

# LCAS Bulletin

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## Contact details

We have moved - again!

The helpline phone number and email has not changed but any written correspondence should go to:

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## Welcome to Issue 23 of the LCAS Bulletin.

This years round of LCAS seminars are now arranged and the details of the topics, dates and venues are outlined on the back page of this bulletin. Your invitation to the seminars will be arriving shortly – put the date in your diary! Helen Aston & I are both looking forward to meeting you during the summer.

I would encourage you to invite your Council Members to come along to the seminars with you. The sessions will raise awareness of their responsibilities for risk management and health & safety and this may increase the support you get when looking to improve the Council's liabilities. Indeed, the article in this bulletin regarding elected members responsibilities will be of interest to your Councillors so send them a copy of this issue! As always, the seminars are open to all Town and Parish Councils regardless of whether they are members of LCAS or insured through Zurich, so please pass our details to your neighbouring councils too.

For those of you who remember Sarah Brown from last year, Sarah gave birth to her son in November and both are doing very well.



## Do you use any contractors that are CORGI registered?

On the 1 April 2009 a new scheme was launched by the Health & Safety Executive (HSE). Capita have signed a ten year contract with the HSE to operate a new gas registration scheme in Great Britain. This will replace the CORGI gas registration scheme which ended on 31 March 2009. The core purpose of the new scheme will be to provide information to consumers on installers that have demonstrated they are safe to work with gas.



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## **Making a difference to health and safety in your local council**

Do your elected members know the risks the people in your council's area face? Are they setting the right strategy and budget? Do the decisions your elected members make mean that people are at risk?

"Think about health and safety – what elected members of local authorities need to know" was recently launched by the Institution of Occupational Safety and Health (IOSH).

"Think about health and safety" is designed to open elected members' eyes to the many issues their local authority faces day in, day out. It makes it clear that the decisions they make, the budgets they set, the policies they agree, all have an impact on how well health and safety is managed 'on their patch'.

The guide is definitely not about scaring elected members either from making decisions or from standing as elected members in the first place. It's aim is to help and advise them on what is a massively important subject for public sector bodies.

Since the introduction of the Local Government Act 2000, the role of elected members has changed for good, and for the good. Councillors have far more power and responsibility than before. Whilst they are not responsible for managing health and safety services on a day-to-day basis it is vital that they understand how their strategic decisions can affect how health and safety is being managed within their local council. It is also important that they're aware of their potential liabilities as a body – and as an individual – in terms of both criminal and civil law.

Elected members decisions significantly influence the health and safety of anyone involved with the Local Council – whether your own staff, contractors, suppliers and of course, those members of the public using the council's services. Don't forget that getting health and safety management right reaps other rewards. It's no coincidence that organisations with an excellent safety record are also the most efficient – the operational discipline which delivers great safety also delivers efficiency.

A PowerPoint presentation to use as part of training sessions for elected members has been developed and can be downloaded at [www.iosh.co.uk/electedandsafe](http://www.iosh.co.uk/electedandsafe).

A copy of the guide can be downloaded from the IOSH website [www.iosh.co.uk](http://www.iosh.co.uk).

# Case Review

## Case one

### Discrimination at community centre

A parish councillor has won a disability discrimination case against South Normanton Parish Council. When South Normanton Community Centre in Derbyshire underwent major rebuilding work very few people were consulted on the project. When the refurbished facility opened, Margaret Upton, who is a wheelchair user, found she could not use the new entrance doors without assistance. Mrs Upton voiced her concerns to the Parish Council but the Chairman did nothing in response. She later turned to legal action and only then were new doors installed. However, the Parish Council and Community Centre Association still would not acknowledge that they had discriminated. It was only at the hearing at Sheffield County Court that their barrister admitted discrimination on their behalf.

They were ordered to pay Mrs Upton £3,000 plus costs.

After the hearing, Mrs Upton said: "I didn't want this to go to court. The Parish Council could have sorted this out so easily if Terry Cook, the Chairman, had only listened to people. But he didn't, so I was left with no other option. I had a meeting with him to avoid this, at which we were insulted and threatened. This has had a big effect on my social life. I am glad it's over and done with and now all parties can accept the decision and move on."

