

NORTH LINCOLNSHIRE COUNCIL

AUDIT COMMITTEE

RISK MANAGEMENT PROGRESS REPORT

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To inform Members of key issues arising from risk management work.
- 1.2 Regular reporting on risk management issues is an important source of assurance for Members to fulfil their role and provides supporting evidence for the annual approval of the Governance Statement.

2. BACKGROUND INFORMATION

- 2.1 In September 2017 we informed the Audit Committee that a new risk system had been procured. This has now gone live. The benefits of the system are; it is easy to use/navigate, it has an effective reporting facility and it allows risks to be shared and compared more easily if required.
- 2.2 Super Users have been nominated within each service area. Their role is to provide support in keeping the risk register up to date and to deliver training as required on the new system.
- 2.3 With the help of the Super Users the Strategic Lead – Risk & Governance is in the process of reviewing all the council's operational risk registers. A number of risk workshops have been scheduled.
- 2.4 Whilst it is acknowledged that the council is managing its risks it is apparent that there is a need for risk management to be further embedded. Work that has been carried out to date is:
 - Strategic Lead – Risk & Governance attendance at Heads of Service Group and Divisional Management Teams;
 - Super User meetings held and attended by Director of Governance and Partnerships and Head of Legal & Democracy;
 - the review of the Risk & Opportunities Protocol, approved by Audit Committee January 2018;

- the production and launch of a risk management toolkit to support the implementation of the new risk register and the Risk Management & Opportunities Protocol risk policy.
- 2.5 A review of the council's strategic risks is underway. The Leadership Team has provisionally identified the strategic risks, and further work is being carried out to identify controls in place and mitigating actions.
- 2.6 An important aspect of the risk management action plan is to continue to raise awareness across the council. This is achieved through training programmes and communication networks. In addition to information available on the web page and Intralinc the latest edition of the Risk Roundup newsletter has also been published (appendix A). The newsletter includes important articles on significant risk topics such as knife crime, health and safety, information governance and fraud.
- 2.7 At the September Audit Committee we reported that, as part of the 2016/17 internal audit programme, Lincolnshire County Council conducted a review of the council's risk management arrangements. The following recommendations have been actioned:
- Super users have been identified and meet regularly;
 - The Risk & Opportunities Protocol has been updated and was approved by the Audit Committee in January 2018;
 - The risk maturity level has been set and is included in the Risk & Opportunities Protocol.

There are still a small number of agreed actions that have not been implemented, although how they will be implemented in 2018/19 is currently under discussion.

3. OPTIONS FOR CONSIDERATION

- 3.1 The Committee should consider whether this update provides sufficient assurance on the adequacy of risk management arrangements. The Committee is invited to ask questions about the contents of the report and seek clarification as necessary.

4. ANALYSIS OF OPTIONS

- 4.1 The progress report is designed to provide this Committee with the assurance required to fulfil its role effectively.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

- 5.1 Regular reviews of risk management arrangements should safeguard the council's assets and ensure that value for money is achieved in the use of resources.

6. OUTCOMES OF INTEGRATED IMPACT ASSESSMENT (IF APPLICABLE)

- 6.1 An Integrated Impact Assessment is not required.

7. OUTCOMES OF CONSULTATION AND CONFLICTS OF INTERESTS DECLARED

- 7.1 There are no conflicts of interests to declare.

8. RECOMMENDATION

- 8.1 That the Audit Committee considers the assurance provided by the Risk Management progress report on the adequacy of risk management arrangements.

DIRECTOR OF GOVERNANCE AND PARTNERSHIPS

Civic Centre
Ashby Road
SCUNTHORPE
North Lincolnshire
DN16 1AB

Author: Caroline Wilson
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Background Papers used in the preparation of this report: None



A digest of risk management issues

Safeguarding Risks

1 Councils call for action to halt illegal knife sales

In one area an underage teenager was sold a machete, another was sold a lock knife and a 14 year old managed to buy a nine inch serrated knife.

