Negligence in sport: context vs principle

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Negligence in sport: context vs principle

Introduction

It has been suggested that ‘[i]n law context is everything’. 1 This observation by Lord Steyn has particular resonance in the burgeoning area of sports negligence 2 given the wide and varied circumstances of sporting activities, with Judge LJ in a leading authority in this field reaffirming that ‘the issue of negligence cannot be resolved in a vacuum. It is fact specific’. 3 The courts have been increasingly tasked with scrutinising the full factual matrix in claims of sports negligence, with reported cases involving sports coaches, 4 sports instructors, 5 sports officials/referees, 6 sports participants, 7 and (more recently) physical education (‘PE’) teachers. 8 In the vast majority of sports negligence cases the pivotal issue will concern whether the defendant has, in fact, breached their duty in tort and so it is imperative that courts set the standard of care owed in the prevailing circumstance at a realistic level for ordinary/reasonably average PE teachers, coaches etc. 9

The recent decision of Quick v Nottinghamshire County Council 10 provides two useful insights into this area. First, it provides an instructive and rigorous approach to defining the

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1 Regina (Daly) v Secretary of State for the Home Department [2001] 2 AC 532 [28] (Lord Steyn).
3 Caldwell v Maguire [2001] EWCA Civ 1054 [30].
6 E.g., Bartlett v English Cricket Board Association of Cricket Officials County Court (Birmingham), 27 August 2015. Also see, Smoldon v Whitworth [1997] PIQR P133 (CA); Vowles v Evans [2003] EWCA Civ 318.
7 E.g., Caldwell (n 3); Condon v Bassi (1985) 1 WLR 866 (CA); Harrison v Vincent [1982] RTR 8 (CA); Woolridge v Summer [1963] 2 QB 43 (CA).
10 Enunciation of the Bolam test (discussed below) by Bingham LJ in Eckersley v Binnie [1988] 18 ConLR 1 (at 80) makes plain that the standard required is that of the ‘reasonable average’.
11 Quick v Nottinghamshire County Council [2021] WL 02345369 (County Court, Nottingham).
‘enhanced duty’ said to be owed by teachers in the particular circumstances of school sport. Second, it suggests a potentially modest, but important, development to the area of sports negligence. In drawing from the reasoning adopted by the court in Quick, this article argues that considerable latitude should be afforded to the discretionary decision making of schoolteachers such that there should be no breach of duty when the decisions made by schoolteachers fall within a reasonable range of options.

Facts

On 13 October 2015, the claimant suffered personal injury during an after-school netball club practice at the Minster School, Southwell, Nottinghamshire. The claimant was aged 16 at the time of the accident. The accident happened during an informal warm-up activity which involved some students passing netballs whilst waiting for others to arrive from the changing rooms. Three adjacent netball courts were being used at the time of the injury, with no physical barrier between them. The netball club was being attended by a fairly large number of students aged 11–16, with four teachers supervising outside and one in the changing rooms. Three of the teachers were in a group together at a position roughly halfway between the second and third courts from the school building and another sitting on a bench adjacent to the school building because she had suffered an ankle injury.

As the claimant was running at speed to retrieve a ball that had been thrown over her head by one of the other 16-year-old girls in her group, she realised that she was on a collision course with a younger and smaller pupil (probably 11–12 years old) who was seeking to retrieve a lost ball that had strayed onto the court that the claimant had been playing on. In twisting to

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11 Quick (n 10) [6]. Also see, the summary of the submissions made on behalf of the defendant and claimant at the end of the hearing at [95].
avoid such a collision, the claimant suffered a very serious injury to her knee. It was alleged in the particulars of claim that:

‘… the accident was caused by the negligence of the defendant through their servants or agents, the supervising staff, because there was inadequate supervision; the teachers being engaged in conversation with one another. It is alleged that the staff failed to see that the ball had escaped from one court onto another court; that a Year 7 pupil was chasing that ball and further, failed to blow the whistle to bring the players to a halt. It is also alleged that there was a failure properly to instruct the Year 7 pupil not to chase a ball from one court to another, but to wait until it had been retrieved by a teacher. In addition, that there was a failure properly, or at all, to segregate the netball courts by age’.

