 2021 following the sad death of Elliot Peter Burton on 29 July 2019. In particular, we seek to address the concerns set out in the Regulation 28 report dated 30 April 2021. We are grateful to you for drawing these concerns to our attention.

This was indeed a very tragic event and our thoughts and deepest sympathies go out to Elliot's family and friends.

We were not granted Interested Person status and so could not address the Inquest directly but we understand the evidence led to some concerns about:

1. the site location and its site security;
2. historic trespass incidents;
3. the safety measures around the water in the facility;
4. access to the site via the weir across the River Calder; and
5. action to be taken to reduce the risk of harm of trespass by children.

Before turning to these concerns, we wish to set out the factual background which we hope will provide some explanation as the reasons for our response.



Background

Foresight is an infrastructure and private equity investment management company with extensive portfolios across a number of funds. In the vast majority of companies in respect of which we advise we appoint a Non-Executive Director, to enhance and protect our client's/the funds' investment.

In line with our normal practice [REDACTED] was appointed to the board of Yorkshire Hydropower Limited ("YHL") in the role of Non-Executive Director. He was, of course, a witness in relation to the inquest and is a Senior Portfolio Executive employed by our business with extensive experience in renewable energy. In terms of the relationship between Foresight and YHL, we act in our capacity as investment advisors, making business recommendations to our client, which is an institutional investor, and the ultimate owner of YHL since 19 July 2019 (i.e. very shortly before the fatal accident). We do not own or have any financial stake in YHL, nor do we have a direct contractual relationship with the business itself.

The nature of our activities pertaining to YHL

YHL operated Kirkthorpe Hydropower Station. We are contracted to provide Investment Advisory Services to the aforementioned institutional investor. Our role includes ensuring and monitoring that there are appropriate contractual relationships and competent advisors in place to support the business, from a financial perspective. This obligation does not, however, include day to day management of YHL or its parent company (YHL Holdings Limited)'s affairs; or advice relating to health and safety matters. Instead, as above, we provide Non-Executive Directors with relevant experience, who fulfil their roles independently and impartially, as they are required to by law.

We understand that we were not at any stage suggested to be a party to this Inquest. Foresight's links with YHL at the relevant time derived from its contract with YHL's ultimate parent and the employment of Mr Hardy, both of which are addressed below.

As a responsible company, and in light of your concerns raised in the Regulation 28 report, we have reviewed the recordings of the evidence given to identify any steps required on Foresight's part. However we have identified nothing indicating that Foresight had control of YHL's operations, or that [REDACTED] role with Foresight dictated or constrained his actions as a director of YHL.

Such operational decisions were, and are, decisions for YHL to make, entirely independent of Foresight, as these companies have separate legal personas. Any person holding a director role by virtue of Foresight's Investment Advisory Services contract is an employee of Foresight's business and a director of YHL. Any such individual is fulfilling two distinct roles, which are clearly delineated and do not afford Foresight any control over YHL, including how any director should have exercised their discretion as a director. Clearly any director has a statutory obligation to act only in the best interests of the company and not to vote on matters in which they had a conflict of interest.



Foresight does routinely provide training to Directors, and those who may become Directors, on their duties and expectations in the role of Director on project company boards. This training is provided by third party training providers and covers legal, commercial and operational aspects of Directors' duties. It also includes training on specific duties Directors have in relation to health and safety matters, which is recognised by the Institution of Occupational Health and Safety (IOSH). This training is intended to equip those who may fulfil a statutory role on their obligations so that they can discharge these responsibly.

Although we are extremely saddened by Mr Burton's death, we feel obliged to respectfully draw the factual situation to your attention so as to assuage any concerns over the fact that it is YHL who are taking the steps to ensure there is no repetition of this tragic accident. As set out above, we cannot and do not exercise any control over YHL's affairs.

Despite the previous paragraph, Foresight treats this situation with the utmost seriousness and gravity. We have taken up the matter with YHL in order to establish what steps it has taken and proposes to take, in order to be assured that appropriate action has been taken.

We have now had the opportunity to review the draft response prepared on behalf of YHL and we fully endorse and support the proposed measures they have outlined in that document. For completeness we note that those actions include: -

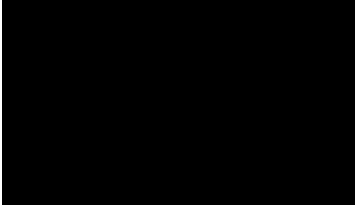
- (A) *Additional fence returns and mesh infills to deter climbing/access from the land side of the Facility*
- (B) *Additional warning signs*
- (C) *Enhanced CCTV system (with greatly improved coverage and resolution), actively monitored at all times.*
- (D) *Improved PA system to enable loud warnings to be issued remotely on detection of trespassers.*
- (E) *Various measures to block off routes within the Facility, through the use of barriers and secure gates.*
- (F) *Covering of some channels where practicable to do so.*
- (G) *Ongoing liaison with the local emergency services.*
- (H) *Daily manned security presence during summer months from 10am to 8pm.*

We believe that the security of the site will be greatly enhanced by these measures, and by any steps taken by both the Local Authority and the Canal and Rivers Trust.



We do hope that this letter is self-explanatory but would be happy to provide further information if that would be of assistance.

Yours faithfully



**Partner & Chief Investment Officer
Foresight Group**