

OPERATOR SUCCESSFULLY DEFENDS ACCIDENT CLAIM

Introduction: Operators of inflatable play equipment are continually reminded about the importance of keeping correct records, training, annual inspection, regular maintenance etc.

Operators have a 'duty of care' towards the general public and their staff both of which are enforced by law under the Health and Safety At Work Act (HASAWA) and the Provision and Use of Work Equipment Regulations (PUWER). Both HASAWA and PUWER are available on the Health and Safety Executive (HSE) website <https://hse.gov.uk>.

The inflatable play industry has several documents and organisations that are recognised, and referred to, by HSE;

- HSG 175 – Document produced by the Fairgrounds Joint Advisory Council (FIAC) and is used, in the first instance as a reference by HSE. Copy available as a free download or purchase as a hard copy via the HSE website. It should be noted that HSE refer to 'inflatable play equipment' as 'amusement devices'.
- BSEN 14960 (all parts) – European standard covering manufacturing,
- ETIS7 – Revised document currently being discussed by HSE and will be released by them in 2024. This document will be available to operators and the public.
- Professional Inflatable Play Association (PIPA) – best known for its testing scheme and recently expanded to include training.
- Amusement Device Inspection Procedures Scheme (ADIPS) – an inspection scheme for fairground equipment including electromechanical (bucking bronco, surf simulator, sweeper etc)

High profile incidents such as Harlow and Gorleston always make headline news but rarely is anything reported with a positive outcome. Today, we can share some positive news.

Operators story: Back in 2020 a successful inflatable hire company was operating an assault course during an event when, unfortunately, a young person ran into a guy rope and sustained a fractured collar bone.

Sometime later the company received correspondence claiming 'negligence' and the claim was put before the court.

Finally, in October 2023, the claim was heard in court. The delay in getting the case to court has caused the company operator, his family, and staff severe stress during this waiting time, but always knowing that, in their minds, they had always operated correctly.

The court proceedings lasted for five hours with both legal teams arguing the case and eventually the Judge ruled making the following comments.

- 1) There was no doubt that the accident had occurred with the unfortunate resulting injury.
- 2) The defendant had successfully proved that he had regularly had the equipment inspected using the PIPA inspection scheme.
- 3) The defendant had successfully proved that he and his staff had received the correct training on safe operation and maintenance of equipment through his PIPA inspector.
- 4) The defendant had successfully proved, by the submission of photographs, that the equipment was correctly set up on the day and that by using 'blue' guy ropes, traffic cones, signage, and trained staff, had taken all reasonable precautions to keep users safe.

The Judge then dismissed the claim as 'negligence was not proved.

Conclusion: The operator has been running a successful business for several years before adding inflatables in 2017. Before embarking on the inflatable road, the operator carried out research via the internet and took advice from industry professionals. The operator introduced all requirements within HSG 175 and BSEN 14960 from the outset. The operator has followed all operating procedures correctly and maintained impeccable records.

It is easy to take the attitude '*it will never happen to me*' but by simply following the basic rules, keeping the correct records, and using recognised systems you will be in a much better place should anything go wrong.

People playing, no matter how old, have accidents. In this case the Judge ruled exactly that – '*an accident*'. However, if the operator had not fulfilled his 'duty of care' so impeccably the outcome may have been completely different.

20th November 2023