

Finding of Coroner under Coroners Act 1988

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6-11-86

I, Bernard Andrew MacGeorge Coroner at Waimate

Hereby Certify that at an inquest completed on the 24th day of May 2000, at the Council Chamber of the Waimate District Council, Queen street, Waimate, having enquired into the time, place, causes and circumstances of how **Glen Jopson** of 1 Maude Street, Waimate died, I found:

that **Glen Jopson** aged 14 years, died by drowning on the 10th day of February 2000 at a place known as "the Black Hole" which is a natural pool situated in the Waihao River some few kilometres generally south of Waimate Township. That this occurred at an approved outdoor class activity of the Waimate High School, of which he was a pupil. I find that he died accidentally while swimming on a return crossing of the Black Hole and came into contact with another swimmer; lost his stroking and stopped swimming; from which situation he was unable to recover and not withstanding efforts to save him he sank into the deep pool and in his plight pulling fellow student Hamish Neal down with him who was one of those trying to save him. **Both drowning** notwithstanding vigorous efforts to save them both.

The circumstances as I find them are appended hereto.

Pursuant to section 15 (1)(b) of the Coroners Act 1988 I make the following recommendations or comments (if any):

As set out in the annexed circumstances (also separately scheduled for reference).



And pursuant to the Coroners Act 1988 I have prohibited publication of certain evidence at the inquest or as part of the proceedings. * Except as permitted by section 29(2) of the act as to name, address, and occupation of the deceased and the fact that the death was self-inflicted.

Jr

The Orders (2) made are appended.

Dated at Waimate this 14th day of June 2000

A. A. MacGeorge

Coroner

* Delete if not applicable.

Note:-- this form, together with the depositions, the prohibitions on publication and, where applicable, a certificate of registration of death, must be forwarded to the Secretary for Justice by the coroner completing the inquest.

INQUESTS re Deaths of Hamish Everet Neal and Glen Jopson

Circumstances:

To gain an understanding of how these deaths occurred and to understand why I make recommendations later herein which may help prevent a similar happening in the future, it is necessary to look at the events which occurred in some detail. I first look at the direct events which related to the Black Hole. I find the essential elements are as follows:

The two pupils whom I will refer to as Hamish and Glen, were part of a class at the Waimate High School known as 9 COM. The pupils in this class ranged in age from 12 to 15 years. The class was formed to assist pupils with special needs. It had been operating for two years. The pupils in this class having varying degrees of learning and behavioural difficulty. The class teacher had been obtaining good results with the pupils and there was evidence parents were pleased with her commitment to the pupils and her results.

Their class teacher was an experienced lady teacher and in addition was involved in scouting instruction and outdoor activities, which included lifesaving. On the 10th of February 2000 she took 13 of the class by a mini bus driven by herself to the Black Hole for a half-day outing. She had had discussed this with and obtained the consent of the Rector previously and had notified parents by a detailed circular of the activity and requirements. There was no parental objection. All of the class went except two. The class had participated in the preparation of the notice. The notice also asked for parental help and invited parents to take part in a barbecue. One lady parent said she would help and arranged to meet the class at the Black Hole at lunch time. The outing was arranged to get to the Black Hole at lunch time and return at 2.30pm. The class took togs, warm clothing and barbecue food.

I was told that swimming was not the principal objective of the outing. However it was one of the stated optional activities and some swimming did take place. The previous year this class had become restive while watching the school swimming sports and had to be moved to a classroom and supervised. Pupils in this class were not taking part in the school swimming sports and it seemed were reluctant to try and participate. Thus the trip was to give the class an alternative and provide an outdoor experience, chance for new pupils to mix with existing ones, participate in a barbecue and an opportunity for swimming for those who wished to do so.

This outing was to be followed in the next week (week 3) by bike activities for national bike week which would involve a wide range of activities, camping out and in association with the education officer for the police, other police officers and parents. Reference to this was also included in the same detailed news sheet previously sent home to parents of 9 COM by the class teacher.

The Black Hole trip had been discussed with the Rector and approved earlier in the term. It had also been discussed at the morning management meeting on the day in question. The Rector stated other staff knew of the trip that day and no concern was expressed about it. The Black Hole was known to the Rector and the class teacher as a popular public picnicking and swimming spot.