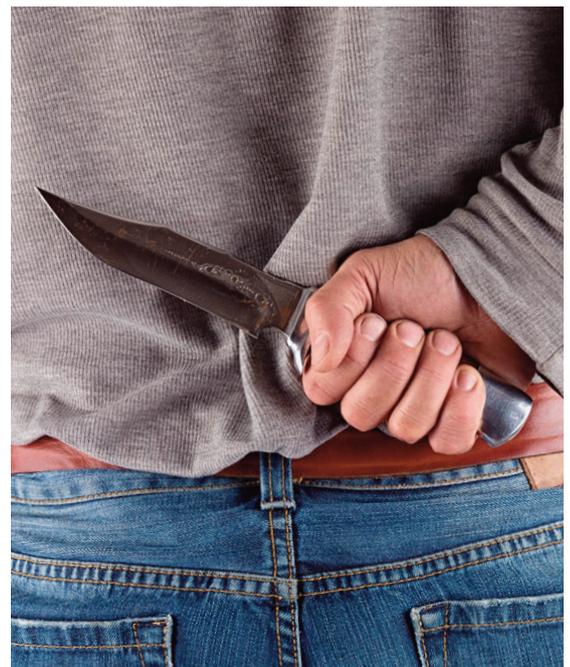
Councils have called for tougher fines and sentences to stop shops illegally selling knives to children.

The Local Government Association (LGA) has claimed nearly one in four shops are breaking the law on underage knife sales in some areas, with blades sold to children as young as 13. The LGA said trading standards teams around the country have been alarmed at the results of some of their test purchases to ensure retailers are complying with the law.

In one area an underage teenager was sold a machete, another was sold a lock knife and a 14 year old managed to buy a nine inch serrated knife.

Of the 725 test purchases carried out by London trading standards and the police across the capital in 2016, 96 sold knives and blades to children as young as 13.

The LGA said the worrying findings come as latest official figures show a 20% annual increase in knife crime in England and Wales. It said greater fines and tougher sentences are also needed for irresponsible retailers breaking knife sale laws to reflect the seriousness of selling knives to children.



‘With councils experiencing on-going funding pressures, we are calling on the retail industry to step up and fund underage test purchasing activities and liaise with councils to help improve safety standards and compliance with the law on knife sales’ said the Chair of the LGA’s Stronger and Safer Communities Board. ‘Councils will be working with retailers to educate them about their responsibilities when it comes to selling knives, continue to carry out test purchasing and will not hesitate to take enforcement action against anyone selling such dangerous weapons unlawfully’.



2 Council fined after separating husband and wife for 10 months

Not only did this lead to a 30 mile round trip every day for the husband, the wife was also placed in a dementia unit despite not having the condition.

A council has been ordered to pay out hundreds of pounds in compensation after separating a married couple for 10 months due to a lack of homecare availability.

The Local Government and Social Care Ombudsman (LGO) ordered Lincolnshire CC to pay the husband £750 and the wife £1,000 after the latter was placed in a residential home miles from her husband following a hip operation.

The woman should have been sent home with the help of a care package after the operation. Instead, the council placed her in a residential home 15 miles from her husband because the contracted providers did not have capacity to care for her. Not only did this lead to a 30 mile round trip every day for the husband, the wife was also placed in a dementia unit despite not having the condition. The LGO reports she had to lock her door to prevent other residents wondering in.

'This couple found themselves in the situation of a hospital operation leading to 10 months living apart because of the lack of care provision available' said the LGO. 'The woman was placed for too long in an unsuitable care environment. She wanted to return home to be with her husband, but instead had no choice but to live with people whose care needs were very different to her own, causing her significant distress. Lincolnshire CC should have reviewed her care plan and support plan once her circumstances had changed and moved her to a more suitable room sooner.'

The LGO found that in an effort to improve stability in the local market, Lincolnshire CC had agreed contracts with a smaller number of preferred care providers, each solely responsible for delivering all homecare services in their zone. The newly contracted provider in the wife's area did not have sufficient capacity to provide care to meet her needs.

3 Pepper the robot to take on social care tasks

Pepper, a small humanoid robot, is able to communicate and perceive emotions.

Southend-on-Sea has unveiled a mini robot which they argue will help the council transform its social care services by freeing up under pressure staff.

Pepper, a small humanoid robot, is able to communicate and perceive emotions. It is also able to adapt its behaviour and make independent decisions.

