

If we are to believe recent media scare mongering, the ‘compensation culture’ in the UK is spreading fast and nowhere, including schools, are safe. In reality this is probably not as large a problem as we are lead to believe, however schools should still be mindful that the risk of being sued is a real one and it is right that children who suffer serious injury because of genuine negligence are entitled to be compensated.

If a school feels the need to cancel trips and adventurous activities all together, the chances are it has misunderstood the law. There is nothing wrong with exposing children to well managed risks, provided these have been thought through and all reasonable steps have been taken to ensure safety. From a legal perspective, there has been an increasing trend towards the Court recognising that children will always have accidents and that often they are nobody’s fault. There is a return to a ‘common sense’ approach to risk management and some acceptance that the fact that a risk might exist does not automatically lead to the presumption that exposing a child to that risk is unacceptable. The Court is increasingly suggesting that, whilst the role of a person supervising children is to reduce risk as far as possible, a supervisor is not under a duty to prevent every minor injury. Pupils, even those of a young age, are expected to take a certain amount of responsibility for their own safety.

Generally, the adequate supervision of children need not amount to constant surveillance, if the risks in question have been reduced to an acceptable level. It should be noted, however, that there would be some circumstances where a failure to exercise constant supervision could amount to an unacceptable risk and, therefore, to negligence. For example, allowing children unrestricted access to swimming facilities or shooting ranges would expose them to an unacceptable degree of risk, given the inherent dangers of these activities.

Schools may have particular concerns at the current time regarding the safety of the pupils in the ice and snow. Taking simple measures such as reminding pupils of the need to take care, asking them to avoid particularly treacherous areas and gritting frequently used thoroughfares could be sufficient to adequately reduce risks. It may be necessary to prevent potential adverse incidents by limiting access to, for example, playground equipment or other areas posing an increased risk.

Fieldwork trips and outdoor activities are a great way for children to develop intellectual, physical and social skills and schools should have nothing to fear if they apply common sense i.e. identify the risks and establish how to reduce this risk to an acceptable level and the extent of supervision required to do this. The Department for Children, Schools and Families has developed some helpful guidance, which is available on www.teachernet.gov.uk.

That said, it is of course possible that your school may face a negligence claim as a result of a pupil being injured at school or on a trip. The Personal Injury Team at Darbys acts primarily for injured parties but will always be on hand to discuss any matter with you. We can valuably advise you on the ‘Claimant angle’ to help you practically manage any complaint or claim. In addition, Darbys can answer any questions you have in relation to the duty of care owed to your pupils and staff members, offer advice in how to reduce risks and therefore how to reduce your exposure to claims being made against you.

This briefing is intended as a summary of legal developments only. It is not a substitute for advice, which will take account of specific circumstances.

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