

LEISURE SAFETY



ISSUE 03 / SPRING 2013

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FACING
up to
liability

FEARS



Welcome

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- Safety Express (occupational health and safety)
- Care on the Road (road safety)
- Staying Alive (home, product safety and public health)
- Safety Education (health and safety management in schools and colleges and safety education).

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Cover image (also used elsewhere in Leisure Safety) - John Roberts climbing on Pool Wall, Lawrencefield Quarry, Peak District. Photo: Alex Messenger.



Welcome

Spring is now here and with warmer conditions hopefully just around the corner plus the longer days, the thoughts of millions of people across the country will no doubt be on how to make the most of their leisure time.

A key focus for RoSPA is the promotion of a balanced and proportionate approach to leisure safety which recognises the importance of good risk management practices and gives people the freedom to make informed choices about how to spend their leisure time, ensuring they can experience the many benefits of a healthy lifestyle.

This edition of **Leisure Safety** contains a huge breadth of articles that address this subject and I hope you will find something relevant to your day job in leisure safety management as well as discovering what is happening elsewhere in the sector.

On the water safety front, you'll find details of the publication of new guidance aimed at helping event organisers manage water safety risks and there is also a look ahead to what 2013 has in store in terms of inland water safety.

On children and young people, we explore the Health and Safety Executive's policy statement on play facilities and you might also be interested to find out what Marcus Bailie of the Adventure Activities Licensing Service had to say about young people and "challenge" at a recent safety education conference.

We are grateful to our guest contributor Dr Cath Flitcroft from the British Mountaineering Council for her in-depth and thought-provoking piece about occupiers' liability and the fear of litigation.

And in our regular sections, you'll find RoSPA news, updates from across the leisure industry and interesting items that have recently appeared in other RoSPA journals.

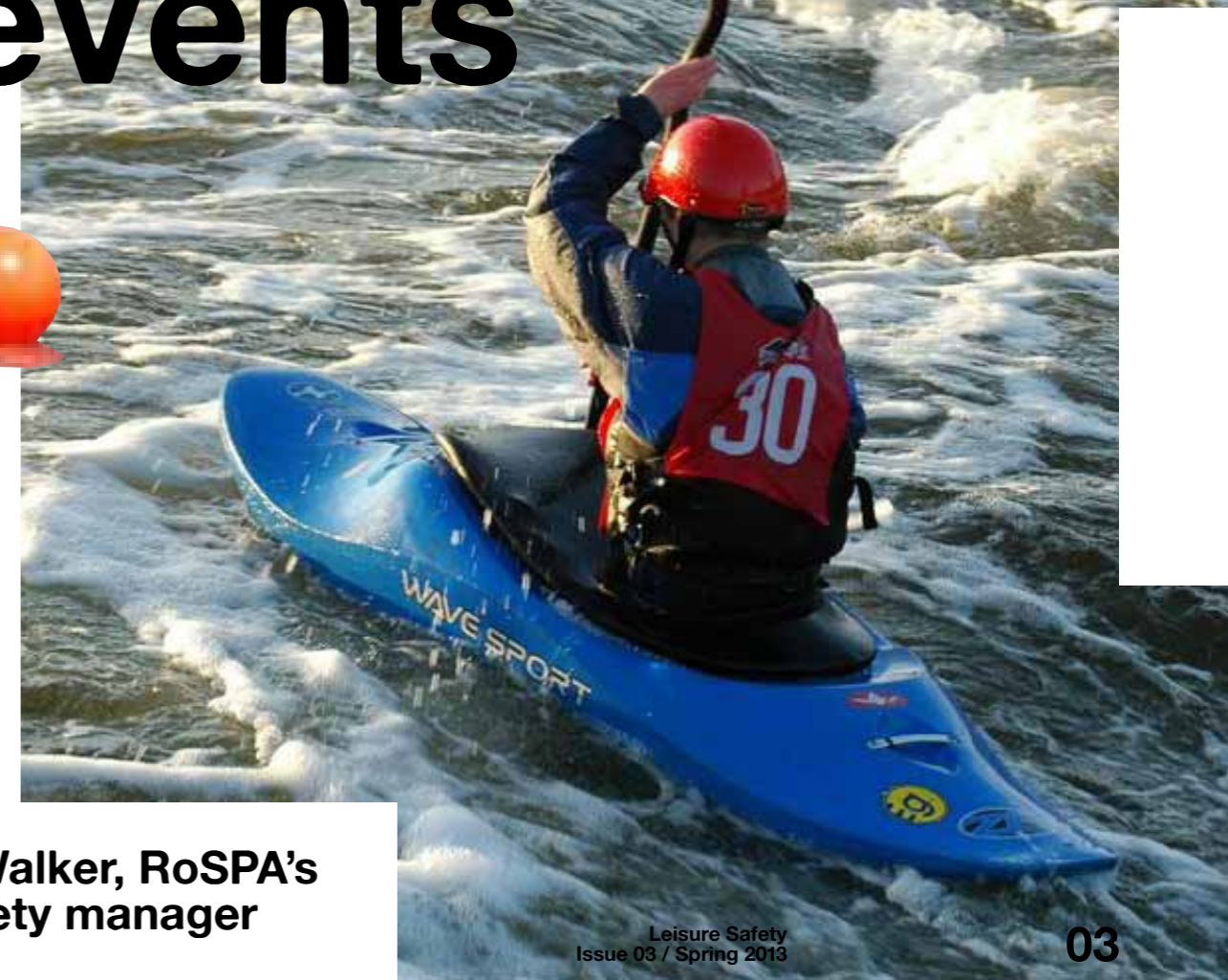
I do hope you enjoy reading the journal. We would welcome comments, letters and ideas for future articles, so please do not hesitate to get in touch. Please email RoSPA's leisure safety department at leisurehelp@rospa.com, including "Leisure Safety journal" in the subject line of your message.