The council is the first local authority to buy and use Pepper under an academic license. The robot, which the council describes as 'kind' and 'endearing' will be able to carry out certain social care

tasks, such as running a reminiscence group or helping stroke victims with physiotherapy, freeing up staff for other tasks.

'I have met Pepper and he is very cute, kind, engaging and learning all the time' said the executive councillor for health and adult care. 'Robots may seem like something from the distant future, but the technology is here and we strongly believe that Pepper can have a positive impact on social care as we continue to transform our services and make sure they are fit for the future.'



Health & Safety Risks

4 Council fined £150,000 for failing to tackle vibration related illness

Wrexham County Borough Council pleaded guilty to breaching Section 2 (1) of the Health and Safety at Work Act 1974.

Wrexham County Borough Council has been fined after a 57 year old man was diagnosed with Hand Arm Vibration Syndrome (HAVS). The local magistrates, court heard how the employee of the council's StreetScene department had been diagnosed with HAVS in September 2015.

HAVS is caused from the use of hand held power tools and can result in painful and disabling disorders of the blood vessels, nerves and joints.

An investigation by the Health and Safety Executive (HSE) found the council failed to address the issue of HAVS following an audit four years earlier which identified a failure to assess the risk to employees from vibration. HSE discovered the council had developed a number of policies dating back to 2004 to tackle the risk of HAVS. However, these policies were not implemented.

Wrexham County Borough Council pleaded guilty to breaching Section 2 (1) of the Health and Safety at Work Act 1974. The council has been fined £150,000 and ordered to pay costs of £10,901.

5 Council ordered to pay £215,000 in fines and costs over vehicle inspection pit risk

Southwark Crown Court heard how a visitor fell into a pit striking her head while work was being undertaken at the site.



A London borough has been fined £150,000 and ordered to pay £65,000 in costs for failing to manage and control the risks of persons falling into vehicle inspection pits.

Southwark Crown Court heard how a visitor to the Wearside Service Centre in Ladywell fell into a pit striking her head while work was being undertaken at the site. The court was

told that Lewisham Council had failed to heed its own independent health and safety consultant's findings from two sets of risk assessments that recommended guarding around the open pits.

Lewisham was found guilty of breaching Section 3(1) of the Health and Safety at Work etc. Act 1974.

6 Council fined £10,000 for health and safety failings

It also heard the 'ladder mates' designed to stop the ladder slipping were missing.

A council has been fined £10,000 for health and safety failings after a worker sustained serious injuries falling off a ladder.

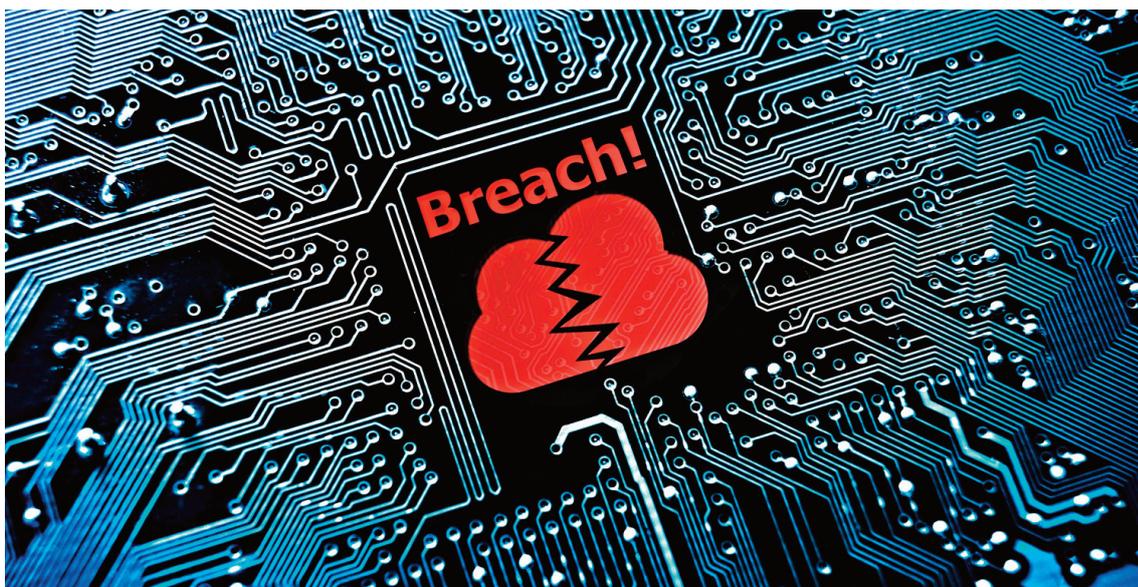
In 2013 a painter working for West Lothian Council fell four metres from his ladder and suffered serious injuries to his hip and leg and eight fractures to his knee.

