

JOHN H. RUNDLE LTD.

GENERAL ENGINEERS AND SPECIALIST ENGINEERS TO THE LEISURE INDUSTRY
DEALERS IN ALL KINDS OF MACHINE TOOLS AND ELECTRIC MOTORS

Director

Tel: 01205 480431

Web: www.rundles.co.uk

E-mail: enquiries@rundles.co.uk

New Bolingbroke, BOSTON, Lincs. PE22 7LN

Established 1913

Fax: 01205 480132

V.A.T. Reg. No. 128 8013 75

Company Reg. No. 841783 (England)

4 JUN 2020

Jacqueline Lake
Senior Coroner for Norfolk
Norfolk Coroner Service
Carrow House
30 King Street
Norwich
NR1 2TN

1 June 2020

Madam,

Response to Regulation 28: REPORT TO PREVENT FUTURE DEATHS

This letter is sent in response to your report received on 6th May and I am attaching for the record a copy of our solicitors letter to you on 23rd April as it seems to me that all matters you have raised have already been entirely and candidly addressed.

Please ensure that **both** that letter and this response is sent to the Chief Coroner and to the Interested Persons as they need to be read in conjunction with each other.

There are facts omitted from your summary which I feel are relevant to your concern. Most notably, the visit by Rundles to Great Yarmouth and Gorleston was not typical. 99 times out of 100, when we visit a park or fairground to inspect equipment, the owner of the equipment or his engineer would be with us throughout. It was very unusual to arrive and be told simply to get on with things by ourselves. Because we would normally be accompanied, we would talk as we went round and we would discuss our observations, so if a tie down was not attached it is likely that would be mentioned at the time though we have no power to do anything about it.

In this instance, Mr. Johnson had requested an inspection of his equipment. [REDACTED] met Mr Johnson at Great Yarmouth but was told to just go ahead. Rundles had previously inspected an inflatable slide and swings for [REDACTED] and had

information about but them but had no information about any other equipment which, on arrival, [REDACTED] was also asked to inspect. A return visit was therefore necessary for that other equipment to inspect it. [REDACTED] inspected the swings and had a look at a Minions inflatable ride at Great Yarmouth and did mention to [REDACTED] before leaving for Gorleston that some tie downs were missing.

All communication about the inspection had been with [REDACTED] [REDACTED] was not known to Rundles, not introduced to [REDACTED] and if she was at Great Yarmouth or Gorleston she did not introduce herself as the owner operator of any of the equipment. No one accompanied [REDACTED] when he looked at the equipment at Gorleston.

Matters of Concern:

1. Evidence was heard on behalf of Rundles that inspection of inflatables involves a site visit and a visual inspection of the piece of equipment looking for tears and rips, no entrapment issues and checking the tie downs are all properly used. For new pieces of equipment sight of relevant documentation is also required.

There are factual inaccuracies with this summary.

It is not the case that as an inspection body ("IB") Rundles would be checking that all tie downs are properly used on an inflatable. That is not their role. Nor is it part of any inspection to check the adequacy of what a tie down is fixed to, be it a peg or a post, or whether the ground is suitable which is just as important for the securing of an inflatable. This is all for the controller and operator to determine.

It is the operator who has the manufacturer instructions on set up and operation and the obligation with the operator to check, that it is set up and operated correctly. An inspection of an inflatable requires a deflation test. That can have an adverse impact on tie downs which is why they must be inspected by the controller before they are reused. The trampoline was not deflated on the visit. [REDACTED] cannot now recall whether the other inflatables were deflated for his visit - they may have been, but a return visit was necessary to inspect them because of the absence of documentation.

If an inflatable is in use then I would expect tie downs to be used, but that is entirely a matter for the controller and operator of the inflatable who I would expect to follow manufacturer instruction on this point.

Our solicitor has already referred you to HSE Guidance 175 which, to avoid confusion about roles, clearly sets out who has responsibility for what. See also Bouncy Castles and Other Play Inflatables: Safety Advice published by the HSE.