The Rector said that one or two school groups used the Black Hole each year as did students privately and the public.

The class teacher had been there on some earlier school activity but not involving this class. The Rector also had visited the area. There were public changing and other facilities there. These were maintained by the land owner with assistance from the Waimate District Council and possibly a service club. Access was through private land and it appeared that the area was situated on private land to which the public had enjoyed free access of long standing.

The day was not especially pleasant weather wise. It was cool with light drizzle in the morning but calm. The school decided to hold the swimming sports. The class teacher discussed the outdoor trip with her class and the pupils of 9 COM still wanted to go to the Black Hole. So the class proceeded to the Black Hole together with all prescribed clothing and food. The weather showed some improvement as the day progressed with some weak sunshine and some drizzle spotting.

On arrival around mid-day the class teacher set up the barbecue and ensured she could observe the pool and area around. She was assisted by some pupils including Glen Jopson. Some pupil evidence indicates the class teacher advised pupils the pool was deep and that only good swimmers should go in. Three boys swam across the water hole to the rock on the other side. These did not include Hammish or Glen. A photograph taken shows some of boys across the pool and one swinging off an existing rope attached to a tree out into the water.

The swimmers returned for lunch which was cooked and the pupils ate and chatted. No one else went swimming before lunch. Some had played around the waters edge but not getting really wet and others did not even do that.

The parent help had not arrived and in fact did not do so at all. Her evidence was that she had been delayed in Timaru and arrived in Waimate too late to help. The class teacher was therefore left without extra help and did not know when the parent would arrive. No message was received in this regard nor could it, it appears by cell phone.

The class teacher said she tested her cell phone there while the barbecue was heating and found it could not pick up the network signal. (This was essentially also the experience of the police when later testing there). She was aware there was a house near by. The class teacher took a number of pictures while there on her camera and these included a good coverage of close in point of time to when this tragedy took place. They have proved very helpful in understanding events. They also show that the pupils in the main did not go swimming and at most were content to stay on the shelf on the barbecue side and paddle and play in the shallow water.

After lunch there was about one hour left until it was time to depart. About then the class teacher found that one boy had wandered away without approval and was spoken to sternly by the class teacher and sent to the Mini Van to wait. The class wanted to walk up the side of the river to another hole. They started out to do this but turned back after one of the leading class members said there were bees ahead. Some of the pupils then played at the waters edge on the way back. Hamish and another boy who were in togs started a mud fight and during this they discovered that Glen had had an accident in that he had defecated. Glen said he was unable to hold on, that he usually could. They all returned to the Black Hole and Glen cleaned up in the water at the edge. Glen had not been swimming in the water. The class then returned to the Black Hole. Hamish and the other boy involved in the mud fight got in the water to clean mud off themselves. Hamish and two other boys then swam across the hole to the rock as Hamish wanted to have a swing on the rope there. The evidence showed that the Black Hole was calm and had virtually no current.

Glen who had been sitting in shallow water or standing in it washing off said he wanted to go across and asked the class teacher if there was time for him to do that. She said yes and he could if he wanted to. According to two pupils, the class teacher agreed provide he was accompanied by another pupil and this apparently occurred. Glen swam very strongly to the other side and climbed onto the bank and stood

about for about 10 minutes, but did not want to have a swing; nor did he then or re-enter the water. The class teacher photographed them at his point. The teacher gave evidence that she commented to pupils at that time if Duncan Lang got hold of him he could get into the Olympics. (referring to his swimming display).

After Glen had been there about 10 minutes (about at 2.10 pm) the class teacher advised the pupils that it was time to start thinking about packing up. Hamish and Glen came down the bank into the water and the third boy asked if he could have a swing. The class teacher said to wait until Hamish and Glen have come back. Glen then said he did not think he could get back and that he was cold. The class teacher gave evidence that she thought Glen was just saying that and just needed some encouragement as from her experience of him he tended to do this. She said to him, as she described it, in a supportive way: "of course you can Glen." She explained that as he had only been in the water for 10 minutes she did not think he was really cold and she had no concern about his ability to swim back as he had swam so strongly across. She then suggested that Glen swim back but be accompanied by Hamish and two other boys; they then swam back to accompany Glen. The two boys who had swam back encouraged Glen, and he started to swim back with the same apparent power as before. Hamish swam behind and a boy swam along with Glen on either side reasonably close and initially it seems slightly behind. One boy remained behind to use the rope it appeared.

