

# Taking a chance outdoors - is fear of risk damaging our children?

2009 Seminar Proceedings of the Countryside Recreation Network

Edited & Formatted by

Kim Haigh, Network Assistant &
Magali Fleurot, Network Manager

Held at the Birmingham and Midland Institute, Birmingham 01 July 2009

Taking a chance outdoors - is fear of risk damaging our children?"

Published by CRN Countryside Recreation Network © 2009 CRN Countryside Recreation Network

ISBN: 978 184 387 3037
Copies cost £20 and are available from:
Countryside Recreation Network
Sheffield Hallam University
Unit 1, Sheffield Science Park
Howard Street
Sheffield
S1 1WB

Tel: 0114 225 4494 Fax: 0114 225 6319

E-mail: crn@shu.ac.uk

Website: www.countrysiderecreation.org.uk

Taking a chance outdoors - is fear of risk damaging our children?"

# CONTENTS

# **PLENARY PAPERS**

Introduction and Welcome by Chair Chris Marsh - Environment Agency	6
Real and perceived risk to children in the outdoors  David Ball - Middlesex University	9
Natural England's Childhood and Nature Survey Jonathan Pearce - Natural England	14
Danger - No Entry? Does fear of liability lead to denial of recreational access?  Luke Bennett - Sheffield Hallam University	18
Is fear of risk damaging our children? Examples of practical ideas to reverse this trend Paddy Harrop - Forestry Commission	27
Workshop session 1 - How can we make a difference? Fiona Groves - The Natural Route	31
Workshop session 2 - Why aren't kids using greenspace? William Crookshank - Environment Agency	34
SUPPORTING PAPERS	
Appendix A - Programme	36
Appendix B - Speaker Biographies	38
Appendix C - Attendance List	43
Appendix D - Slide Handouts from all speakers	46

# **Countryside Recreation Network Seminar**

"Taking a chance outdoors - is fear of risk damaging our children?"

# WELCOME AND INTRODUCTION

Chris Marsh
Recreation Policy and Process Manager
Environment Agency

## Introduction

In 2008 CRN ran a conference celebrating its 40th birthday. The subject of the conference was 'Growing up Outdoors' and those of you that attended will know of the concerns raised by many people at the conference about the barriers for young people when trying to access the natural environment.

As an illustration of this concern Jim Davies from the Children's Society spoke at the conference of his work with groups of 11 year olds on the ideas they have about playing outdoors. He ran workshops in which asked children about their play. Children were asked to say where they would most like to play and where they could have an adventure. He gave them 3 options:

- A designated play park with climbing, sliding, swinging things
- A landscaped space for bikes, skateboarding and playing
- A wood with a stream

The majority of children said it was the wood with a stream. They said they could build dens, climb trees, play games, build dams and hide from grown-ups.

But, when questioned virtually none of the children actually played in woods, most said they played in the park or in their gardens. The woodland was an adventure as much because it was out of reach as it was because of what it offered.

# Why didn't they play there?

Well its turns out that they didn't feel they had 'permission', first they didn't think they were allowed to be in someone's wood, they might get into trouble, but more often it was because their parents wouldn't allow them.

There is an overwhelming desire to see children play more and to play in ways that adults recognise from their own childhood.

Jim said "People believe in the idea of children playing outdoors. But, there is a huge reluctance to apply that belief to our own children. We all contribute to that reluctance, when we hear about being run over or being involved in an accident, or worse an incident with a stranger." In other words we think it's too risky! However risk aversion is not the only problem here.

# Other factors

For some greenspace is not sufficiently close enough to make it a viable play option. Even if they have greenspace on their doorstep children have a part in the decision of where to play and some chose the computer as their playground. And for some children there were issues about the suitability of the use of the natural outdoors for play saying 'it's boring, unattractive, unwelcoming and in some cases considered down right 'hostile, unsafe and discriminatory'. There is some evidence to suggest that parent peer pressure is at work when children are given less freedom than the older generation had in their childhood.

### Does it matter?

In March 2009 the Daily Telegraph reported on the result of a survey of parents by Vitabotics the vitamin company. It revealed that 70% of parents thought their youngsters were putting on weight because they didn't want to let them play outside without supervision because of safety concerns.

In recent reports by Unicef and York University puts the UK at or near the bottom of tables that measure young people's happiness and well-being. So, despite the fact the UK is amongst the top ten of the world's richest nations, young people in the UK regard themselves less happy, drank more and took more drugs that virtually than those in all the other developed countries.

The organisation 'Play England' in their publication 'Managing Risk in Play Provision' express concern that fear of litigation is preventing children from experiencing a healthy range of play which could damage their development opportunities.

### The Seminar

The seminar sought information and debate on the following:-

- Why, when it has so many things going for it, is there evidence of declining use of our countryside by children and is an unreasonable fear of risk a major influence on this trend?
- And who is affected by this unreasonable fear of risk. Is it parents, children, teachers, landowners or society as a whole driving this trend or are there factors other than risk at work?
- Finally, is this important enough for us to be concerned and want to do something about it, and what are the possible solutions?

Presenters provided strong evidence that an unreasonable fear of risk by many sectors of modern society is inhibiting use of the outdoors by many children. However, it also became clear that this was only one factor that is leading to a declining use of the natural environment.

There was also an element of frustration that to tackle the problem more research was necessary to drill down for the real reasons behind the decisions we all make about where we play. Before the barriers to use of the natural outdoors are we need to be reasonably sure that this will lead to an increase in use given the plethora of other options and distractions available to young people today.

# **Finally**

The seminar concluded that the outdoors in general and countryside in particular offers enormous opportunities for adventure, exercise and a chance to understand the natural world. Play in the natural outdoors is worth fighting for as it also has huge potential benefits for learning and education, it can help the building of social skills and improve physical fitness, health and well-being.

# **Countryside Recreation Network Seminar**

# REAL AND PERCEIVED RISK TO CHILDREN IN THE OUTDOORS

David Ball
Director of the Centre for Decision Analysis and
Risk Management and Professor of Risk Management
Middlesex University

### Introduction

The freedom of children and young people to move about, be themselves, and experience nature has shrunk enormously over the last generation. Surveys suggest the problem is particularly severe in Britain, and that this has far-reaching effects on the quality of everyone's lives. Some people attribute this loss of freedom to parental anxieties, and some to the workings of society. This paper examines both of these dimensions and places them in the context of the wider literature on the psychology of risk. Then, using children's outdoor play provision as a history, it will describe some of the pressures which shape children's environments and how these may lead to unintended consequences. Finally, some suggestions are made, for the brave, about how to break out of the trap.

## The bad news first

In Spring 2009 the Child Poverty Action Group put out a press release describing a Europe-wide survey which placed the United Kingdom 24<sup>th</sup> out of 27 in terms of child wellbeing (CPAG, 2009). On its own, one swallow does not make a summer, but this has been just one of many warnings about the state of childhood and youth in this country. In June 2009 the BBC reported that school teachers were being pressured to make school too 'safe' and examples included requirements to wear goggles to put up posters, five page briefings on the dangers of glue sticks, bans on playing on wet grass and many other safety-obsessive actions (BBC, 2009). None of this is by now unfamiliar. In 2002 the Children's Society and the Children's Play Council conducted a survey of children and young people and found that these were being stopped from engaging in numerous activities ranging from cooking and carpentry in school, to making daisy chains.

This is seriously bad news for children and young people including teenagers. Not only are they deprived of enjoyable experiences which make life worthwhile, but their mental and physical health is undermined and their opportunity to learn gradually that the world is a risky place and, more importantly, the chance to develop the skills to deal with it is lost. Society also by this means alienates certain groups and one has only to think of the plight of teenagers for a ready example.

# Are parents to blame?

The Philip Larkin hypothesis, 'They fuck you up, your mum and dad,...', is widely believed to offer at least a partial explanation for this sorry state of affairs, and

indeed parents are rightly worried about things like paedophiles, abduction and the risk of injury. But it's more complicated because as far as injury risks are concerned, parents are generally happy for their children to play football, hockey and the like which are known to have a high injury rate (Play England, 2008a: 11), and on the other hand the risk of abduction and the threat from paedophiles is very small. In 2002/3 there were 848 child abduction offences in England and Wales of which 56% involved a person unknown to the child, 9% were 'successful,' and 6% were sexually motivated (Newiss and Fairbrother, 2004). Furthermore, there is evidence that the risk taking behaviour of children is heavily influenced by parental behaviours and disciplinary styles (Ball, 2002: 6.1) and can make children into risk takers.

The psychologist Paul Slovic has exhaustively studied adults risk perception (Slovic, 2000). From this it has emerged that there is a tendency to overestimate very small risks and to underestimate common risks. Lay people, which includes us all most of the time, are also influenced by qualitative factors associated with hazards when we rate their importance. Hazards which are found to be dreaded or unfamiliar are singularly worrying. One might conclude that the kind of hazards which affect members of the Countryside Recreation Network, like abduction, are feared because of dread rather than the size of the risk, and those which involve the risk of injury are mentally exaggerated because they involve children. The risk communication expert Peter Sandman has put forward the following equation by way of explanation:

# RISK = HAZARD + OUTRAGE

Here, RISK refers to a person's reaction to some possible harmful event, HAZARD is what we normally call risk (i.e. probability of harm) and OUTRAGE is a factor derived from the qualitative characteristics of hazards such as dread and familiarity (Sandman, 2009). The game we are in, it would seem, is more to do with OUTRAGE management than risk management.

# An alternative explanation

Helene Guldberg's view is that parent's should not be blamed for what is in fact a broader cultural obsession with safety (Guldberg, 2009). This view is shared by the Department for Business, Enterprise and Regulatory Reform (2009), and myself, who see the problem as resulting from complex interactions of different agencies in society, all of whom have a finger in the pie of what children and young people get, but also have their own disparate interests which do not necessarily coincide with promoting the welfare of the young.

# The case of play provision

Play provision has been dominated for several decades by multiple interests including insurers, standards-setters (BSEN), injury prevention campaign groups (RoSPA, CAPT), lawyers, inspectors, manufacturers and assorted experts, all with their own axe to grind, but a popular one having been safety. The unintentional outcome has been wretched and disastrous. By 2000 play settings had become festooned with metal barriers, coated with rubber surfaces, surrounded by fences,

littered with warning signs and in many cases were totally uninteresting. More of the budget goes into safety measures, such as surfacing and fencing, both of disputed benefit, than into play value which sometimes is not even considered. Not only that, but the cost of the safety juggernaut has been enormous (£1 billion or more) and the accident rate has barely changed (Ball, 2002: 2.1.2).

As Peter Heseltine, former Director of RoSPA's play safety company has so courageously put it, "We (the Standards committee) have recommended removal of anything dangerous... We have emasculated equipment.... We have covered everything in protective surfacing.... Children are still getting hurt.... We have forgotten why we have playgrounds – they are for children to play on" (Heseltine, 1995).

The evolution of this situation can be traced in part to a spill over of risk assessment techniques and procedures from the occupational sector into public life. Curiously, occupational safety and play safety both come under the Health and Safety at Work Act of 1974. These days the HSWA tends to be associated with risk minimisation and with the political proposition that 'nothing is more important than safety' (HSE, 2000: 11), although neither is true nor a fact. The trouble is that when such ideas take hold in public affairs, they have the power to wipe out all manner of things which people formerly enjoyed because the enjoyment dimension is not necessarily part of the risk assessor's thought process (Ball, 2003).

### Send for the Mounties

In 2008 Play England produced two pioneering documents on play design and risk which while being important enough in play alone, could have a far wider impact, since the messages they bear appear relevant to all kinds of public activities (Play England, 2008a, b). Importantly, both documents have been endorsed by the regulator (the HSE). The emphasis is upon more natural play, still with equipment, but making full use of natural settings, and upon a switch from traditional risk assessment to risk-benefit assessment.

Both documents have significant messages but here I will dwell upon the latter. Conventional risk assessment generally requires the following questions to be answered: what are the hazards? who is exposed? what might the consequences be? are controls adequate? has everything that is reasonably practicable been done? Risk-benefit assessment, however, kicks off with: what are the benefits? These could be anything from fun and enjoyment, to health and welfare, the beauty of a location, or the authenticity of a site of cultural interest. These benefits should then be compared against the risks, and these things then need to be weighed in the balance. It can be seen that failure to consider the trade-off with benefits for public sector situations is to undervalue and potentially wipe them out.

A follow-up question is: 'Who are the risk-benefit experts?' It would seem that a balanced decision can only be made by persons who are conversant with both the benefits of public space and its risks. This suggests that the past and commonly-followed procedure of parachuting in external inspectors is flawed, because these persons are likely to be unfamiliar with benefits. Of course, one benefit is health,

psychological and physical, but although many inspectors are described as experts in 'health and safety' their knowledge is not so much of health in the broader sense, but of COSHH Regulations and their ilk, and this is not the point.

It is also pertinent that risk-benefit decisions be made against a policy background and this is the responsibility of the duty holder, not an external expert who may not even know what your policy and objectives are. Furthermore, as noted in 'Design for play' (Play England, 2008b), managing public risk is about managing uncertainty. It can only seriously be managed by monitoring, and the only persons able to do this are those who have an on-going involvement and a watching brief. Indeed, public space needs to be monitored and fine-tuned on a regular basis if the optimal risk-benefit position is to be achieved.