David Walker
Leisure Safety Manager, RoSPA
April 2013



Event water safety

New advice
to **HELP**
manage
water
SAFETY
during
events



By David Walker, RoSPA's
leisure safety manager

RoSPA, Surf Life Saving Great Britain (SLSGB) and Derby University have recently launched **Managing Event Water Safety** - a comprehensive **guide** to managing the water safety risks associated with events. In this article, we look at the background to the advice and the key points contained in the guidance.

Although rare, incidents are growing in likelihood with the rise in participation and an absence of national guidance for water safety at events.



Over the last decade, there has been huge growth in the volume, scale and type of events on offer throughout the UK and abroad. Music and sporting events have come to define the British summer. Challenge events and large-scale sports activities attract those new to event participation and those looking for an inspiring challenge. Events such as Wakestock, Red Bull's Flugtag and the Great Swim have grown in popularity and prominence. These attract tens of thousands of participants, many of them taking part in open water events for the first time.

Water-based events provide benefits for the participants, organisers and wider community. They have become one of the main vehicles for charitable fundraising and raising awareness of good causes, while providing brand exposure for both the sport and corporate partners. More importantly, they can provide a much needed goal to challenge sedentary behaviours and lifestyles, while offering a route into a new sport for beginners. They are also central to how our future Olympic and elite athletes are developed and tested, through events that often cannot be found in a single club or community.

Event water safety

One of the less welcome aspects of this growth is the sometimes variable event safety provision; there have been a few notable near-miss incidents in the UK and fatalities involving participants. Although rare, these incidents are growing in likelihood with the rise in participation and an absence of national guidance for water safety at events.

Probably the most high profile incident resulted in the death of Fran Crippen, an elite American swimmer, during a FINA (Fédération Internationale de Natation) open water swim competition held in the United Arab Emirates in October 2010. An investigation into Crippen's death found a number of **safety concerns** surrounding the staging of open water events.

Another concern is the perception, or even reality, of a risk averse culture developing. Preparatory scoping for the **Managing Event Water Safety** guide indicated that a number of events were reportedly cancelled due to non-specific "elf 'n' safety", insurance or civil litigation fears.

The information within the guide is relevant to organised or public open water events. The principal activities upon which the research and advice is based are the activities of open water swimming, triathlon, surfing, rowing, canoeing, paddle boarding, surf life saving sport and kite surfing - taking place on both inland and coastal waters. The guide also aims to help managers apply many of the principles to non-traditional events.

The information was drafted in conjunction with the UK's sports governing bodies and members of the **National Water Safety Forum**, in addition to landowners and water space managers. It was developed and funded in conjunction with **SLSGB, Derby University** and sports and leisure insurer **Sportscover**.

The guide is intended primarily for event organisers and safety providers, but should be used in conjunction with the specific advice from the appropriate sports governing body. Local authorities and landowners may also find the principles and approaches in the document a useful aid.

Managing Event Water Safety is a free guide, available to **download in PDF format** (2.5mb).



Event water safety

▣ The guide is intended primarily for event organisers and safety providers. ▣



Contents of the Managing Event Water Safety guide:

Understanding the legal context: considering key roles and the associated duties, and licensing requirements.

Applying the managing water safety principles: including an acceptance that no activity is completely risk free.

Planning your event: timescales, key milestones and questions to consider.

Identifying hazards and assessing risk: looking at the key physical, environmental and activity related factors at each stage of the event development cycle.

Understanding variables in risk effects and controls: events are dynamic; how you can allow for different groups and abilities and what the safety cover might look like.

Dealing with emergencies: how you can plan, cope and learn from adverse events.

Water safety event - save the date!

RoSPA is pleased to announce that this year's National Water Safety Seminar will be held on Thursday, October 17.

The venue and theme will be revealed in due course.

When the event was last held in April 2012, it brought together more than 100 professionals whose work encompassed all aspects of water safety - beach, inland, sea, swimming pool and water sports safety. Delegates discussed how to maintain and improve standards despite the continuation of tough operating conditions.

More details about this year's event, including information about how to book delegate places and opportunities to exhibit, will be available in the Summer edition of **Leisure Safety** and they will also be uploaded to the Events section of RoSPA's website - www.rospa.com/events/. Why not subscribe to RoSPA's RSS feed - at www.rospa.com/news/rss/ - to ensure you receive details of the event as soon as they are published online?

RoSPA is also planning to host a leisure and play safety event in the coming months; watch this space for more information!



New partnership to identify leisure incident patterns

A partnership between RoSPA and health, safety and quality management specialist Right Directions will produce improved accident and incident information to benefit the UK's leisure industry.

The two organisations are working together to collate data on accidents and incidents arising from sport and physical activity, in a bid to improve safety.