Part of the reason why use of the tie downs is not something an IB checks is because their use is not static. Something set up correctly one day may not be the next. If the inflatable is deflated and reflat, (as it is for an inspection) then that can impact tie downs, and controllers and operators have a clear duty to check this before the ride is reopened, and recheck it on set up each day. The IB has no enforcement role and no authority to tell a controller and operator how to run his equipment. It would be particularly dangerous for an IB to interfere without the benefit of manufacturer instructions. Operation and use are not the purpose of an ADIPS inspection.

*The purpose of an inspection is to ensure that **if set up and operated in accordance with manufacturer recommendations, the inflatable would be safe to use.** Accordingly, the **condition of the tie downs** is checked on an inspected device (for example for evidence of tears or loose stitching that might impact their integrity) but **no check is required or made of what the tie downs are attached to, whether the fixing is secure, or whether they are or need to be in use.***

Documentation is needed for all equipment inspected, not just for new equipment. Because Rundles had previously inspected the swings and the inflatable slide, they had what was needed, but Mr Johnson never provided any documentation for any of the other equipment which is why they could not be inspected

2. Rundles were requested to carry out an inspection of inflatable equipment belonging to Mr and Mrs [REDACTED]. The inspection took place on 26 June 2018. A typed Report of findings dated 2nd July 2018 was sent to [REDACTED] by email on the 3 July 2018, in which it refers to the site visits carried out "with the following issued noted..." The report goes on to list findings in respect of the Minion inflatable (Great Yarmouth) and the Large Slide, Minion inflatable and Trampoline at the Gorleston site and contains photographs of all the respective pieces of inflated equipment.

This has already been explained to you by our Solicitor.

Rundles was asked by [REDACTED] to attend on 26th June 2018. Having previously inspected a swing boats ride and an inflatable slide for him Rundles understood that those items were to be inspected again and had information in relation to them. [REDACTED] asked for his other equipment to be inspected on the day of the visit but could not be carried out because no information about them was made available.

The "Report" you reference has also already been explained to you. See from page 8 of our solicitor's letter to you on 23rd April.

The "Report" was created post accident, in response to a request from [REDACTED] who was looking into the accident and was based on notes and photos taken on the day. It is not and was never intended as an "inspection report" and it was not requested or provided in that context. Since the use or non use of tie downs can change with every deflation and reinflation of equipment, how it was when seen by [REDACTED] is no indication of how it was following reinflation, or on reinflation the next day.

The inspection (of the slide and swings) would ordinarily have led to the issue of an Inspection Certificate, or list of matters to be put right before a certificate could be issued. That would include any issues with the condition of tie downs but not their use. [REDACTED] decided not to pay for the inspections carried out so neither was issued for either of the two devices on which inspections were completed.

3. Having inspected the Minion inflatable at the Great Yarmouth site, the Report lists the issues found, including that "not all the available tie downs were in use".

The Minion inflatable has never been inspected by Rundles. Simply repeating your misunderstanding that it was, does not make it so. This was explained to you fully in our solicitor's letter to you, attached.

[REDACTED] was asked **on his visit on 26th June** to inspect the Minion inflatable. As this was only raised by [REDACTED] on the day of the visit, and no documentation or manuals in relation to it was available he was going to need to return to do that. [REDACTED] did have a look at the additional equipment, but these devices were not inspected, nor represented as being inspected. It is clear from the photographs that not all available tie downs were in use at that point.

Our Solicitor deals with this at page 10 of her letter to you. It would be potentially dangerous for us to give you an assurance that we will advise controllers and operators beyond what is clearly understood by everyone in the industry to be our role because it is down to the controller/operator to ensure safe operation. Normally though, we would be accompanied on an inspection and we would, naturally, though there is no legal duty to do so, mention anything which we felt was untoward at the time.

I would add again, **Rundles did not inspect the equipment to which you refer**. There was no contract for us to do so and we could not do so as we did not have and have never had the information needed to enable us to proceed.

4. Having inspected three pieces of inflatable equipment at Gorleston, the Report of findings lists the issues found in respect of the inflatable large slide, including that "Not all the available tie downs were being used correctly."

