

Harvey v Northumberland County Council [2003] EWCA Civ 338

H was employed by the Council as a residential social worker at a secure accommodation unit. The residents at the unit were disturbed children with behavioural problems who were likely to be volatile and aggressive.

There was an induction course for all staff when the unit opened, which covered the content of the Council's circular dealing broadly with restraint in Social Services establishments. Significantly, the circular gave no advice as to how employees should restrain individuals.

No further training had been given to staff at the time that H suffered an injury to his knee, while attempting to restrain a child who had become aggressive, though such a course was subsequently provided. H brought a claim for damages against the Council on the grounds that it had failed to provide adequate training in how to cope with children who needed to be restrained, in breach of its common law duty to ensure a safe workplace. The High Court judge found in favour of H and awarded him a total of £19,000 in damages.

The Council's appeal against that decision was dismissed by the Court of Appeal.

The Court found that safer restraint techniques were available than those that were being used at the time of H's injury, and that while the Council knew that training was needed, it did not trouble to look and see where it might be found.

The Council had a common law obligation to take reasonable steps to ensure the workplace was safe and it could not put that obligation on hold pending advice from official departments.