

HM Principal Inspector of Health & Safety : G J M Manson

Mr Ian Jardine
Chief Executive
Scottish Natural Heritage
12 Hope Terrace
Edinburgh
EH9 2AS

Dear Sir

HEALTH AND SAFETY AT WORK ETC ACT 1974

THE MANAGEMENT OF HEALTH AND SAFETY AT WORK REGULATIONS 1999

**THE CONTROL OF SUBSTANCES HAZARDOUS TO HEALTH REGULATIONS
2002**

DEATH OF DAVID MCRAE - NOVEMBER 2002

You will be aware that the Health and Safety Executive is currently investigating the death of David McRae. From the information available to date it appears that Mr McRae died from rabies, believed to have been contracted after being bitten by an infected bat.

The role of the Health and Safety Executive in this case relates to a consideration of whether or not Mr McRae's death was as a result of contracting a disease during the course of any employment or whilst under the control or direction of any employer.

A number of Scottish Natural Heritage personnel including Mr P Gaskell, Area Manager for Tayside and Clackmannanshire Area and Mr C Shearer, Health and Safety Officer have been interviewed as part of this investigation. Evidence to date indicates that Mr McRae was employed on a contract basis by Scottish Natural Heritage as a bat worker. I am also aware that Mr McRae handled bats extensively in his non-work related life as a bat enthusiast. Therefore, if the rabies infection was indeed contracted from an infected bat it would appear not to be possible to determine whether the disease was contracted during his work related activities or his non-work related activities.

In accordance with established protocols a report on HSE's investigation into this matter will be forwarded to the Procurator Fiscal at Dundee for his information and consideration. The Procurator Fiscal will then make a decision as to whether a Fatal Accident Inquiry and/or the instigation of some form of legal proceedings is appropriate.

As part of our investigation HSE has considered the assessment and management of the risk of occupational zoonoses by Scottish Natural Heritage. Deficiencies have been identified in a number of areas. In particular, you have failed to properly assess the risks to your employees whilst at work when they are incidentally exposed, or potentially incidentally exposed, to zoonotic agents and you do not have appropriate arrangements in place to ensure that employees who are, or may be, exposed to such agents are under a programme of suitable health surveillance. In relation to your employees working in the field there appears to be no formal mechanism to ensure that your occupational health advisors/providers are actually involved in advising on hazard and risk issues that may require health surveillance. Suitable health surveillance will always include the keeping of an individual health record but I note that there appear to be no such records in relation to bat workers and you were not able to identify which of your employees had been, or had not been, vaccinated against rabies. Vaccination may have been offered but was not promoted with any vigour despite the fact that Department of Health guidelines recommend, in particular, that licensed bat handlers be vaccinated. Also, in relation to staff being bitten or scratched by bats you do not appear to have a robust reporting system in place in relation to such incidents to allow appropriate management follow up as part of your general monitoring of your occupational health and safety policy and arrangements.

Deficiencies with respect to the keeping of appropriate training records and evidence of communication of health and safety information to staff, not just in the area of occupational health, but also in relation to more conventional health and safety issues, are also areas of concern. Additionally, there appears to be no formal system of management monitoring of health and safety information/instructions in relation to field workers that may be exposed to occupational zoonoses. For example, in relation to bat workers it appears to have been “custom and practice” for employees not to wear the personal protective equipment provided, i.e. gloves, when handling bats contrary to the information and instructions provided by you as an employer. I am aware that bat handlers do not like wearing gloves as it makes handling bats difficult (loss of dexterity and animal welfare concerns), however other gloves e.g. nitrile may suffice instead of leather ones. This issue should be considered as part of your risk assessment.

Following HSE’s investigation to date I now propose to issue the following two Improvement Notices:

IMPROVEMENT NOTICE NUMBER I/200163974/12/02/a

This Notice requires you to carry out an appropriate assessment under the Control of Substances Hazardous to Health Regulations 2002 in relation to the exposure or potential exposure of your employees to zoonotic agents such as the rabies virus. However, you should not restrict your assessment to exposure or potential exposure to the rabies virus only, but should consider any other zoonotic agents that your employees are or may be exposed to. The Schedule to the Improvement Notice indi-

cates the actions that are required and provides details about sources of information and guidance to assist you with compliance.

IMPROVEMENT NOTICE NUMBER I/200163974/12/02/b

This Improvement Notice requires you to put in place appropriate health surveillance arrangements in relation to your employees that may be exposed to zoonotic agents. Again the Schedule and Notes to the Notice provides details of how to comply with the Notice.

Whilst the Notices relate to your duties as an employer you should also consider the arrangements required with respect to volunteers that may work under your direction and control. Regulation 3 of COSHH and the associated ACOP provides some guidance on this matter.

Both Improvement Notices require compliance by 28 February 2003. If, for any valid reason, you require an extension of time for compliance with either of the Notices then this should be applied for in writing to this office, before the expiry dates of either Notice, indicating why additional time for compliance is required.

You should also note that you have a Right of Appeal against an Improvement Notice to an Employment Tribunal. I enclose Appeals forms and Notes which explain the appeals process.

INFORMATION FOR EMPLOYEES

I am required by Section 28(8) of the Health and Safety at Work etc. Act 1974 to keep employees or their representatives informed of factual matters affecting their health, safety and welfare at work. I will therefore be sending copies of the two Improvement Notices to Stewart Pritchard, Prospect Trade Union Staff Representative for his information. I enclose a copy of a covering letter which I will be sending to Mr Pritchard together with copies of the two Improvement Notices for your information.

Should you require any further information with respect to the above matters then please do not hesitate to contact me at this office.

Yours faithfully

J RADCLIFFE
HM Inspector of Health & Safety