As Helene Guldberg (2009) has put it, in the context of children and young people:

"Rather than projecting fears and uncertainties onto children, adults need to allow children to grow and flourish, balancing sensible guidance with youthful independence. This means we need to chill out a little: allowing children to play, experiment and mess around, without adults hovering over them, and giving them the opportunity to get themselves out of difficulties they may get themselves into and to resolve their own conflicts."

For this to happen providers will need to assert themselves, fight for their own priorities, and break away from the pressures and desires imposed by the encircling interest groups.

# References

Ball, D. J. (2002) *Playgrounds – risks, benefits and choices*, Sudbury, HSE Books.

Ball, D. J. (2003) *Safety, health and play – time for a rethink?* Play for Wales, volume 3, winter issue, Cardiff: Play for Wales.

BBC (2009), http://news.bbc.co.uk/1/hi/education/8107858.stm

BERR (2009) Response with responsibility: Policy-making for public risk in the 21st century, http://www.berr.gov.uk/deliverypartners/list/rrac/index.html

Child Poverty Action Group (2009), Child wellbeing and child poverty, London: CPAG.

Guldberg, H. (2009) *Reclaiming childhood – freedom and play in an age of fear*, London: Routledge.

Heseltine, P. (1995) *Safety versus play value*, pp 91-95, In: Proc. Intnl. Conference on playground safety, Christiansen, M. L. (ed.), Pennsylvania: Penn State University.

HSE (2000) Successful health and safety management (HSG 65), Sudbury, HSE Books.

# Taking a chance outdoors - is fear of risk damaging our children?"

Newiss, G. and Fairbrother. L. (2004) *Child abduction: understanding police recorded crime statistics,* London: Home Office. Research, Development and Statistics Directorate.

Play England (2008a) *Managing risk in play provision – implementation guide*, London: Play England/DCMS/DCSF.

Play England (2008b) *Design for play – a guide to creating successful play spaces*, London: Play England/DCMS/DCSF.

Sandman, P. (2009) http://www.psandman.com/

Slovic, P. (2000) The perception of risk, London: Earthscan.

# **Countryside Recreation Network Seminar**

# NATURAL ENGLAND'S CHILDHOOD AND NATURE SURVEY

# Jonathan Pearce Communications Project Manager Natural England

# **Background**

Natural England runs a wide range of programmes aimed at encouraging more people to get more involved in nature. This was a significant driver in the formation of the organisation in 2006 – in fact its one of the organisations four main themes along with protecting the natural environment, encouraging the sustainable use of the environment and taking action to protect and manage the future of the natural environment.

Within our aim of encouraging more people to get understand and enjoy the natural environment, children are our key priority. Our work programmes include funding farmers to conduct education visits, a wide range of partner projects funded through the £30m Access to Nature grant scheme, funding for events at national Nature Reserves, and a pilot programme to develop school and community based green infrastructure projects.

# My role

I joined NE a year ago, and although I have a back ground in conservation NGO, this was mostly focused overseas.

My brief at NE has been to help develop different aspects of our programme to engage children. To improve existing projects, to develop new ones and to ensure they are promoted effectively.

At the start of this financial year we set a new three year target for child focused activities, which is to provide 1 Million children and their families an educational experience involving the natural environment. This signified the start of our 1 Million Children Outdoors campaign, which you may have heard about.

When I came to look at the evidence base around children and their involvement with nature, I saw a common view point expressed, but one which wasn't actually well evidenced. The consensus within our sector was that children are loosing touch with nature. They aren't free to roam and explore their environment and they spend all their time watching TV, using the internet or playing video games. The notion is well supported by anecdotal studies and well founded theoretical texts, but which didn't have a huge amount of data in them.

Closest I found was an opinion poll by Play England for play day 2008, but it didn't answer many questions about generational change.

I was also struck by the contrast that, during the same period that this notion of losing touch with nature has come to the fore, it seems children have never been so bombarded with opportunities to learn and discover nature. From ever more media sources plugging the latest wildlife programme, or save the bear campaign (one of my early jobs in fact), the surge in interest within schools over recycling, gardening and other environmentally friendly tasks.

So I wanted to try and measure some actual change among the population of England. No you must bare with me here, as I am not a scientist, or a researcher. I'm a communicator, so you will notice that my methods were quick and dirty. Based on the belief that it even with vast resources and months of research time it would be pretty difficult to get conclusive proof of these issues. I aimed to produce some crude evidence that would help to spark more debate around this issue. And highlight why Natural England wanted to embark on a particular programme.

So the survey we conducted was put together at pretty short notice, with a clear view on being able to take out some simple, discussion worthy statements. One of the key things I wanted to explore was based on a talk I heard by Tim Gill, at a CRN seminar, in which he started by asking everyone to think of their favourite place to play when they were young – you've probably heard it too. It struck me that capturing responses to this question across generations would be the simplest way of address the issue.

### So about our methods

The survey was conducted by England Marketing – who are here today – using an online polling service.

We used this method because it was cost effective and enabled us to reach a reasonable sample size of children within a short space of time. Face to face Omnibus surveys would have been more expensive and take loner in delivering a result.

The main aim was simple: to get a measure of any changes in contact in nature over recent generations. We explored some aspects of reasons why that contact may have changes, but this was peripheral to the main objective.

We specified the following age groups for the survey:

 Children
 - aged 7-11

 Adults
 - aged 35 -50

 Adults
 - aged 50 -65

With this break down we aimed to reach primary school children

Adults, mostly parents who grew up in the 70 and 80s.

And adults, possibly grandparents who grew up in the 50 and 60.

We made the assumption that possible changes in contact with nature may have begun to take place from the mid 80 and so did not interview adults or parents younger than 35.

We wondered if we may see changes amongst the two adult groups, but in fact the results showed little variation between the two. So the figures I give group them all together.

We defined contact with nature as places in the following places:

- gardens, woodlands, heaths, farmland, rivers/canals, outdoor adventure playgrounds, mountains and moorland We also used the term patch of nature as a general definition in some questions.

We defined no contact with nature as:

At home in doors, school playgrounds, indoor after schools club, streets, sports centre

### So what did we ask and what were the results:

# Where do you play the most?

- 62% of children said indoors at home most, compared to 36% of adults
- 42% of adults said they played in the streets the most, compared to 25% of children
- 14% of adults said heath and farmland, compared to only 3% of children
- Similar contrast were seen for other natural places

# Favourite place to play?

It was quite hard to frame this question in a way that gave us simple overall statements, but I think we got there in the end.

- 41% of children listed at home as their favourite place to place, compared to 16% of adults who thought this
- 29% of adults said streets were their favourite place to place, compared to 14% of children
- 15% of adults said woods were their favourite place to play, compared with 3% of children
- Results for other natural places showed a similar contrasts.

# Visiting a patch of nature?

- 29% of children said they visited a patch of nature at least once a week
- 70% of adults said they visited a patch of nature at least once a week

# Nature based activities

 Most nature based activities were as popular with children as they were with adults. Building a camp or exploring rock pools were the most popular activities in both groups.

- Levels of participation in these activities was slightly higher amongst adults.
- Though there are understandable changes in this patter:
- More children had visited a farm (91%) than had adults (80).

# Supervision

- Approximately 20% of adults say they were supervised when playing in natural places
- This compares to around 80% of children who thought they were supervised when playing in natural places

Parents - 85% - and children - 81% - said they want more opportunity and freedom to play outdoors

74% of adults said concerns over safety or meeting strangers prevented them giving more freedom to their children to play outdoors

59% cited road safety

22% said their was nowhere for their children to go

### Conclusion

Relationship between children and nature has changed

Children are more likely to play indoors and be under supervision

The desire to keep children under supervision is a likely cause of children experiencing natural places less often than their parents did.

# Did we spark a debate?

Spark is not the word, since that has been a debate that has been going for a while. We certainly added some fuel and gave it momentum,

National media
Specialist media
Follow up reference point
House of Commons

# **Countryside Recreation Network Seminar**

# DANGER - NO ENTRY? DOES FEAR OF LIABILITY LEAD TO DENIAL OF RECREATIONAL ACCESS?

# Luke Bennett Senior Lecturer Sheffield Hallam University

# Our research question

In Spring 2008 we were commissioned under the aegis of the CRN to undertake a small scoping study to explore the question:

– Are landowners' perceptions and understanding of legal liabilities a barrier to countryside access?

Specific funding for the project was provided by the Forestry Commission, Northern Ireland Environment Agency, the Scottish Government and Sport Northern Ireland. Views expressed in this paper are not necessarily those of our sponsors.

# Scope of this project

Our scoping study reviewed available evidence about how liability risk is perceived by landowners (as potential access providers) and the public (as potential claimants). The primary focus was not to re-examine what the law and liability position is - but rather to consider how each group may perceive it to be: and identify what effect (if any) that perception has on access.

Our work comprised a literature review of available research, case law, policy and commentary on this theme, together with a scoping study involving telephone interview of a sample of landowners and representative bodies (21 in total). The respondents were selected to give a spread across each of England, Wales, Scotland and Northern Ireland.

Our full report is available for free download at the CRN's website:

- · www.countrysiderecreation.org.uk and also at
- <a href="http://digitalcommons.shu.ac.uk/lrg">http://digitalcommons.shu.ac.uk/lrg</a> papers/38.

# Structure of this paper

In this paper we summarise our findings in relation to:

1. What is the risk of liability? (with particular reference to the law's treatment of children and risk)

- 2. What is the perception of that risk?
- 3. Does the perception cause an effect upon access?

# 1. What is the risk of liability?

We examine the applicable legislation and case law in some detail in our report. The liability framework is set by legislation (principally the Occupiers' Liability Acts 1957 and 1984) and case law. However for our purposes here the duty of care imposed upon occupiers in relation to land and the safety of visitors and trespassers upon it can be simply stated. It is a duty to take reasonable care to contribute towards the safety of that visitor or trespasser, as regards the condition of the property and hazards present there.

Furthermore the law requires particular regard to be had to the greater vulnerability of children, in terms of:

- expecting children to be less careful than adults;
- expecting children to be drawn to danger; and
- appreciating that not all children can understand warnings.

The senior courts have been at pains in recent years to emphasise that absolute safety (whether for adult or child) is unattainable, and probably undesirable. In the House of Lords judgement in Tomlinson -v- Congleton Borough Council (2003) each Law Lord spelled out clear aversion to creeping safety culture, and the counterproductive effects that that would cause to society were anything other than a restrictive approach taken towards interpreting occupiers' liability law, for example:

- "It is not, and should never be, the policy of law to require the protection of the foolhardy or reckless few to deprive, or interfere with, the enjoyment by the remainder of society of the liberties and amenities to which they are rightly entitled." - Lord Hobhouse
- "I think it will be extremely rare for an occupier of land to be under a duty to prevent people from taking risks which are inherent in the activities they freely choose to undertake upon the land. If people want to climb mountains, go hang-gliding or swim or dive in ponds or lakes, that is their affair. Of course the landowner may for his own reasons wish to prohibit such activities...he is entitled to impose such conditions... but the law does not require him to do so." Lord Hoffman
- "Simply sporting about in the water with his friends, giving free rein to his
  exuberance. And why not? And why should the council be discouraged by
  the law of tort from providing facilities for young men and young women to
  enjoy themselves in this way? Of course there is some risk of accidents

arising out of the joie-de-vivre of the young. But that is no reason for imposing a grey and dull safety regime on everyone." - Lord Scott

The <u>Tomlinson</u> case involved serious injuries sustained by an adult who had attempted to drive into a lake. The judgement has been drawn upon by all subsequently reported recreational access injury cases. Indeed <u>Tomlinson</u> style reasoning was swiftly applied in <u>Simonds -v- Isle of Wight Council</u> (2004)<sup>iii</sup> to the issue of occupiers' liability for recreational access injuries suffered by a child, who had fallen from a swing during a school fete. Here a High Court judge on appeal overturned the County Court's award of compensation against the education authority for "failing" to immobilise or fence off swings during a school sports day and to warn parents of the dangers of unsupervised play on the swings

Mr Justice Gross, the appeal Judge said:

"...playing fields cannot be made hazardless...the common sense of this matter is this was an accident, or at all events an incident, for which no liability attached to the school and hence to the council."

In his closing remarks the appeal Judge made clear that he feared the social consequences should liability have been imposed:

"The upshot would be that swings are fenced off, it is far more likely that sports days and other simple pleasurable sporting events would not be held if word got around that a school could be liable in a case like this."

However, the courts cannot always be relied upon to apply the law consistently. Contrast, for example, the <u>Simonds</u> case with the High Court's decision in the recent case of <u>Samuel Harris (A minor) -v- Timothy & Catherine Perry</u> (2008)<sup>iv</sup>. The High Court's decision in <u>Harris</u> was widely reported in the national media. It involved the Perry's arranging a "bouncy castle" party for their triplets' 10th birthday. The bouncy castle was hired and erected in a playing field behind their house. During the party the claimant (who was 11 at the time) passed by with others and they asked to join the party playing on the bouncy castle.

The High Court found that the Perry's had allowed this. In the course of some boisterous play on the inflatable by Harris and others, Harris was struck by a child's heel and sustained serious injury. Harris claimed compensation on the grounds that the Perrys had failed to adequately supervise the use of the inflatable. Harris' claim was successful, with compensation likely to exceed £1Million.