## Case two

### Vandalism of playground

The claimant, a child aged 11, brought a claim for damages against the defendant council after he fell from the top of a slide. The slide had been vandalised and the top platform was boarded as a temporary repair but that was also vandalised. Before the second episode of vandalism was reported and repaired, the claimant played on the frame but fell through the top platform, suffering a fractured arm.

The claimant alleged negligence and breach of duty to ensure the area was reasonably safe, under the Occupiers' Liability Act 1957. He alleged that the frame had not been properly repaired on the first episode of vandalism, posing a trap and a foreseeable risk of injury to children.

The defendant provided evidence of its 8 weekly inspection system and of having carried out a temporary repair as soon as the original vandalism was reported. It also carried out a sturdier repair to the frame on the second report of vandalism, after the accident.

The judge held that the defendant could not be criticised for making a more robust repair on the second occasion. He held the first repair was reasonably safe and rigid and was not rendered unsuitable or unsafe by reason of a stronger second repair. The defendant was not in breach of any duty to the claimant simply because persons unknown had vandalised the original, sufficient repair. The claim failed.

## Case three

### Portable football goals – Inspection system

The claimant was on a family holiday at a caravan park owned and operated by the defendant. There was an area to play football with a portable, tubular goal frame which should have been pegged to the ground. During a game when the claimant was goalkeeper, he caught his foot in the net and fell. The goal then collapsed and the crossbar struck his face, injuring his jaw and teeth. He claimed damages from the defendant for negligence and breach of duty under the Occupiers' Liability Act 1957.

Amongst the claimant's allegations were that the defendant should have checked the pegs regularly, ensuring they were sufficiently secured to avoid the goal falling over.

The defendant knew that other visitors sometimes used the pegs as tent pegs and that the goal frame manufacturer's literature emphasised the importance of anchoring the goal to the ground. The defendant said a daily inspection was carried out but this appeared only to be a casual inspection of the general area.

At trial, the judge held that this was an isolated incident. The defendant had taken "some care" to ensure the goal was reasonably safe and that the frame would not have been in the condition it was at the time of the accident for long. Any inspection would not have detected the loose or absent pegs before the accident. The claimant appealed.

The Court of Appeal held that the trial judge was wrong to rule that there was no evidence to indicate that the posts were not routinely sufficiently secured. The accident was due to the absence of pegs in the frame and the defendant had not shown that it had not occurred through any failing on its part. It had not submitted evidence of a suitable inspection system. If a system had been properly operated, the absence of pegs would have been found and replaced. The appeal was allowed.

## Case four

### Grass cutting equipment

The claimant works for the defendant as a gardener. From April, 2005 he was operating a mower for which both the defendant and the manufacturer had trained him.

The mower's cutters were powered by hydraulic pressure and a blockage could cause energy to be retained until the blockage is released, resulting in the cutters partially rotating.

In May 2005, the claimant was operating the machine on long, wet grass and the cutters frequently became blocked. The claimant, wearing latex gloves, as was the normal practice, switched off the machine and tried to clear the blockage. His right index finger and thumb became trapped in the cutter and, after freeing himself, he found his finger bleeding heavily. At hospital it was found he had suffered a partial amputation of the finger.

The claimant claimed damages from the defendant, alleging negligence and breach of both the Provision and Use of Work Equipment Regulations 1998 (PUWER) and the Management of Health and Safety at Work Regulations 1999 (MHSWR).

The court held the defendant had failed to provide adequate training and failed to carry out a suitable risk assessment.

The court also held the defendant negligent for failing to alert the claimant to the particular danger, which the manufacturer's had warned against, of stored energy in the hydraulic system and the risk of the cutters "kicking" when a blockage was released.

However, the court held the claimant 20% liable for contributory negligence. He knew he should have kept his hands away from the blades. The claim succeeded, subject to the reduction.