The data will enable the identification of patterns related to the date, location and details of accidents and incidents, and there will be benefits within the leisure sector for benchmarking and research purposes, as well as collaboration on policy, industry initiatives, training programmes and campaigns.

David Rushton, head of **education and leisure** at RoSPA, said: "Quality and well-managed safety arrangements, which do not detract from the participant's experience of an activity, go hand in hand.

"RoSPA's knowledge of safety, coupled with Right Directions' extensive experience on quality, makes this new partnership an excellent fit that will be of great benefit to sport and leisure clients and will inform national leisure safety policy."

Caroline Constantine, managing director of **Right Directions**, said: "RoSPA has excellent knowledge and data around the safety of swimming pools. Through Right Directions' clients and the Quest assessments we carry out on behalf of Sport England, we have access to around 800 public and private leisure facilities.

"By working together we can collate meaningful data on when, where and how accidents are most likely to take place. Any patterns can then be used to promote best practice, support new legislation and ultimately improve how we work as a sector."

Safety advice helpline for schools and colleges

A free helpline, run by RoSPA, has gone live in a bid to help thousands of UK schools and colleges manage safety in a proportionate and planned way.

The helpline - 0121 248 2235 - gives educational establishments easy access to advice on how to become "as safe as necessary, not as safe as possible" - in line with one of RoSPA's key philosophies.

It complements a new RoSPA guide, **Managing Safety in Schools and Colleges**, which covers the legal context for health and safety management in schools and suggests a strategic approach that can be used by any educational organisation. The guide suggests a whole school approach to "teaching safety" - ensuring that facilities and activities are suitably safe - and "teaching safety" - preparing children for adult life by teaching them to understand and manage risk.

As well as issuing free, general advice, RoSPA is also offering a range of **training and consultancy services** to schools and colleges, including on leisure and water safety, risk assessments, safety and risk education, curriculum development and minibus driver training. All RoSPA consultants are members of the **Occupational Safety and Health Consultants Register**.

For details of RoSPA's work with schools and colleges, visit www.rospa.com/schoolandcollegesafety/. Schools and colleges wishing to access free advice should call RoSPA's helpline on 0121 248 2235 or email educationhelp@rospa.com.

"Safety myths should not stop school trips" - RoSPA

RoSPA is encouraging teachers to embrace outdoor activities after discovering that more accidents take place in schools than on trips.

Children are far more likely to get hurt playing football or rugby at school than, for example, by going on a school hiking trip, according to research published in RoSPA's new guide, **Planning and Leading Visits and Adventurous Activities - Guidance for Schools and Colleges**.

Accidental deaths are also very rare on school trips - with one child dying each year, on average, in the UK.

According to government estimates, seven million to 10million days of activity take place outside UK classrooms annually.

RoSPA's guide puts safety concerns into perspective and offers practical advice to people working with five to 18-year-olds who intend to oversee activities including sport and outdoor adventures. It includes sections on the legal context, school policies, planning a school visit, outdoor and adventurous activities and trips abroad.

David Rushton, head of **education and leisure** at RoSPA, said: "Children and young people benefit so much from visiting new places and being challenged to try out new and exciting activities. It helps them to learn about safety and risk through experience.

"Yet there is a perception among some people that the risks and 'red tape' outweigh the benefits. This is simply not the case.

"The focus for schools and colleges should be on how real risks are to be managed - and not on trivial, hypothetical risks or burdensome paperwork."



Introducing ukactive - the story of a rebrand



At the start of 2012, the Fitness Industry Association (FIA), one of RoSPA's partners, announced its decision to rebrand and 11 months later, its new name - **ukactive** - and identity were revealed.

The rebrand began with a stakeholder consultation, which asked for views about what the organisation should focus on. An overriding theme from this part of the process was that there was a wide variety of organisations working with the FIA directly or indirectly, and that the name "FIA" did not adequately describe this.

Creative agency Mr B & Friends was commissioned to generate a brand design that would work across the business to business market, to emphasise the organisation's trade body roots, but that could also be translated into a campaigning brand to get the nation active.

Rather than representing a massive change in direction for ukactive, the organisation believes its new brand more accurately reflects what it has been doing for some time - supporting the sector to get more people, more active, more often to improve the health of the nation.

ukactive aims to be more welcoming to a broader market, prepared to work with anyone who has some form of stake, benefit to be gained, or role to play in getting the nation active. And it will promote all types of activity, whether in the gym, at home, in the park or at work, with its relationships with members and partners remaining at the heart of everything it does.

Among those who welcomed the launch of ukactive was Prime Minister David Cameron, who said: "I am delighted to support ukactive as it launches its plans to help embed physical activity into the DNA of our communities by getting more people, more active, more often."

Support also came from Anna Soubry MP, the Minister for Public Health, who said: "Everyone has a role to play tackling the damaging effects of inactive lifestyles. ukactive will bring together a broad spectrum of stakeholders. I look forward to working with ukactive and its member organisations to promote active lifestyles, to increase participation in sport and physical activity and, ultimately, to deliver improved public health outcomes."

ukactive is now working on a phased implementation of its new brand, a process it aims to complete across all channels by April.

If you require ukactive's new logo and brand guidelines, please email info@ukactive.org.uk or call 020 7420 8560.

■ RoSPA and ukactive are **working in partnership**, aiming to improve the quality and safety of the sport and physical activity industry.