It appears to me that Glen had reached a point beyond half-way and reasonably close to the edge of the shallow shelf, and safety, when some event occurred which interrupted his stroke and difficulties developed with tragic results. Evidence was given at the inquest by the diver who recovered the bodies that he saw a large eel in the pool and described how these are curious by nature and he had experienced them coming right up to him. He said that it was a possibility that this might of happened to Glen. While this cannot be entirely discounted I have reached the conclusion that Glen stopped swimming as he and one of the swimmers alongside of him who was doing backstroke, accidentally came into contact. The pupil concerned described that Glen's arm had come across his neck and Glen had then stopped swimming. This is confirmed by the class teacher who in her evidence noticed that Glen had stopped swimming and she stated that Glen had reached out with his left hand and pushed the other swimmer in the face and she told Glen not to do that. I believe what she saw and misinterpreted, was the accidental overlapping of the swimmers as described above.

In any event Glen did not continue swimming and was seen to be thrashing his arms about in the water and clearly in difficulties. The class teacher's account at this point is that she waded into the water up to her waste and was able to reach out with her hand and that Glen took it. That she was still able to have her feet touching the ground. She describes how he was able to then take both of her hands and she invited Glen just "to come to her".

When rescue seemed secure matters took a worse turn when as the class teacher describes this, Glen pulled her off her footing and she slipped into deeper water. It is clear to me that the class teacher had been standing on the upper edge of the steeply sloping side of the hole just past the edge of the shallow shelf. That Glen's pulling to get in had caused her to go forward and thus lose her footing. This will become more readily understood when I describe the evidence on the nature of the Black Hole's steepness later. The teacher then describes that Glen tried to climb out on her or over her but this caused her to go deeper into the pool; she was aware of four legs above and entangling her. She then saw Glen and Hamish just above her and descending towards her. She then explains how she grabbed both and pushed them upwards thinking they would surface, get air, and others would be able to help them out. She then became herself in difficulty and needed air and slowly reached the surface where clearly at the end of her capacity was assisted from the water by a pupil. She then discovered unbelievably that Hamish and Glen were not out of the water.

The class teacher then took off clothing to assist her and with full disregard for her own safety re-entered the water to search for Hamish and Glen. She asked the two accompanying swimmers to assist her which they did. After failing to find them, she, with the help of pupils sought help. By then it was too late. However some pupils had already gone for help which came and met the class teacher and her accompanying pupils part way .

The entire order of events is not fully clear to me during the critical time, or the interrelationship of the swimmers and the class teacher's efforts. Understandably this would be difficult to recall exactly after the trauma of the event. It was clearly happening quickly. The account given by the swimmers with Glen was essentially as follows:

When Glen first stopped swimming the two immediately accompanying swimmers tried to help him. One with great presence of mind, immediately endeavoured to calm Glen by asking him to stay calm and to get him on his back to life save him to the

bank. Instead Glen who did not so respond, pulled his rescuer under water for some seconds ; this also happened to the other who had difficulty getting released and back to the surface; this second rescuer tried to pull Glen back up but had to get out because of loss of energy: Hamish came in quickly to help as did a further boy slightly afterwards and this enabled the first rescuer to gain release, but Hamish was then grabbed and pulled down instead by the leg. Hamish in turn was still trying to hold on to the first rescuer to avoid being pulled down but lost his grip. Thus the rescue now involved both Hamish and Glen.

A number of pupils entered the water to look for Hamish and Glen and to do what they could but by then Hamish and Glen had sunk into the deeper part of the pool and could not be located.

I am satisfied that the class teacher did all she could once Glen got into difficulty as did the three accompanying swimmers which included Hamish. It is clear that all three were at some stage dragged under water by Glen who was desperately trying to deal with his own position. The real possibility existed then for more than two deaths, in my view.

