

# Charity win in damages case is good news for the third sector

Submitted by: Leapfrogg

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A recent civil damages claim brought against a charity for an injury to a climber at an activity centre has been decided in favour of the charity. In Trustees of the Portsmouth Youth Activities v Poppleton, a novice climber who suffered serious injuries when falling whilst taking part in an activity that he knew to be risky, was found to be the author of his own misfortune. Allegations that the protective matting that was provided was ineffective were dismissed on the basis that no matting could be guaranteed to safeguard against the effects of an awkward fall.

The climber suffered an injury because “he chose to indulge in activity which had inherent dangers, not because the premises were in a dangerous state,” observed Lord Justice May in the Court of Appeal.

Lindsay Gray, senior liability underwriter at Ecclesiastical Insurance

(<http://www.ecclesiastical.com/aboutus/index.aspx>), said: “Charities have been living in fear of unrealistic compensation claims against them. There is a perception that if an accident occurs, there is always someone to blame and the individual who is injured is never personally responsible.

“Provided that charities adopt a proportionate and sensible approach to risk they can be content that the law is now taking a more reasonable and sensible approach to accidents like this – an accident does not of itself demonstrate that negligence has occurred.

“Life is full of risk. We’ve got accept that some activities have greater risk than others. To stop them altogether would seriously disrupt a charity’s fundraising or even threaten their future. The benefit of doing the activity far outweighs the risk, which is often relatively small.

“The case highlights the importance of simple and effective risk management. If charities take steps to assess the risks of their activities, and make reasonable efforts to keep individuals safe, they have no reason to fear costly and damaging compensation claims.”

For full details of the case click here:

<http://www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWCA/Civ/2008/646.html>

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