## Organising and safely running an outdoor event can be complicated. Here are some tips on making it a success

Ensuring outdoor events are enjoyable and safe experiences means assessing the risks and taking appropriate steps to protect against them. If not managed properly, outdoor events can have tragic consequences, like the fatal giant inflatable accident at Chester-le-Street in 2006. Organisers should look at risks unique to their event applying the same criteria they would to any other activity but bearing in mind outdoor issues.

Firstly, you should be up to date with the latest regulatory situation. A number of regulations apply. Under the Licensing Act 2003, outdoor events must be licensed for regulated entertainment (such as live music or dance performances and the playing of recorded music) as well as alcohol sales. A Temporary Event Notice (TEN) must be submitted in duplicate to the licensing authority at least ten working days before the start date of an event.

At an early stage of the planning you should discuss with your underwriter if any elements aren't covered by general Public Liability cover and ensure other groups, such as caterers, exhibitors or stallholders, have adequate cover of their own.

### What you need to organise

- Carry out site inspections right up to the day of the event, using an agreed checklist. Keep a record of this, together with any remedial action taken.
- Liaise with local enforcement authorities, vendors, exhibitors and performers before the event.
- Decide how visitors, emergency services and contractors will access and leave the site. Make sure there is separate access for vehicles and pedestrians.
- Ensure you have plenty of clear signage and trained stewards.
- Emergency procedures should be in place to deal with any incident. Have an emergency plan that has been tested before the event with stewards and organisers.
- Establish suitable accident reporting procedures and processes for dealing with lost children.
- Arrange adequate first aid provision with St John Ambulance or similar organisation and ensure appropriately stocked, up to date first-aid kits for the expected volume of visitors.
- Set out rules on alcohol.
- Decide how best to position attractions and check the competence of the operators.
- Make sure caterers are registered with their local Environmental Health department, have access to hot and cold water and adequate food waste disposal arrangements.
- Check the competency and insurance of contractors.
- Make sure sanitary facilities are sufficient.
- Identify the types of waste your event will produce and plan how best to collect and dispose of the waste and recyclable materials. Don't forget about raising awareness about waste management and make sure you have plenty of bins.
- When the event is finished, make sure the site is cleaned and made safe. A final site inspection should be undertaken to identify any defects that need to be rectified.

**Finally, hold a debrief meeting and treat it as a valuable learning experience for the next event you organise.**

## Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR)

A visitor to your Town Hall falls on the staircase, an ambulance is called and they are taken off to hospital. Do you need to notify the Health and Safety Executive? The simple answer is "Yes".

The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR), place a legal duty on:

- employers;
- self-employed people;
- people in control of premises;

to report [work-related deaths](#), [major injuries](#) or [over-three-day injuries](#), [work related diseases](#) and [dangerous occurrences \(near miss accidents\)](#).

The easiest way to do this is by calling the HSE Incident Contact Centre (ICC) on 0845 300 99 23 (local rate). You will be sent a copy of the information recorded and you will be able to correct any errors or omissions. If you need to contact HSE urgently to report a major incident or fatality please phone 0151 951 4000 to be directed to the appropriate HSE office.

### Reportable over-three-day injuries

If there is an accident connected with work (including an act of physical violence) and your employee, or a self-employed person working on your premises, suffers an over-three-day injury you must report it to the enforcing authority within ten days. An over-3-day injury is one which is not "[major](#)" but results in the injured person being away from work OR unable to do the full range of their normal duties for more than three days.

### Deaths

If there is an accident connected with work and your employee, or self-employed person working on the premises, or a member of the public is killed you must notify the enforcing authority without delay.

### Major injuries

If there is an accident connected with work and your employee, or self-employed person working on the premises sustains a major injury, or a member of the public suffers an injury and is taken to hospital from the site of the accident, you must notify the enforcing authority without delay.

Examples of reportable major injuries are:

- Fracture, other than to fingers, thumbs and toes.
- Amputation.
- Dislocation of the shoulder, hip, knee or spine.
- Loss of sight (temporary or permanent).
- Chemical or hot metal burn to the eye or any penetrating injury to the eye.
- Injury resulting from an electric shock or electrical burn leading to unconsciousness, or requiring resuscitation or admittance to hospital for more than 24 hours.