Again, Rundles did not inspect three pieces of inflatable equipment at Gorleston. The only inflatable inspected by Rundles at Gorleston was the inflatable slide and [REDACTED] was not present to discuss that device. If his wife was at the site she did not make herself known to [REDACTED] as controller of the equipment on his visit. The slide was deflated for inspection and tie downs are always rechecked by a controller when they reinflate the device as deflation and reinflation can impact the tie downs.

The context of the "Report" has already been explained. Rundles has never had access to the operating materials for the devices other than the swing boats and the inflatable slide.

5. In respect of the Minion inflatable, it is stated that, "Not all the available tie downs were in use."

Correct.

6. In respect of the inflatable trampoline, evidence was heard on behalf of Rundles that the trampoline appeared in good condition. It was noted this was a sealed unit with no pressure relieve valve rather than the usual air flow inflatable which Rundles was not familiar with so required as much evidence as possible relating to pressure as well as the usual pre-inspection documents and the instruction/User manual. Also noted was that "Not all available tie downs were in use."

The trampoline was not inspected but [REDACTED] saw it on site and his impression as you say, was that it was in good condition. Information about it was not available which might have allowed an inspection to proceed. He did look at it and take photographs and these did show not all tie downs were in use. As already explained, how it was operated and secured is a matter for the controller and operator. [REDACTED] was not given access to manufacturer's information which [REDACTED] was told would be needed in order to inspect. Information about previous inspections can be accessed by Rundles on the ADIPS site but there was no evidence of a previous inspection on the site.

7. Evidence was heard from Rundles that not using all the tie downs on an inflatable device is considered as being of imminent danger to persons, that the device should not be used without the tie downs all being used and the advice should be to stop using the device until those defects have been rectified. Evidence was heard that this issue was of even more concern following the "Harlow" incident in March 2016.

Failing to use all tie downs required by the manufacturer (which would normally be all of them) is dangerous if the inflatable is in use outside, where there would be a risk of its security being compromised by wind. This is something very well known to controllers and operators.

At no point has Rundles had access to manufacturer information regarding use of the trampoline We have never inspected the trampoline. Rundles does not profess to be an expert in the set up and operation of the equipment it inspects. Inspections are to establish that equipment is safe IF PROPERLY USED per manufacturer instruction.

Although not part of the IB's role, if [REDACTED] had been accompanied on his visit as is the usual practice, anything untoward would have been communicated at the time. That was not an option on the day as he was not accompanied.

In relation to the Harlow matter it was re-emphasised by the HSE that securing and checking tie downs are the responsibility of the controller and operator, not of the IB.

8. Of concern is that this information, regarded by Rundles as an "issue" and causing such concern as would require the device not to be used had it been able to be registered, was not conveyed to Mr or Mrs Johnson at the time of the inspection of the equipment at Gorleston nor in the subsequent Report dated 2 July 2018. Evidence was heard on behalf of Rundles that the reason why this information was not imparted was "not known".

It is not the role of the IB to advise on operation and use of equipment which they inspect. The role of the IB is clearly defined in the HSE's guidance

It is even less the role of the IB to advise on the operation and use of equipment they are not inspecting which seems to be your suggestion.

Normally IB's are accompanied on inspections by the controller or their engineer. Though there is no duty to do so, naturally, anything untoward noticed would be discussed with them but this is not possible if they are not there.

[REDACTED] was not introduced to [REDACTED] and was unaware if in fact she was at Gorleston on the day of his visit. He did see [REDACTED] at Great Yarmouth prior to his visit to Gorleston and he did inform him on the day that not all tie downs were in use on the inflatable at Great Yarmouth which he saw while there.

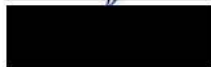
If you have a concern that IBs should have a duty to raise concerns about equipment that they don't inspect, for which they have no information and which relates to its use and operation rather than its condition, and even when the controller is not on site, then this should be taken up by you, as our Solicitor suggested, with the HSE and The Amusement Devices Safety Council. It is not something on which I think I can usefully assist further

9. Further evidence was heard that the iPad used to record such inspections was not in use at the time of these inspections as the battery was "flat". Since Ava-May's death, evidence was heard that some steps have been taken to ensure iPad are fully charged before inspections take place.

