

Ms. Amanda Rablin
Health and Safety Manager
West Sussex County Council
1st Floor – East Wing
County Hall
West Street
Chichester
PO19 1RG

Reference 4792023

22nd March 2024

Dear Ms. Rablin

**INVESTIGATION INTO FALL FROM HEIGHT AT WINDMILLS JUNIOR SCHOOL, DALE AVENUE,
HASSECKS, WEST SUSSEX ON 17TH NOVEMBER 2023**

I am writing to confirm that my investigation into the above incident has concluded. As a result of my investigation, the Health and Safety Executive (HSE) will not be taking any action relating specifically to this incident. My reasons for this decision are as follows:

- The Premises Manager took it upon himself to replace the blind, without informing the Head Teacher or School Business Manager, allowing no opportunity to challenge the decision or to question how it would be achieved.
- The ladder used was not suitable for the task and the Premises Manager acknowledges that it had been set up incorrectly, i.e., not at the correct angle.
- The Premises Manager had received ladder and work at height training from West Sussex County Council (WSCC) prior to this incident and is due to attend refresher training.
- The job was a one-off and outside of the Premises Manager's normal responsibilities; it came about after frustrations with a contractor failing to reinstall the blinds following the installation of the suspended ceiling in August 2023. There was no ill-intent or purposeful disregard for safety on the Premises Manager's part.
- The school immediately suspended all work at height and has reviewed all its existing work at height risk assessments.

Although it was solely the Premises Manager's decision to complete the task on the day of the incident and he felt he was acting in the best interests of the school at the time, he had originally suggested that he reinstalled the remaining blind in a meeting attended by two individuals from West Sussex County Council, and representatives from the contractor. The Premises Manager's suggestion was not challenged, despite the school not having the appropriate access equipment.

INVESTIGATION DIVISION

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HM Principal Inspector
Emma Stiles

Whilst I am not taking enforcement action in relation to the fall from height, my investigation has identified failures with how West Sussex County Council is managing work at height at Windmills Junior School.

During my visit to the school on 16th January 2024, the Premises Manager explained that he was required to get onto the school roof, all of which is flat, once, or twice a year to clear leaf litter and debris from the roof, the gutters, and the downpipes to prevent water ingress into the school. In addition, he explained that he must also get onto the flat roof on an ad hoc basis to clear balls and other items thrown onto it.

The Premises Manager gets onto the roof despite there being no collective means of preventing a fall on the roofs. There are man-safe lines installed on the two newer extensions to the school, built circa 2015, but these are active, personal protective measures requiring a person to wear a suitable harness and clip on to the lines; as a result, they are placed further down the hierarchy of control for work at height.

There is a risk assessment for work on the flat roof, introduced following a WSCC inspection in February 2023 but it is insufficient and there is very little consideration of the work at height hierarchy, such as eliminating the need to work at height in the first place.

As a result, I will be serving West Sussex County Council with an Improvement Notice requiring the council to review how work at height is planned, managed, and monitored.

I have expanded on the issues found, why they were wrong and what needs to be done in the following pages.

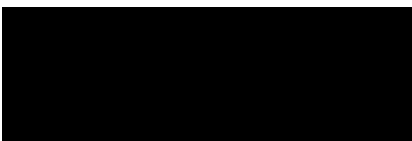
It is important that you deal with these matters to protect people's health and safety. If you do not understand what action to take, then please contact me or my Principal Inspector and we will explain further.

You will have to pay a fee because I have identified contraventions of health and safety law which are material breaches. The enclosed section on Fee for Intervention provides further information.

Section 28(8) of the Health and Safety at Work etc Act 1974 requires me to inform your employees about matters affecting their health and safety. As such, I have sent a copy of this letter to Windmills Junior School for their attention.

You will find information and advice about health and safety on our website <http://www.hse.gov.uk/>

Yours sincerely,



Stephanie Hickford-Smith
HM Inspector of Health and Safety

MATERIAL BREACHES – NOTIFICATION OF CONTRAVENTION

Enforcement Notice – IN/INV4GP19/220324/SHS01 – Planning work at height

Whilst on site speaking to Mr. Cook, the Premises Manager, about his fall from the ladder in the school hall, I made further enquiries about what other work at height he typically undertook. Aside from general maintenance inside the school, Mr. Cook confirmed that he would climb onto the roof of the school once or twice a year to clear leaves from the roof, as well as clearing the gutters to prevent blockages and possible leaks. The situation is exacerbated by the 'hidden gutters' on the two new extensions, one of which has already resulted in a leak; the only way to access these and clear any blockages is to climb onto the roof as they cannot be reached from the ground.

He also explained that he would climb onto the roof on an ad hoc basis to retrieve balls and other items that have been kicked or thrown up by pupils.