Livingston Sheriff Court was told an alloy tower or podium steps should have been used given the level of risk involved and the duration the equipment was used for. It also heard the 'ladder mates' designed to stop the ladder slipping were missing. The council pleaded guilty to a single charge under the Work at Height Regulations 2005.

Information Governance Risks

7 County fined £70,000 for 'serious and prolonged' data breach

'As soon as this matter came to our attention we removed the directory from the internet and reported the incident to the Commissioner.'



Nottingham County Council has apologised for leaving vulnerable people's personal information exposed online after being fined £70,000 by data protection watchdogs.

The council admitted that leaving the gender, addresses, postcodes and care requirements of elderly and disabled people in an online directory which had no basic security or access restrictions such as username or password was a mistake.

A member of public raised the alarm after realising they could access and view the data without logging in and worried it could be used by criminals to target vulnerable people.

Information Commissioner's Office Head of Enforcement said it had been a 'serious and 'prolonged' breach of the Data Protection Act. 'For no good reason, the council overlooked the need to put robust measures in place to protect people's personal information, despite having

the financial and staffing resources available.

The Council's Adult Social Care Service Director said 'Nottinghamshire County Council takes its responsibility for data security extremely seriously so we are very sorry that this error occurred and accept the Commissioner's findings. As soon as this matter came to our attention we removed the directory from the internet and reported the incident to the Commissioner.'

8 Council fined £70,000 over parking ticket system data breach

It was found to have design faults meaning the personal data of up to 89,000 people was at risk of being accessed by others.



Islington Council has received a £70,000 fine by the Information Commissioner’s Office (ICO) after the authority failed to keep up to 89,000 people’s information secure on its parking ticket system website.

The council’s Ticket Viewer system allows people to see a CCTV image or video of their alleged parking offence. It was found to have design faults meaning the personal data of up to 89,000 people was at risk of being accessed by others. The data included a small amount of personal information such as medical details relating to appeals.

The investigation discovered there had been unauthorised access to 119 documents on the system 235 times, affecting 71 people.

The ICO ruled the council had breached the Data Protection Act by failing to test the system both prior to going live and regularly after that.

Fraud Risks

9 Chief Executive Officer (CEO) Fraud – Schools Targeted

The amounts requested have been between £8,000 and £10,000.

The National Fraud Intelligence Bureau (NFIB) has seen an increase in recent weeks in the volume of CEO Fraud reports whereby schools are the targeted victim. This has resulted in substantial financial losses for several schools that have fallen victim to this type of fraud.

A school is targeted by a fraudster who purports to be the Head Teacher/Principal. The fraudster contacts a member of staff with responsibility for authorising financial transfers and requests for a one off, often urgent, bank transfer to be made. The amounts requested have been between £8,000 and £10,000.

Contact is made by email and from a spoofed/ similar email address to the one the Head Teacher/Principal would use.

Prevention & protection advice

- Verify and corroborate all requests to change any supplier or payment details.
- Get in touch with the supplier (or internal colleague) directly, using contact details you know to be correct, to confirm that a request you have received is legitimate.
- Ensure that all employees be aware of these procedures.
- Encourage employees to challenge requests they think may be suspicious, particularly urgent sounding requests from senior employees.



10 **Sawtry school ex-principal admits £100k fraud**

Stewart, admitted four counts of fraud and one of misconduct in a public office.

A former school principal has been jailed for four years for misconduct and fraud.

James Stewart, 72, executive principal at Sawtry Village Academy until 2014, showed greed that was an "abuse of his high position of trust", a judge said.

Stewart, admitted four counts of fraud and one of misconduct in a public office.

The charges, which also included two of aiding and abetting his vice-principal Alan Stevens to commit fraud, relate to a period from 2009 to 2014.