Post Mortem showed that both Hamish and Glen died by drowning.

Conclusions:

I have reached the view that these deaths arose from a number of factors adding together with an element of bad luck. From this I believe there are some lessons to be learned.

While the Black Hole was generally know to the public and the school as a popular and safe swimming hole no one really knew the real nature of the pool. The evidence showed that it was some 32 metres across with a maximum depth of 6.1 metres. The width I believe is comparable with the length of the town swimming pool. A shelf extended out on the barbecue side for a few metres, and then the side dropped away steeply. The far side was slightly less steep but commenced it's decent almost right at the bank. It appeared to me that the depth of water exceeded a swimmers height for nearly all the width except when the shelf was reached. The class teacher on her account tried to deal with the situation initially by reaching out to Glen but in my view she did not anticipate that Glen would be so strong in his reaction or that she would lose her footing. She did not know that the side sloped as sharply as it did. The pool was dark with little visibility below the surface. The diver describes a sudden slope of about 45 degrees. Once she lost her footing and was submerged

under Glen's weight she also largely lost her control of the situation. I accept that she acted in good faith and made a decision which appeared then to quickly save Glen. Had she known that there was little secure footing she might have been better to attempt a life saving approach by entering the water as a swimmer. However it appeared to me that Glen was of similar weight and strength to the class teacher so that she would have had a difficult rescue. She told the Court that she considered she had adequate swimming skills and had received life saving training and was familiar with it. This would have been more feasible if the class teacher had had another adult present to assist her. It is unlikely that Hamish or Glen knew the contour or depth of the pool.

The diver who retrieved the bodies described the pool as clean and safe. The bodies were recovered on the barbecue side slope at a depth of about 4 meters and close together one slightly above the other. Glen's body was at the lower level.

A further point I note is that the day was not particularly pleasant. The pupils' description of the coldness varies but it is clear that it was not warm and the water was felt to be very cold by some and not by others. In particular Glen complained of being cold and according to the view of one of the swimmers with Glen on the far side he was shaking with the cold and Glen said to him he would have to get going back across as he was really cold now.

The evidence from the National Institute of Water and Atmospheric Research was that the maximum air temperature that day was 16.6C which was 4.5C below normal and "was rather cool" for the time of year. Water temperature taken mid morning on the following day by the Waimate District Council showed a temperature range across the top of the pool of 16.1C at the barbecue side decreasing to 15.5C at the far side where the rock is. The shady side. The bottom temperature being about 15.4 at the deepest point. The air and water temperatures being similar. From the foregoing I am of the view that Glen really was very cold and that this reduced his ability to return. The evidence was that Glen was a large strong boy and that is also clear from the photographs and post mortem report and his mothers' evidence. His larger body mass and the fact that his lunch had not fully digested may have been factors in his response to cold. A further factor is that he may have been unwell in that he defecated and also his mother has wondered whether he was his normal self that morning before school. From this I have formed the view that the class teacher did not recognise that Glen was really so cold. However that on it's own I consider would not have normally caused the drowning. It appears that but for the tangling of the two swimmers he would have made the safety of the bank but I suspect only just.

The question of Glen's swimming ability needs to be considered. The class teacher made her judgements in this regard upon her general knowledge of him as a pupil and from his strong swim across the pool, his own willingness to enter the water; and from some observation of him in the town pool. She formed the honest view that he had ability to swim across the pool. However it appeared to me on the evidence that Glen's swimming ability was not particularly good. The evidence of another teacher who had been involved in improving and teaching swimming skills with Glen the previous year was quite clear that he had little real swimming ability. He described Glen as "a sinker" even with a flotation board on his chest; also he considered he could not swim a length of the town pool. This was much the same view of the teacher Aide who had observed Glen swimming in the town pool the previous year. Further evidence was given by one that when Glen got into trouble he stood up and started again. I think it probable that Glen indeed tried to do that and did not know how to recover. His class mates variously describe him as being able to swim but not well. It was clear to me that the swimming training Glen received in the previous year did not result in or in fact require any note or record to be kept of this for the benefit of other teachers and in particular the class teacher of 9 COM in the school system.

