

Update

Your quarterly bulletin
on legal news and views
from Lanyon Bowdler

How Schools & Academies should successfully tackle bullying

CONT.
P2

Every School must have measures in place to try and prevent bullying. Bullying can take many forms for example making threats, spreading rumours, attacking someone physically or verbally, and excluding someone from a group on purpose. The increased use of communication technology has provided a new form of bullying, called cyber-bullying. With many pupils having laptops, tablets and mobile phones, bullying can follow a child into their home and continue 24/7. This can have a devastating impact on a child's self-esteem, confidence and social skills.

S89 of the Education and Inspections Act 2006 provides that maintained Schools must have measures to encourage good behaviour and prevent all forms of bullying amongst pupils. Those measures should be part of the School's behaviour policy and communicated to all pupils, School staff and parents.

The Education (Independent School Standards Regulations) (England) 2010 provide that the owner of an Academy or other Independent School is required to ensure that an effective anti-bullying strategy is drawn up and implemented.

Schools and Academies are also required to comply with the Equality Act 2010 to make sure that pupils are not discriminated against.

Under the Children Act 1989 a bullying incident should be addressed as a child protection issue if there is 'reasonable cause to suspect that a child is suffering, or is likely to suffer, significant harm'. When this arises, School staff should report their concerns to their local authority children's social care.

It is imperative Schools and Academies recognise that some types of harassing or threatening behaviour, or communication can give rise to a criminal offence, for example it is an offence to harass someone under the Harassment Act 1997 and it is an offence for a person to send an electronic communication to another

Horizontal fracking given the "All clear"

CONT.
P4

What is horizontal fracking?

Horizontal fracking is a drilling process, which involves the injection of water, together with chemicals and sand, into shale rock in order to release hydrocarbons (natural gas).

When compared to vertical fracking it is easy to see that a horizontal well is able to reach a much wider area of rock and natural gas. Operators are also able to drill underneath land which they do not own or have permission to operate a well site on. This provides the obvious benefit of requiring fewer sites at surface level. Horizontal drilling can extend more than one mile from the vertical well bore.

Background

Cuadrilla Resources, an oil and gas company, applied for planning permission to develop two new sites to explore for shale gas by drilling, hydraulically fracturing (fracking), and testing the flow of gas.

In June 2015 Lancashire County Council refused planning permission for the two exploratory fracking wells at Preston New Road and Roseacre Wood, located near Blackpool.

In September 2015 Cuadrilla appealed those refusals under s78 of the Town and Country Planning Act 1990. The appeals were heard at a public inquiry by an inspector, who following the inquiry prepared a report and recommendations, which were forwarded to the Secretary of State for determination.

Appeal findings

Sajid Javid, the Communities and Local Government Secretary, issued his decision on 6 October 2016 allowing the appeal and granting planning permission subject to conditions for Preston New Road. This site will be the first horizontal fracking well in the U.K.

In the same decision, he formally dismissed Cuadrilla's appeal in respect of the Roseacre Wood site. However, he allowed the opportunity for more information to be provided on the highway safety

“Nothing was too much trouble. If I needed to know something they gave me the time to explain it to me. Excellent.”

Ms J Jordan, Oswestry

HOW SCHOOLS & ACADEMIES SHOULD SUCCESSFULLY TACKLE BULLYING

Continued from page 1...

person with the intent to cause distress or anxiety, or to send an electronic communication which conveys a message which is indecent or grossly offensive, a threat, or information which is false and known or believed to be false by the sender under the Malicious Communications Act 1988. If School staff consider an offence may have been committed they should seek assistance from the police.

Teachers in Schools have the power to discipline pupils who bully other pupils outside of School “to such an extent as is reasonable” and provided it is when the pupil is under the lawful control of the staff member. It is therefore important that parents, if their child is being bullied outside of School by another pupil, report this to their child’s School so that the School can take whatever disciplinary action is reasonable. The School can also consider whether to report the incident to the police or whether to seek assistance from any other external services.

Teachers in Schools and some Academies have greater powers with regard to cyber-bullying. The Education Act 2011 gives teachers power, in certain circumstances, to search for and, if necessary, delete inappropriate images (or files) on electronic devices, including mobiles phones.

The Government suggests that successful Education Institutions need to:

- Involve parents
- Involve all pupils
- Regularly evaluate and update their approach, particularly to take into account developments in technology
- Implement disciplinary sanctions
- Openly discuss differences between people that could motivate bullying, such as religion, ethnicity, disability, gender or sexuality
- Use specific organisations or resources for help with particular problems, for example anti-bullying organisations
- Provide effective staff training
- Work with the wider community such as the police and children’s services
- Make it easier for pupils to report bullying
- Create an inclusive and safe environment
- Celebrate success.

