

‘Risk, adventure sports and the law: the academic, the political and the practical’

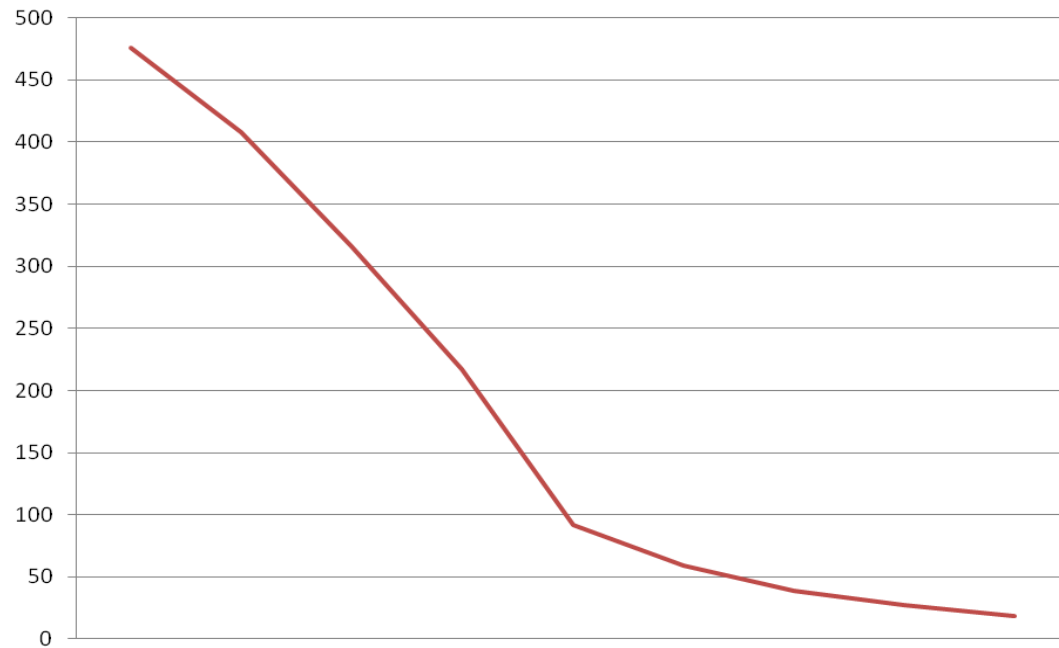
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The stunning performance of H&S in the workplace...



Fatalities per year (coal mining) in Britain, 1950-90

The 'big bang' year for H&S was 1974...



- extends scope of legislation to persons 'affected by an employers activities'
- requires (implicitly) a risk assessment
- significant findings must be recorded (MHSWR)

But concern now expressed: Government review of H&S – Lord Young – Prof Löfstedt

**“Reclaiming health
and safety for all:
An independent review of
health and safety
legislation”**

by
Professor Ragnar E Löfstedt
November 2011



Key points from the Löffstedt Review

1. The primary legislation is okay (HSWA)



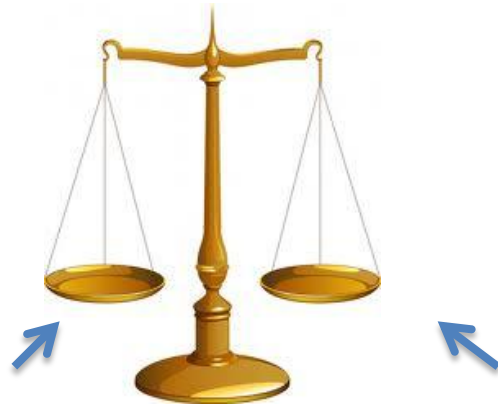
All measures which are
“reasonably practicable”
must be implemented

Cost, time,
difficulty of
control
measure

Benefit of control
measure (reduced
risk)

Key points from the Löffstedt Review

2a. There are issues in interpreting 'reasonable practicability'



I regularly meet people who work in H&S and risk assessment who have little or no idea of the meaning of reasonable practicability

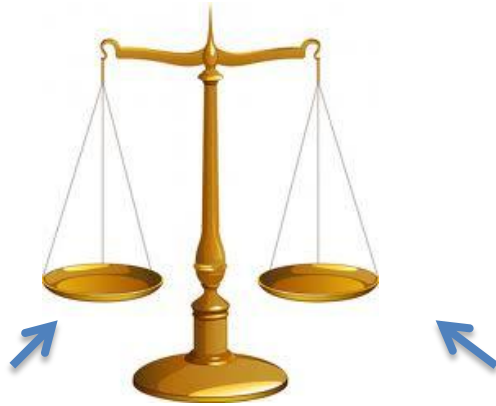
Cost, time, difficulty of control measure

Benefit of control measure (reduced risk)

A second crucial issue re adventure sports....