Hamish was clearly a competent swimmer and there was evidence of him obtaining certificates for swimming ability.

From the evidence I form the view that Glen was able to swim after a manner by virtue of his strength but lacked actual swimming style and technique. One of his class mates describes him swimming back with his head in the air, mouth open, Fists closed or clenched and not moving far for the effort. That class mate told him to kick as well which it would seem he didn't do or well. Also Glen had some co-ordination problems as I mention later herein.

A further factor which in my view contributed was that Glen suffered from a brain injury incurred when he was 5 & 1/2 years, old at another school. This effected his learning, normal responses and behaviour. The evidence, particularly that provided from the Special Education Services (SES) which worked on an individual education plan (IEP) to assist Glen and the application to SES for the approval and funding of such in 1999 satisfies me that Glen found difficulty in following instructions and had co-ordination difficulties; had a limited base of words for expression. This evidence also discloses that Glen showed signs of "high anxiety, panic and distress" which translated into hyperactivity and intrusiveness. It is not unlikely that Glen's defecation

accident was in part related to his anxiety at the pool. It is also noted in the IEP application that he acted on impulse. He was identified as having high needs.

This all raises the inference that Glen probably on balance, should not have been in the pool under these circumstances. It is therefore not surprising that when he had his stroking interfered with and simply stopped, he lacked the skills and possibly the ability, physically and mentally to deal with the situation. The class teacher was not on the evidence aware of all these factors, as I refer further to, shortly.

The school was clearly endeavouring to assist Glen with his general progress and difficulties and the school had in 1999 through the Schools teacher Aide manager obtained approval from SES for individual teacher Aide hours. These hours I was told could apply to all needs students in a class or as the case required to individuals on a one to one basis. In August 1999 a meeting of the teacher Aide manager took place with the SES advisory officer and Glen's case was discussed. This meeting included Glen's mother and one or possibly two teacher Aides. Glen himself was invited in and took part later in that meeting. The purpose of this meeting was to look at Glen Jopson's plan needs for the next 6 months (this process being done twice a year), that is until February 2000 and also to look at a funding plan for the school for the whole of the year 2000. The class teacher was not present at that meeting.

Subsequently funding for the school for 2000 year was approved and the school notified in November 1999. Glen had approval to receive 8 & 1/2 hours per week teacher aide support for the 6 months commencing in February 2000. Because the August meeting identified that Glen was showing promising athletic ability it was decided to also incorporate within the scope of teacher aide assistance aide for swimming as a means of having him commit to regular training and to extend his fitness and channel energies. Glen it was said told the meeting he would enjoy and participate in a regular swimming activity. Matters were intended to be further discussed and planned at an October 1999 meeting but this deferred until Glen's class and timetable was confirmed for 2000. Consequently a meeting was intended for February 2000 but a date had not been set.

The teacher Aide manager had discussed prior to school starting in 2000 with the class teacher the timings and classes to be attended by teacher aides. The teacher Aide manager had allotted in advance an Aide for regular classes for the 10th of February 2000.

It appears to me therefore that although the class teacher was aware of the IEP plan and that teacher Aide was available for regular classes she would not have known from the IEP plan that teacher Aide hours was available for swimming as the IEP did not specifically identify teacher Aide hours for swimming. The teacher Aide manager's evidence was that as far as she was aware the class teacher's knowledge would be limited to the content of the IEP plan. It therefore seems to me the class teacher apparently thought a teacher Aide was not available for an outdoor trip. In any event swimming was not as she said a principal function of the trip and nor was it certain that Glen in particular would be swimming. However the fact remains that an Aide was available from a practical point of view and the outcome of this matter may have taken a better turn or followed a different course if there had of been some fuller exchange of information. Particularly as the teacher Aide in question had been the one who had reservations about the extent of Glen's swimming ability. On these points I make a recommendation later herein.

A further aspect of this matter is the policy of the school for dealing with outdoor activities. The starting point is that as was given in evidence by the Rector, the Education Department provides a guideline to schools and Boards of Trustees for outdoor activities. He produced a number of Ministry of Education Guides. The most relevant being: "**Education Outside the Classroom**"; subtitled:- "Guidelines for Good Practice" (1995). (I now refer to this as "the Guideline").