## Latest myth of the month from the HSE

“health and safety rules take the adventure out of playgrounds”

The reality - We're all for playgrounds being exciting and challenging places. Children should have fun in them, get fit, develop social skills and learn how to handle risks.

What's important is to strike the right balance - protecting children from harm while allowing them the freedom to develop independence and risk awareness. Exciting and challenging playgrounds do this, poorly maintained or badly designed ones don't. Health and safety laws don't stop children having fun but ill-considered and overprotective actions do.



Source: [www.hse.gov.uk](http://www.hse.gov.uk)

## Health & Safety Offences Act

The Health and Safety Offences Act 2008 came into force in January 2009. This new Act increases penalties and provides courts with greater sentencing powers for those who break health and safety law.

For Town and Parish Councils who are managing health and safety well there is nothing to fear from this change in the law. There are no new duties on employers or businesses and the Health and Safety Executive is not changing its approach to how it enforces health and safety law.

The Act fulfils a longstanding Government and HSE commitment to provide the courts with greater sentencing powers for health and safety crimes. The effect of the Act is to:

- raise the maximum fine which may be imposed in the lower courts to £20,000 for most health and safety offences;
- make imprisonment an option for more health and safety offences in both the lower and higher courts;
- make certain offences, which are currently triable only in the lower courts, triable in either the lower or higher courts.

If you have a specific query about your insurance policy or a claim then please contact our Community Insurance Centre on:

**0845 7254910**

Have your Insurance Policy or Claim Number available for this call.

## Helpline review

**Question: We have asked all community groups who hire our hall to submit risk assessments to accompany their booking forms. One of the conditions of hire is to set up the tables and chairs they need and to leave the room as they found it when they arrived. One regular group is a dance class where the average age is around 75 and is mostly made up of women. They are concerned with the manual handling issues associated with the setting up and stacking of our tables and chairs. How do we respond to this concern and manage the risk?**

Your hall hiring conditions seem reasonable and it is positive that you are asking them to consider the risks associated with their activities. There are 3 possible solutions for this particular user to consider. The dance group could make alternative arrangements for the safe use of the hall (which includes complying with hiring conditions) by asking someone else to come along with them to assist with moving the tables and chairs. Perhaps the group could make an arrangement with the users of the hall immediately before and after their dance class so that the hall is already clear of tables and chairs and they do not need to set them out for the next users. Finally, the group may consider changing the time or day that they use the hall to a slot where there is no need to move tables and chairs.

The Council may consider assisting the hall users by providing a "sample" manual handling risk assessment from the LCAS Guide.

**Question: We have a field in the centre of our town and the Council has recently agreed that public access should now be permitted. Previously the field was rented out to a farmer who used the field for his sheep and this kept the nettles and brambles to a minimum. The only access to this field is via a gate which is set back from road by about 4 metres. How should we manage this field and what signage do we need?**

The Council need to carry out a risk assessment of the use of this field. This will identify whether the nettles and brambles are a significant risk and will take into account the maintenance regime that the Council have in place for the field – mowing during summer months and regular inspections and litter picking. There will be no play equipment installed in the field and the intention is for it to be free for the public to walk through as they wish. It is therefore reasonable to expect nettles and brambles in the field!

Since the gate is the only access to the field then presumably those going into the field would be aware of the road when they entered. A simple reminder sign on the inside of the gate would be more appropriate than a "danger – road" sign.

The most appropriate suggestion is that you use your first risk assessment to set up appropriate management procedures for the field and review the situation during and following the first season of public use. You can use this experience to make changes to the risk assessment and procedures as necessary.

## Legionella Assessment

You've probably had your buildings risk assessed for Legionella. But did that include items like outside taps and standpipes and sinks in stores with mains-fed water heaters?

When identifying potential for Legionellosis, never leave any part of a water system out of a risk assessment. Premises such as pavilions, gatehouses and workshops are usually covered by an assessment as they are recognised workplaces, but outdoor taps and standpipes get overlooked because they are only known to the people who use them. You might think that heat gain would be a summer phenomenon and that the problem of stagnation through lack of use would be a winter one. In reality, solar heat gain requires surprisingly little sunlight.