I remain utterly bemused by this. Are you suggesting that there is some risk of death because an iPad which was a method on trial of recording inspections, lacked charge? Inspections were then and remain recorded on paper. This matter is dealt with in full by our solicitor in her previous letter to you at page 9 and I have nothing further that I can usefully add.

I have tried to deal with your questions though I feel that they were answered in full by our Solicitor's previous letter to you. Kindly direct any further correspondence to her.

Yours faithfully

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Managing Director



Our ref:2206757

23 April 2020

Dear Ms Lake

Inquest concerning the death of Ava-May Littleboy

I represent John H Rundle Limited ("Rundles") and this letter is sent in response to your communication dated 26 March 2020 addressed to the company's MD who is [REDACTED]

Preamble

The reason Finch Consulting has been asked to respond on behalf of Rundles is not just because I am a solicitor experienced in Health & Safety Law, but also because one of my colleagues at Finch Consulting, [REDACTED] was formerly one of HM's Inspectors for the HSE. Between 2009 and 2017 [REDACTED] was HSE's operational policy lead for fairgrounds and theme park safety, where he specialised in fairground accidents, led the HSE's investigation into the death of Summer Grant in 2016 on an inflatable which blew away at a fair in Harlow, and was largely responsible for writing the third edition of the HSE's Guidance on Safe Practice in Fairgrounds and Amusement Parks (HSG 175). Rundles' Managing Director [REDACTED] was also on the committee formulating that Guidance (and its previous versions).

[REDACTED] is in a unique position to help explain the HSE's approach to the Guidance and explain the roles of and expectations from those involved in fairground equipment from supply to operation and to maintenance.

[REDACTED] has had some input to this letter, to help in explaining why the concern raised by your letter is, with respect, both misdirected and misconceived.

Your letter

First of all, I would like to understand please, the proper status of your letter.

The letter reads in some respects as a PFD Report. Like a PFD report your letter has been copied to a number of others (presumably the Interested Persons). It does not however follow the Chief Coroner's recommended template for a PFD report and towards the end of the letter you suggest that it does not

have PFD status because you reserve the right to make a report under Regulation 28 of the 2013 Regulations ***if you are not satisfied that your concerns have been addressed.***

The consequence of your letter appears to be that you seek to carry out your regulation 28 duty through it by raising a concern that you seek to have addressed, but because the letter is not a PFD report you deny our client their right to fuller information¹ about why you have a concern based on evidence to which they are not privy and which they have been given no opportunity to consider or challenge.

As I have no idea what information and evidence led to the concern raised, and you assert that Rundles should address it through action on their part (or else...), the company has been put by you in the invidious position of needing to respond to a concern based on evidence it has been unable to consider or challenge.

Notwithstanding my ambivalence regarding the nature of your letter, Rundles is, and has always been, happy to assist in any way that it can with the investigation into the circumstances of Ava-May's tragic accident. This letter therefore explains in some detail why the concern you have raised appears to be misconceived and inappropriately directed. Should there be any queries remaining at the end of this letter, please do come back to me and we will endeavour to assist.

My apologies if any of the following detail has already been presented to you. The fact you suggest you have an ongoing concern which you feel Rundles may be able to address however, suggests to me that it may not have been made available to you previously.

HSG 175

The HSE Guidance (HSG 175) entitled "Fairgrounds and Amusement Parks: Guidance on safe Practice" applies to inflatable devices and other fairground equipment and devices. The guidance is available on line at no cost, at: [hse.gov.uk/pubns/priced/hsg175.pdf](https://www.hse.gov.uk/pubns/priced/hsg175.pdf).

