

To: All Head Teachers

## **Climbing of Roofs**

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You may have heard about a recent civil claim for compensation brought against KCC by a youth who fell through a skylight at the former Eden Valley School in Edenbridge. In this particular case the Council was found to be 50% liable. We do not believe that this case sets any legal precedent, however, a summary of the background is provided for information along with suggestions as to how access to roofs might be prevented.

### **Background to the claim**

On the evening of the 15<sup>th</sup> February 2001 the claimant, then aged 12, climbed onto a single storey flat roof of the school. The claimant then fell through a skylight sustaining serious head injuries. It was the Council's case that the youth had stamped or jumped up and down on the skylight to cause it to break.

It was alleged by the claimant that he had been attending the nearby Astor Youth Club which was on the school site and run by KCC when the accident occurred. The Council believed that the claimant was a trespasser on the school site as he had not paid his annual subscription to join the youth club and was not actually attending it on the evening in question. The judge was not persuaded by the Council's argument due to the lack of any records to prove who had actually attended the youth club that evening.

The claimant went on to allege that he got onto the roof to retrieve a football and that the flat design of the roof and existence of an adjacent extractor vent which could be used as a ladder to access the roof were an allurements and that insufficient action had been taken to prevent children from climbing. The claimant alleged that the skylight was defective and/or brittle.

It was KCC's case that there was no previous knowledge of children getting onto the roof in question although it was known that children had climbed other roofs of the school. A letter from the Health and Safety Executive to the school following their investigation of the incident confirmed that the school was aware of the risk of children climbing onto school roofs which incorrectly included the one in question. No attempt was made to correct this statement within the letter and the judge was at liberty to accept it.

The judge found that the Council should be held 50% liable for the accident with the claimant bearing the other 50%. Liability against the Council was based upon the facts that the claimant was lawfully on site and that the school was aware that access was being gained to school roofs before the accident but had failed to give sufficient consideration to managing the risk. The condition of the skylight was not an issue and it was accepted that the claimant's own actions were a contributory factor.

### **Risk Management**

This case emphasises the need to address situations that might create a risk of injury to legitimate users of a site and to a lesser extent trespassers. The duty towards trespassers is not as high as that towards legitimate users however this case demonstrates that it is not always easy to establish the category into which a party might fall and indeed the real issue is about managing risks.

The assessment of risk should be an ongoing aspect of good management. Schools should have a process to identify and respond to risks and evidence this through risk assessments, minutes of meetings, etc.

It is not always necessary to take positive action to remove a risk however it is necessary to consider a situation and make a reasonable response where it is warranted.

For example, in the case of trespass to a roof, if it is known that access has been gained to a roof but this is the only known occurrence then it would be reasonable to assume that this is an isolated incident and to take no further action. However, if it is known that there is a pattern of access then it would be reasonable to expect more positive action to be taken.

The following are suggestions for managing the risk of trespass onto roofs and are not mandatory upon schools:

- Understand the extent of the problem.
- Identify whether there is an attraction on the roof and remove or protect it. For example, keep high windows closed.
- Remove unnecessary features that might aid climbing i.e. low walls, trees, wheelie bins.
- Protect features that aid climbing i.e. walls, gates, pipes by applying anti vandal paint, fixing of spikes/anti vandal collars/roller bars, fencing.  
When applying anti vandal paint warning signs should be displayed. Paint and signs are available through County Supplies.  
When applying anti vandal paint, fixing spikes or anti vandal collars ensure that there is reasonable clearance above adult head height.  
Spikes etc that take a structure above 2 metres in height may require planning permission.
- Place a few signs about the site 'Warning - Do Not Climb Onto Roof'.
- Consider general access to the site and whether there are any reasonable measures that can be taken to prevent trespass i.e. fencing the perimeter
- Discuss with pupils the dangers of climbing onto roofs.
- Advise parents via newsletters or other means of the dangers.

It may not always be possible to completely prevent access to roofs. The design of buildings, criminal activity and anti social behaviour create problems that are sometimes beyond a school to resolve, however, where this is a known risk it is important to consider this and what action might reasonably be taken to improve the situation.

### **Correspondence with the Health & Safety Executive**

Schools are reminded to liaise with the Health and Safety Manager for Education & Libraries at County Hall on all matters involving the HSE.

If you would like any further information about preventing access to roofs or any risk management advice please get in contact.

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