Charles Myatt, prosecuting, said his "greed and abuse of the system" led him to claim more than £85,000 from the school to pay off debts on personal credit cards.

The defendant would lock himself in his offices, where he had a private phone line installed to place bets with bookmaker William Hill, and watch horse racing on TV, the court heard.

He also claimed a total of £6,000 in expenses to cover household bills.

Peter Leeton, chairman of governors at the time, told investigators Stewart was "very persuasive" and someone he "greatly trusted".

He admitted that perhaps he "didn't probe or have enough of an inquiring mind" about his behaviour.

School staff described the defendant as a "racist, sexist and fattest bully", the court heard. He was "autocratic" and his poor attendance "became a running joke".

Mr Stewart's suite of offices was "much better furnished than the rest of the school, which was in need of repair and decoration", the court heard.

Sentencing, Judge Stuart Bridge said: "By all accounts, this was a serious fraud by abuse of position by a person who was in a high position of trust and it was a fraud that was committed over a significant period of time."

Prevention & protection advice

- An anti-fraud culture where employees are confident and encouraged to raise concerns is essential.
- Ensure proper governance arrangements are in place to challenge and hold those in positions of trust and responsibility to account.



11 Former employee admits £1m Dundee council fraud

He had unrestricted access to financial computer systems used for recording invoices from suppliers and processing payments.

A former Dundee City Council IT officer has admitted stealing more than £1m from the authority in a seven-year-long fraud.

Mark Conway first diverted public money to his own accounts after running up debts on gambling websites.

Conway, 52, defrauded the council of £1,065,085 between August 2009 and May last year.

He was jailed for 5 years and 4 months.

The court was told Conway made entries in the local authority's computer system pretending to represent sums due to genuine suppliers to the council, but had the money paid into his bank and building society accounts.

Conway was an IT officer specialising in financial IT systems and was regarded as the council's primary specialist in these systems. He had unrestricted access to financial computer

systems used for recording invoices from suppliers and processing payments.

In May last year, an employee became aware of a £7,337 payment to a building firm and thought it was unusual that it was made to a Nationwide building society account.

Auditors were called in to identify how funds had been diverted to Conway's accounts. They also identified various weaknesses in the council's accounting practices that allowed the fraud to remain undetected for so long.

Prevention & protection advice

- Ensure that there is a clear segregation of duties on financial systems.
- Ensure budgets are properly monitored.
- Report any suspicions of financial irregularity to internal audit.

12 District Judge admits planning fraud

Police said he used his knowledge of the legal system for personal gain.

A judge has admitted serious fraud having fabricating letters to support his own planning applications.

Keith Shaw, 37, of Sherburn-in-Elmet near Leeds, was convicted of several counts of fraud between 2012 and 2015.

Shaw, a qualified solicitor and deputy district judge, pleaded guilty before Westminster Magistrates on Monday and was given a 20-week suspended sentence, suspended for two years, and ordered to pay £2,747 compensation plus £7,285 costs. He was also ordered to do 200 hours of unpaid work.

Police said he used his knowledge of the legal system for personal gain.

He had tried to influence council planners by submitting several fictitious letters in support of his own applications for land around Whitby in North Yorkshire, using names and addresses without people's permission.

Police said the content of the correspondence was also entirely fictitious.

He was also found to have claimed a £2,700 refund for surveyor's fees for land in Sleights, claiming falsely that he was charged for a survey which did not go ahead.

Det Insp Jon Hodgeon, fraud detective at North Yorkshire Police, said: "Keith Shaw is a highly qualified judge who used his enhanced knowledge of the legal system to commit crime and deceive a number of public sector organisations. He is a narcissistic individual who thought he could use his position to defraud others for personal gain."

Prevention & protection advice

- This example serves as a reminder that an individual's standing in the community does not preclude them from committing fraud.

13 Edge Hill University dean and secret lover jailed for £500,000 fraud

Smedley spent the cash on home improvements and "a luxury kitchen", police said.

A former university dean who employed his secret lover as part of a £500,000 scam has been jailed.

Robert Smedley, 52, and Christopher Joynson, 34, both of Frankby Road, West Kirkby, were each jailed for five years at Liverpool Crown Court for fraud.