Whilst HSE Guidance is not mandated (meaning that safe practice can be demonstrated by other means), the foreword to the Guidance makes clear that in the fairground and leisure park industry it sets out:

"appropriate measures for those in the industry to reduce risks, work safely and comply with the law"

¹ You have not set out the full factual basis for your concerns (as required for a PFD report per **R -v- Shrewsbury Coroner's Court ex p British Parachute Association** [1988] 152 JP 123.) You have also chosen not to fully set out the evidence or information on which your concern is based.

As it comes from the principal specialist H&S regulator for enforcement of the law, it carries considerable weight.

On page 5/6 of the Guidance the roles of the various duty holders are described:

Controllers ...own or otherwise have control of an attraction and have a duty to **operate and maintain it in a safe condition** (emphasis added).

Operators are in immediate charge of an attraction and have a **duty to operate it safely** (emphasis added)

Inspection Bodies ... provide inspection and testing services.

Rundles' role in relation to the fairs at Great Yarmouth and Gorleston was as an Inspection Body ("IB") for a large inflatable slide at Gorleston ("the slide"), and swing boats at Great Yarmouth ("the swing boats").

In Section A of the HSE's Guidance (entitled "The System for Safety of Attractions") a table identifies **what checks** are recommended for amusement devices and fairground equipment and **by whom** those checks are to be carried out. This is important because if you interfere with that Guidance by requiring one IB (Rundles) to take on duties beyond what is suggested by the HSE's Guidance, this actually has the serious potential of creating additional health and safety risks by suggesting that duty holders can depend on others to perform roles reserved to them. That I am sure, would not be your intention.

The Guidance makes clear that attractions require that among other things:

- Operation is carried out "**by competent persons, suitably trained...**" (This is not the IBs).
- Ongoing device integrity is maintained by a series of checks, maintenance, and inspection. These include **daily checks** before the device is opened for use, and **periodic checks**, both **by competent persons (normally the operator)**, and **in service annual inspections** by competent and independent **IBs**.

To comply with the Guidance, inspections for **Inflatable devices** must include²:

- **Initial test** (to check the device conforms to the standards in BS EN 14960 "Inflatable Play Equipment. Safety Requirements and Test Methods") – this is to check that the device can be operated safely in accordance with the design specification and instructions in the operations manual and should be carried out by or on behalf of the manufacturer, supplier importer and

² See pages 8-9 of HSG 175

witnessed by an inspection body. The test is only carried out when the device is used for the first time or after safety critical modifications.

- In service **Annual inspection** (carried out by an IB to decide whether an amusement device may continue to be operated for a specified period of time).

These requirements cross refer to Section D of the Guidance which is entitled "Inspecting an Amusement Device". In relation to in service annual inspections (with emphasis added):

"144 In-service annual inspection...is for independent and competent IBs to check on **the fitness of an amusement device for further use during its operational life**. It is also a check on the **safety-critical components of an amusement device to make sure that they have not deteriorated** to an extent liable to cause danger.

145 In-service annual inspection will verify whether a device is fit to be used for a specified period. **It does not remove the duty on the controller of a device to ensure that the device is adequately maintained, nor does it duplicate the pre-use inspection procedure.**"

The HSE makes clear that anchorage is a controller/operator (and not an IB) duty at para 227 of the Guidance within Section F which provides "Guidance for Controllers" says, "Take account of any manufacturers' instructions relating to operating conditions such as wind speed **and make sure that adequate anchoring points have been used.**"

Further advice from the HSE specifically on inflatables³ adds, under the heading "Before anyone Uses it" at bullet point two, "Have a good look at the inflatable when it is blown up and before use. You should check...if the anchor points have been pulled out during inflation." The advice also confirms the obligation on owners of the equipment to have an initial test on new equipment and annual inspections (as are set out in more detail in the ADIP scheme to which it cross refers).

The reason Rundles visited Great Yarmouth and Gorleston on 26th June 2018 was because [REDACTED] had asked them as an ADIPS⁴ approved inspection body to carry out the in-service annual inspection of the swing boats and slide. They had inspected those devices previously and had been given the information necessary to complete those inspections.