A black plastic irrigation pipe could easily be heated to temperatures in the mid-20s Celsius under a watery April sun; perhaps six, eight or more degrees warmer than the surroundings. Not only is May likely to be sunnier, but March often has sunny spells, so when the ground starts to dry out in what we like to call a British summer, there could have been intermittent incubating temperatures for many weeks and the first use of the irrigation system could present some danger.

Outside taps and standpipes are probably less likely to be heated and, if they are, the parts affected are probably small. But you still need to think carefully about maintenance, storage and use to identify the potential for risk.

The responsible solution is to make sure all components – or 'assets' as they are described in L8, the HSE's Approved Code of Practice and Guidance – are listed and assessed.



## The Control of Asbestos Regulations 2006

Does your Local Council have a strategy in place to identify and manage any asbestos containing materials (ACM's) in your premises? We highlighted the responsibilities that Local Councils have in LCAS Bulletin Issue 9 (May 2002) for managing asbestos containing materials but are you confident that the strategy in your premises is appropriate and those who need to know about the risks are adequately informed? This checklist may help...

Are you responsible for maintenance and repair activities either through a contract or tenancy agreement, or because you own the building?

Was the building built before 2000?

Do you already have information on asbestos in your building?

Walk around your building to identify materials containing asbestos. You can either presume asbestos is present or confirm its presence through a detailed survey. Seek specialist advice if you are unsure. If you opt to presume then all subsequent work must involve full asbestos safety precautions.

Keep a written record or register of the location of asbestos containing materials and the roles and responsibilities for managing asbestos.

Act on your findings and prioritise your actions. Keep records of the action taken.

Tell people the location of the asbestos – including contractors.

Keep your systems and records up to date and review your action plans where necessary.

This information can be obtained from an information sheet from the HSE entitled "Manage buildings? You must manage asbestos."

Asbestos in your buildings is not a problem provided you have a management plan in place.

## Local Council Advisory Service Annual seminars 2009

We are pleased to announce the details of our annual seminars. The seminars are open to all Local Councils irrespective of whether they are members of LCAS or insured by Zurich. See the Topics for 2009 for more details on the issues that will be covered. Each seminar will run from 9.30am (registration) and finish with lunch at 1.30pm.

Current LCAS members have one guaranteed place available at no charge. The fee for non-members is £60 plus VAT. The cost of the seminars will be deducted from the membership fee if your council joins the scheme during 2009. Both members and non-members can bring along further guests for £30 plus VAT.

Your invitation to book your place at a seminar will be emailed shortly, but in the meantime, make a note in your diary!

### Dates and venues

1 <sup>st</sup> June	Farnborough
2 <sup>nd</sup> June	Rickmansworth
3 <sup>rd</sup> June	Fareham
10 <sup>th</sup> June	Uckfield
10 <sup>th</sup> June	Northwich
11 <sup>th</sup> June	Nottingham
15 <sup>th</sup> June	South Kirkby
16 <sup>th</sup> June	Peterlee
23 <sup>rd</sup> June	Cambridge
24 <sup>th</sup> June	Swaffham
24 <sup>th</sup> June	Banbury
30 <sup>th</sup> June	Swindon
1 <sup>st</sup> July	Cardiff
7 <sup>th</sup> July	Saltash
14 <sup>th</sup> July	Blandford Forum

## Topics for 2009

### Accident Review

This is a regular, popular feature of the seminars when we review recent claims that have been made against Town and Parish Councils. We will use these claims to discuss the information needed to help you and the insurers make the decision on whether the claim can be defended or must be settled.

### Management of Halls

This session will be an interactive look at the benefits and challenges you face when managing your Town or Community Halls. We will be discussing the measures needed to successfully maintain, hire out and manage these facilities for the benefits of all involved.

### Risk Management

Why do local councils need to develop risk management action plans? Does your council have a plan? We will use this session to take you through the risk management process and give you some practical methods for identifying your risks.

As always, the seminars are an excellent opportunity to ask the Zurich Risk Consultants questions about your own Council's health and safety and risk management issues