Decision

Her Honour Judge Coe QC acknowledged that the applicable legal framework was recently rehearsed in *Pook v Rossall School* and was set out in *Charlesworth & Percy on Negligence*. *Pook* concerned a 10-year-old pupil who was seriously injured whilst running from the changing rooms to Astroturf pitches (for hockey) at the start of a PE lesson. It was submitted on behalf of the claimant that the teacher had breached her duty of care by failing to properly supervise the PE lesson. When delivering the High Court’s judgment in *Pook*, Spencer J began by recognising the enhanced duty which schools owe to children and which goes beyond that of a parent with responsibility for the care of his/her family at home. There are enhanced duties arising from the considerably greater ratio of teacher to pupil and ‘there are duties arising from the different environment of a school … the equipment that is used and the fact that, in schools particularly, the children are interacting with other children who might act unpredictably and, sometimes, dangerously’. Moreover, the suggestion that the

11 *Quick* (n 10) [6]. Also see, the summary of the submissions made on behalf of the defendant and claimant at the end of the hearing at [95].
12 *Pook* (n 8).
14 *Pook* (n 8) [32].
duty of a PE teacher is to reduce the level of risk to the lowest reasonably practicable was forcefully rejected by Spencer J:

‘… whilst there are some risks which no reasonable school or teacher would allow a pupil to run (running in corridors between classes for example), and other risks which it will almost always be reasonable to allow a pupil to run (for example the risk arising from contact and other sports), there will be situations in between which allow for a measure of discretion and judgment on the part of the teachers. In those circumstances, the court should be slow to condemn a teacher as negligent and to substitute its own judgment for that of the teacher where the teacher can be expected to have knowledge of the school, the environment, the particular children in her charge and her experience (which, in the case of Mrs [L], was considerable).’  

Following Pook, the court in Quick recognised that schools can owe a duty of care to students under their charge and the standard of reasonable care and skill necessary to discharge such a duty is likely to be approached by reference to the Bolam test. Further, the court reiterated the limitations of the doctrine of in loco parentis when setting the standard of care in this context. In contrast to a legal test fashioned by reference to a reasonable parent, the specialist skill demanded of teachers, combined with the high ratio of teachers to students, the school environment and equipment, and the fact that children might act unpredictably/dangerously when interacting with their peers, gives rise to an enhanced duty.

Nonetheless, when formulating the required standard of care this enhanced duty imposes in the particular circumstances of school sport, HHJ Coe insightfully afforded considerable

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15 Pook (n 8) [33].

16 Bolam v Friern Hospital Management Committee [1957] 1 WLR 582. The test for negligence being ‘the standard of the ordinary skilled man exercising and professing to have that special skill’ (at 586). Also see, n 9.
weight to three material propositions which are of widespread application in the context of PE teaching and sports coaching/instructing.

The first, was recognition that ‘an enhanced duty does not oblige a school [or coach/instructor] to reduce risk to the lowest level reasonably practicable’.

In short, the standard required remains premised on a reasonableness standard in all the circumstances and, given the broad spectrum of risk, it is reasonable to run appropriate risks during sporting activities.

The second, following the Court of Appeal judgment delivered by Auld LJ in Woodbridge School v Chittock, was the acknowledgment that:

‘Where there are a number of options for the teacher [or coach/instructor] as to the manner in which he might discharge that duty, he is not negligent if he chooses one which, exercising the Bolam test ... would be within a reasonable range of options for a reasonable teacher exercising that duty of care in the circumstances’.

This principle (hereafter referred to as the ‘Woodbridge principle’) underscores the measure of discretion and judgement that ought to be afforded to PE teachers (and coaches/instructors) when discharging their duty of care in a sports-related context, in line with other, more traditional professions.