When Rundles arrived at Great Yarmouth, [REDACTED] asked that Rundles also inspect a number of other devices, specifically other inflatable rides that he was operating. This was not possible as Rundles

³ Bouncy Castles and Other Play Inflatables: Safety Advice [hse.gov.uk/entertainment/fairgrounds/inflatables.htm](https://www.hse.gov.uk/entertainment/fairgrounds/inflatables.htm)

⁴ Amusement Device Inspection Procedures Scheme

had not been given the information they needed to do this including previous inspection information, manufacturer instructions, operations manual and maintenance information. As a result, in relation to those rides, they were able to have a look to see what would be involved in an inspection and took some photographs, but they did not inspect them and it would have been necessary to return to do this on another day.

For completeness I should perhaps draw attention to the fact that HSG 175 does say:

“any person to whom this guidance is directed who finds a generic or serious fault on a device, which could have wider safety implications for that or other similar devices” should “inform their trade association and the National Association for Leisure Industry Certification...”.

This obligation applies (among others) to Rundles when carrying out an ADIPS inspection. Faults and defects, however, **do not** include **failures in set up and operating** procedures and although the Guidance could have required any noted issues in those areas to be drawn to the attention of the operator, it does not.

This was a point examined very closely following both the Summer Grant accident in Harlow on 26th March 2016 and an earlier accident on 7th May 2013 involving a zipline in North Wales which led to the death of Bailey Sumner. In both cases the HSE made clear that the inspection bodies are there to comment on the safety of the equipment **if used correctly** and not to comment on how it has been and may be used going forwards.

ADIP scheme inspections

I am unsure what familiarity you have with the Amusement Device Inspection Procedures Scheme (“ADIPS”).

ADIPS Limited administers the ADIPS and is owned by The Amusement Devices Safety Council which consists of all the major trade organisations involved in the UK fairground industry **and** the HSE which attends and advises. The HSE publicly supports the ADIP scheme.

The purpose of the ADIP scheme is:

“to ensure that each and every fairground and amusement park ride or device is certified as safe for use”.

The certification provided by the ADIPS is **not** and **cannot be** for the purpose of ensuring each ride is set up or used correctly. ADIPS certification, like an MOT for a motor vehicle, will only confirm that **if** equipment is set up and operated in accordance with manufacturer instructions and operating procedures, then the ride will be safe for use for a specified period.

Under the ADIP scheme, annual inspections (suggested by HSG 175) should be carried out by **independent registered IBs** whose ability to perform competent and independent inspection is assessed and monitored by ADIPS Ltd on an ongoing basis. Rundles is an established, reputable, registered ADIPS approved IB.

Once an ADIP scheme IB has completed inspection of any amusement device and been paid for their services, the IB is required to record inspection details on the central ADIPS database of amusement devices and ADIPS Limited then will provide the owner/operator of the device a Declaration of Compliance (“DOC”) which confirms the device has been registered on the ADIPS database and is certified safe to operate for the time specified in the period covered by the DOC.

The owner/operators of fairground/amusement park rides or devices have the obligation to ensure that annual inspections on their equipment are arranged, and that at all times they hold a current DOC issued by an approved IB for each ride/device that they operate.

There are a number of IBs, and it is not unusual for different IBs to carry out inspections on the same device over the years. Which IB is used will often turn on availability and location as many of the rides will move around the country. There is no obligation on an IB to accept an instruction, to provide their services ex gratis, or to remind operators that a DOC they have previously issued needs renewal. The owner/operators need to provide the inspecting IB with information about each ride before its inspection, particularly:

- manufacturer’s information (for any equipment with which the IB was unfamiliar) to ensure testing can be carried out within the parameters in which the ride or device is to operate and it is clear what safety features exist which must be checked as part of an inspection.
- operating and maintenance information
- the last DOC (for devices which are not new). If Rundles had carried out the previous inspection they would have this information already. That applied to the swing boats and the slide.

Insurers of the equipment will normally require proof of current DOCs as a condition of policy coverage and renewal. Those who make pitches available for the rides (I presume Great Yarmouth Borough Council in this case) will also typically check that all equipment to be used holds a current DOC and, for new equipment like the inflatable trampoline, had had its initial test as recommended by HSG 175, overseen by an IB.