However the High Court's decision did not stand for long - in July 2008 the defendants successfully appealed to the Court of Appeal<sup>v</sup> and that Court declared that:

"The accident was a freak and tragic accident. It occurred without fault." In reversing the High Court's finding the Court of Appeal looked in detail at the specific circumstances of the incident but also implicitly drew upon <u>Tomlinson</u> and <u>Simonds</u> based public policy arguments, for example:

"Children play by themselves or with other children in a wide variety of circumstances. There is a dearth of case precedent that deals with the duty of care owed by parents to their own or other children when playing together. It is impossible to preclude all risk that, when playing together, children may injure themselves or each other. It is quite impractical for parents to keep children under constant surveillance or even supervision and it would not be in the public interest for the law to impose a duty upon them to do so."

Accordingly in this case, through a mixture of micro-level examination of the actual circumstances of the incident in question (and the level of reasonable precaution actually taken and level of harm that was foreseeable) and recourse to arguments of "public interest", a <u>Tomlinson</u> type approach was re-established by the Court of Appeal.

Yet there must be many who will have heard the press reports of the original High Court decision who will remain unaware that that decision has actually been subsequently overturned by a higher court. The Court of Appeal's "correction" of this case received much less press attention than the "scary" story embodied in the High Court's original decision. This feeds into the issue of risk perception explored further below.

The judicial attitude epitomised by the Law Lord's comments in <u>Tomlinson</u> chime with the voices of government, judiciary, business leaders, safety regulators and celebrity adventurers, all in praise of a swerve away from a slavish focus on risk elimination<sup>vi</sup>.

Indeed the UK Government's own child safety policy has tried to embrace the current consensus view that (some) risk is good, stating that child safety:

"...does not mean that we should wrap children and young people up in cotton wool. Childhood is a time for learning and exploring. Through playing and doing positive activities, children and young people can learn to understand better the opportunities and challenges in the world around them, and how to stay safe..."

(from the Ministerial foreword to *Staying Safe* - July 2007 - the UK Government's consultation on child safety).

Yet even Ministers sometimes struggle to find the balance point between "good" and "bad" risk-taking by children, as noted by the Daily Mail's report<sup>vii</sup> of the ministerial launch of *Staying Safe*):

"...[it's good] to have snowball fights in winter and to play conkers in the autumn. [But the Children's Minister] wasn't quite so clear about tree climbing. In one breath, he said: "It would probably not be a good idea to let children climb trees." In the next, he announced: "If children can't climb trees, it is very hard for them to learn about risk."

# 2. What is the perception of the risk of liability?

A number of studies<sup>viii</sup> have been commissioned by various public agencies and interest groups across the UK in recent years to interpret (and then publicise) what the level of landowner liability risk actually is in their jurisdiction. These studies, like the analysis above, find the actual risk of occupier liability for recreational access accidents to be low. However such studies have also noted that landowner perception of the level of liability risk appears, for some reason, to remain overstated.

There is evidence that people think that there is more risk of litigation<sup>ix</sup>, and that this is symptomatic of a slide into a "compensation culture". But the actual claim figures show little support for that perception. For example the number of public liability accident claims registered with the Government's Compensation Recovery Unit in 2008/09 was 8% lower than the number registered in 2000<sup>x</sup>, reflecting a general downward trend in public liability claims since 2003/04.

However this (mis)perception may itself be important, as a spur to defensive land management behaviour. For example, a 2007 study by the Health & Safety Executive<sup>xi</sup> identifies fear of litigation as the reason for increased recording and reporting by occupiers of slips and trips accidents.

There has been little research in the UK upon the effects of this fear of liability upon landowners' attitudes towards recreational access. The limited UK evidence that we have found suggests that landowners' fear of liability may be a much lesser influence than perceptions of privacy and control.

A study of woodland owners' attitudes to access in the South East of England by the University of Brighton for the Forestry Commission (2005) found that >33% of private non-forestry business / owners felt that their woodlands were important for personal privacy, with over 75% of this group reporting a perceived "loss of control" if public access was allowed. These privacy and control issues showed more strength of feeling than whether liability for visitors was perceived as a factor of significance.

In this regard none of the respondents reported "insurance claims" as a "very severe" problem, with 77% of the respondents reporting "no problems" in relation to this factor.

U.S. research findings<sup>xii</sup> appear to show that legislative measures have failed to make much of an impact upon landowners' perception of their liability risk. As Wright et al (2002, p189) conclude:

"Research indicates that landowners and a number of resource management professionals are not aware of the significant liability protection afforded by recreation-use statutes."

Gentle et al (1999) set out to examine whether the different political and cultural heritage of various US States influence landowners attitudes towards provision of access. Like Wright et al they find no clear patterns - other than a general finding that:

"Landowners are much more comfortable with the use of their land by friends and family, rather than by strangers." (Gentle et al (1999), p57)

Gentle et al (1999) (echoing conclusions also reached by Teasley et al (1997)) note that a history of "unpleasant experiences with recreationists", rather than socio-economic differences or differences between rural and urban fringe settings, were the most important influencing factor in landowners' decisions on whether or not to seek to bar recreational access to their land.

The US studies and an anecdotal example from New Zealand xiii (McDonald (2004)), suggest that expressed liability risk anxieties landowner may amplify at times where the landowner community is experiencing the threat of change to statutory access regimes (and/or other uncertainties).

This suggests that anxiety about liability risk may be a proxy for other fears - perhaps deeper anxieties which it is less publicly acceptable to voice (for example a fundamental preference for keeping their land private).

Indeed, the landowner liability risk theme can be found in contemporary UK discourse on access for example in the following case studies featured in a Country Land & Business Association (CLA) submission (CLA 2007) in response to the UK Government's consultation on the Marine Bill and proposed coastal access to be introduced in England & Wales:

- **owner of boathouse.** Fear of liability for persons who might break-in and hurt themselves;
- coastal farmland. Concerned about safety as people have been killed on the beach due to landslips;
- oyster bed owner. Fear of liability for tree surveys and exacerbation of local "dogging" problem;
- coastal defence owner. Concerned about further expense through recreational damage and liability for injuries to visitors;
- coastal holiday park. Fear of loss of control over who may enter the park, e.g. paedophiles;
- coastal farm. Concern about possible liability if visitors should encounter unexploded ordnance; and
- **golf course.** Concern about liability to passers by from stray golf balls.

# 3. Researching liability risk perception and its effects upon access

The 21 telephone interviews conducted as part of our study reveal an anecdotal and impressionistic view of the extent (if any) to which landowner liability fears are currently impacting upon recreational access provision. Intentionally this scoping

survey group focused largely upon the community of large, access-remit, multi-site public agencies.

# Our respondents comprised:

No.	Respondent Category
7	access officers within public sector
	agencies with access responsibilities
5	health& safety managers within public
	sector agencies with access
	responsibilities and he water industry
3(+1 email)	private country landowner
	representatives
2	countryside visitor attractions
2	local government land/ risk managers
1	insurer
1	health & safety litigator (solicitor)

Our respondents were drawn from the following organisations:\*

UK wide	England	Northern Ireland	
Defence Estates	Environment Agency	Ulster Wildlife Trust	
Forestry Commission	Yorkshire Water	Ulster Farmers' Union	
NFU Mutual	Southern Water	National Trust - Northern Ireland	
British Waterways	Country Land & Business Association	Sport Northern Ireland	
	Nabarro LLP (solicitors)	Scotland	
	Exeter City Council	Dundee City Council	
Wales	Hawkstone Park(Shropshire)	NFU- Scotland	
Countryside Council for Wales	Worcester County Council	Scottish Natural Heritage	
		Scottish Rural Property & Business Association	

<sup>\*</sup> NB: it was agreed with the interviewees that their replies were given in a personal capacity, rather than on behalf of their employer organisation

# Is there any evidence of an impact on access?

In our study we interviewed representatives of 21 predominantly large public sector open land owning organisations across the UK, plus representatives of key interest groups such as the NFU and the CLA and some smaller concerns. The respondents reported lower than expected claim levels, and a sober approach to the issue of liability risk. Some perception of a compensation culture was present, but most organisations claimed that they were able to take such matters in their stride, and manage safety and access as part of their management systems. No evidence of withdrawal of site access or curbing of usage was found.

However, as our study was concentrated towards the larger, access-remit, organisations our study cannot prove that no sectors of the open landowner fraternity are curbing access through excessive fear of liability for recreational injuries. All we can state in this regard is that media reported stories of such an effect often revealed a more prosaic explanation when we dug beneath the sensationalist headlines.

Given the absence of any pre-existing studies on this, we recommend that whether such a heightened risk-anxiety exists amongst private landowners (or distinct communities within that wide class) requires specific investigation. Understanding how these communities form and articulate their perceptions of liability risk is, we believe, crucial to determining how best to engage with and address any entrenched landowner liability anxieties.

In our report we show how support networks like VSGC, the Water Safety Group and the Tree Safety Group help to reassure their members that they are making their places "safe enough". Through such collaboration "reasonable safety" is benchmarked - and thereby what the law actually requires is constructed by that consensus building process. A key question left to be answered is what happens to those who are not part of such "interpretive communities" ?

<sup>&</sup>lt;sup>1</sup> Luke Bennett & Lynn Crowe (2008) "Landowners' Liability? Is perception of the risk of liability for visitor accidents a barrier to countryside access?" Countryside Recreation Network/ Sheffield Hallam University

<sup>&</sup>lt;sup>1</sup> Tomlinson -v- Congleton Borough Council (2003) 1 A.C. 46 - House of Lords

<sup>&</sup>lt;sup>1</sup> Simonds -v- Isle of Wight Council (2004) ELR59 - High Court

<sup>&</sup>lt;sup>1</sup> Samuel Harris (A minor) -v- Timothy & Catherine Perry (2008) EWHC 990 - High Court

<sup>&</sup>lt;sup>1</sup> <u>Timothy Perry, Catherine Perry v Samuel David Harris (a minor and a patient, suing by his Mother and Litigation friend, Janet Harris)</u> (2008) EWCA Civ 907 - Court of Appeal

<sup>&</sup>lt;sup>1</sup> See, for example, <u>www.campaignforadventure.org</u>; Tony Blair's speech at University College London on 26 May 2005 entitled "Common sense culture not compensation culture"; the Better Regulation Commission's report "Risk, Responsibility and Regulation - whose risk is it anyway?" (October 2006); and Health & Safety Executive press release dated 22 August 2006: "HSC tells health and safety pedants to get a life"

<sup>&</sup>lt;sup>1</sup> Tom Utley (2007) "A killer petal fells a very big banker and it's common sense that is the victim" Daily Mail, 20 July 2007

<sup>&</sup>lt;sup>1</sup> For example Scottish National Heritage (2005) "A Brief Guide to Occupiers' Legal Liabilities in Scotland in relation to Public Outdoor Access"; Visitor Safety in the Countryside Group (2005) "Managing Visitor Safety in the Countryside"; Department of the Environment - Northern Ireland (2007) "Occupiers' Liability Law in the context of access to the countryside in Northern Ireland - Information Leaflet";

<sup>&</sup>lt;sup>1</sup> Millward Brown (2006) "Effects of advertising in respect of compensation claims for personal injuries - report on quantitative and qualitative research conducted for the Department for Constitutional Affairs" (March 2006)

# Taking a chance outdoors - is fear of risk damaging our children?"

<sup>&</sup>lt;sup>1</sup> 2000/01 to 2004/05 figures from Lewis, Morris & Oliphant (2006) "Tort personal injury claims statistics: is there a compensation culture in the UK?" 14 Journal of Tort Law 158 and 2008/09 data from <a href="https://www.dwp.gov.uk/cru/performance.asp">www.dwp.gov.uk/cru/performance.asp</a> (accessed 9 June 2009)

<sup>&</sup>lt;sup>1</sup> Health & Safety Executive (2007) "Exploration of the effect of litigation culture on the attribution and reporting of slip and trip accidents" (Research Report: RR552, April 2007)

<sup>&</sup>lt;sup>1</sup> See here: Kaiser And Wright, (1985) "Recreational access to private land: beyond the liability hurdle" *Journal of Soil and Water Conservation* 40: 478-485; Teasley, Bergstrom, Cordell, Zarnoch & Gentle (1997) "The use of private lands in the US for outdoor recreation: results of a nationwide survey" Athens, GA: University of Georgia; Gentle, Bergstrom, Cordell & Teasley (1999) "Private landowner attitudes concerning public access for outdoor recreation: cultural and political factors in the United States" in *Journal of Hospitality & Leisure Marketing*, Vol 6(1) 1999; Wright, Kaiser & Nicholls (2002) "Rural landowner liability for recreational injuries: Myths, perceptions, and realities" in *Journal of Soil and Water Conservation* (2002) Vol 57 No. 3; Henderson (2007) "Liability, Institutions, and Determinants of Landowner Access Policies for Fee Based recreation on Private Lands" (PhD Dissertation) Baton Rouge, USA: Louisiana State University.