This article relates to maintained Schools and some Academies in England.

Developers still facing planning permission delays

CONT.
P4

Developers are still facing long delays to obtain planning permission despite Government claims that it wants to “build more houses, more quickly, in the places people want to live in”.

That’s the view of planning lawyers at Lanyon Bowdler Solicitors, who say long-winded public inquiries and Government intervention is adding years onto the timescale of much-needed housing developments.

The government says it will help to build more than 25,000 new homes in the current Parliamentary term, and up to 200,000 homes in the longer term, by providing funds for loans to small and medium enterprise builders to create infrastructure and jobs.

In the media, Communities Secretary, Sajid Javid, has been outspoken with his comments accusing large volume housebuilders of “land banking” land and planning permissions.

Planning lawyers at Lanyon Bowdler are dealing with councils and local government policies on a day-to-day basis and say they appreciate the complexities and difficulties that there are within the current planning system.

Head of planning at Lanyon Bowdler, David Brammer, said that despite the Government’s very vocal support for housebuilding, developers continually faced frustration and uncertainty in securing planning permission for housebuilding development.

David was involved with a public inquiry in March 2014 which involved an appeal against a council decision to refuse outline planning permission for up to 100 residential units and associated open space.

He said: *“The planning application in that case was submitted as long ago as 2012, and following appeals and Government call-ins, it was eventually given permission in November this year.*

“That’s four long years to gain permission for a scheme which was originally part of the council’s Neighbourhood Plan, which is supposed to identify suitable sites for housing.

“There was significant local opposition to the development, although the Secretary of State, possibly due to local political sensitivities, viewed the Neighbourhood Plan issues as an important issue for consideration until finally – after a further lengthy delay whilst it was resting in his inbox undetermined – ultimately granted planning permission.”

David added, “The significance of the case, which was one of the first cases to engage with neighbourhood plans, is that it throws into

“Care and consideration at all times.”

Ms A Large, Oswestry

Brexit-proof your farm: The importance of rural diversification

CONT.
P4

Family farms are at the heart of the British countryside and their health is vital for the future of our rural communities. In the last five years there has been a steady decline of farmgate prices which has put unprecedented strain on farm businesses.

The UK has seen real agricultural income per worker drop by 19% between 2014 and 2015. This qualifies as one of the most significant falls of any EU country. Falling incomes compounded with Brexit uncertainty has led many farmers to consider diversification.

What is diversification?

Diversification is the process by which farmers seek alternative income by expanding their enterprises to include more than just growing traditional crops and keeping conventional livestock. There are various types of diversification that range from branching into the energy sector to providing unique holiday accommodation. Nationally, 61% of farms already have some form of diversified activity. Below we explore several examples of farm diversification.

Diversification may mean fundamentally changing the business or simply going about the business differently.

Livestock diversification

Farm livestock does not have to be restricted to the usual species such as cattle and sheep. Many farmers are finding profit investing in alternative species. The following are examples of some of the more successful, unusual and innovative ventures undertaken by farmers.

Bee keeping

There are approximately 30,000 bee keepers in Britain today most with less than 40 hives. In addition to honey, cut-comb honey and wax, pollen harvested by bees is a highly sought after food product. A hive with a strong pollen flow can collect up to 1.5lbs of pollen per day, which would sell for approximately £15. Bee bread has also developed into a high demand health food. It is 25% honey, 70% pollen and bee saliva.

These ingredients are packed into empty comb cells which can then be harvested. Bee bread is packed with natural probiotic bacteria and yeasts. A mere 100g of bee bread can cost up to £15.

Deer meat

Consumption of venison in the UK has increased and there is a growing demand for this low fat meat. Red deer have become the species of choice for farmed venison. The main capital costs involved in deer farming are handling yards and fencing. Early in 2016, Sainsburys reported that over the festive period venison sales were up 115% on the same period from the previous year.

Crop diversification

Many farmers have diversified their enterprises by growing various alternative crops often referred to as novel crops. Climate change has created the opportunity for crops which are not native to UK to be grown here (eg vines and olives).