And third, was recognition of the crucial distinction between the context of a warm-up activity as contrasted to the context of a fast moving and vigorous game situation. Indeed, Quick is the first reported decision to critically consider this distinction in detail when defining the practical content of a PE teacher’s duty of care.

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17 Quick (n 10) [70].
19 Woodbridge School (n 19) [18]. Cited in Quick (n 10) at [71].
Also, the court’s consideration of: the tort of negligence’s inherent balancing exercise\textsuperscript{20} when determining whether there has been a breach of duty; section 1 of the Compensation Act 2006; and the importance of the PE teachers conducting a suitable and sufficient risk assessment likewise proves instructive, and is explored further below under ‘analysis’.

In drawing from established principles, the test for breach fashioned by HHJ Coe was framed as follows:

‘In considering the level of risk here and the measures which need to be taken in accordance with the appropriate duty of care, I have to focus on the risk of students colliding or heading towards each other on a collision course during this phase in the warm-up so as to suffer injury. The question for me is not whether something could have been done to reduce the risk to the lowest level possible. I further reject, insofar as the claimant alleges it, that the level of risk here required constant supervision. The level of risk clearly informs the level of reasonable skill and care, and I have to look at the reasonable range of responses. It is also important to factor into that consideration the information that there has been no other serious injury or, indeed, any injury in this scenario either before or since’.\textsuperscript{21}

The court regarded the risk assessments conducted by the teachers as being sufficient and, importantly, that the level of risk during a warm-up (whilst waiting for other students to arrive from the changing rooms) was not the same as during game play. As acknowledged in the judgment, these constitute very different situations.\textsuperscript{22} The ratio of supervising staff to students was held to be (more than) adequate and the positioning of the teachers was found to be appropriate for the stage of the activity since it enabled the teachers to deal with student requests whilst maintaining an eye on the warm-up. A failure to notice and appreciate the build-up to this accident, which unfolded so quickly, did not amount to a breach of duty.\textsuperscript{23}

\textsuperscript{20}Quick (n 10) [75]. The most celebrated expression of this balancing exercise was expressed by Lord Hoffmann in Tomlinson v Congleton BC [2004] 1 AC 46 at [34] thus: ‘The question of what amounts to “such care as in all the circumstances of the case is reasonable” depends upon assessing, as in the case of common law negligence, not only the likelihood that someone may be injured and the seriousness of the injury which may occur, but also the social value of the activity which gives rise to the risk and the cost of preventative measures. These factors have to be balanced against each other’. See further, N Partington, ‘Beyond the “Tomlinson trap”: analysing the effectiveness of section 1 of the Compensation Act 2006’ (2016) 37(1) Liverpool L Rev 33.

\textsuperscript{21}Quick (n 10) [93].

\textsuperscript{22}Quick (n 10) [102].

\textsuperscript{23}Interestingly, the claimant would also have failed to establish causation: Quick (n 10) [114].
Consequently, ‘[i]n the context of the experience and the nature of this warm-up, it would not be a breach of duty to fail to assess that this situation gave rise to a risk, which required immediate intervention’. To require constant supervision would not have been feasible, and in view of the level of risk involved, would have imposed too high a standard of care.

Moreover, the claimant’s argument that a whistle should have been blown by a PE teacher every time a lost ball was being retrieved during the warm-up was ruled to be unrealistic. This was a pure and simple accident without fault that could not reasonably have been avoided.

Analysis

Quick engaged with a number of important principles that frequently crop up in sports negligence cases.

