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Mr Tom Osbourne
Her Majesty's Coroner for Milton Keynes
Civic Offices,
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Your ref: TRO/FT
Our ref:

Date: November 2011

From Richard Benyon MP
Minister for Natural Environment and Fisheries

Dear Mr Osbourne

Re Wendy Brennan - Deceased

Thank you for your Rule 43 Report of 13 October issued following the conclusion of your inquest into the death of Mrs Wendy Brennan. I was very sorry to hear of Mrs Brennan's accidental death as a result of her being hit by a falling tree while on one of the canals operated by British Waterways. If you are able to do so, please pass on my condolences to Mrs Brennan's family.

In your Report you noted some failings in the tree management system operated by British Waterways, but did not consider that such failings in this instant contributed to the death of Mrs. Brennan. However, you recommended that in order to ensure that similar deaths do not occur in the future that there should be an urgent review of the tree management system at British Waterways and by other organisations who manage trees where the public have access and you have also suggested that consideration should be given to an online system where members of the public can report a dangerous tree, following which the appropriate action is taken and feedback is given to the person who reported it.

British Waterways reviewed their tree management policy after the death of Mrs Brennan. As the tree in question in this particular case was not on British Waterways' land, this review also examined the manner in which British Waterways deals with trees that are not on its property. They concluded that their tree management system was thorough and robust, a conclusion which I understand has been supported by the Health and Safety Executive. BW have however undertaken to keep its tree management system under review in the future so that it can evolve and improve as circumstances change. This is something BW does routinely with all of its safety systems.

You may wish to be aware of tree management controls in place within the areas governed by the other two main navigation authorities, the Environment Agency and the Broads Authority. The Environment Agency assess trees and then manage those trees that the assessments identify as forming a risk. This takes the form of visual assessments

by EA operatives to note any changes, followed either by more specialist assessment or management action for those trees that are identified as in need of attention. In addition, EA implement a programme of tree management for particular high risk sites, such as those with heavily used commuter and leisure towpaths passing beneath them. Finally, EA also have powers to enter lands to deal with trees and vegetation that obstruct or endanger navigation. Where such are found, EA will first notify the land owner to get them to address them, stating that should they fail to the EA will carry out the work and seek to reclaim their costs through the court.

The Broads Authority has a Ranger service which carries out regular patrols and inspections of their sites and the land adjacent to the waterways, recording a variety of defects as well as considering the condition of trees. The Broads Authority's land holding is small and as such they have direct control of only a handful of trees, the majority of trees they encounter are privately owned and the Norfolk and Suffolk Broads Act as amended in 2009 gives the Broads Authority powers to inform individuals of trees that require maintenance works, and also have powers to enter onto land and carry out these works if the defect warrants urgent action. As well as conducting their own inspections and recording of defects they have a system, online, where members of the public can report any issues of concern, this includes trees that they deem require arboreal works. Online defects are then notified to the correct officers to action and replies are then sent to the complainant to close the loop once works have been programmed or carried out. The Broads Authority are currently revisiting some of their practices and procedures and the tree policy is one of these procedures currently being updated, so they will be taking your findings into consideration during this process and look to see where their online processes could be made more tree specific.

There are a number of other smaller navigation authorities. The Association of Inland Navigation Authorities (AINA) represents their interests and provides guidance and advice to them on a range of issues. AINA have advised that your Inquiry has already prompted their Safety Issues Group to flag tree management as an important issue to be addressed and has recommended that the issue be referenced in the new AINA Action Plan which is currently being finalised. More generally AINA have advised that the vast majority of smaller navigation authorities have a defined tree/vegetation management policy, although the content of such approaches are not standardised. All however take a sensible risk-based approach, some take the form of a very robust tree inspection regimes and work programmes based upon risk zones, while others are less refined. One common feature is the recognition of need for members of the public, volunteers, waterways users, etc to report any sightings or concerns about tree conditions. While some navigation authorities already have systems set up whereby such reports may be submitted online through their websites, others offer a phone number for the reporting of any health and safety concerns about the waterway including tree management. AINA will circulate your Report to their members so they can consider any appropriate action on tree management and the suggestion of online reporting of trees appearing dangerous. Members of AINA will also be able to consider whether AINA should draw up new guidance on tree management.

While Defra is not responsible for management of trees wherever there is public access there are a number of bodies within the Defra network which are likely to have some responsibilities for the condition of trees on land they own or manage. These include National Park Authorities, the Forestry Commission, the National Forest Company, Areas of Outstanding Natural Beauty and Natural England. I am therefore passing copies of your Report to them along with a copy of my letter, and with a request that they consider review

their tree management systems and consider the suggested online dangerous tree reporting mechanism.

I trust that the action I have put in hand will help address the concerns raised in your Report.

RICHARD BENYON MP