To access the roof, Mr. Cook uses an extendable Lyte ladder lent against the side of one of the lower areas of the roof, and from there he climbs up onto the flat roof. There are currently no anchor points for the ladder to be secured to, although I understand that safety equipment has been purchased to resolve this. He also explained that to access the tallest roof of the Upper School building, he must climb onto a lower section of roof, before pulling the ladder up from ground level, so that he can use that same ladder to access the taller roof. Like many schools, the school consists of a multitude of different buildings built over the years, all with flat roofs and all interconnected. By accessing one area, Mr. Cook can access it all.

There is no edge protection or collective protection measures on any of the roofs. The only means of preventing a fall is a man-safe line on each of the two newer extensions, built circa 2015: the Upper School block and a smaller single storey block on the right-hand side of the school. See photos below.



However, the line on the smaller extension (above) does not run around the entire perimeter of the roof, and whilst the line on the Upper School building is around the entire perimeter, it is not one continuous line.

Man-safe lines are part of a work restraint system, designed to be used with suitable harnesses to ensure that a person cannot reach a point of danger or go beyond a designated safe zone. The school purchased a BESTT Safety Harness, to be used with these man-safe lines. However, the harness is a single-lanyard harness rather than the required twin lanyard work restraint harness. To move around a man-safe line, which are typically not one continuous line, persons are required to clip on and off at various points. To do so safely requires one lanyard to remain clipped to the original line whilst the operative clips the second lanyard to the new line, before going back and unclipping the first. By doing so, the operative ensures they are always attached to a safe anchor point.



From my position stood in the school playground, I could not confirm the distance from the edge of the roof to the man-safe line, and therefore whether the length of lanyard on the harness is short enough to prevent Mr. Cook, or any other person wearing it, reaching a point of danger. To reiterate, the harness is a work restraint harness with a fixed lanyard, it is not a fall arrest harness. The wearer should not be able to reach a point of danger. I could also not determine if the man-safe line was in a suitable location to allow Mr. Cook to complete the required tasks.

Mr. Cook confirmed that he has not received any training for the use or maintenance of the harness, and this was not raised during the school inspection in 2023 or since.

My enquiries with the school also confirmed that there is no record of the man-safe lines having been inspected. The School Business Manager has been in this position since 2019 and isn't aware of the lines being tested, nor has anyone raised with the school that these lines should be tested.

All parts of a personal fall-protection system should be subject to an inspection regime that includes pre-use checks and periodic detailed examinations. Periodic detailed examinations should be carried out by a competent person in accordance with the manufacturer's instructions, and a record kept of each examination. The recommended minimum frequencies for such examinations are as follows:

- Equipment made from webbing, rope or textiles should be examined in detail at least once every **six months** because of its susceptibility to wear, damage and degradation.
- Other parts, including anchors/anchor systems, such as the man-safe line, should be examined in detail at least once every **12 months**.

During my enquiries you confirmed that the school is inspected every two years as part of the Service Level Agreement (SLA) between the Council and the school, with the 2021-2023 inspection period focused on working at height, manual handling, managing events, premises, and managing contractors. A West Sussex County Council Health and Safety Officer visited the site in February 2023 as part of this inspection period.

Prior to the 2023 inspection, the school did not have a risk assessment for working on the flat roof and this was highlighted in the visit report. A risk assessment was created following this inspection, but it lacked detail on the risks and control measures; the only control measure to prevent persons from falling from the roof is use of the harness and man-safe line on the tallest roof only. There is no reference to any prevention or mitigation measures for any other areas of the roof. The risk assessment was updated in January 2024 using a WSCC template - Working at height (Displays and high shelves): model risk

assessment - and supporting guidance. However, it still fails to identify any control measures for preventing a fall beyond wearing the harness and using the man-safe line.

At my request, you provided a blank copy of Working at height (Displays and high shelves): model risk assessment and a copy of WSCC 'Corporate Guidance Access to Flat Roof'. This is the guidance available to the school through the WSCC Services for Schools portal and includes 'Generic Risk Assessment Checklist for Access to a Flat Roof for Inspection' on Pages 4-7. This document does include some consideration of the risks of working at height such as fragile roofs, falls whilst accessing the roof and falls from the roof. However, it is focused on the inspection of roofs, rather than work on or from them; *"access to a flat roof by WSCC staff, may be necessary where a problem has been identified (e.g. a roof leak), as part of a condition survey, prior to installing new equipment or before a refurbishment"*. It fails to consider or address the typical maintenance activities a Premises Manager may undertake. It is highly probable that Premises Managers, in schools across the county, are climbing onto roofs for the reasons Mr. Cook identified during my inspection, and yet there is little guidance and no relevant risk assessments available.