Draft guidance unveiled on workplace first aid changes

The Health and Safety Executive (HSE) has published new draft guidance to help employers get to grips with proposed changes to workplace first aid.

Two pieces of guidance have been published on the **HSE website** following a consultation on proposals to amend the First Aid Regulations (1981) and remove the requirement for the HSE to approve first aid training providers.

The **changes**, which stem from Professor Ragnar Löfstedt's review of health and safety legislation, are expected to take effect on October 1, subject to final approval.

Peter Brown, HSE policy adviser, said: "Removing the HSE approval process will give businesses greater flexibility to choose their own training providers and first aid training that is right for their workplace. The draft guidance documents aim to provide practical support to help businesses assess and understand their first aid needs and find a provider best suited to them."

Employers will still have to ensure that they have adequate first aid provision, based on an assessment of their individual business needs. The HSE will retain a role in setting standards by controlling the syllabus content for the basic first aid at work qualifications.

The HSE is welcoming feedback on the guidance before the regulations come into place. Comments or suggestions can be sent to firstaidconsultation@hse.gsi.gov.uk (please mark any correspondence as "Guidance Comments").

Until the regulations are changed, businesses requiring first aid training will still have to use a provider approved by the HSE.

Corporate manslaughter charge over death of 11-year-old girl

A watersports club in Middlesex has been charged with corporate manslaughter in relation to an incident in which an 11-year-old girl died after falling from a banana boat ride.

Prince's Sporting Club in Bedfont, Middlesex, has also been charged with an offence under section 3 of the Health and Safety at Work Act 1974. Section 3 requires all employers to conduct their business in a way that ensures, so far as is reasonably practicable, that others are not exposed to risk.

Mari-Simon Cronje died during a birthday celebration at the club on September 11, 2010, after falling from the banana boat and being struck by the boat that had been towing it.

Elizabeth Joslin, specialist prosecutor in the Special Crime Division of the Crown Prosecution Service said: "I have carefully reviewed all of the evidence gathered by the Metropolitan Police and the Hounslow Environmental Health Department during their investigation into the tragic death of Mari-Simon Cronje.

"I have concluded that there is sufficient evidence to charge the Prince's Sporting Club Ltd with both corporate manslaughter and an offence under section 3 of the Health and Safety at Work Act 1974."

A director of the Prince's Sporting Club Ltd has been charged under section 37 of the Health and Safety at Work Act.

An initial hearing took place at Westminster Magistrates' Court on February 19. The case has been referred to Southwark Crown Court for a plea and case-management hearing on April 26.

Spotlight on...the Canal & River Trust



The **Canal & River Trust**, the guardian of 2,000 miles of historic waterways across England and Wales, was launched last year, completing its transition from British Waterways.

It is among the largest charities in the UK, maintaining the nation's third largest collection of listed structures, as well as museums, archives, navigations and hundreds of important wildlife sites.

It believes that canals and rivers are a national treasure and a local haven for people and wildlife. Its job is to care for this wonderful legacy - holding it in trust for the nation in perpetuity and giving people a greater role in the running of their local waterways.

See www.canalrivertrust.org.uk for more information.





By Nathan Hazlewood,
RoSPA's leisure safety officer

Children's play and leisure:

promoting a BALANCED approach

The Health and Safety Executive (HSE) has recently published, with members of the **Play Safety Forum** including RoSPA, a **policy statement** addressing children's play facilities.

Play safety

Children's play has long been a subject of debate; regular media reports ranging from conkers being banned in the playground to wider fears of a loss of opportunity and provision give focus to a deeper set of concerns over the development of society, and the space afforded to children therein.

Play, for many, is a touchstone issue, so the positive statement from the Health and Safety Executive (HSE) is a welcomed contribution to the debate.

The statement strongly supports the need for play space, and encourages providers to consider the full range of factors involved when assessing play spaces. It also sets out what parents and society should expect (see box). The central points made in the statement are that:

- Play is important for children's well-being and development
- When planning and providing play opportunities, the goal is not to eliminate risk, but to weigh up the risks and benefits
- Those providing play opportunities should focus on controlling the real risks, while securing or increasing the benefits - not on the paperwork
- Accidents and mistakes happen during play - but fear of litigation and prosecution has been blown out of proportion.

The statement brings a degree of certainty. It offers providers a further reference point, which gives a positive steer towards the value of play, citing the use of the existing standard (EN1176) and the **Managing Risk in Play Provision: Implementation Guide** as central to determining a "sensible approach to risk management".

This statement is one of a number of initiatives that seek to allay concerns and misperceptions regarding the role of health and safety management (and the HSE) in society. Last year, the HSE established the Challenge Panel, which sought to consider and rebut, if necessary, the "conkers-bonkers" stories and overzealous (mis) application of the law. Many of the early cases that have come before the panel have been related to play and leisure activities.

The statement brings together a view that has been developing among play providers for some time, many of whom will be under considerable financial pressure to reduce costs. It will hopefully allay concerns and enable providers to strike a balance.

In many ways, the statement retains quite a conservative approach, similar to the enforcement approach taken on other public risk themes. Importantly, it notes that the option of prosecution under health and safety law remains, albeit a remote one, possibly subject to a public interest test.

So, should providers rip up their risk assessments and start again? Or not bother at all? In short: No. However, the statement is an important step in the right direction. Maybe the HSE should have added the following note to its document: **Caution, reading this statement may cause you to become less risk averse.**

As ever, your thoughts and comments are welcome. Please send them to leisurehelp@rospa.com.