First, the court quite correctly was alive to the inappropriateness of a test premised on the standards expected of the fictional reasonable parent. The doctrine of in loco parentis appears otiose in cases of professional negligence and merely serves as a superfluous and unnecessary distraction when formulating the practical content of the duty owed by defendants exercising a specialist skill. In the context of school sport, this was succinctly

24 Quick (n 10) [107].
25 Quick (n 10) [121].
26 Partington (n 2) 50-2. Also see, T Petts, ‘Visualising a parent with a very large family: the liability of teachers for accidents at school’ (2017) 1 JPI Law 13. Generally, in sports negligence cases, it has been held that the standard of care to be expected is to be judged by Bolam. When delivering the Court of Appeal’s judgment in Vowles (n 6), and despite the defendant being an amateur volunteer rugby union referee, Lord Phillips referred to the Bolam test when defining the standard of care expected (at [27]). As acknowledged by Lord Phillips, in Bolam McNair J ‘made a statement of the law which has since been applied repeatedly to any situation in which a person undertakes a task which requires some special skill’. In the context of sport, this is entirely consistent with the approach taken by the Court of Appeal in Fowles v Bedfordshire County Council [1995] PIQR P380. Millett LJ in Fowles held that anyone who voluntarily assumes the task of teaching and coaching a sports skill assumes a duty to do so properly by exercising due skill and care. A recent and instructive illustration of the application of the legal principles derived from the field of professional negligence in the particular circumstances of (amateur) sport is provided by the robust judgment of HHJ Lopez in Bartlett (n 6). See further, N Partington, “‘It’s Just Not Cricket”. Or Is It?” (2016) 32(1) Professional Negligence 75. Also see, Anderson (n 5), where applicability of the use of the Bolam test was conceded in a case brought in negligence against a ski instructor (at [123]).
articulated by Croom-Johnson LJ when *Van Oppen v Clerk to the Bedford Charity Trustees* was considered by the Court of Appeal:

‘The background to the case is that the duty of care which the school owes to its pupils is not simply that of the prudent parent. In some respects it goes beyond mere parental duty, because it may have special knowledge about some matters which the parent does not or cannot have. The average parent cannot know of unusual dangers which may arise in the playing of certain sports, of which rugby football may be one. That is why the school undertakes to see that proper coaching and refereeing must be enforced. It might know that some types of equipment in, for example, gymnastics have their dangers. But this is all part of the duty placed on the school to take reasonable care of the safety of the person and property of each pupil’.27

More recently, the Supreme Court in *Woodland v Swimming Teachers Association* reinforced the limitations of attempts to apply the doctrine of *in loco parentis* in the educational context, with Lady Hale stating that, ‘it is not particularly helpful to plead that the school is *in loco parentis*. The school clearly does owe its pupils at least the duty of care which a reasonable parent owes to her children. But it may owe them more than that’.28 As convincingly framed by Stephens J in *Murray v McCullough*:

‘…the standard of the duty of a schoolteacher should not be expressed as taking such care of his pupils as would a reasonably careful parent of the children of the family but rather taking reasonable care in all the circumstances. The yardstick is reasonable care; it is not some notional standard as to what a reasonably careful and prudent parent of the family would or would not do in relation to his own children’.29

Second, the court placed careful emphasis on the *Woodbridge* principle. HHJ Coe was mindful of the need to appropriately apply the *Woodbridge* principle acknowledging that:

‘[t]he level of risk clearly informs the level of reasonable skill and care, and *I have to look at

27 *Van Oppen v Clerk to the Bedford Charity Trustees* [1989] 3 All ER 389 (CA) 414–15.
28 *Woodland v Swimming Teachers Association* [2013] UKSC 66 [41].
29 *Murray* (n 8) [5]. This passage was cited with approval by Spencer J in *Pook* (n 8) (at [26]). See further, N Partington, ‘*Murray v McCullough (as Nominee on Behalf of the Trustees and on Behalf of the Board of Governors of Rainey Endowed School)*’ (2016) 67(2) NILQ 251.
the reasonable range of responses’.\textsuperscript{30} This took into account the Bolam test\textsuperscript{31} as refined (without mentioning it explicitly) by the case of Bolitho v City of Hackney Health Authority.\textsuperscript{32} In this author’s view, the considerable latitude afforded to the discretionary decision making of the PE teachers in Quick (and Pook) is consistent with the intended ‘generous ambit’ that should be given to decisions regarded as falling within ‘a reasonable range of options’ as set out in Auld LJ’s judgment in Woodbridge School.\textsuperscript{33} Put simply, the law dictates that considerable leeway should be attributed to the discretionary decision-making practices of PE teachers (and sports coaches/instructors).