He explained that the School Board had adopted the guidelines and had issued an "Education Outside the Classroom" policy document. This was produced. This I noted includes the following provision : "*follow Ministry of Education regulations and guidelines on safety and supervision, risk management, leadership, and legal requirements.*" Indeed the policy document appears to cover very well the Departmental Guideline. The Guideline is a comprehensive document written for practical guidance and reference.

The Rector explained that activities for more than one day required his Board's approval but for the Black Hole trip being a half-day outing his approval only was required. Indeed that is what the policy document provides.

The Guideline describes the many reasons why outdoor education is valuable for a pupils development and recognises that risk is part of this activity. Part of the growing process involves taking risks and overcoming them. However the Guideline discusses in some detail and with clarity that there must be a careful balancing of risk

so that it falls within the pupils ability to deal with it. Risk is then categorized into 4 types. Of these Type C is defined as :

"The degree of difficulty is slightly above the participant's skill levels. Maximum concentration is required and there may be some anxiety or excitement. "Peak experiences" can occur at this stage."

Type D is defined as:

"The degree of difficulty is way above the skill level of the participants. Anxiety and fear can lead to mishaps, serious accident and injury or even death."

I am particularly drawn to this summation on page 16 in respect of the balancing of risks:

"The goal of risk management then is to achieve the fine balance necessary for achieving goals without compromising the safety of students, staff and the school."

(At the hearing I referred to this as "sensible" risk taking.)

The Guide does not lay down what a school should specifically do in relationship to risk for every situation but understandably, because of the wide variety of possible circumstances, leaves this for each school to determine with regard the nature of particular activity, it's location , duration, number of pupils, age, number of supervisors, their competence and training, weather and so on. The Guide provides for all of this to be focussed and evaluated in each case by the use of a Risk Management Tool technique (RAMS) therein described. This involves the completion of a recommended form which forces the consideration of risk factors and provides for a check on these and to look at ways to deal with identified risks. It is recommended that there be a risk management officer in each school to scrutinize outdoor proposals.

In this case the Rector filled this role and was made aware of the proposal; it was discussed before it took place. No RAMS form was given to the Rector, but the class teacher did complete one and hand it in later. Understandably an outing of only a few hours locally, would not have seemed to require the same level of assessment for a known venue. The Guide indeed tends to suggest this -- page 11 in Item 4, "Conclusion". This probably is the case in practice in many schools and some evidence was given on behalf of Water Safety New Zealand to me that it seemed the RAMS tool was used in schools more as a "paper trail" than as an advance tool and this concerned them.

I was told that as a result of these two drownings considerable attention had and was being given to the whole question of outdoor activity safety measures and related issues. The evidence given on behalf of Water Safety New Zealand revealed that there had been already a meeting of no less than 18 relevant authorities and organisations to consider these issues and to make recommendations to the Minister of Education by 31st July 2000 which might assist schools further to administer and assess risk. Those bodies have the knowledge and competence to deal with matters.

Therefore it is clear that these two deaths have already prompted a serious review and appraisal of present guidelines and practices at all levels. Nevertheless I do make some recommendations:

Recommendation:

- (1) I do consider that whether the outing is of short or longer duration that each outing be given the same level of consideration for risk and for dealing with it. The risks can be just as great for a short visit as for a long visit. In this vein I consider the use of the RAMS type tool should be mandatory in every case before the event and with sufficient time to evaluate it. That a suitable register be kept for each venue, at each school, available to all teachers and for that matter other schools which may wish to use a local venue, for planning and risk reference. Quite possibly venues might be graded as to risk; Possibly a database system might be valuable.
- (2) That Venues should be inspected shortly prior to use and risks assessed and available safety equipment and facilities documented.
- (3) I also consider that the Black Hole should have a good sign erected suitably to warn users of the depth, may contain eels, a contour profile showing sudden depth and sloping sides. That cell phone communication is not available. (No sign of this type now exists there.)
- (4) I also consider that outdoor activities must have a sufficient number of competent adults for the particular situation and that they should meet at the school itself before leaving and accompany the class or equally good arrangements firmly made.
- (5) That as part of providing competent adults that the school system provide a mechanism by which available staff and teacher Aides are ascertained

allocated and integrated into outdoor activities as part of the planning process. This to be the responsibility of the risk manager.