Smedley, who was also pro vice-chancellor of Edge Hill University, spent the cash on home improvements and "a luxury kitchen", police said.

Smedley, the head of the university's faculty of education, created a £53,000-a-year role for Joynson but failed to tell his employers about their relationship.

During his employment, Joynson invoiced the university for several hours of work that he had not completed, transferring around £200,000 into Smedley's bank account.

Between autumn 2009 and summer 2014, the pair managed to scam Edge Hill out of a total of £513,000.

Finance workers at the university became suspicious when an accountant noticed a large consultancy payment being made to the same bank account as a member of staff's salary.

Police said that if proper checks had been carried out on Joynson before he was employed they would have revealed he had received two police cautions for lying on previous job applications.

Det Con David Wainwright, from Lancashire Police's Economic Crime Unit, said: "Smedley was a member of senior management and abused that position for personal gain. He deceived the university, in particular colleagues he had known for many years and employed Joynson, his lover, in a position that he had simply devised himself".

Prevention & protection advice

- Ensure council policies and procedures are adhered to when creating job roles.
- Ensure Council policies and procedures on recruitment and selection are adhered to when recruiting staff regardless of the level of seniority.
- Ensure that robust pre-employment checks are completed.



Insurance Risks



14 Fake fall fraudster made to pay £12,000 to Dorset County Council

There was no pothole and the accident occurred some distance from the location of the alleged defect.

A Dorset man has been ordered to pay nearly £12,000 to Dorset County Council after a court found he falsely claimed that he was injured by tripping in a pothole.

A self-employed bathroom fitter was found fundamentally dishonest in a hearing at Weymouth County Court. He had brought an insurance claim against the council, alleging that in September 2013 he had tripped in a pothole in the road outside his home, snapping his Achilles tendon and breaking his finger.

His witness, a friend of his, did not see the incident but provided a statement saying he had seen the pothole nine months before the alleged accident.

The defendant failed to respond to several requests for more information. The council finally obtained a court order requiring him to do so and were granted access to records by his solicitor. But questions about the witness' account remained unanswered.

The council's corporate insurance manager said 'Ironically he had given the ambulance crew contact details for his ex-partner, who we were seeking to contact as a witness. When we contacted her using the number of the defendant's ambulance record, she shed a different light on the accident. She said after dropping off a key at the defendant's home, he chased after her along the road and as he reached out to

grab her he simply fell over. There was no pothole and the accident occurred some distance from the location of the alleged defect'.

The council decided that deliberately withholding information and withdrawing his claim after receiving contradictory evidence suggested the defendant had been dishonest.

Deputy District Judge was satisfied on the face of the evidence that a finding of fundamental dishonesty could be made and ordered the defendant to pay the council £11,985 in costs within 28 days.

Court Circular

COURT CIRCULAR - The insurers Zurich Municipal publish important insurance articles for councils to consider important risk management messages. A sample of these claims reports are detailed on the next few pages.

OCCUPIERS' LIABILITY



SLIP ON ICE IN PUBLIC CAR PARK – EXTENT OF DUTY TO GRIT

Webster v Leeds City Council, 22.09.16, Leeds County Court

The claimant, C, slipped on ice in a car park for which the defendant, D, was responsible. C sustained injuries for which she claimed damages from D, alleging breach of duty, under the Occupiers' Liability Act 1957, to ensure the car park was reasonably safe for visitors. Her allegations included that D failed to grit it and that some revenue from the charged car parks should be applied to gritting costs.

D denied liability, arguing that it had taken reasonable care to ensure visitors were reasonably safe. Two bins containing grit are permanently available for visitors to use, and the car park and bins were inspected four times annually. D's winter maintenance policy provided that car parks would be gritted in severe weather when resources allowed.

D alternatively argued that C's accident was caused wholly or at least in part by her negligent failure to take reasonable care for her own safety.

The court heard that D is responsible for 53 car parks. If one car park was to be gritted, D would be required to grit them all and this would cost approximately £10,600 per day.

The judge rejected C's argument that revenue from the charged car parks should be allocated to car park gritting. That type of requirement might lead, for example, to D's tenants asking for their rent to be spent on their properties.

The car park had 100 spaces and only 40-50 visitors daily. The judge said it is not reasonably practicable to grit every car park. The claim was dismissed.