Play safety

Play is important for children's well-being and development.

The HSE fully supports the provision of play for all children in a variety of environments...It understands and accepts that this means children will often be exposed to play environments which, while well maintained, carry a degree of risk and sometimes potential danger. ...It wants to make sure that mistaken safety concerns do not create sterile play environments that lack challenge and so prevent children from expanding their learning and stretching their abilities.

When planning and providing play opportunities, the goal is not to eliminate risk, but to weigh up the risks and benefits.

Health and safety laws are sometimes presented as a reason why certain play and leisure activities... should be discouraged. Such decisions are based on misunderstandings about what the law requires.

...Play brings the world to life for children. It provides for an exploration and understanding of their abilities; helps them learn and to develop; and exposes them to the realities of the world in which they live...one where risk is ever present.

Those providing play opportunities should focus on controlling the real risks, while securing or increasing the benefits - not on the paperwork.

Accidents and mistakes happen during play - but fear of litigation and prosecution has been blown out of proportion.

By David Walker, RoSPA's
leisure safety manager

2013 - A year to make waves on inland water safety?

Some of the most attractive spots in the country
are inland water sites - canals, lakes and reservoirs,
that naturally draw thousands of holidaymakers,
sports enthusiasts and families to their shores...

... Their beauty, however, is marred by a stagnant annual toll of around 250 water-related deaths, which remain a stubborn problem for safety experts.

Central to this problem is the question of responsibility for water safety, particularly for inland waters, which has long been a key issue, not least for **RoSPA**. One aspect of RoSPA's campaign to manage these sites appropriately has been the development of the aptly-named guidance document, **Safety at Inland Water Sites**.

Since the first edition of the guidance was published in 1999, a lot has changed in the way we approach managing these sites and what users deem appropriate. In particular, open water swimming and triathlon-type events have grown in popularity. Many open water spaces have been transformed from primarily "working docks" environments to leisure and retail facilities which include bars and shops, often becoming tourist attractions in their own right.

Public expectations have also changed, and this is reflected in the civil landscape which, to some extent, has changed in the wake of the **Darby v National Trust and Tomlinson v Congleton** cases. These, and subsequent judgements, have signalled a move away from overly paternalistic approaches, demonstrating an increasingly tolerant attitude towards public risk management from the higher courts.

On the operational and resilience front, we have seen some pleasing improvements, not least in the enhanced and co-ordinated capacity to respond to flood and acute rescue scenarios through the work of the Department for Environment, Food and Rural Affairs, the Department for Communities and Local Government on the Team Typing project and also by Scottish Resilience following the Tomkins Review. The wider use of SUDS (sustainable urban drainage) schemes has offered managers and developers opportunities for creating new, interesting and environmentally friendly public spaces, along with the associated challenges of managing them.

There has also been a step change in data capture and our understanding of risks through the National Water Safety Forum's **Water Incident Database** (WAID).

So, where does all this leave us in 2013?

Unfortunately, we often still see a piecemeal approach to managing inland sites, and the question of responsibility is still having a significant impact on our collective ability to manage risks.

Although the view from the higher courts has, in the main, underlined personal responsibility and promoted the right to take risks, and protect landowners who have good management arrangements in place, wider perceptions may not have caught up. Unfortunately, and all too often, we still come across the opinion that "elf 'n' safety says no".

Part of a wider debate, RoSPA has supported the work of the Health and Safety Executive in this and aligned areas, particularly the statement on children's play and its approach to enforcement of leisure risks. However, there is still a long way to go with this, and others need to enter the debate before there is a step change.

On a practical level at RoSPA, we are involved in or leading a number of projects which address the issue of inland waters.

We have recently supported the British Mountaineering Council's work addressing concerns arising from occupiers' liability, and will continue to work with landowners, sports governing bodies, leading insurance providers and groups to tackle the misconceptions. In our role providing executive support to the National Water Safety Forum, we will be looking at how more organisations can become involved and help contribute both to WAID and the range of issues that need to be overcome.

Our inland risk analysis is also being updated and will contribute to a wider national analysis in the spring. This is underpinned by the **RoSPA/BNFL Scholarship Scheme**.

Another key project is the redrafting of **Safety at Inland Water Sites**, which will run for the majority of the year.

So, there is plenty going on in 2013. Hopefully, all these actions will come together to finally start addressing that stubborn, relentless toll of deaths at our inland water sites.

- For more information on the projects mentioned above, you can contact David Walker, RoSPA's leisure safety manager, or RoSPA's Leisure Safety department in general, by emailing leisurehelp@rospa.com.
- A version of this article first appeared on RoSPA's **Safety Gone Sane blog**, which aims to provide thought-provoking discourse on health and safety, to give advice and information, to comment on current affairs - and hopefully to dispel a few of the myths surrounding health and safety. We would welcome new subscribers to the blog.

Guest feature

Guest feature

OCCUPIERS'
LIABILITY:

negotiating myth & reality

By Dr Catherine Flitcroft, the BMC's
access and conservation officer

Fear of litigation has become a high-profile issue in the last few years. In some cases, this fear has prevented access to our great outdoors despite the fact that instances of litigation have been rare and personal responsibility has been recognised and balanced within many judgements, especially where adults are concerned.