Third, the court in Quick was also right to afford significant importance to the celebrated balancing exercise espoused in Tomlinson v Congleton Borough Council.\textsuperscript{34} The principal purpose of section 1 of the Compensation Act 2006 is to incorporate the significant dicta expressed by the House of Lords in Tomlinson into statute.\textsuperscript{35} In citing a passage of the judgment of Smith LJ in Uren v Corporate Leisure (UK) Ltd,\textsuperscript{36} HHJ Cox clearly understood that the Compensation Act 2006 does not add anything to the existing common law position.

\textsuperscript{30} Quick (n 10) [93] (emphasis added).
\textsuperscript{31} Quick (n 10) [96].
\textsuperscript{32} Bolitho v City of Hackney Health Authority [1998] AC 232. In Cassidy v Manchester CC 12 July 1995 (CA), by taking a medical analogy, defence counsel suggested that the propriety of the practice adopted by the PE teacher(s) was endorsed by a respected body of opinion, thereby cementing this case as an unfortunate accident during responsible and approved practice. The Court of Appeal in Cassidy emphasised the crucial distinction between practice universally adopted, as contrasted with quite widespread practice that may not be logically justifiable, with Hutchison LJ stating that it was of particular significance that there was not ‘evidence that the use of the bench in this way was universal throughout the country. Had there been, the judge would have been faced with a different picture’ (emphasis added). For an instructive discussion regarding the significance of the standards applied in other schools and common practice see Murray (n 8). See also Foskett J in Anderson (n 5) [124], which concerned a ski instructor. For a detailed analysis of Anderson v Lyotier, see Partington (n 2) chapter 6.
\textsuperscript{33} Woodbridge School (n 19) [27].
\textsuperscript{34} HHJ Cox (at [75]) quoted the following passage referred to by Spencer J in Pook (n 8), and as originally stated by Stephens J in Murray (n 8): ‘… in addition to those circumstances which are particularly relevant to claims by children or young persons are other circumstances of general application such as the magnitude of the risk, the likelihood of injury, the gravity of the consequences and the cost and practicability of reducing or avoiding the risk’.
\textsuperscript{36} Uren v Corporate Leisure (UK) Ltd [2011] EWCA Civ 66.
Nonetheless, explicit mention of the provisions of section 1 of the Compensation Act is a strong indicator that the court refrained from falling into the so called Tomlinson trap by failing to fully account for the social value of the activity giving rise to the risk and the cost of the preventative measures. Curiously, for an accident that occurred following the coming into force of the Social Action, Responsibility and Heroism Act 2015 (SARAH Act), there was a lack of mention of this younger sister to the 2006 Act. There would seem to be a convincing argument that organising and supervising an after-school sports club is for the benefit of society or some of its members and the findings of fact by the court established that the defendants demonstrated a predominantly responsible approach towards protecting the safety of the students. Although engagement of the SARAH Act is not decisive to the breach analysis, this would have afforded the defendants in Quick with another statutory tool to call in assistance in support of their case. Indeed, it is interesting to note that most recently HHJ Pearce when sitting as a Judge of the High Court in Long v Elegant Resorts Limited stated that:

‘… the law, both through several reported decisions at common law and through the intervention of statute in the form of the Social Action, Responsibility and Heroism Act 2015, has shown a greater tolerance for the mistakes and misjudgements of those acting selflessly’.