<sup>&</sup>lt;sup>1</sup> Pete McDonald (2004) "Walking access across private land: Behind the sound bites" self-published internet essay available at: <a href="http://homepages.paradise.net.nz/petemcd/bts/bts.htm">http://homepages.paradise.net.nz/petemcd/bts/bts.htm</a> (accessed 8 July 2008)

<sup>&</sup>lt;sup>1</sup> A concept first used developed by Stanley Fish (1980) *Is There a Text in This Class? The Authority of Interpretive Communities.* Cambridge, MA: Harvard University Press

# **Countryside Recreation Network Seminar**

# IS FEAR OF RISK DAMAGING OUR CHILDREN? EXAMPLES OF PRACTICAL IDEAS TO REVERSE THIS TREND

Paddy Harrop
Recreation and Public Affairs Manager
Forestry Commission

# Introduction

This paper will set out the background to the Forestry Commission's approach to managing access and activities for children and young people in England. Further information, background and resources can be found on the Forestry Commission website <a href="https://www.forestry.gov.uk/england-play">www.forestry.gov.uk/england-play</a>

### Context

DEFRA's Strategy for England's Trees, Woods and Forests sets out aims to: secure trees and woodlands for future generations; ensure resilience to climate change; protect and enhance natural resources; increase the contribution that trees, woods and forests make to our quality of life; and improve the competitiveness of woodland businesses and products.

Forestry Commission England manages 250,000 ha of land, hosts over 100 million visits of which 40% are made by families and groups with young people and children across a range of settings and locations.

Managing risk in activities and settings for young people is a balancing act between our duty of care and the need to help them gain experience of the outdoors in fun and exciting ways. The Forestry Commission recognised that staff and customers were becoming more risk adverse leading in some cases to a dumbing down of facilities despite a lack of evidence of any increase in accidents. In addition parents often have fixed views about safety and the sort of environments that are suitable. They tend to favour tidy looking areas and may not want kids to get wet and muddy. Staff may lack confidence worry about liability often resistant to change and need strong leadership and support.

In response to this trend the Forestry Commission has developed a number of programmes that can broadly be summarised as:

- Changing culture in staff and visitors
- Providing led activity to introduce people to the outdoors and develop outdoor skills
- Encouraging accessible adventure through new and exciting activities
- Promoting more adventurous environments

- developing consistent media messages about the benefits of outdoor activity

# **Changing Culture**

Culture change is the single biggest issue. Countryside organisations tend to be conservative and resistant to change. Senior management and staff need to be helped to understand how they can become more risk positive and develop policies and practice to support a riskier approach to providing recreation activity balanced against the benefits to the individual and society. The Forestry Commission's 'Growing Adventure' programme based around children's play is an example of changing culture.

The Forestry Commission has been engaged in play activity since 1970s but recognised in early 2000's that there was a decline in the quality and adventure of play environments that we offered evidenced by:

- a move away from bespoke to off the shelf structures
- increased signage and fencing
- destruction of self built dens and rope swings
- increased use of artificial safety surfaces

Working with Tim Gill we reviewed our play offer and came up with the Growing Adventure theme. A key part of the programme has been enthusing staff through their own memories about what they enjoyed doing when they were young as a powerful way to get them to understand the importance of risk in young peoples lives. We ran seminars for staff including a senior managers' workshop outdoors in Grizedale Forest. Our regional managers became the programme champions after a day in the woods.

We also looked at pioneering work in Freiburg, and at Sue Gutterdge's work for Stirling Council where natural play spaces using mounds and logs provide opportunities for games, climbing and balancing and have a close fit with the environments the Forestry Commission manage. This helped to demonstrate that a more natural approach to play could be achieved even in a very urban environment.

To further support staff and provide guidance we have developed and published

- the Growing Adventure report
- guidance on designing play spaces
- a decision process for managing rope swings, dens and tree houses
- a guide for den building activity
- a nature play ideas manual

As a result of this activity we have now developed new play spaces with a nature play theme in every region in England. Nature play also features heavily in recent guidance produced by play England referencing Forestry Commission guidance.

# Led activity

Led programmes are important in encouraging first time contact with woodland and helping to develop confidence and outdoor skills. Kids returning from programmed activity will enthuse about their experience and influence their family. Programmes have also been successful at targeting young people excluded from school and children with disabilities.

The Forestry Commission manages a growing portfolio of urban fringe sites on former colliery and brownfield land. More family orientated activity programmes as part of our 'what's on' programme in these areas can help engage with urban communities and people without cars. They also help to provide parents and carers with skills and experience and a first taste of the outdoors - nature is where you find it.

### Accessible adventure

Making adventure accessible is key to attracting more people and new audiences. Two examples of this are the Go Ape High ropes courses and the Forestry Commission mountain bike and cycling trails.

Go Ape (www.goape.com) courses have expanded to twenty two courses since 2002 attracting over 330,000 people to Forestry Commission sites per annum. The activity targets a key group of 16 to 30 year olds who tend not to be prime countryside visitors.

Cycling visits to FC land stand at about twenty million per year and are attracting more women and, anecdotally, Asian men through the provision of accessible trail networks with good support facilities such as bike hire, toilets and catering facilities. Programmes at Dalby, Sherwood and Alice Holt target young and disabled people and new trails are focussing on young people and families.

### **Adventurous environments**

Providing 'messier' more adventurous environments helps to encourage active use of the outdoors and helps young people create their own facilities and games. At Alice Holt Woodland Park - independent play was encouraged by providing 'loose parts', logs, alongside an existing play structure that when used with a nearby ditch provided an ideal opportunity for children to create their own play space. Branches are also left in den building zones and in some areas young people are allowed to develop their own bike jump spots. Managers are encouraged to 'develop' these kind of areas promoting a less managed look with more opportunity for adventure and self led play. Providing guidance and support for managers is very helpful so that they can understand the nature of the activity, how to talk to the users, what is acceptable and what is not.

# **Media Messages**

Media flip-flops between nanny-state about over protection and stories blaming teachers when something goes wrong on a school trip. There is a need to have a co-ordinated media campaign to promote the benefits of the outdoors and a good example of this is the national den building day organised by the Forestry Commission in 2006 which achieved national media coverage.

## **Conclusions**

It may take longer to provide more challenging environments and actually engage with young people compared to providing off the shelf solutions but the benefits are much greater in the long term. We have no evidence of increased accident rates but this will often be quoted as a reason for reducing risk, whilst a lot of noise about civil claims a recent study by Sheffield-Hallam University for CRN demonstrates this is more about the fear of claims than the claims themselves. In Last Child in the woods Richard Louv suggests in the USA that 'Our society is teaching young people to avoid direct experience in nature.' We have a duty to ensure that young people in the UK continue to experience and enjoy the outdoors and take the risks that former generations have been able to, climbing trees, swimming in rivers and building rope swings and dens. Without these opportunities their lives will be less rich and they are unlikely to value the outdoors.

# Countryside Recreation Network Seminar Workshop session 1 HOW CAN WE MAKE A DIFFERENCE?

Fiona Groves
Consultant, Trainer and Facilitator
The Natural Route

# Where is it we need to make positive change?

What are the issues, barriers, key areas and critical factors we need to do something about? For example aspects of lifestyle and culture; access, availability and opportunity; wider risks such as road safety; perceived risks; real risks; media and wider society that affect children and young people taking a chance on the outdoors.

The following gives initial key points raised in the workshop session:

Why build a park when we already have natural climbing frames?	Addressing different attitudes to nature based play from various social economic groups	How do we create opportunities for 11-18 year olds?
Dealing with HSE contradiction – higher management acceptance of risk versus the coal face inspector risk aversion	Institution view of liability – "old school" mentality	Overcoming fear of change and parent paranoia
Perception of hazards and risk against real hazards and risk	Risk as learning commitment to educate	Safety surfacing around play equipment
Minor damage to private property leads to interventions that ultimately precludes access	Fear of using countryside areas by local communities, understanding the barriers and ways of overcoming them	Promoting unsupervised play
Tree safety – public understanding of how trees work and why walking in storms under trees is a bad idea	Change the mind set of the regulator to reflect leisure activities and natural hazards	How to gain youth respect of play areas
Linking to health and wellbeing – prove benefits to children and society or prove negative effects of less contact with outdoors	Media – perception; sensationalism; salacious media reporting	Gates and fences only stop young folk
Risk benefit and promoting social value of risk taking - Differentiating between good and bad risks	Open water at public sites	Risk free society – understanding of duty of care occupiers liability compensation act HASAWA
Creating challenging provision to engage and stimulate	Those giving advice find it hard to step back from organisation role /standing	How do we employ common sense and reasonable judgement
Providers feeling open to blame culture preventing activities	Taking responsibility for our own safety and risk management	How do we get across: "so far as reasonably practicable"?
Getting the right policy and frameworks from top to bottom	Society input – dads and boys?	What about "Every Child Matters"

# How might we go about making change?

Developing above themes: How might we going about doing it? Are there any innovations, good practice, or practical examples of what we can do? Who do we need help from or to work with? What help and resources do we need? The following is a summary of working through a couple of the points raised in the workshop:

Issue	Discussion/impact	How we make change? Examples	Who we work with/resources?
Addressing different attitudes to nature based play from various social economic groups	Lack of evidence for differing attitudes with different "class" "ethnicity". Not demonstrated in many places but dependant on site locality and context, type and times of use, transport and LA support for access. Felt there was a need to make sure of widening existing experiences.	Widening of promoted events and interest base e.g. include music, arts and multicultural festivals Build relationships with local groups - Public consultation and incorporate more up to date techniques e.g. text messaging.  MOSAIC project with Council for National parks Use more focused techniques like mentoring Research and study – social marketing Improve wider access opportunities – bus fares Develop Forest skills e.g. Forest schools	Use work from organisations like BEN – Black Environment Network
Why build a park when we already have natural climbing frames?	In danger of denying natural imagination and removing too much risk by having play parks with equipment. Staring to pigeon hole play. The group agreed there was a place for all!	Look at organisations that have taken a reasoned view and place for equipment and natural play e.g. Forestry Commission and BTCV. Promote opportunities for tree climbing and natural play if space and use play park as a springboard – tell them they can! Recognise the wide variety of play types and encourage /adapt provision for wider provision Forest School /play rangers approach – train people who can prompt.	Need to engage Authorities and widen view on natural play Forestry Commission practice guides on Rope Swings, Dens and play areas on web site
How do we create opportunities for 11-18 year olds?	Portrayal in media not helpful – all kids like to hang out but not all pose a threat – right to do so and always have done. Need to respect their freedom more and accept some damage as part – not as great as them not doing the activity.	Allow gatherings – camping and accept "clear up" operations as part of management promote cans and not glass! Identify leaders and core few and approach them /work with them to build resources e.g. jump spots, riding routes Identify activities that are engaging and can be done outdoors e.g. mountain biking and horse riding Encourage respect towards young people too.	

The following were those raised more briefly during the workshop and therefore the views expressed represent the facilitators understanding of the issues:

Issue	Discussion/impact	How we make change? Examples	Who we work with/resources?
Media – perception; sensationalism; salacious media reporting	Demonising young all young people is not helpful. Also highlighting of accidents with children on school trips, beavers and in playgrounds skews perception and therefore reality of what becomes acceptable or what to fear.	Promote social understanding of risk benefit – Tim Gill and David Ball work promote! Create sensational media campaigns e.g. Den building week – highlight the dangers of NOT doing. Need an organisation platform CRN or VSCG?	Individual journalists / local and national Media Judges HSE
Getting the right policy and frameworks from top to bottom	Lack of understanding and poor communication at different levels can result bin no activity.	Positive promotion through organisation e.g. Forestry Commission approach policy, training, management downwards.  Improve overall approach to risk management across specialism's - work with different departments / e.g. engineers H&S staff and on site staff to look at issues and include risk benefit. Develop policy and tools to make reasoned judgements and give commitment at site level Incorporate government "Every Child Matters".	
Creating challenging provision to engage and stimulate	Helping young people to engage in risks – explore stimulate and give confidence to do on their own	Forest school and similar programmes as starting point – for all ages! Recognise role of learning and development – schools and environmental education Adventure Academy in Cumbria	Forest School, play and youth leaders!
Overcoming fear of change and parent paranoia	Parents don't all agree on exposure to any given risk and often risk removed based on what others do. Conflicting messages to parents don't help	Need to have will and way for parents to make informed and reasonable choices not fuelled by media Parent skills need developing	
Providers feeling open to blame culture preventing activities	Confusion over Duty of care, occupiers liability and fear of litigation – is it a real issue	Sheffield Hallam research – build on it to find out more Help and guidance for providers to look at risk benefit and real trade off with safety vs other goals Naturally Active website encouraging owners	Landowners Visitor Safety in the Countryside group
Society changes – dads and boys	Is there evidence not doing adventurous activities together? How do we make it happen – give time.  Not just gender issue.	Look at success of Scout movement; Duke of Edinburgh – encouraging activity Children's services and centres are working with schools to promote activity and events out of school – equipping parents with skills (under Ever Child Matters) Build on work of some books and TV – "Dangerous books for boys"	

Taking back understanding to organisations and promoting risk taking in the natural environment!

