

EAST AYRSHIRE COUNCIL

COMMUNITY SERVICES COMMITTEE – 28TH MAY 2003

SKATEBOARDING FACILITIES

Report by Director of Community Services

1. PURPOSE OF REPORT

- 1.1 To advise the Committee of the difficulties being faced in providing skateboard facilities and recommend alternative use of the available funding.

2. BACKGROUND

- 2.1 At the Community Services Committee meeting on 13th November 2002 it was reported that Zurich, the Council's insurers, were reviewing their position regarding insurance cover for skateboard facilities. This has now been done and this report clarifies the current position.
- 2.2 Recent claims history has caused concerns in the insurance market, and it is now apparent that to provide a skateboard facility as a freestanding amenity, similar to a playpark, would leave the Council exposed to a risk of claims if injuries resulted from use of the facilities. The risk of injury is high due to the nature of the activity.

3. CONSIDERATIONS

- 3.1 In order to maximise the success of any possible defence against any claims resulting from injuries occurring at a skateboard facility provided by the Council, it would be necessary to fully implement risk control recommendations made by insurers, failure to do so would leave the Council exposed to meeting the costs of successful claims. There is also a risk that, in the event of injury, the Council could be exposed to investigation by the Health and Safety Executive; this could in turn give rise to fines and/or penalties and/or criminal charges, these costs are not protected by insurance.
- 3.2 The Council is currently insured up to a limit of £50m for any one claim for alleged third party death or bodily injury claim arising from negligent act committed by the Council. The insurance policy requires the Council to take reasonable precautions to avoid injury loss or harm. Failure to do so would entitle the insurer to set aside the policy in the event of a loss, this

would be unusual, it would be more likely that the insurer would deal with the claim but serve notice of its intention to cancel or not renew the policy.

- 3.3 The risk control measures recommended by Zurich during discussions are:-
- The facility design should be approved by ROSPA.
 - Records of regular maintenance/inspections must be kept.
 - Officers should be appropriately trained to carry out inspections.
 - An appropriate level of supervision should be considered. Experience suggests that our duty of care would extend to ensuring that only users with the correct equipment. (i.e. safety helmet etc) are allowed access/use of the facility.
 - Security of the facility needs to be considered if it is not intended to be used when there is no supervision available.
 - Enforcement of requirements to wear protective equipment is essential, signage is necessary.
 - Disclaimer notices should be posted, despite their limited value.
 - The facility should be properly lit.
 - The facility should have a 2.3m high perimeter fence.
- 3.4 It is the requirement to provide supervision and regular inspection that presents the most difficulty. The additional Scottish Executive funds are a 'one-off' and there is no on-going funding to support the supervision of the facility. Dependant on the required opening hours, supervision could involve the employment of 2/3 full time staff in addition to the cost of utilities, repair and maintenance etc. There would be no income from the facility unless the Council introduced an entrance fee; this would be unusual for this type of facility and would not cover the revenue costs involved. Annual revenue costs could amount to £50/60k and could not be funded from existing budgets.
- 3.5 Insurance companies risk control measures would be similar for voluntary groups and it is therefore unlikely that they would be able to take responsibility for skateboard facilities even if the Council used the Scottish Executive funds as grant aid.
- 3.6 Community Services have purchased some basic indoor skateboard equipment that allows supervised, lower risk skateboarding to take place in sports halls. Initial response to this new activity has been good, and by using this type of provision insurers requirements are being met, while some level of skateboard provision is being made, this may not satisfy all potential skateboarders, but does meet some of the current demand.
- 3.7 During the course of research into this issue it has become clear that where other Councils have provided skateboard facilities they have sought

to minimise risk in different ways or have been prepared to accept a greater level of risk. Different Councils have approached this situation in different ways, there is no uniform approach. New claims history and Zurich's scrutiny of the risks associated with skateboarding have changed the circumstances and what was acceptable previously may not be acceptable now. It may well be necessary for Councils to review their management and supervision arrangements to ensure that they have reduced the risk of accidents and injury to an acceptable level.

- 3.8 While most of the insurers recommended risk control measures are straightforward and reflect in many ways our management arrangements for playparks, the key difference is ensuring that an appropriate level of supervision has been considered. In the USA experience suggests that Duty of Care will extend to ensuring that only those users with the correct equipment (i.e. helmets etc) are allowed access/use of the facility. This indicates, in our interpretation, that staff will be required to supervise the facility when it is open. Disclaimers are ineffective and direct staffing seems to be the only option open to the Council. It is this area that seems to have been relaxed in other Councils interpretation of safety requirements.
- 3.9 It would be inappropriate to recommend providing skateboard facilities without full adherence to the insurers risk control measures, which in our interpretation require the facility to be supervised and result in a revenue funding requirement. Unless revenue funding can be found to support staffing costs the Council would be at increased risk from potential claims for injury.
- 3.10 The decision to develop skateboard facilities is the Council's, not our insurers, equally the risks are the Council's to be managed and not our insurers. The controls required to manage the risk have significant cost implications, however, it is officers view that these controls are essential if the risk of claims for injury are to be effectively minimised.

4. FINANCIAL IMPLICATIONS

- 4.1 As the development of skateboard facilities is unachievable it would be appropriate to reallocate the £100,000 of Scottish Executive funding currently approved for skateboarding. £25,000 could be used for additional improvements to community buildings, and £75,000 used for playpark equipment expenditure in line with the Council's prioritised programme.

5. LEGAL IMPLICATIONS

- 5.1 Nil

6. POLICY IMPLICATIONS

6.1 Nil

7. CONCLUSIONS

7.1 The changing insurance circumstances and the risk control measures now required to limit the Council's exposure to claims mean that significant ongoing revenue funding will be required if skateboard facilities are to be provided. This funding would be difficult to find at present.

7.2 Grant aid to skateboarding groups would be ineffective.

7.3 Provision of indoor, supervised skateboarding meets some demand, but does not meet the expressed requirements of skateboarding groups.

8. RECOMMENDATIONS

8.1 It is recommended that the Committee:-

- i) notes the insurance position regarding skateboard provision;
- ii) agrees not to proceed with skateboard facility provision;
- iii) agrees to redirect the £100,000 Scottish Executive Quality of Life Funding; £75,000 into playpark provision; and £25,000 into community buildings; and
- iv) otherwise notes the contents of this report.

William Stafford
Director of Community Services

WS/JAG/JKH

30th April 2003

LIST OF BACKGROUND PAPERS

Nil.

Implementation Officer – john.griffiths@east-ayrshire.gov.uk