2b. There are issues in interpreting 'reasonable practicability'

There is no explicit mention of the 'benefits' of an activity in this criminal law definition



Cost, time,
difficulty of
control
measure

Benefit of control
measure (reduced
risk)

The situation in Civil Law is 'better'

Factors likely to be considered in a legal case

- probability of harm
- severity of consequence
- practicability of safety measures
- **social utility of activity**

Failure to be explicit about benefits has impacted across many sectors



Arboriculture



Mountaineering



Cultural heritage



School trips



Recreational locations

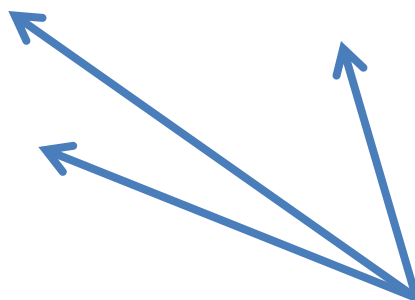
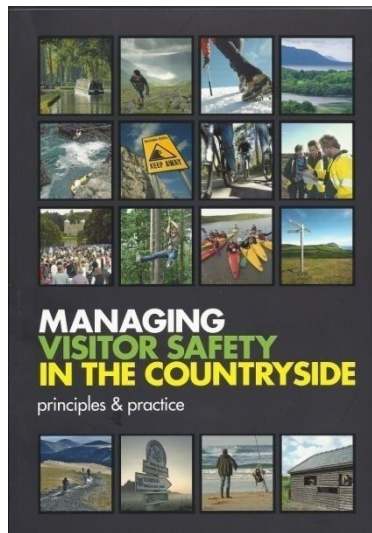
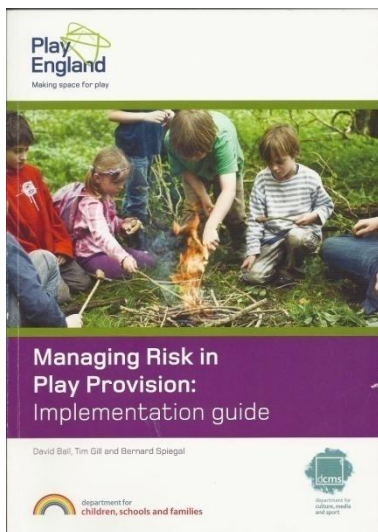
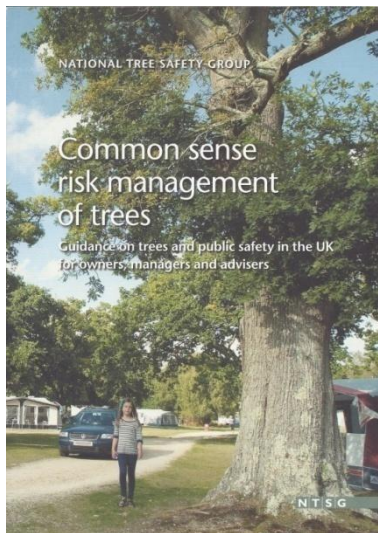


Children's play

ISSUE 1: We need a switch from risk assessment to risk-benefit assessment



‘To permit this activity is irrational *unless* you apply RBA’



These documents constitute a *social movement*, in part to get benefits back on the agenda and to use RBA

Perspective

Safety Management and Public Spaces: Restoring Balance

David J. Ball* and Laurence Ball-King

Since 2000, the reputation of health and safety in the United Kingdom has been tarnished, so much so that it has become the subject of both a media circus and a government inquiry. This not only threatens the worthy goals of health and safety, but also impacts upon the associated tool of risk assessment itself such that "risk assessment" is increasingly seen by the public at large as a term inviting ridicule, even abuse. The main thrust of the government's examination of health and safety has been its concern that safety requirements were placing a disproportionate burden on business. However, there is another source of discontent, which is public chagrin over the impact of injury control measures upon life beyond the conventional workplace, in particular upon the public spaces that people frequent in their leisure time and on the activities they engage in there. This article provides a perspective on this second dimension of the crisis in confidence. It describes how many U.K. agencies with responsibilities for a wide portfolio of public amenities ranging from the provision of play spaces for the young to the management of publicly accessible countryside, the maintenance of urban and rural trees, the stewardship of sites of cultural heritage, and the pursuit of outdoor educational activities have responded to some conflicts posed to their services by the new safety culture. It concludes with a discussion of implications for the management of public space and for risk assessment itself.

KEY WORDS: Health and safety; injury prevention; policy; public safety; risk assessment

1. INTRODUCTION

The history described in this article in part derives from what might appear to be no more than anecdotal trivia. The kind of trivia hereby referred to include such things as a claimed prohibition of bumping by drivers of fairground bumper cars for fear of injury^{1,2}; an actual closure to spectators of the grassy slope known now as "Murray Mount" during the Wimbledon All England Lawn Tennis Club finals because of damp grass³; a requirement to register a toy gun intended for use in a Christmas pan-

tomime (the trigger, when pressed, released a flag saying "bang")^{4,5} and the removal of family pictures and wall-hangings from the apartment of an elderly couple supposedly on fire safety grounds.^{6,7} Trifling though each of these stories may be,⁸ the reporting of incidents of this kind by the British media is now so rife in the United Kingdom⁹ that it is undermining the credibility of the wider health and safety movement, and reflecting badly upon the reputation of risk assessment¹⁰ such that the interrogative "Have you done a risk assessment?" is now entering popular

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¹Not all stories are trifling. One involves the death of a young woman whose rescue from a fall was delayed by a dispute over the interpretation of regulations on Safe Working at Height. Available at: <http://www.scotman.com/scotman/scotland/alison-hume-inquiry-a-damning-verdict-avoidable-death-but-no-apology-1-1968998>.

ISSUE 1: We need a switch from risk assessment to risk-benefit assessment

ISSUE 2: Who are the experts in RBA?



ISSUE 1: We need a switch from risk assessment to risk-benefit assessment

ISSUE 2: Who are the experts in RBA?

ISSUE 3: The requirement for written risk assessments



Neuroscience.....

‘rational thought’

‘common sense’,
gut feelings,
instinct

Welly wanging
judgement



THANKS FOR LISTENING

Additional information can be found at:

<http://davidjball.com/>