# Countryside Recreation Network Seminar Workshop session 2 WHY AREN'T KIDS USING GREENSPACE?

William Crookshank
Recreation Policy and Process Manager
Environment Agency

We broke this down into three questions -

# Why aren't they using it?

The list of reasons was long but fairly well recognised:-

Time – lack of knowledge or experience – not cool – too many alternatives – not accessible – over regulated – family time – not a quick fix – not physically active – lack of sporting opportunities – they don't know about it – not welcome – not for them – not welcome in groups – lack of motivation – parents don't do it – culture – class – schools don't take them there – society and economic growth – new build – parental control – stranger danger - lack of motivation – criminalisation – doesn't cater for them

# Do we have evidence to support these points?

Whilst there was some knowledge of evidence around a few of these issues its existence was not well known. There was a belief that in many instances whilst the overlying issue was known there was little supporting evidence. This meant that the true depth or reasons for the issue is not known.

The impact of this lack of knowledge is that we don't know how significant each issue is or how to help children address them.

# How can the issues be addressed?

The group recognised that many of the issues that had been come up with were not issues to do with what was provided, but more that they were social and cultural issues. This was a problem because the group was made up of those who manage the environment and do not have the skills and knowledge to address them.

Parents were seen has having a key role to play. They probably put some of the greatest constraints on what children do. Many of the constraints are driven by their fear of what might happen to their children and also the fear of being branded a bad parent by others.

Much of this fear is generated by perceptions created by the media. Press coverage of knife crime, etc, paints a picture of a risk that is statistically not as high as it is made out to be. The media could be more realistic about what it reports, but that wouldn't sell papers. Who might have control over the papers and be able to influence them was not known.

Society has a role to play in helping parents manage their concerns. Peer pressure is very powerful and influences significantly what parents do. By working together society could address these issues and create an environment in which parents are happy to let children play in the outdoors. Who could stimulate this change in society was not known.

It was thought that schools could help more. But they aren't going to do that unless there is a driver for them or an outcome that gives them benefit.

Those who manage health and safety were seen as key players. They could provide sound evidence of the level of risk and help parents and children understand how to manage risks for themselves. Again, how to motivate these people to help address the issue was not known.

Finally it was recognised that this was an issue that ran across Government. The benefits that could be achieved through children using the outdoors more cut across many government departments, and equally the many government departments have a role to play in helping to address the issues that stop children playing. How to get the issue raised across government and get departments working together was not known.

Taking a chance outdoors - is fear of risk damaging our children?"

# **APPENDIX A**

#### **Countryside Recreation Network Seminar**

"Taking a chance outdoors - is fear of risk damaging our children?"

#### **PROGRAMME**

- 09.30 Registration and refreshments
- 10.00 Introduction Chris Marsh
- 10.15 Keynote Speech Prof. David Ball Middlesex University on the actual and perceived risk to children in the outdoors.
- 11.00 Jonathan Pearce Natural England presents their recent survey results about places where children played in the past compared with today.
- 11.30 Break
- 11.45 Luke Bennett Sheffield Hallam University. DANGER No entry? Does fear of liability lead to denial of recreational access?
- 12.15 Paddy Harrop Forestry Commission organising play schemes that offer reassurance to parents of reduced risk of outdoor play for children.
- 12.45 Q&A Session
- 13.00 Lunch
- 13.45 Workshop Sessions
  - Theme 1 How can we make a difference? led by Fiona Groves. Are there
    any existing innovative schemes or intervention ideas that can make a
    difference?
  - Theme 2 What aren't kids using greenspace? led by William Crookshank. Is risk aversion a major reason for declining use of outdoors / countryside or are other factors we should look at?
- 15.00 Feedback from workshops
- 15.45 Summary Chris Marsh
- 16.00 Close

#### **APPENDIX B**

#### **Countryside Recreation Network Seminar**

"Taking a chance outdoors - is fear of risk damaging our children?"

#### SPEAKER BIOGRAPHIES

#### CHAIR

### Chris Marsh Recreation Policy and Process Manager Environment Agency

After serving an apprenticeship Chris first trained as an engineer specialising in hydrostatic system design which later involved extensive world travel.

On return to Britain he changed career to countryside management becoming manager of four country parks in Warwickshire including Kingsbury Water Park a popular destination for anglers and other water sports enthusiasts of powerboat racing, water skiing, windsurfing and sailing. The site is also of significant conservation importance.

In 1990 he joined the National Rivers Authority and subsequently the Environment Agency working in Recreation, Fisheries, and Navigation and experienced a wide range of environmental and safety issues. He is currently a Policy Advisor for the Environment Agency head office team in Bristol.

He currently represents the Agency, as a partner with other key organisations on the Visitor Safety in the Countryside Group, Countryside Recreation Network and Association of Inland Navigation Authorities. Much of his career has been aimed at creating greater public access to land and water within a framework of sensible, consistent practice towards visitor safety. He also sits on the National Water Safety Forum and Government Interdepartmental Group on Water Safety.

Despite living in Staffordshire he has a life-long interest in sailing yachts and helped build an American designed ocean-going schooner. He also regularly spoils a good country walk in an attempt to reduce his golf handicap.

# David Ball Director of the Centre for Decision Analysis and Risk Management and Professor of Risk Management Middlesex University

David has a PhD in science and is Director of the Centre for Decision Analysis and Risk Management and Professor of Risk Management at Middlesex University. His field of interest is how decisions are made in relation to safety, health, environment, technology and business. He has carried out research and consultancy for most government departments and many international agencies including the World Health Organisation, United Nations, and the International Atomic Energy Agency. One issue to have crossed his path with a vengeance is that of play and child safety, first encountered in 1986, but which has never gone away. The issue is still very much alive, and has spilled over into the management of public risk in general. In 2006 he wrote 'Environmental health policy' which is published by the Open University Press.

For further information see www.mdx.ac.uk/risk

### Jonathan Pearce Communications Project Manager Natural England

Jonathan has worked for the past year with Natural England as a project manager in the External Affairs team. He works on NE's publicly focused programmes, including One million Children Outdoors, and Access to Nature.

Previous to this role Jonathan has led the communications function for a variety of NGO's working in the field of international conservation and animals welfare and international aid.

He has developed campaigns to challenge the hunting of wildlife for bush meat in Equatorial Africa, and the practice of dancing bears in Turkey and India. While working for the medical aid charity, Merlin, he gained exposure for the organisation by producing TV news reports from trouble spots such as Darfur, the earthquake zone in Kashmir and cyclone struck Burma.

He said: "My role at Natural England has brought me much closer to home, which is just what I wanted. Needless to say, the challenge of getting the message across is just as demanding as ever."

#### Luke Bennett Senior Lecturer Sheffield Hallam University

Luke is a Senior Lecturer in Sheffield Hallam University's Built Environment Department. A lawyer by background, Luke worked in private commercial practice as a Solicitor for 15 years before joining SHU in 2007. Luke's specialism in practice was environmental and safety regulation, and his research upon the access/liability topic is directly informed by his practical experience of the divergence between want the law says and what people think that the law requires. Luke's teaching role involves trying to bridge this divide in his contribution towards the training of the next generation of property and environmental managers. Luke is research active and, in addition to the CRN's Landowner Liability study (with Prof Lynn Crowe, 2008) Luke has recently published papers on liability risk education in built environment teaching and on the causes and consequences of metal theft from the built environment. Luke is currently completing a study of recreational trespass to derelict buildings and is also continuing his enquiries into landowner liability perception, with particular focus upon smaller landowners.

### Paddy Harrop Recreation and Public Affairs Manager Forestry Commission

Paddy has 18 years experience of leisure and forestry management and is currently the recreation and public affairs manager for Forestry Commission England. He has led the development of mountain biking, play and dog access policy and has particular expertise in managing visitor safety and civil claims. He also takes a lead role managing the Forestry Commission's live music programme. Based in North Yorkshire with Rachel and their three daughters he enjoys live music, mountain biking, climbing and skiing in his spare time. Voluntary work includes chairing the local village playing field association, acting as a trustee of the Forest of Galtres community festival and treasurer for The International Mountainbiking Association (IMBA) UK.

### Fiona Groves Consultant, Trainer and Facilitator The Natural Route

Fiona Groves is an experienced consultant, trainer and facilitator, with a background of advising and supporting those in the Natural Environment sector and works at both a policy and practical resource level with a host of public sector organisations. Her work focuses on developing new or improved social benefits

and increased diversity for sites and projects through a range of mechanisms, including: strategic and programme area evaluation and review; project development; public engagement, education and awareness raising; training and development; visitor provision and participation in access, recreation, interpretation and wider community initiatives. A couple of current projects that Fiona is involved in and will contribute to this programme are:

- Recreation, Access and Safety (Forestry Commission Learning and Development Team) – Fiona is the dedicated trainer for this course which has run for 10 years now and is aimed at staff planning for and delivering public activities with the aim of giving safe and enjoyable visits to sites.
   Partner with the Visitor Safety in the Countryside Group.
- Forest School Quality Improvement Framework (Forest Education Initiative)
   Project Manager for piloting a self evaluation process aimed improving the quality of Forest School experiences that allows development through adventurous and practical activities, play and risk taking.
- Managing People in Woodlands Web content and design for new pages that will be added to the Naturally Active website aimed at giving guidance and advice to woodland owners and managers in helping them open up opportunities for access on their sites.

Fiona is based in Lincolnshire, living there with her family, including two boys, and personally faces many of the issues faced within the scope of this seminar.

### William Crookshank Recreation Policy and Process Manager Environment Agency

William is currently the Recreation Policy and Process Manager in the Environment Agency. Covering England and Wales, coordinating the delivery of the Agency's statutory duties for recreation on or near inland and coastal water, namely to promote it and ensure Agency land and projects are managed to take access into account. He is managing the delivery strategic planning for water recreation in two pilot regions, the South West and East of England, for Defra and in Wales for Welsh Assembly Government. (This can be seen at www.brighton.ac.uk/waterrecreation)

William has been with the Environment Agency and its predecessor the NRA since 1991 and has worked in Fisheries, Conservation and Water resources in the Agency's North West and North East Regions. Prior to this he worked in the private sector managing countrysports, including managing a large trout fishery. In his spare time he looks after his two children and enjoys being in the outdoors as much as possible. He is passionate about seeing more people using the outdoors.

#### **APPENDIX C**



#### Countryside Recreation Network

'Taking a chance outdoors - is fear of risk damaging our children?'

#### Attendance List

Chris	Marsh	Environment Agency
Paddy	Harrop	Forestry Commission
William	Crookshank	Environment Agency
Diane	Evans	Milton Keynes Council
Clive	Dean	Shropshire Council
Fiona	Groves	The Natural Route
Alison	Leyshon	Blaby District Council
Angela	Smith	Natural England
Andy	Jackson	Leicestershire County Council
David	Parker	Natural England
Debbie	Pearlman	University of Hertfordshire
Sarah	Wilks	Peak District National Park
Thomas	Moulton	The Ramblers Association
Luke	Bennett	Sheffield Hallam University
Jonathan	Pearce	Natural England
David	Ball	University of Middlessex
Kevin	Lafferty	Forestry Commission Scotland
Nick	Meech	Nick Meech Design
Charley	May	The Countryside Alliance Foundation
Simon	Harding	Broomheath Plantation
Steve	Berg	Broomheath Plantation
Peter	Cornall	RoSPA
David	Walker	Rospa



#### Countryside Recreation Network

'Taking a chance outdoors - is fear of risk damaging our children?'

#### Attendance List

Andy	Hunter	Cumbria Outdoors
Glen	Duclos	YMCA National Centre Lakeside
Lynsey	Robinson	Sensory Trust
Mark	Daniels	The National Trust
Leigh	Clewlow	Leicestershire County Council
Siobhan	Hayward	Countryside Council for Wales
Matthew	Beech	Green Wood Centre
Beth	Gardner	Council for Learning Outside the Classroom
Laurence	Ball-King	
Fiona	Tarpey	England Marketing
Jan	England	England Marketing
Peter	Marshall	BASC
Clare	Proudfoot	Blaby District Council
Tammy	Parker	Blaby District Council

#### **APPENDIX D**

# The Countryside Recreation Network July 2009

### Real and perceived risks to children in the outdoors

David Ball www.mdx.ac.uk/risk





### Being kept 'safe' can have adverse consequences

3

#### European survey of youth wellbeing (April 2009)

#### **Overall ranking**

- 1 Netherlands
- 2 Sweden
- 3 Norway
- 4 Iceland
- 5 Finland
- 6 Denmark
- 7 Slovenia
- 8 Germany
- 9 Ireland
- 10 Luxembourg

Survey based on: children's material situation, housing, health, subjective well-being, education, children's relationships, civic participation and risk and safety

. . . .

24 United Kingdom (out of 27)

**Source: Child Poverty Action Group** 

#### Schools 'too safe' teachers say

#### EXAMPLE RULES

Wearing goggles to put up posters
Five-page briefing on the dangers of glue sticks
Ban on running in the playground
Wet grass stopping PE lessons
Ban on playing with conkers
One person at a time in staff kitchen
Ban on sweets because of choking risk
Buoyancy aids for capable year 11 swimmers on a school trip

#### BBC Thursday 18 June 2009

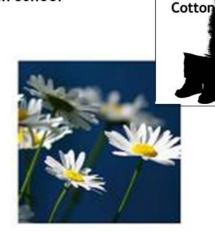
5

#### Prohibitions......

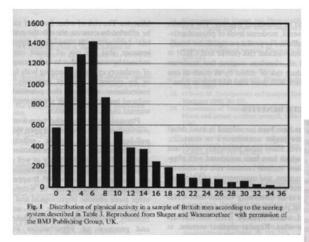
Children have been stopped from....