Some owners and occupiers have traditionally been happy to give access for rock climbing but others are doubtful whether they should because of perceived concerns over possible legal liabilities.

However, the **British Mountaineering Council (BMC)** is confident that landowners or occupiers will not be exposed to any potential liabilities in the event of an accident occurring to a recreational rock climber on their land. If a climber is injured in an accident, any claim against the owner or occupier should be defeated on the basis that the injured person willingly accepted the risks – the principle of *volenti non fit injuria*.

Climbers, walkers and mountaineers have traditionally accepted that they are, as individuals, responsible for assessing and managing any inherent risks that are ordinarily part of the activity. These include such things as loose rock, rockfalls and the suitability or otherwise of any equipment whether fixed or not.

Indeed, this is part of the challenge of climbing. There is no expectation in a climber's mind that an occupier or owner would be expected to be responsible or liable for such risks, or for the safety of climbers on the land. The BMC's **Participation Statement** sets this out clearly and applies to all climbers, walkers and mountaineers:

"The BMC recognises that climbing, hill walking and mountaineering are activities with a danger of personal injury or death. Participants in these activities should be aware of and accept these risks and be responsible for their own actions."

If a climber is injured in an accident, the defence that the injured person accepted the risks should negate any claim against the owner or occupier. However, one difficulty in explaining occupiers' liability is that every situation is different. The law governing liability isn't widely understood and compensation culture is a real threat to landowners.

In order to try and address some of these concerns, the BMC has produced a leaflet for the benefit of all owners and occupiers of land used by climbers on which there are cliffs, crags, quarries or outcrops suitable for rock climbing. This explains, in brief, the existing legislation affecting the obligation of landowners and occupiers.

Similarly, case law (e.g. *Tomlinson (FC) v Congleton Borough Council 2003*) and academic articles such as "The Extent of the Duty" (Magnuss Hassett, *Property Law Journal*, March 2012) are also helping to put to rest perceived issues and provide reassurance to landowners that claimants who have voluntarily accepted risks are unlikely to find sympathy in the courts, and landowners who have taken adequate steps to keep visitors reasonably safe will not be held liable for unforeseeable accidents.

Getting this message across to the private landowner and insurance brokers is another matter. The BMC, in part, has a role to play not only as a representative body but as a landowner with experience in managing quarries and crags for recreation and climbing.

▣ We hope to dispel the myths surrounding occupiers' liability and demonstrate that recreational climbers willingly accept the inherent risks associated with 'adventurous' activity. ▣



Most of our owned and managed sites could be described as being potentially hazardous. Many are old quarries or have steep and hidden drops. Nonetheless, the BMC operates an open access policy, with minimal signage where fencing and other barriers are only constructed when the hazard is deemed not to be obvious to a casual visitor.

To back up this approach, the BMC takes advice from its Land Management Group, which is made up of expert volunteers including legal, land management and geo-technical specialists who are also climbers. As part of its management policy, the BMC undertakes regular documented inspections of its sites, including surveys of dangerous trees.

To date, this approach has been seen to be a sufficient and reasonable approach for an organisation of the size and scale of the BMC. By being open and transparent with other landowners and organisations, we also hope to dispel some of the myths surrounding the issue of Occupiers' Liability and demonstrate that recreational climbers willingly accept the inherent risks that are associated with "adventurous" activity.

What next?

The BMC would like to work more closely with quarry companies to ensure that the threat of litigation associated with occupiers' liability does not become a barrier to the potential recreational use of old quarry sites once their operational use has been exhausted. In the next 12 months, we will be working to develop a clear case for hard rock quarry restoration for recreation (specifically rock climbing) based on tangible experience.

The BMC will also be working with other recreational organisations to put together broad principles and advice for users and landowners or occupiers through the Sport and Recreation Alliance and will work more closely with those organisations with an outdoor remit, like the Association of Heads of Outdoor Centres, in order to pool knowledge and share good practice.

The BMC will also organise a meeting of Parliamentarians to discuss this issue through the Mountaineering All Party Parliamentary Group and Adventure All Party Parliamentary Group

For more information on the BMC's work on liability issues, please contact Cath@thebmc.co.uk.

- The British Mountaineering Council (BMC), with a membership of more than 70,000, is the representative body for climbers, hill walkers and mountaineers in England and Wales. For more than 60 years, the BMC has secured sustainable access to cliffs and mountain areas in ways that do not threaten their natural beauty or wildlife and are in keeping with the needs of landowners. As part of its membership package, the BMC provides automatic civil liability protection for clubs and individual members, and personal accident disability cover for individual members.

my reality

Dealing with the myths and reality of occupiers' liability also came under the spotlight in November 2012 at the BMC Conference on Risk, Liability and Outdoor Adventure, aimed at landowners and users alike. The event was attended by more than 70 people, from those who work in the outdoors to solicitors dealing with liability issues.

A number of interesting presentations were given throughout the day, focusing on perspectives of risk in the outdoors, current management of risk and how to try and balance risk and recreation, including from RoSPA's David Walker who drew on examples from inland water. Other presentations included:

Risk, adventure sports and the law: the academic, the political and the practical, Professor David Ball, Middlesex University - David outlined the change that is needed from risk assessment to risk benefit assessment and the different mindsets between resource providers and risk takers. He also outlined the need to involve participants who inherently know the risks in decision making.