37 Quick (n 10) [116]-[118]. Albeit the court’s interpretation of section 1 of the Compensation Act 2006 as being mandatory and not permissive (at [116]) may technically be questioned.
38 Partington (n 22) 46.
Fourth, *Quick* recognised that the failure to conduct a suitable and sufficient risk assessment can be indirectly causative of injury and so is capable of giving rise to liability. The emerging body of sports negligence jurisprudence reveals the adequacy of risk assessments to often be a material consideration when deciding cases. Encouragingly, the approach of the court in *Quick* appeared cognisant of the fact that, in the context of sport, acceptable levels of risk can be socially desirable. In emphasising that the scope of a teacher’s duty does not extend to reducing risk to the lowest level reasonably practicable, the court’s reasoning in *Quick* endorses the fundamental distinction between making sporting activities ‘as safe as necessary’ (in order to avoid exposing participants to unacceptable risks), as opposed to ‘as safe as possible’. The law of negligence demands the former and this requirement is more conducive to enhancing the full social utility of sport and, crucially, helps to prevent the law from laying down standards that are too difficult for ordinary PE teachers (and sports coaches/instructors) to meet.

Given previous cases brought in negligence against schoolteachers are illustrative of how the law has developed to encompass claims against coaches and instructors, and coaches at both the amateur and professional level should discharge their duties of supervision, instruction and risk assessment with reasonable skill and care, the applicable legal framework identified in *Quick* will be of relevance beyond the context of school sport. In setting the barometer for breach of duty at a realistic level, HHJ Cox found the risk assessments

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41 *Quick* (n 10) [78], following *Uren* (n 40).
42 E.g., *Wells v Full Moon Events Ltd* [2020] EWHC 1265 (QB); *Pook* (n 8); *Cox* (n 4); *Blair-Ford v CRS Adventures Limited* [2012] EWHC 2360 (QB); *Sutton v Syston RFC Ltd* [2011] EWCA Civ 1182; *MacIntyre* (n 5); *Anderson* (n 5).
43 Spencer J in *Pook* also approved of the running of reasonable risks during PE lessons. See n 16.
44 P Whiltam, *Safe Practice in Physical Education and Sport* (8th edn, Coachwise 2012) 18 & 20. Importantly, the benefits of the activity and the cost of preventative measures should outweigh the magnitude of risk.
45 For instance, in *Sutton* (n 4) at [13], Longmore LJ emphasised (with Rimer LJ and Warren J in agreement) that: ‘It is important that neither the game’s professional organisation nor the law should lay down standards that are too difficult for ordinary coaches and match organisers to meet’.
47 Partington (n 2).
conducted by the school to be adequate, it being held that there was no requirement for a risk assessment to have been completed specific to the phase of the warm-up during which the accident occurred.\textsuperscript{48} Further, and consistent with \textit{Hammersley-Gonsalves v Redcar & Cleveland BC},\textsuperscript{49} the court in \textit{Quick} held that to have required the staff to provide constant supervision would not have been feasible and ‘would be to impose too high a standard of care, particularly when looking at the level of risk involved’.\textsuperscript{50}

Finally, the court rightly scrutinised the precise stage of sporting activity at which the injury occurred. When determining the practical content of the duty owed by the PE teachers, the court emphasised the distinction between a warm-up and a competitive game situation. This underscores the centrality of context and the need to analyse the full factual matrix of cases in this area of the law.

In sports negligence cases the propositions formulated in \textit{Caldwell v Maguire} establish that, given the prevailing circumstances of a sporting contest, the threshold for liability (of a competitor) is, in practice, inevitably high.\textsuperscript{51} This is consistent with \textit{Smoldon v Whitworth} where the Court of Appeal expressed the view that errors of judgement or lapses of skill by a rugby referee, in the context of a fast-moving competitive match, would not support a finding of breach of duty.\textsuperscript{52} In contrast, very different considerations would apply in circumstances where a rugby referee’s decision, which amounted to a breach of duty, was taken during a stoppage in play.\textsuperscript{53} Moreover, in \textit{Harrison v Vincent}, a crucial distinction was made between