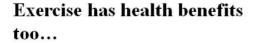
- doing cookery and woodwork in school
- · going in the snow
- · playing football at break time
- school trips endangered
- · playing conkers
- · climbing trees
- · making daisy chains

• .......

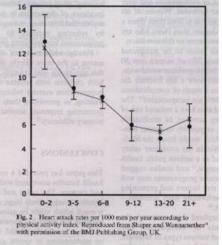


From a survey by the Children's Society and the Children's Play Council (2002) (with some recent additions).





Sometimes the quest for 'safety' had adverse effects on health



# The pressure to be 'safe' originates partly from parents, as intimated by....



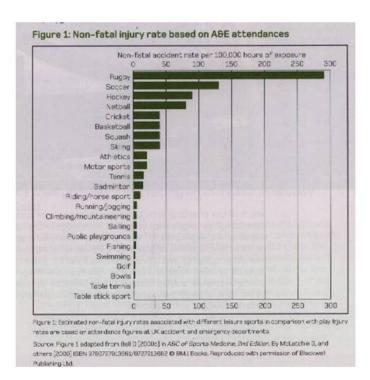
Philip Larkin



### Philip Larkin's hypothesis.....

"They fuck you up, your mum and dad. They may not mean to, but they do. They fill you with the faults they had And add some extra, just for you."

9



But it's complicated... Children are usually encouraged by parents to play football, hockey and even rugby!

Parents also influence the risk-taking behaviour of their children:

- mothers are far more tolerant of risk taking by sons than daughters and may encourage it
- disciplinary styles (power-assertive or inductive) affect risktaking behaviour
- the mother's influence may be more important than the father's, particular power-assertive mothers

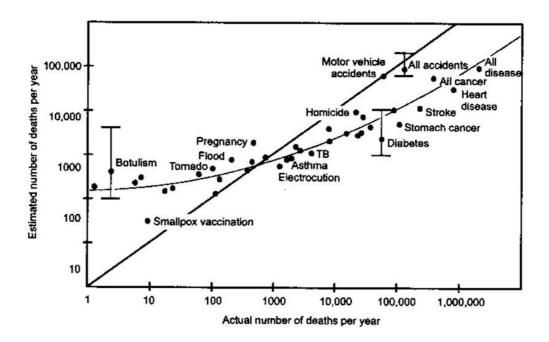
& evidence shows that most accidents are behaviour-related

11

### So what do we know about the public's risk perception?



Paul Slovic - American psychologist



Ref. p106, PSlovic, The perception of risk.

13

#### A case in point? - Abduction and paedophiles

In 2002/3 there were 848 child abduction offences in England & Wales, of which 56% involved a person unknown to the child, and 23% involved a parent.

9% of the abductions were "successful".

6% were sexually motivated. Ref. Newiss & Fairbrother (2004)

cf 50-100 children in the UK die each week at the hands of their carers

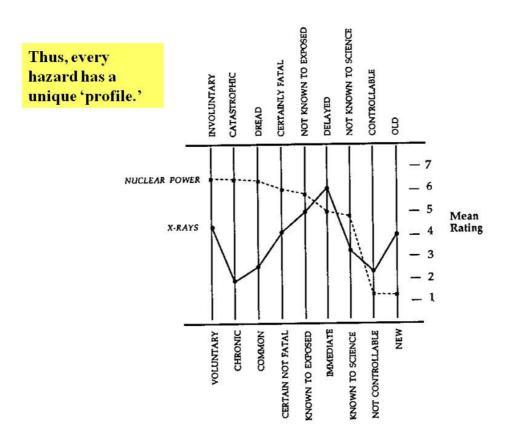


An amateur photographer was told she could not take snaps of an empty paddling pool because she might be a paedophile (Southampton 2008)

The public are also sensitive to qualitative aspects of hazards. Try rating risks from a) cell phones and b) BSE/CJD against the following qualitative factors....

	Cell phones	BSE/CJD
Voluntary (1) to involuntary (7)		
Familiar(1) to scary (7)		
Not fatal (1) to fatal (7)		
You know if you are exposed (1) to you don't know (7)		
It's understood by science (1) or not understood (7)		

15

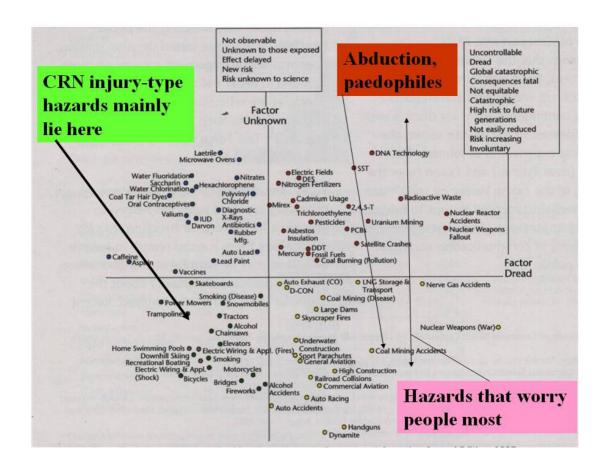


Slovic et al. found that the many of the characteristics of hazards that 'trouble' people (or not) are highly correlated. Roughly there are just 3 main groups of factors:

Factor 1 ('Dread'): Is it controllable, dreaded, has it catastrophic potential, is it fatal, is it equitable, is it easily reduced, is it decreasing, is it voluntary, does it affect me?

Factor 2 ('Familiarity'): Is it observable, known to those exposed, have immediate and not delayed effects, is it a new risk, known to science?

Factor 3: Number of people exposed



One might conclude that the type of hazards encountered by the CRN are either small, as in abduction (though perceived as higher due to 'dread'),

..or, as in physical injury risk, not normally of much public concern (though involvement of children increases concern).

19

#### **Dealing with public anxieties**

RISK = HAZARD + OUTRAGE



**Peter Sandman** 

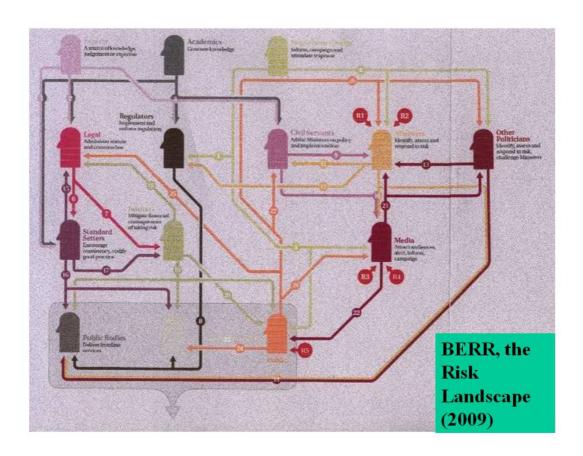


#### **Another view**

Dr Helene Gulberg

"It's wrong to blame parents. The problem is a broader cultural obsession with safety."

Livingstone seminar, 26 May 2009. Author of 'Reclaiming childhood.'



### So who else is involved or interested in risks to children outdoors?

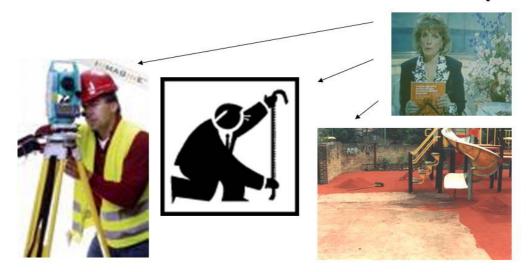
- insurers
- standards setters (BSEN etc)
- campaign groups (e.g. RoSPA, CAPT etc)
- the legal process
- regulators
- inspectors and assorted experts
- the media
- manufacturers ..... Et cetera

23

# Children's play provision – a good example of bad things that can happen with too many of the wrong hands on the tiller...



#### For several decades the dominant concern has been safety



Around £1 billion has been spent on environmental (technical) 'solutions,' inspections, compliance with Standards.... to deal with playground risk

25

#### Resulting in industrial playscapes...





Spot the odd ones out....





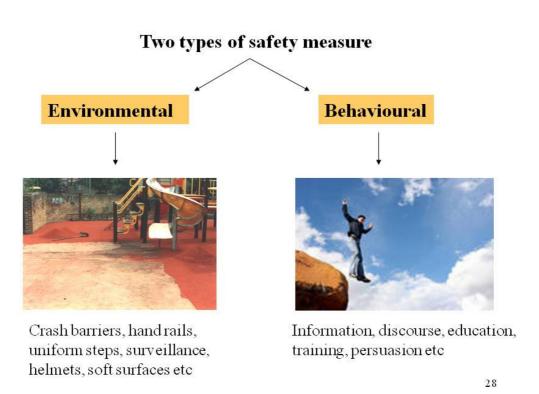
... and dumbing down 26



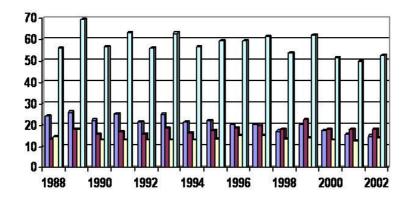


In industry, the <u>belief</u> is that only environmental (engineering-style) solutions work in combating risk.

27



### How successful has this 'engineering' investment been in reducing playground risk and injuries?



□ swings\*□ climbing frames□ slides□ all\*

Answer: It failed.

It also has unintended consequences



29

### Further consequences of the 'Standards-led' approach

• play experiences that comply with Standards appear to be designed for under 8s. What about teenagers and old teenagers?







#### ...and a recent legal case shows just how entrenched views can be



Example of a 'safe' school playground for under 5s



Children now denied access

R (HSE) v James Porter (N. Wales)

31

#### Peter Heseltine (former Director of RoSPA's company Playground Safety Ltd) said it all:

"We (the Standards committee) have recommended removal of anything dangerous..."

"We have emasculated equipment. We inspect far more than necessary.... We have covered everything in protective surfacing..."

"Children are still getting hurt...I think I know one of the reasons....We have forgotten why we have playgrounds – they are for children to play on."

"We have made playgrounds so monumentally boring that any self-respecting child will go somewhere else to play – somewhere more interesting and usually more dangerous. And quite right too..."

#### **Recent DCFS/DCMS/PE Publications**

#### seek another way.....





33

"Children need and want to take risks when they play"

Play Safety Forum (2003)

'Natural features essential'

(Design for play (2008)

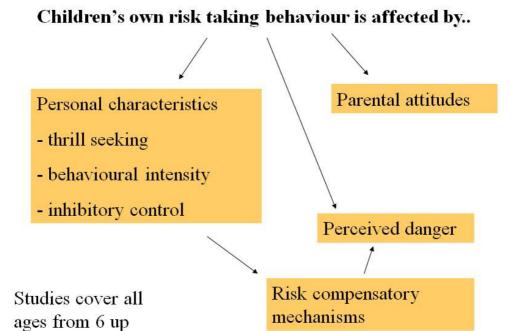


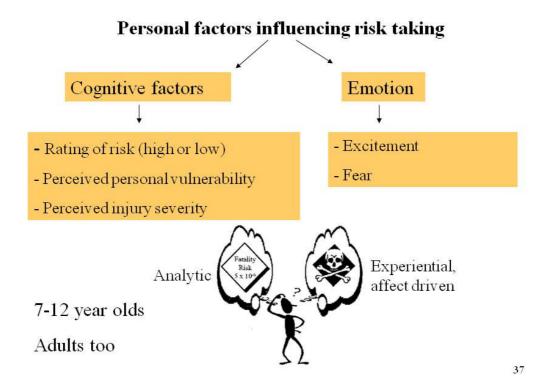


### The Play Safety Forum's perception

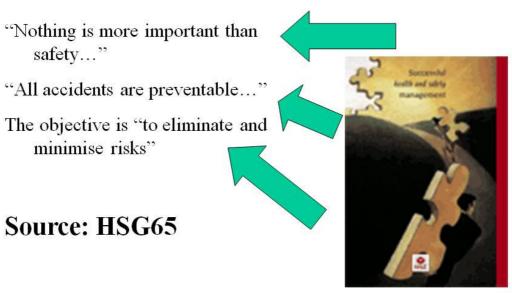
"Children need and want to take risks when they play. Play provision aims to respond to these needs and wishes by offering children stimulating, challenging environments for exploring and developing their abilities."

35





### But when risk assessment is done it is frequently understood that...





Example: In this legal case a young girl fell off the wobbly bridge and injured herself.

Was the local authority provider liable?

39

### Contrary to what it says in HSG 65 (and elsewhere), the aim is not to 'minimise risk'

- the actual requirement is to see that visitors are "reasonably safe" or "safe so far as is reasonably practicable."
- in deciding what is **reasonable** consideration should be given to 4 things:
- the level of risk;
- the possible seriousness of consequences
- the cost and difficulty of applying controls
- the benefits of the activity and whether controls would adversely affect them

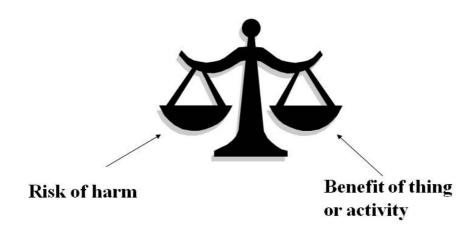
## When assessing the safety of play (and any public facility or activity) what is needed is <u>not</u> <u>risk assessment but risk-benefit assessment</u>



"...risk benefit assessment is a sensible approach to the health and safety management of play provision." (HSE, 2008)

41

#### The Risk-benefit trade-off



#### What is 'best practice'?

"A well defined procedure that is known to produce nearoptimum results."