- (6) That a register be kept in each school which records the swimming proficiency of each pupil and that this be available to all teachers. This register might be extended to cover other areas of outdoor skill training and record medical or physical problems which supervisors should be aware of.
- (7) That the RAMS tool have included with it an identification of pupils who may have limitations for the particular outdoor activity and that all supervisors and adults actually have a copy of this to assist supervision and safety. This would have particular value where the group or class has a wide age spread or the group may be made up of pupils from more than one class. Supervisors on the day may not always be otherwise aware of such limitations. (The 9 COM class was a class having a wide spread of age).

I conclude that the class teacher and Rector gave reasonable consideration to this outing to the Black Hole and followed the essence of the Guidelines. That they had experienced no previous difficulty at this venue which was widely used and enjoyed. Although some 13 pupils went it is clear that only about 5 or 6 went into the pool to swim. These displayed very good swimming skills. In this sense the class teacher may have had a reasonable ratio. She had expected an assistant which would have improved the ratio. I also conclude that the class teacher made the best decisions she could on what she knew and judged the situations to be.

The class teacher made a judgement to allow Glen to swim over and back based on what she knew and saw. With the benefit of evidence and information which the class teacher did not know about I am able to say that in my view Glen's ability to swim across the pool and back was at best an ability which would fit into Type C referred to above. That is I believe he did have enough ability to accomplish this but because of the reasons I have set out above he was forced to stop and was unable to recover. In a normal youth that probably would not have occurred and he would have been able to continue or submit to being life saved either by his mates or the class teacher or both.

Unfortunately Glen proved unable to respond normally and because of this and his size and strength, and marginal swimming ability, unwittingly prevented rescue and created a danger to others.

Had the class teacher known or been able to or had to check information about his swimming ability I believe she would have most likely decided against letting Glen swim in this pool.

No life saving equipment was taken on this outing as part of risk management. No rope or flotation devices for example. The class teacher's RAMS form did not identify such equipment. There was none at the pool for public use either. Vandalism may exclude this being considered.

As I stated earlier I consider that these deaths occurred as a result of the addition of several factors. None individually might be said to be a single cause sufficient in itself. I list these but not in any particular order:

- Lack of knowledge of the pool's characteristics
- No life saving equipment present
- Marginal swimming weather
- Low pool temperatures (I was told there seem to be no National guidelines on this aspect)
- Insufficient knowledge of the swimming ability of Glen
- Misjudgement of Glen's claim he could not swim back and his degree of coldness
- Unexpected swimming event (swimmers tangling)
- Glens particular inability to deal with his plight.
- Non transference of swimming information about Glen within the school.
- Parent help not arriving or other parents participating
- Available teacher Aide not being utilised.
- Possibility that Glen was unwell.

The outdoor activity was nearly finished when Glen decided to swim and I believe the class teacher was not anticipating this. She made a decision which at the time seemed appropriate and he swam well across. Glen did not need to swim back to return. However the class teacher made a further judgement which seemed appropriate to her but which in my view with the benefit of evidence was unwise.

Had Glen got back he would have had a good boost of confidence which is what the Guideline speaks of and which his class teacher believed she was fostering. Instead an accidental collision commenced a chain of fatal events which highlighted that Glen was at or beyond his ability to cope in those particular circumstances and which was finally beyond the capacity of those helping.

There was no evidence of bad or uncontrolled behaviour and I am satisfied that the Class teacher had proper control over her students and was doing all she could for them to have an enjoyable and worthwhile outing.

When faced with this tragedy unfolding the students acted very responsibly in assisting in whatever way each could. Those immediately involved with Glen acted with bravery and courage in trying to save him and they including Hamish are to be commended for their efforts. Any class teacher faced with such a tragedy is facing their worst nightmare and one can feel for her distress and grief for the death of her pupils. She also is to be commended for her efforts which also put herself at risk.