Government thinking: the politics of risk and risk management, Lord Tony Greaves, Liberal Democrat - Tony discussed the concept of using common sense when we undertake our activities in the countryside and how recent legislation has helped reduce occupiers' liability (i.e. Countryside & Rights of Way Act 2000 and Marine & Coastal Access Act 2009) but that the debate over what is a "natural feature" v "physical feature" (terms used in the legislation) still continues.

Risk and the private landowner, Andrew Shirley, Country Land and Business Association - Andrew discussed the importance of long-term management objectives to landowners and the real concerns that access can bring (concerns over livestock, safety, crop damage, chemicals, impact on wildlife, sporting rights etc.), particularly when landowners are seeking a financial return from their land. He outlined the fact that risks may be acceptable and obvious to climbers but others entering the land (e.g. dog walkers) may not be so aware and formal access agreements linked to insurance premiums may be necessary.

Risk management case studies: National Trust experience, Caroline Steel - Caroline gave an overview of how the National Trust balances risk and recreation and how

recent case law has started to help define the need for people to make their own decisions around risk in the outdoors. She outlined the internal conflict between preservation and access within the National Trust and the fact that there is no single solution as every site is different; education plays a key role because it is impossible to prevent exposure to risk naturally found in the outdoors. She also explained how, as landowners/managers, it is equally important to capture why you have decided not to do something.

Managing risk: an insurance industry perspective, Richard Doubleday, Perkins Slade Ltd - Richard gave the insurance industry perspective towards risk, outlining the legal framework protecting landowners/occupiers and what the insurance industry would like occupiers of land to do to minimise risk and litigation. He drew on a number of legal cases and discussed the importance of the word "reasonable" (i.e. did they act "reasonably", were "reasonable" steps taken to minimise risk etc.). Richard offered advice to landowners on how to minimise fears of liability and recommended "either do nothing well, or something well, but don't do anything badly".

Managing risk: talk to an injury lawyer, Rupert Davies, Personal Injury Lawyer - Rupert outlined the process you would follow in order to take a case to court. With cases concerning risk and risk taking, the law is generally on the side of the landowner/occupier. Rupert explained, however, that the chance of a claim succeeding in court (for outdoor recreation) is low. He went on to explain that under the Compensation Act 2006, courts have a responsibility to consider whether a claim would prevent a legitimate activity from continuing.

How to work with landowners and reduce fear of litigation, Luke Bennett, Sheffield Hallam University - Luke outlined a number of studies, looking at how particular safety issues have come to be understood within particular landowner and adviser communities. From his work on tree safety, cemetery management and quarries, Luke presented examples of how ownership and statements of "liability anxiety" cannot always be taken at face value and how different users have different expectations of what safety provision might be. Luke is currently studying these issues in the specific context of owners' and users' perceptions of place and safety management for former quarries, in collaboration with the BMC.

■ The BMC recognises that climbing, hill walking and mountaineering are activities with a danger of personal injury or death. Participants in these activities should be aware of and accept these risks and be responsible for their own actions. ■

“Challenge is crucial for young people”

Encouraging children and young people to “endure challenge” as opposed to risk was the theme of one of the key speeches delivered at the LASER Alliance Annual Conference.



Marcus Bailie

■ Involving children and young people in adventure activities such as rock climbing gets them involved in identifying hazards. ■

Marcus said: “Engaging with young people from my perspective is not just about accident prevention, it is about looking at society as a whole. The cost of not engaging with young people as opposed to getting them involved and shaping them as citizens of the future is enormous. But involving children and young people in adventure activities such as rock climbing gets them involved in identifying hazards.”

Marcus then cited Lord Digby Jones who summed up risk and challenge as being an “integral part of the business world”, with an important function in developing the ability of young entrepreneurs to “manage uncertainty and to weigh up risks and benefits”.

“Challenge and not risk is the language of change,” said Marcus. “By using the word ‘challenge’, parents, teachers and schools will be more on side, because challenge is socially acceptable and socially encouraged. It therefore benefits risk balance.”

He went on to say that the term “challenge” has six elements: the chance of gain; risk or loss or harm; something undertaken willingly; something undertaken progressively; with at least some uncertainty of outcome; and lying partly outside the comfort zone.

His comments come at a time when fears over safety and traffic, for example, are cited as preventing parents from allowing their children to play outdoors. **Play England’s survey** of 1,000 parents (released to mark Playday 2012) found that almost a third (31 per cent) said their children did not play outside the house because of fears of an accident or injury.

- The LASER Alliance is hosted by RoSPA and sponsored by the Gas Safety Trust. It brings together a range of UK-based organisations and individuals that believe in children and young people “learning about safety by experiencing risk”.
- A full report on the LASER Alliance Annual Conference will appear in the Summer edition of RoSPA’s Safety Education journal.



More than 60 professionals whose work encompasses safety education attended February’s seminar, hosted by **RoSPA at DangerPoint**, an interactive education centre in north Wales, to share advice and best practice on the delivery of **high quality practical safety education**.

Among the guest speakers at the one-day event was Marcus Bailie, head of inspection at the **Adventure Activities Licensing Service (AALS)**, who shared his experiences of engaging with children and young people through adventure activities.