As you work through the risk assessment checklist you come to Question 9, which states: *"The final option is to go onto an unprotected flat roof. THIS IS HIGHLY DANGEROUS. Only do this if: The inspection goes no closer than 2 metres to the unguarded edges of the flat roof, and the inspection goes no closer than 2 metres to an unguarded fragile element, and the inspector is not working alone, and a specific risk assessment has been completed"*. Whilst this may be achievable for an inspection, it is unlikely to be practical for leaf clearance, unblocking of gutters and downpipes, and ball retrieval.

The checklist is laid out and phrased in such a way that it becomes a tick box exercise for users. Users work through the questions one at a time, answering either Yes or No, before being directed to the next question. However, Question 9 ultimately gives them free rein to climb and work on unprotected roofs, disregarding all the preceding questions, as well as the law.

All the risk assessments I have seen, both from the school and from WSCC, fail to identify control measures that would avoid work at height in the first instance, such as preventing blockages by using gutter guards, or by using netting to prevent balls being kicked or thrown onto the roof, or in the case of inspection, conducting inspections using drones. They also fail to systematically go through the Work at Height Regulations 2005 hierarchy of control:

1. **Avoid** work at height where you can
2. Where it cannot be avoided, use work equipment or other measures to **prevent** a fall
3. Where risk of a fall cannot be eliminated, use work equipment or other measures to **mitigate** the distance or consequence of a fall should one occur.

When planning work at height, measures that protect everyone at risk (collective protection measures) should be prioritised over measures that only protect the individual. Passive measures (measures that do not require the individual to do anything to activate the system) should be considered before active systems such as harnesses.

As an employer, WSCC has duties under The Work at Height Regulations 2005 to take suitable and sufficient measures to prevent, so far as is reasonably practicable, any person falling a distance liable to cause personal injury. Furthermore, it is required to ensure all work at height is properly planned, appropriately supervised, and carried out in a manner that is, so far as is reasonably practicable, safe.

It also has a duty to ensure that no person engages in any activity, including the organisation, planning and supervision of work at height unless they are competent to do so or, if being trained, is being supervised by a competent person. On a practical note, the Premises Manager has attended a work at height training course, but this revolved around the use of ladders, and did not cover working on roofs. Regarding planning, the Premises Manager and School Business Manager have had no training for risk assessments. The Head Teacher, who is ultimately responsible for Health and Safety within the School, has attended a course for risk assessments, but I would challenge that she is not close enough to the task to competently plan work on the roof.

WSSCC and the School need to review all the reasons why someone may climb onto the roof at Windmills Junior School and assess the risk accordingly. Control measures must then be identified, taking into account the hierarchy of control, and those measures then implemented.

Whilst this Notice relates to the planning of work at height at Windmills Junior School, I would strongly recommend that West Sussex County Council take this opportunity to review how it is managing work at height across all schools under its control, and the guidance it is making available to its users.

Important information about Improvement Notices

You should read the Notice Serial Number IN/INV4GP19/220324/SHS01 and the accompanying notes on the rear of the Notice carefully. The action you take to comply will be measured against the content of the Notice and Schedule. Failure to comply with the requirements of a Notice is a criminal offence which could result in imprisonment or a fine.

You should comply with the Improvement Notice by the compliance date. In limited circumstances, this date can be extended if there are good reasons why you cannot comply. If you wish to request an extension you should write to me before the Notice expires, setting out your reasons.

FEE FOR INTERVENTION

Health and Safety and Nuclear (Fees) Regulations 2022, Regulations 23 and 24

HSE will recover the costs that it incurs for the work it does in relation to contraventions of health and safety law which are material breaches. A material breach is something an Inspector considers is serious enough that they need to inform you of it in writing.

The fee is based on the amount of time that the Inspector has had to spend identifying the breach, helping you to put it right, investigating and taking enforcement action. This includes the cost for the whole visit, along with other associated work. The current cost recovery rate can be found on this page of our FFI website pages: <https://www.hse.gov.uk/fee-for-intervention/what-is-ffi.htm>.

Sometimes an Inspector may decide to write to you about matters which are not material breaches. This includes any matters listed as 'Advice'. HSE will not recover costs for the time it takes to do this.

We send out invoices every two months and you will have 30 days to pay. You may receive more than one invoice if the work done by the Inspector covers more than one invoicing period.

If you disagree with anything on your invoice, HSE operates a query and dispute process. You can query your invoice (within 21 days from the date of the invoice), and if you are not satisfied with the response, you can dispute it. You can find further information about fee for intervention and details of the query and dispute process at <https://www.hse.gov.uk/fee-for-intervention/i-dont-agree-with-my-invoice.htm>.

Further information is also available in the leaflet HSC14 – *When a health and safety inspector calls – What to expect when we visit your business*, at <http://www.hse.gov.uk/pubns/hsc14.pdf>.

More detailed information is given in HSE 47 - *Guidance on the application of Fee for Intervention* at <http://www.hse.gov.uk/pubns/hse47.pdf>.