COMMENT

This judgment illustrates that the duty of an occupier is to take reasonable care to ensure its visitors are safe. What is reasonable will depend on the particular circumstances. Here, the court acknowledged and accepted the public authority's many obligations to provide and maintain various services with limited resources.

OCCUPIERS' LIABILITY



TREE BRANCH FALLING ON VISITOR

Vozza v East Riding of Yorkshire Council, 26.07.16, Northampton County Court

The claimant, C, was walking with her husband in a country park when a branch from a tree fell on her, causing her minor injuries. C claimed damages from the defendant, D, the occupier of the park, alleging her injuries were caused by D's negligence and breach of duty under the Occupiers' Liability Act 1957 to ensure C was reasonably safe when visiting the park.

C's allegations included that D failed to identify the branch, its condition, and the risk of it falling, failed to prevent C from walking within the vicinity of the branch, and exposed her to a foreseeable risk of danger. She also alleged that the fact of the branch having fallen proves D's negligence unless D can prove the branch fell without D's negligence.

D denied liability, contending that its employees responsible for the park and its trees were suitably experienced to carry out sufficient and reasonable visual inspections of the trees. Further, the tree in question was not situated on D's land, but on land belonging to Northern Rail. D argued that it would not be reasonable to expect D to gain access to Northern Rail's land to carry out more extensive inspections of its trees.

The judge held that D had carried out reasonable and competent inspections of the tree. D's officers were sufficiently experienced, having a combined total of approximately 50 years' relevant experience between them. The judge held that D had operated reasonable measures for inspecting the tree. The claim was dismissed.

COMMENT

This judgment highlights the importance of an occupier being able to demonstrate that it has taken reasonable, competent and relevant measures regarding visitors' safety to its premises, including with regard to potential hazards located on adjoining premises but which the occupier knows could pose a hazard to its own visitors. This also provides a good example of the importance of comprehensive documentary evidence and strong, credible witness evidence.

While every effort has been made to ensure the accuracy of these reports, this publication is intended as a general overview and is not intended, and should not be used, as a substitute for taking legal advice in any specific situation. Neither Zurich Municipal, nor any member of the Zurich group of companies, will accept any responsibility for any actions taken or not taken on the basis of this publication.

OCCUPIERS' LIABILITY



DISPUTED EVIDENCE OF VISITOR'S ACCIDENT

Tuplin v Scarborough Borough Council, 12.09.16, Blackpool County Court

The claimant, C, had taken her grandchildren on a pedalo on a lake in a park for which the defendant, D, was responsible as the occupier. C said that after the ride, D's employee, L, hooked a pole to the pedalo to pull it to the deck. C said that, as she was stepping from the pedalo, the hook became detached. She said the pedalo moved away, she caught her left leg on a tyre at the edge of the deck, fell on to the deck and was injured.

C claimed damages from D, alleging her injuries were caused by D's negligence and breach of duty under the Occupiers' Liability Act 1957 (the Act) to ensure C was reasonably safe when visiting D's premises. She also alleged breach of s.3(1) of the Management of Health and Safety at Work Regulations 1999, alleging failure to assess the risks, connected with D's undertaking, to the health and safety of persons not in D's employment.

D denied liability, disputing C's account of her accident. L denied that the hook had become detached from the pedalo and stated that C had caught her foot on the edge of the pedalo and fell forward. Further, L denied that the pedalo could drift as alleged because it was hooked at a point that prevents pivoting.

The judge noted that C herself did not see the hook become detached. Further, the lip of the pedalo rested on the tyres and C could not, therefore, have caught her foot on a tyre.

The judge accepted L's version of the accident and D's supporting evidence. The judge noted that, on the day of the accident, C had not alleged that the pedalo had become detached or that it had drifted from the deck as she stepped out. The judge rejected that the accident could have occurred as alleged. The claim was dismissed.

COMMENT

This emphasises the importance of evidence as to how an accident could logically have occurred. In this case, C's account did not support the facts or the logical mechanism of how the accident occurred, highlighting the importance of scrutinising the alleged mechanics of accidents. This also illustrates the importance of being able to produce credible and consistent witness evidence of what was said or done immediately after an accident.