He said the **LASER Alliance’s** promotion of risk education across society was “crucially important” because it could help to reduce the number of young people being involved in accidents. And he warned about the financial cost to society of not engaging with young people (e.g. youth unemployment (£4.6billion) and youth crime (£1billion)) and, added to this, the social cost of issues such as social isolation, a disproportionate fear of strangers and anti-social behaviour, to name just a few.

This page contains a selection of items of interest from some of RoSPA's other journals.

FOR DETAILS ABOUT HOW TO SUBSCRIBE TO THESE JOURNALS, PLEASE SEE PAGE 02.



NEW GUIDANCE

Guidance on the Pyrotechnic Articles (Safety) Regulations 2010

Department for Business, Innovation and Skills

www.gov.uk/government/uploads/system/uploads/attachment_data/file/34672/12-1244-guidance-on-pyrotechnic-articles-safety-regulations.pdf

The Department for Business, Innovation and Skills has revised its guidance on safety regulations for fireworks and other pyrotechnic devices as the industry gears up to meet new legal requirements.

The Pyrotechnic Articles (Safety) Regulations 2010 brings the UK in line with the European Directive 2007/23 and replaces the Fireworks (Safety) Regulations 1997.

The regulations, which now apply to Northern Ireland as well as the rest of the UK, address product safety rather than safe usage. They do not cover military and civilian explosives or marine equipment as these are covered by other legislation.

Among the changes are new labelling rules and CE markings, new enforcement provisions and a new independent third-party testing process. Non-firework pyrotechnic articles, such as car air bag detonators and bird scarers, are included in the regulations for the first time.

The HSE is responsible for enforcing part three of the regulations. These cover professional and theatrical fireworks and other pyrotechnic devices, and include new criminal offences. The HSE is also responsible for inspecting consumer fireworks at manufacturing sites.

A transition period up to July 2017 allows manufacturers and others time to comply with the new regulations.

From: **The RoSPA Occupational Safety & Health Bulletin**, January 2013

NEW TITLE

Marine accident safety digest 2/2012

Marine Accident Investigation Branch

www.maib.gov.uk/publications/safety_digests/2012/safety_digest_2_2012.cfm

Twenty-five maritime safety investigation reports are included in this round-up, which covers accidents involving merchant vessels, fishing vessels and small craft.

From: **The RoSPA Occupational Safety & Health Bulletin**, February 2013



NEW PUBLICATION

The coastguard, emergency towing vessels and the Maritime Incident Response Group: follow up

Commons Transport Committee

www.parliament.uk/business/committees/committees-a-z/commons-select/transport-committee/news/coastguard-fu---report/

Coastguards are “disillusioned and confused” about plans to modernise their service, which include the closure of several coastguard stations, a follow-up report from the Commons Transport Committee has warned.

“In our view the loss of experienced coastguards is one of the most significant risks to the successful implementation of the Government’s reform programme,” says the report.

“Years of uncertainty about the shape of the service, station closures and low morale have acted to drain talent from the service.”

Committee chair Louise Ellman MP has called on the Government to rule out further closures and “ensure that its reforms do not undermine safety and make proper use of local knowledge where applicable”.

She says that three elements of the Government’s modernisation plan are “causing unrest and concern”:

- the closure of eight out of 17 coastguard stations, and with them the loss of local search and rescue knowledge. The Government is planning to set up a national maritime operations centre in the Solent with back up from Dover station
- the withdrawal of funding for emergency towing vehicles, a service which the report calls “a form of insurance policy against environmental disasters caused by merchant shipping”
- the withdrawal of funding for the Maritime Incident Response Group (MIRG), a move the report says was short-sighted.

The MIRG was set up in 2006 as a joint service from the Maritime and Coastguard Agency and the Fire and Rescue Service to respond to incidents at sea where fire-fighting, chemical hazard and/or rescue teams were needed. It closed in December 2011 after the Government decided that demand for the service was too low to justify the cost.

“It is ...striking that, having disbanded MIRG, the Government is almost immediately in negotiations with chief fire officers about arrangements relating to fire-fighting at sea. We remain of the view that the decision to end funding of MIRG was shortsighted,” says the report.

Transport minister Stephen Hammond has responded robustly to the committee’s criticisms.

“Safety remains our top priority,” he says. “Our reforms to modernise the Coastguard will deliver a more resilient, and effective rescue system, with faster response times, benefitting all parts of the UK,” he says.

Trade union Nautilus International meanwhile has called on the Government to act on the report’s recommendations.

“We welcome this report, which correctly identifies the potentially serious effects on safety at sea caused by spending cuts. We urge the government not to dismiss the warnings that are contained here, but to act urgently on the recommendations,” says general secretary Mark Dickinson.

From: **The RoSPA Occupational Safety & Health Bulletin**, February 2013

NEW WEBSITE

Learning Legacy

Olympic Delivery Authority

<http://learninglegacy.independent.gov.uk>

The Olympic Delivery Authority’s Learning Legacy website aims to share the knowledge and lessons learned from the construction of the Olympic Park, including the health and safety record of the project.

Visitors to the site can access a selection of micro reports on topics such as the presence of asbestos in soil, occupational health provision and using an awards process to change behaviour and performance, while the champion products area includes standards, templates and guidance that can be adapted to any construction site.

There are also case studies available, plus a wide range of research summaries on many aspects of health and safety, including safety culture, supply chain management and worker involvement.

From: **The RoSPA Occupational Safety & Health Journal**, February 2013



From other journals

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