Visit on 26th June 2018

When Rundles visited the sites at Great Yarmouth and Gorleston on 26th June it was at the request of [REDACTED] for and with the intention of carrying out annual inspections required by HSG 175, under the ADIP scheme, on the swing boats and the slide both of which were owned by [REDACTED]

On arrival at Great Yarmouth, [REDACTED] asked that other equipment he owned was also inspected. [REDACTED] explained that was not possible because he did not have the necessary information about that other equipment. [REDACTED] did have a look at the other equipment while there, to assess what the equipment was, and to take photos, so that he could return to perform the inspections on a later date when the necessary information had been sent through.

The need for information pre inspection would have come as no surprise to [REDACTED] He had provided it for the two inspections previously arranged (on the swing boats and slide) and in fact a similar absence of information had previously led to our clients refusing to inspect one of [REDACTED] roundabouts and a rodeo ride.

When the slide was inspected it was not in use. It was deflated and re-inflated as part of its testing. In those circumstances, before reuse (after the inspection) an operator should check (as they are responsible for its safety) that nothing has become loose in the inspection process or has been moved or placed during the inspection such that the unit would not be safe for use. This is the same as their daily inspection before the ride is opened. On re-inflation a tie can come undone or get caught. It was not part of Rundles' role post-inspection to oversee the setting up of the ride and to check that it was subsequently operating safely – only to check that if set up and operated in accordance with manufacturer recommendations, that it would be safe to use.

Although inspected, no DOC was ever issued in relation to the slide, or the swing boats. [REDACTED] failed to pay for the inspections and in accordance with Rundles' terms of business (and in line with the industry norm), the DOC or report of issues preventing a DOC, was therefore never issued.

It may be helpful to add that it is not possible to inspect when a ride is in use as inspection includes, for example, examination of the condition of the tie downs which usually cannot be properly completed without releasing them. With inflatables, part of the inspection would involve a test on the functioning of the air blowers which involves deflation and reinflation.

When Rundles arrived on site, [REDACTED] hoped that inspections and testing would proceed on all equipment. Since inspections cannot be done when the equipment is in use, **none of the equipment was in use by the public** when Rundles was having a look at it on 26th June.

Rundles is not in a position and does not seek to suggest that tie downs had been undone in preparation for their visit, but many inspections take place when no ties are in use at all because the equipment is not in use at the time and indeed may even be indoors for inspection. My point is that whether or not tie downs are in use is simply not part of what is inspected by an IB. They check the number of tie downs and their physical integrity only.

To suggest that the IB should have an obligation to comment on operational use would be like taking your car for an MOT and expecting the mechanics to include a critique of your driving in their observations. It simply is not the purpose of an ADIPS inspection. And in this case, as explained, such an inspection did not in any event proceed on the inflatables (other than the slide) because of the lack of documentation.

The check of whether equipment has been safely installed and is being safely operated is part of set up and daily checks required by HSG 175 to be made **by the operator** as referenced above.

Rundles "Report" dated 2nd July

What seems to have been relied upon by you as some sort of inspection report from Rundles is not and was never intended to be such. Although it is titled "Report of Findings for [REDACTED]" to elevate it to the status of a formal report perversely misinterprets the facts.

The purpose of Rundles' visit as I have explained, was to inspect, test and if appropriate to issue a DOC on the swing boats and slide in accordance with the HSG 175 and ADIPS requirements. If testing revealed defects such that the unit was not safe for use, then Rundles would have identified those issues and required a further inspection to verify they had been dealt with before issuing a DOC. Rundles was asked on the day to inspect other equipment but refused as necessary information to complete those inspections had not been made available. They did however have a look at the other equipment so that they knew what to expect on return.

Following Ava-May's tragic accident a few days later, ██████████ contacted Rundles and asked for any information that they had about their visit on 26th June which might help. The information sent to assist **in response to that request** is the report. This is no more than an informal summary of notes made regarding the swing boats and slide inspected, and observations about the rides that could not be inspected on the day. It summarised the issues in relation to the inspected slide and swing boats which needed rectification, and it provided a copy of photographs taken on the day.