But what is an optimum result?:

43

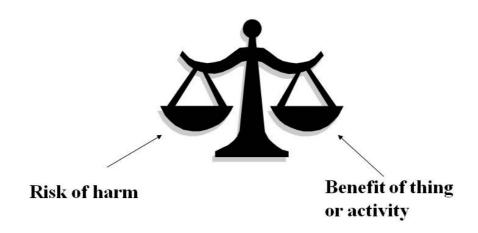
#### What is 'best practice'?

"A well defined procedure that is known to produce nearoptimum results."

But what is an optimum result?:

- One that minimises risk?
- One that has reduced risk until as low as reasonably practicable?
- Or, in the context of public risk, one that has struck the most appropriate balance between risk and benefit?

#### The Risk-benefit trade-off



#### Who has the knowledge to do this?

Death of Baby P highlights failure of regulation, The wider problems of society.....

Conservative policy chief attacks rule-based regulation, which he claims is inappropriate when applied to complex activities Andrew Sparrow and agencies guardian.co.uk, Tuesday 27 January 2009 15-49 GMT

says Letwin

Oliver Letwin attributes failures of control (from baby P to the banking system) to the use of the wrong sort of rule-based regulation. What is required is a return to old-fashioned professional judgement.

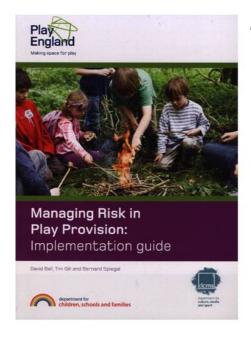
46

### Parachuting in safety experts might be problematic



- do they know your organisational goals?
- do they know and adhere to your position on risk-benefit?
- do they know anything about health and other benefits?
- do they know the local circumstances?
- will they be around to monitor the impact of any advice?

47



The Health & Safety Executive's newly-stated perception

Ţ

"recognises the importance of play in children's lives and for their opportunities to learn about risk..."

http://www.dcsf.gov.uk/play/downloads/Managing%20Risk.pdf

#### One play expert's perception

"Standardisation is dangerous because play becomes simplified and the child does not have to worry about his movements.

When the distance between all the rungs on a climbing net or ladder is exactly the same, the child has no need to concentrate on where to put his feet.

(These skills) are necessary for a person to be able to cope successfully with life."

Helle Nebelong

49

#### The old approach

Minimise risk

Buy Standard facilities

Install

Inspect against Standards

Maintain as necessary

#### The old approach

Minimise risk

Buy Standard facilities

Install

Inspect against Standards

Maintain as necessary



#### The new approach

Increase benefits including some risk

More use of natural environments

Do proper risk assessment (i.e. not using Standards-compliance as a proxy)

Monitor benefits and risks

Adjust to optimise benefit and risk

51

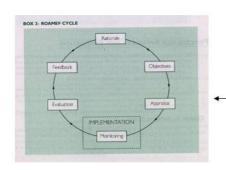
#### **Managing complexity**

Behaviour and perception are important determinants of risk taking

Environment + equipment + children = complexity

Complexity — Unpredictability

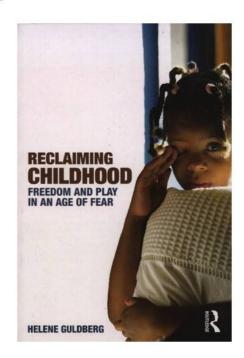
Unpredictability — Need to monitor and reassess



HM Treasury's 'Green Book' Good management is this

#### Overall aim

"Rather than projecting fears and uncertainties onto children, adults need to allow children to grow and flourish, balancing sensible guidance with youthful independence. This means we need to chill out a little: allowing children to play, experiment and mess around, without adults hovering over them, and giving them the opportunity to get themselves out of difficulties they may get themselves into and to resolve their own conflicts."

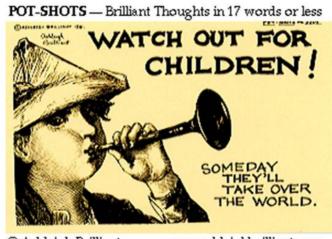


53

# Specifics for improving CYP's lifestyles

- have a publicly-available policy
- stress the benefits of being outdoors (+some risk is a benefit!)
- address outrage factors as best you can
- recognise that accidents will happen, but so will benefits
- beware single issue campaigners and groups who offer advice but with different objectives from you
- don't undervalue the knowledge of your own staff about the risk-benefit trade-off
- · monitor and assess provision continuously
- don't forget teenagers (and oldies!)
- give CYP space and be welcoming and encouraging!!!!

73



© Ashleigh Brilliant

www.ashleighbrilliant.com

## THE END

55

## Childhood and Nature Survey

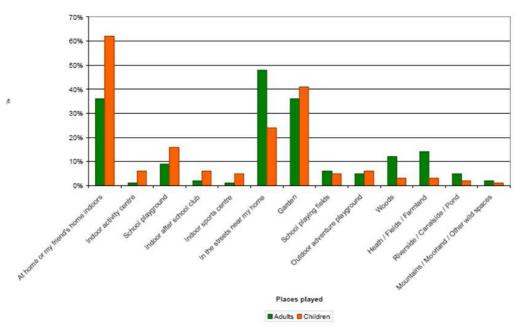




# Children and Nature Survey

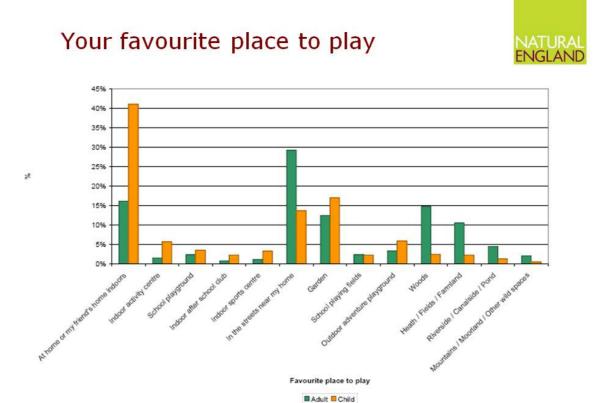
- Online survey
  - Adults 35-50 800
  - Adults 50-65 360
  - Children 7-11 500
- Conducted in March 09





#### Where do you play most?

- 62% of children said 'at home' the most, compared to 36% of adults
- 42% of adults said they played in the 'streets' the most, compared to 25% of children
- 14% of adults said heath and farmland, compared to only 3% of children
- Similar contrast were seen for other natural places



#### Your favourite place to play?

- 41% of children said 'at home', compared to 16% of adults
- 29% of adults said 'streets', compared to 14% of children
- 15% of adults said 'woods', compared with 3% of children
- Results for other natural places showed a similar contrasts.

## Visiting a patch of nature

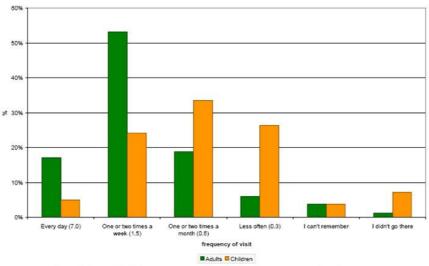


Fig. 15 How often adults and children visit/visited a patch of nature near their homes

## Visiting a patch of nature

- 29% of children said they visited a patch of nature at least once a week
- 70% of adults said they visited a patch of nature at least once a week

#### Nature based activities

	Mean Score		Percentage not participated	
Activity	Adults	Children	Adults	Children
Building a camp or den	4.3	4.2	8%	17%
Exploring rock pools on the beach	4.2	4.2	13%	14%
Visiting a farm or city farm with animals	4	4.2	20%	9%
Collecting and playing conkers	4	3.9	7%	15%
Climbing trees	3.9	3.9	12%	18%
Collecting rocks, shells or fossils	3.9	4	13%	9%
Pond dipping or looking for tadpoles	3.9	3.8	13%	26%
Feeding the birds	3.8	3.8	10%	9%
Looking for insects, minibeasts or butterflies	3.7	3.7	10%	7%
Making a daisy chain	3.7	3.1	9%	19%
Gardening or growing things	3.6	3.8	13%	26%
Swimming in a river or lake	3.2	3.2	36%	52%

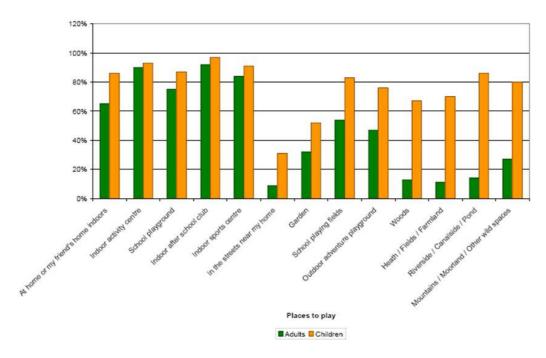
Fig.17 Mean enjoyment score for nature-based activities and the percentage of respondents wh $\alpha$  have not participated in these activities.

#### Nature based activities

- Similar levels of popularity
- Greater level of participation amongst adults
- More children (91%) had visited a farm than adults (80%)







#### Supervision

- Approximately 20% of adults were supervised when playing in natural places
- Approximately 80% of children were supervised when playing in natural places
- Children were supervised for 70% of their time playing
- Parents 85% and children 81% said they want more opportunity and freedom to play outdoors

## Parental barriers to outdoor play

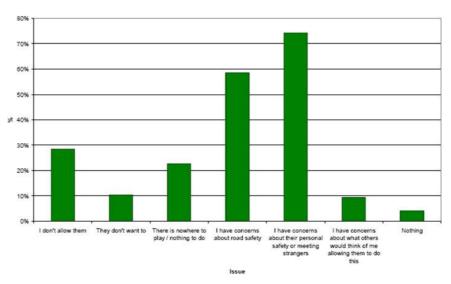


Fig.20 Factors preventing children having more unsupervised play outdoors

## Parental barriers to outdoor play

- 74% meeting strangers
- 59% road safety
- 22% nowhere for children to go

#### The relationship between children and nature has changed



#### Children are more likely to play indoors and be supervised



The desire to supervise children is a likely cause of them experiencing natural places less often than their parents did.



#### Did we spark a debate?

BBC 1 Breakfast News, BBC Radio 4 Today programme

Parents 'impose countryside ban'
Natural England is encouraging children to visit nature
reserves and farms... Nervous parents are making the
countryside "out of bounds" for their children,

Sunday Telegraph

Let us play .. Does your child have Nature Deficit Disorder?

#### Daily Mail

 Cotton wool generation: Nine out of 10 children don't play outside By David Derbyshire

#### NFU Countryside

Natural environment out of bounds to 'cotton wool kids'. Woodlands, the countryside and parks have become out of bounds to a generation of 'cotton wool kids', according to new research by Natural England.

#### Daily Mail

Town halls will no longer bow to 'compensation culture' with plans afoot for thousands of new adventure playgrounds

#### Did we spark a debate?

#### Guardian

Natural England launches One Million Children Outdoors
 The stereotype of kids as hemmed-in screen-addicted creatures who rarely get outside to glimpse nature has been reinforced by a new survey on where children play.

#### **Ordnance Survey online**

Children 'should appreciate natural world'
Outdoor activity-loving parents could find that teaching
their children about the natural world could help to
encourage them to work to preserve it in the future.

#### Did we spark a debate?

- House of Commons, 18 June, 2009
- Barry Sheerman MP asked:
   "We are all in favour of teaching children about a richer, more varied diet. However, does my right hon. Friend agree that one problem as Natural England found in a recent

that one problem, as Natural England found in a recent survey, is that the number of children who go to the countryside has halved in a generation?.."

Hilary Benn (SoS Defra) responded:

"I could not agree more with my hon. Friend. Open farm Sunday, which was the Sunday before last, is important. There is a—no pun intended—growing interest in understanding where our food comes from."

# Danger: no entry?

Does fear of liability lead to denial of recreational access?

Luke Bennett Sheffield Hallam University

Countryside Recreation Network: *Taking a chance outdoors* 1 July 2009

# The project

- Agencies in the Countryside Recreation Network asked the question:
  - Are landowners' perceptions and understanding of legal liabilities a barrier to countryside access?
- We reviewed available:
  - research;
  - case law;
  - policy; and
  - commentary
- and undertook telephone interviews of a sample of 21 landowners and representative bodies across the UK.
- Specific funding for the project was provided by the Forestry Commission, Northern Ireland Environment Agency, the Scottish Government and Sport Northern Ireland.







- Our full report (Bennett & Crowe (2008)) is available for free download at the CRN's website:
  - <u>www.countrysiderecreation</u><u>.org.uk</u> and also at
  - http://digitalcommons.shu.
     ac.uk/lrg\_papers/38.

## What we need to look at

- What is the risk of liability?
- What is the perception of the risk?
- Is there an effect upon access?