I wish to record that I was very ably and helpfully assisted by all Counsel who appeared and for the way they sensitively went about their handling of the witnesses. And for the submissions they made. I received evidence from some 23 persons and the police carried out their duties carefully and with sensitivity during a difficult period of trauma and distress. I was greatly assisted by the calm and dignified attention of those present and in particular by the parents whose pain was clearly unbearable as was that of the class teacher.

All witnesses and persons I consider provided evidence and statement frankly and candidly which has enabled the circumstances to be understood as well as are likely to be.

I have dealt at some length and in some detail because without doing so I believe it is not possible to get a proper perspective of the events. I believe the circumstances are adequately set out above to explain the circumstances of these deaths.

In the final analysis I need to say that the two critical aspects of this matter in my view are **firstly**, that Glen's swimming ability was not adequately known between teachers. I have made recommendations which might result in a standard practice to avoid this contributing in another case; and **secondly**, when an emergency arose with this particular student in the water there was in the result inadequate ability and equipment to deal with it. The reasons for this I have already traversed.

The question of whether life saving by other pupils should be relied upon as part of a risk management plan arises in my mind. The class teacher did not plan this to be the case nor was this in her mind I believe when she had Glen swim back with swimmers to encourage him. However the swimmers did then find they were thrust

Findings of Coroner Continued re Inquest completed on 24th May 2000

into a life saving action when it was a position they should not have been in. Nevertheless, I think they would have succeeded but for Glen's size, strength and particular inability to respond normally under stress and the deepness of the Black Hole. The Guide I think covers the competency of supervisors and leaders clearly and from this I would take the view that pupils themselves should not form part of a safety plan where the risk to them by so doing would be against common sense nor I believe should they be solely relied on in any plan.

The comments which I have made in this finding in all these circumstances are not intended in the legal sense to be adverse or critical of any person or institution but rather addressed constructively at the facts of the matter; in the hope that lessons can be learned, systems strengthened and improvements made for the benefit of other pupils now and in the future ; so that the deaths of Hamish and Glen can contribute in a meaningful way to the future safety of outdoor activities.



B.A. MacGeorge

Coroner

14th June 2000

INQUESTS re Deaths of Hamish Everet Neal and Glen Jopson

Schedule of Recommendations arising:

Recommendation:

- (1) I do consider that whether the outing is of short or longer duration that each outing be given the same level of consideration for risk and for dealing with it. The risks can be just as great for a short visit as for a long visit. In this vein I consider the use of the RAMS type tool should be mandatory in every case before the event and with sufficient time to evaluate it. That a suitable register be kept for each venue, at each school, available to all teachers and for that matter other schools which may wish to use a local venue, for planning and risk reference. Quite possibly venues might be graded as to risk; Possibly a database system might be valuable.
- (2) That Venues should be inspected shortly prior to use and risks assessed and available safety equipment and facilities documented.
- (3) I also consider that the Black Hole should have a good sign erected suitably to warn users of the depth, may contain eels, a contour profile showing sudden depth and sloping sides. That cell phone communication is not available. (No sign of this type now exists there.)
- (4) I also consider that outdoor activities must have a sufficient number of competent adults for the particular situation and that they should meet at the school itself before leaving and accompany the class or equally good arrangements firmly made.
- (5) That as part of providing competent adults that the school system provide a mechanism by which available staff and teacher Aides are ascertained allocated and integrated into outdoor activities as part of the planning process. This to be the responsibility of the risk manager.
- (6) That a register be kept in each school which records the swimming proficiency of each pupil and that this be available to all teachers. This register might be extended to cover other areas of outdoor skill training and record medical or physical problems which supervisors should be aware of.

That the RAMS tool have included with it an identification of pupils who may have limitations for the particular outdoor activity and that all supervisors and adults actually have a copy of this to assist supervision and safety. This would have particular value where the group or class has a wide age spread or the group may be made up of pupils from more than one class. Supervisors on the day may not always be otherwise aware of such limitations. (The 9 COM class was a class having a wide spread of age).



B.A. MacGeorge
Coroner
14th June 2000