Although there was no duty or obligation to mention that not all tie downs were seen as being in use, this was included to assist in giving a picture of what was observed as it may have been relevant to an accident investigation.

The observation in his notes to ██████████ about some tie downs not apparently being used at Great Yarmouth was imparted to ██████████ on the day of his visit by ██████████. This was before his visit to Gorleston. I understand that this was ██████████ evidence to the Inquest. It would not be an observation included in a DOC.

The use of the word "Report" in Rundles' summary of its visit might be regarded as unfortunate with the benefit of hindsight, but no one has been misled by it. It is clearly not a formal report or intended to be relied on as an IB inspection report. It was as I have said, a summary of notes in response to a request for any information they had, following a fatal accident.

iPad

You suggest that the fact that an iPad brought by Rundles to the sites was not charged is a matter for concern and that if the situation were to arise again future deaths may occur.

The use of tablets on inspections was at the time and remains under trial by ADIPS. Rundles has been appointed as one of the registered IBs to trial their use. The reason for the trial arises from an HSE concern that some IBs might be tempted in some circumstances to sign off certificates for equipment which they had not gone out to see and test or that IBs might come under pressure to backdate DOCs. The iPads have tracking devices in them which enable checks to be made (should questions arise) to confirm whether the iPad was in the area of the inspected device on the date shown on the certificate and can confirm how long that inspection took. They also facilitate immediate online registration DOC's that are issued.

The iPad undoubtedly did lose its charge on the day, after the visit to Great Yarmouth. However, that was not the reason that the inspections (other than for the slide and swing boats) did not proceed. That was

due to the fact Rundles had not been asked to do other inspections before they arrived on site, and the relevant documentation needed to proceed was not made available on the day.

The lack of the iPad did not compromise the planned inspections on the swing boats or slide which were completed in paper format which was and still is the principal way in which the IB ADIPS inspections are recorded. The iPad does not have the functionality to carry out any tests or determine pass/fail criteria.

The use of tablets for ADIPS inspections is still under trial. Pen and paper alternatives for recording results of inspections remain a commonly used alternative under the ADIP scheme and were used on the day.

Your suggestion that lack of an iPad might lead to further deaths seems to misunderstand the position to a degree that I do not feel I can usefully comment further.

Additional Points

HSG 175 is clear about who has responsibility for what in relation to inflatables and other fairground equipment for good reason. Clarity of role is a **very important aspect of health and safety management** and avoids reliance by operators on others to ensure that they set up and operate their own equipment safely.

It is not reasonable and is potentially dangerous, to ask that Rundles commit to meeting additional obligations that are not required of all the other IBs in the UK, by HSE and industry guidance. [REDACTED] with any operators he appointed, had responsibility for ensuring that the tie downs on his inflatable devices were used. If you seek to divert that responsibility to IBs by seeking from Rundles an assurance that they will draw attention to operator issues, you may actually increase the risk of injury and death by inherently encouraging an owner or operator to rely on someone visiting or inspecting to pick up on their incompetence in operating their equipment. That cannot optimise safety.

Our client, and any IB in their position, has no legal obligation, nor it is suggested by HSG 175 or the ADIP scheme, that they should draw attention to any issues they may observe regarding **use** of equipment on an inspection, never mind on a pre inspection visit. This is NOT within their area of responsibility and goes beyond their remit.

[REDACTED] agrees with this and has advised he would expect an IB to note the number of and condition of tie downs on an inspection but due to varying circumstances, **not necessarily to see them staked down** as that is entirely an operational issue and failures in operation are not defects.

If you have an issue with the law and guidance then it would be more appropriate to take that up with the HSE and with The Amusement Devices Safety Council.

Please let me know if you have any further questions or need clarification on any of the points covered.

Please also confirm that this letter deals to your satisfaction with the concern you have raised as far as Rundles is concerned.

Yours sincerely



██████████ LLB (Hons)

Head of Legal
Finch Consulting Limited

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