# **RESEARCHING LIABILITY**

#### Tomlinson -v- Congleton Borough Council (2003)

(NB: an adult recreational injury case)

- "An important issue of freedom [was] at stake." Lord Hoffman
- "it is not, and should never be, the policy of law to require the protection of the foolhardy or reckless few to deprive, or interfere with, the enjoyment by the remainder of society of the liberties and amenities to which they are rightly entitled." -Lord Hobhouse
- "simply sporting about in the water with his friends, giving free rein to his exuberance. And why not? And why should the council be discouraged by the law of tort from providing facilities for young men and young women to enjoy themselves in this way? Of course there is some risk of accidents arising out of the joie-de-vivre of the young. But that is no reason for imposing a grey and dull safety regime on everyone." - Lord Scott



## ...and for children?

In <u>Simonds-v-Isle of Wight Council</u> (2004) ELR59 - High Court) a High
Court Judge held on appeal, drawing upon <u>Tomlinson</u> that a County Court
judge had been wrong to decide that a Council had been negligent
because it had failed to immobilise or fence off swings during a school
sports day and to warn parents of the dangers of unsupervised play on
the swings. Mr Justice Gross, the High Court Judge said:

"...playing fields cannot be made hazardless...the common sense of this matter is this was an accident, or at all events an incident, for which no liability attached to the school and hence to the council."

 In his closing remarks the Judge made clear that he fearsed the social consequences should liability have been imposed:

"The upshot would be that swings are fenced off, it is far more likely that sports days and other simple pleasurable sporting events would not be held if word got around that a school could be liable in a case like this."



## What is reasonable care?

Lord Hoffman (in Tomlinson):

"I think it will be extremely rare for an occupier of land to be under a duty to prevent people from taking risks which are inherent in the activities they freely choose to undertake upon the land.

If people want to climb mountains, go hanggliding or swim or dive in ponds or lakes, that is their affair.

Of course the landowner may for his own reasons wish to prohibit such activities...he is entitled to impose such conditions... but the law does not require him to do so."



# Occupiers' liability for children

#### yes

- expect children to be less careful than adults
- expect children to suffer "allurement" to danger
- not all children can understand warnings

#### but

- can expect parents to have some responsibility
- recreation and (some) risk is to be encouraged
- the courts wish to protect both children and adults from the excesses of a "grey and dull safety regime"

## (Some) risk is good - a policy consensus?

"...does not mean that we should wrap children and young people up in cotton wool. Childhood is a time for learning and exploring. Through playing and doing positive activities, children and young people can learn to understand better the opportunities and challenges in the world around them, and how to stay safe..."

(from the Ministerial foreword to Staying Safe – July 2007 - the UK Government's consultation on child safety)



# (Some) risk is good - a policy consensus?



"...[it's good] to have snowball fights in winter and to play conkers in the autumn. [But] he wasn't quite so clear about tree climbing. In one breath, he said: "It would probably not be a good idea to let children climb trees." In the next, he announced: "If children can't climb trees, it is very hard for them to learn about risk."

(from the Daily Mail's report of the ministerial launch of *Staying Safe*)

# Any signs of a compensation culture?

- There is evidence that people think that there is more risk of litigation. But the actual claim figures show little support for that perception.
  - For example the number of public liability
    accident claims registered with the Government's
    Compensation Recovery Unit in 2008/09 was 8%
    lower than the number registered in 2000,
    reflecting a general downward trend in public
    liability claims since 2003/04.
- However this (mis)perception may itself be important, as a spur to defensive land management behaviour.
  - For example, a 2007 study by the Health & Safety Executive identifies fear of litigation as the reason for increased recording and reporting by occupiers of slips and trips accidents.
- · Claims are becoming more costly though



# RESEARCHING LIABILITY RISK PERCEPTION

# Our starting position

- From our study we can say:
  - The actual level of landowner liability risk is low.
  - The perception of landowner liability is influenced by general social and cultural trends.
  - Nevertheless a fear of liability is said to persist.



## **Fear factors**



- Factors that appear to contribute towards this lingering anxiety include:
  - widespread ignorance amongst lay communities about how the law operates;
  - a realisation of the inherent uncertainties and unpredictability of the law; and
  - tensions regarding access legislation amongst private landowners.

## Little U.K. research

- There has been little research in the UK upon the role of fear of liability in shaping landowners' attitudes to access.
  - The limited UK evidence that we have found suggests that fear of liability may be a much lesser influence than perceptions of privacy and control.



# Privacy and control



- A study of woodland owners' attitudes to access in the South East of England by the University of Brighton for the Forestry Commission (2005) found that:
  - >33% of private non-forestry business / owners felt that their woodlands were important for personal privacy,
    - with over 75% of this group reporting a perceived "loss of control" if public access was allowed.
  - These privacy and control issues showed more strength of feeling than whether liability for visitors was perceived as a factor of significance.
    - In this regard none of the respondents reported "insurance claims" as a "very severe" problem, with 77% of the respondents reporting "no problems" in relation to this factor.

#### Some U.S. research

- U.S. research findings appear to show that legislative measures have failed to make much of an impact upon landowners perception of their liability risk. As Wright et al (2002, p189) conclude:
  - "Research indicates that landowners and a number of resource management professionals are not aware of the significant liability protection afforded by recreation-use statutes."
- Gentle et al (1999) set out to examine whether the different political and cultural heritage of various US States influence landowners attitudes towards provision of access. Like Wright et al they find no clear patterns - other than a general finding that:
  - "Landowners are much more comfortable with the use of their land by friends and family, rather than by strangers." (Gentle et al (1999), p57)
- Gentle et al (1999) (echoing conclusions also reached by Teasley et al (1997)) note that a history of
  "unpleasant experiences with recreationists", rather than socio-economic differences or
  differences between rural and urban fringe settings, were the most important influencing factor in
  landowners' decisions on whether or not to seek to bar recreational access to their land.

# Fear of change?

- The US studies and an anecdotal example from New Zealand (McDonald (2004)), suggest that:
  - expressed liability risk anxieties landowner may amplify at times where the landowner community is experiencing the threat of change to statutory access regimes (and/or other uncertainties).
- This suggests that anxiety about liability risk may be a proxy for other fears -
  - perhaps deeper anxieties which it is less publicly acceptable to voice (for example a fundamental preference for keeping their land private).



# Fear of change?

- The landowner liability risk theme can be found in contemporary UK discourse on access
  - for example NFU (2008), whose Vice President, commenting in response to the UK Government's Marine Bill (and its proposal for a new right to roam within a "statutory coastal access corridor" within England) stated:

"...We cannot have access on the cheap, especially with cliffs and tides an ever present danger. Farmers also need assurance that farmer liability is also addressed or the project's success could be jeopardised."



## What are landowners' scared of?

- The following are a random selection of "liability" related case studies featured in a Country Land & Business Association (CLA) submission (CLA 2007) in response to the UK Government's consultation on the Marine Bill and proposed coastal access to be introduced in England & Wales:
  - owner of boathouse. Fear of liability for persons who might break-in and hurt themselves;
  - coastal farmland. Concerned about safety as people have been killed on the beach due to landslips;
  - oyster bed owner. Fear of liability for tree surveys and exacerbation of local "dogging" problem;
  - coastal defence owner. Concerned about further expense through recreational damage and liability for injuries to visitors;
  - coastal holiday park. Fear of loss of control over who may enter the park, e.g. paedophiles;
  - coastal farm. Concern about possible liability if visitors should encounter unexploded ordnance; and
  - golf course. Concern about liability to passers by from stray golf balls.

# Who did we interview?

The 21 telephone interviews conducted as part of our study reveal an anecdotal and
impressionistic view of the extent (if any) to which landowner liability fears are currently
impacting upon recreational access provision. Intentionally the survey group focused largely
upon the community of large, access-remit, multi-site public agencies.

No.	Respondent category			
7	access officers within public sector agencies with access responsibilities			
5	health & safety managers within public sector agencies with access responsibilities and the water industry			
3 (+1 email)	private country landowner representatives			
2	country side visitor attractions			
2	local government land / risk managers			
1	insurer			
1	health & safety litigator (solicitor)			

# Which bodies?\*

UK wide	England	Northern Ireland	
Defence Estates	Environment Agency	Ulster Wildlife Trust	
Forestry Commission	Yorkshire Water Ulster Farmers' Union		
NFU Mutual	Southern Water	National Trust - Northern Ireland	
British Waterways	Country Land & Business Association	Sport Northern Ireland	
	Nabarro LLP (solicitors)	Scotland	
	Exeter City Council	Dundee City Council	
Wales	Hawkstone Park (Shropshire)	NFU - Scotland	
Countryside Council for Wales	Worcester County Council	Scottish Natural Heritage	
		Scottish Rural Property & Business Association	

<sup>\*</sup> NB: it was agreed with the interviewees that their replies were given in a personal capacity, rather than on behalf of their employer organisation

# Interpreting the findings

#### How do people understand liability?

 Lay views of liability risk are (understandably) "approximate" to the reality of what the law says, and the level of liability risk that it actually imposes

#### How is risk perceived?

- Liability risk perception is cultural
  - it is something that is learnt (and subjectively "felt")

#### What evidence?

 There is little <u>evidence</u> of elevated landowner liability fear in the survey population or of the consequential withdrawal of access to the countryside

#### Survey limitations

- But the **survey population** does not cover all types of landowner

# But is there fear still out there somewhere?

- We're guessing: We have offered views in our report on why a difference in risk perception might be present - but on current evidence we can neither prove, nor disprove, the existence of such a distinction in the UK.
- Further research recommended: Given the absence of any pre-existing studies on this, we recommend that whether such a heightened risk-anxiety exists amongst private landowners (or distinct communities within that wide class) requires specific investigation.
- Does liability fear actually affect access?: Such future analysis would also need to examine whether any heightened anxiety (if any) in such communities actually results in greater denial or withdrawal of recreational access to their land.
- How do communities think about liability risk?: Understanding how these
  communities form and articulate their perceptions of liability risk is, we believe,
  crucial to determining how best to engage with and address any entrenched
  landownerliability anxieties.

# **Interpretive Communities**

#### Support networks

 In our report we show how support networks like VSGC, the Water Safety Group and the Tree Safety Group help to reassure their members that they are making their places "safe enough"

#### How "reasonable safety" is constructed

 Through such collaboration "reasonable safety" is benchmarked - and thereby what the law actually requires is constructed by that consensus building process

#### And everyone else?

– What happens to those who are not part of such "interpretive communities"?



#### **Luke Bennett**

Sheffield Hallam University l.e.bennett@shu.ac.uk

#### Lynn Crowe

Sheffield Hallam University <a href="L.crowe@shu.ac.uk">L.crowe@shu.ac.uk</a>





Is fear of Risk Damaging our Children?

# Examples of practical ideas to reverse this trend

Paddy Harrop Recreation and Public Affairs Manager



#### Content



- DEFRA/ Forestry Commission
- What can we do?
  - Culture change
  - Lead activity
  - Accessible adventure
  - Adventurous environments
  - Media
- Risks and Barriers



## **DEFRA Forestry Strategy**



- to secure trees and woodlands for future generations;
- to ensure resilience to climate change;
- to protect and enhance natural resources;
- to increase the contribution that trees, woods and forests make to our quality of life;
- to improve the competitiveness of woodland businesses and products.



FC corporate plan: work across government with partners both to create more accessible greenspace as part of the Sustainable Communities Plan and encourage greater use of woodlands for healthy exercise and wellbeing

4 July 2009

www.forestry.gov.uk/england-play



#### What can we do?



- Culture change
- Lead activity
- Accessible adventure
- Adventurous environments
- Media messages



www.forestry.gov.uk/england-play

#### **Culture Change - Growing Adventure**

'To create naturalistic play spaces and develop play programmes as a springboard for children's engagement with forests and woodlands'



6 July 2009

www.forestry.gov.uk/england-play

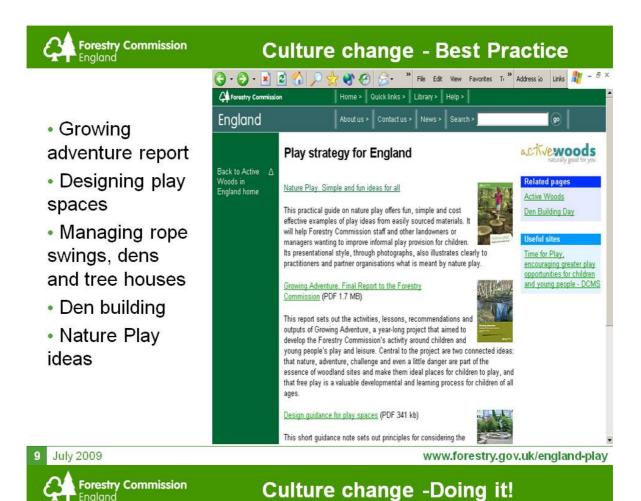


## **Culture Change**



Getting senior staff involved









## Led activity



Forestry Commission England

www.forestry.gov.uk/england-play

## **Lead Activity**



1 July 2009

www.forestry.gov.uk/england-play



#### **Accessible Adventure**





Go Ape High Ropes Courses

Haldon adventure trail





#### **Adventurous Environments**





1 July 2009

Forestry Commission
England

www.forestry.gov.uk/england-play

#### **Positive Media Messages**





1 July 2009

www.forestry.gov.uk/england-play



#### **Risks and Barriers**



- Parents
- Staff
- Costs/ Resources
- Accidents
- Claims
- Media



Taking a chance	outdoors -	is fear	of risk	damaging	our children?'