Industrial energy crops

Industrial energy crops are crops which are grown for purpose of generating heat and electricity, or to produce transport biofuels. The vast majority of energy crops are grown using traditional farming techniques. The following crops can be utilized for heat and electricity generation (and there are several others):

- miscanthus
- switchgrass
- reed canary grass
- straw
- short rotation coppice (SRC) willow
- rye grass

The benefits of these energy crops extend beyond their use for biomass heat and electricity due to their ability to store carbon, benefit industrial landscapes, prevent erosion, improve biodiversity in the right location and improve fuel security.

Although there are various potential benefits of energy crops, public opinion on biofuels remains polarised. The viability of these

alternative crops has often been questioned by the media and there are reports that have linked biofuels with rising food prices, deforestation and other harmful effects on biodiversity.

Currently, the government is supporting this emerging industry by offering a package of measures aimed at developing the biofuel supply in the UK.

Speciality flowers

Cut flowers have become one of the most profitable crops around. A half an acre of open, arable land, a rototiller and of course, time and effort is your basic starting package. “Specialty cut flowers” denote crops other than the major florist crops of mums, roses and carnations. The term includes a variety of plant material: dried, fresh or preserved. Any plant parts, from buds to branches, which are used for decorative purposes are considered cut flowers.

Unlike commodity crops flowers are typically planted, cultivated and harvested by hand. Beyond field preparation very little mechanization is involved. This makes entering into the flower market more feasible than many others. The market for homegrown British flowers has been expanding and figures from the National Farmer’s Union show that the wholesale value of British-grown cut flowers sold last year reached £82m.

Accommodation

Love the idea of camping? Hate the idea of roughing it? You’re in luck as “glamping” (glamorous camping) has revolutionized the “staycation” holiday in the UK. From yurts and tipis to safari tents and tree houses the sky really is the limit when it comes to glamping.

The number of people wanting to camp has risen over the past several years, partly due to the cost of foreign travel and partly due to travel issues. This has provided a real diversification opportunity for farmers and many have already taken advantage of this potentially

“A reliable service and as clients we were dealt with professionally and efficiently.”

Mr & Mrs J Harris

HORIZONTAL FRACKING GIVEN THE “ALL CLEAR”

Continued from page 1...

issues and indicated that, subject to those concerns being addressed, he was “minded to” grant permission.

Further challenges?

Anti-fracking campaigners have started a crowd funding campaign to cover the legal costs of challenging the Lancashire decision. This will be done by applying for leave from the High Court to bring a statutory review under TCPA 1990, s288. This application must be made within six weeks of 6 October.

It is difficult to gauge the prospects of success, although climate change and human rights appear to be the preferred potential grounds of challenge. The current government energy policy is seemingly in conflict with the UK’s climate obligations under domestic and international law. The independent Committee on Climate Change found that exploitation of shale gas on a significant scale is incompatible with the UK’s carbon budgets. This means that production emissions from gas wells will have to be offset through emissions reductions elsewhere. It will therefore be interesting to see if the Court is willing to second-guess government energy policy.

Effects of fracking?

Communities Secretary Sajid Javid has stated that fracking “has the potential to power economic growth, support 64,000 jobs and provide a new domestic energy source, making us less reliant on imports.” Whilst those opposed to fracking warn that the approach causes earthquakes, water pollution and contributes to green house gas emissions.

BREXIT PROOF YOUR FARM

Continued from page 3...

lucrative venture. Glamping sites can achieve a fairly quick return on investment if the facilities, accommodation and service are all of an excellent standard. Good advertising and promotion is essential and many local tourism boards play an important role in this. The landscape produced by farmers also creates the back drop to a broader tourism industry which is estimated to be worth in excess of £23b annually. It is always worth checking if there are any planning considerations if you are contemplating any changes of use of land.

The Department for Environment and Rural Affairs (DEFRA) does offer grant aid in some circumstances - especially if the proposed enterprise will create employment opportunities. Many new enterprises will also be subject to various rules and regulations such as planning consent, health and safety regulations, business rates and so on.

At Lanyon Bowdler we are able to provide advice on all aspects of farm diversification so please do get in touch if you have any queries.

DEVELOPERS STILL FACING PLANNING PERMISSION DELAYS

Continued from page 2...

sharp focus the inherent conflict between the Government’s assertions that it wishes to promote housing whilst many developers remain frustrated at the speed of delivery.

“Equally, those opposed to development will seek to block housing using whatever legitimate means are available within the planning system.

“In this case it has taken four years to bring the matter from the initial application to a final decision to build 100 houses on a site which was essentially part of the borough’s five-year housing land supply.”

For more information about this, or any other planning issue, contact David Brammer or Abigail Prichard-Hooper at Lanyon Bowdler on 0800 294 5919 or visit the website at www.lblaw.co.uk

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