\textsuperscript{48} \textit{Quick} (n 10) [101].
\textsuperscript{49} \textit{Hammersley-Gonsalves} (n 8) [11].
\textsuperscript{50} \textit{Quick} (n 10) [108].
\textsuperscript{51} \textit{Caldwell} (n 3) [11]. In fact, the propositions from \textit{Caldwell} remain of significant practical utility when defining the standard of care of defendants in all spheres of sports negligence. See further, Partington (n 2) 102-06.
\textsuperscript{52} \textit{Smoldon} (n 6) P139.
\textsuperscript{53} \textit{Vowles} (n 6) [38]. Also see, \textit{Bartlett} (n 6).
the standard of care that might be required of a sidecar rider in the course of a competition as compared to the standard of care expected in the relative calm of the workshop.\textsuperscript{54}

_Quick_ appears to suggest what would be a potentially modest but important development to the area of sports negligence, namely that whilst the duty of a schoolteacher remains one premised on a reasonableness standard, a more exacting degree of care might well be expected of a PE teacher (or coach/instructor) in the context of a fast-moving and competitive match/practice than during a more informal warm-up activity. At first glance, given the established principles following _Caldwell, Smoldon, Vowles_ and _Harrison_,\textsuperscript{55} this development appears somewhat counter intuitive since, in the main, less exactitude would typically be demanded of defendants in the context of fast-moving and competitive sporting activity.

However, ordinary tort law principles establish that the degree of care required of a defendant varies directly with the risk involved.\textsuperscript{56} This was a material factor in _Quick_, with HHJ Coe finding that the risk during the warm-up was not the same as during game play.\textsuperscript{57} Given the warm-up was not held to be a high-risk situation, the standard of care required of the supervising PE teachers appears to have been lower than if the students had been involved in a match situation. So whilst the propositions formulated by the Court of Appeal in _Caldwell_ appear to implicitly encourage the identification of specific guidelines that may be of assistance in the disposal of subsequent sports negligence cases,\textsuperscript{58} these principles may sometimes be of more limited application in relation to the specific duties and standards

\textsuperscript{54} _Harrison_ (n 7) 13.

\textsuperscript{55} Also see Wooldridge (n 7) and Wilks _v_ Cheltenham Homeguard Motor Cycle and Light Car Club [1971] 1 WLR 668 (CA). See further, Partington (n 2) chapter 4.

\textsuperscript{56} _Glasgow Corporation v Muir_ [1943] AC 448, 456 (Lord Macmillan). In _Read v Lyons_ [1947] AC 156, Lord Macmillan later stated that the law ‘exacts a degree of care commensurate with the risk created’ (at 173).

\textsuperscript{57} _Quick_ (n 10) [101].

\textsuperscript{58} M James and D McArdle, ‘Player violence, or violent players? Vicarious liability for sports participants’ (2004) 12(3) _Tort Law Review_ 131, 145. This includes in some claims of coach negligence e.g., _Morrow_ (n 5).
required of PE teachers and sports coaches, depending on the context.\textsuperscript{59} The foundational point is that it remains reasonable care and skill that is required in all of the circumstances of the particular sporting activity and, as such, the decision in \textit{Quick} emphasises the importance of \textit{both} context and principle in sports negligence cases.

\textbf{Conclusion}

Claims of sports negligence have exploded in recent years,\textsuperscript{60} and as was the case in \textit{Quick}, decisions in this field often centre on the defendant’s duties of supervision and instruction and the law of negligence’s control mechanism of breach.\textsuperscript{61} As such, defining the appropriate standard of care in the particular circumstances is of critical importance. The standard of care barometer performs the dual function of protecting the legitimate right of participants in sport not to be exposed to unreasonable risks but, importantly, providing defendants satisfy the requisite standard of skill and care, there can be no liability in negligence. HHJ Coe ensured that the standard of care demanded of the defendant in \textit{Quick} was not unduly onerous by carefully engaging with the full factual matrix of the case, making an informed distinction between the circumstances of a warm-up and match situation, and affording due regard to the Woodbridge principle. From the outset, the court in \textit{Quick} accepted that the applicable legal framework was recently outlined in \textit{Pook} and is stated in \textit{Charlesworth & Percy on Negligence}. Nonetheless, it is the degree of emphasis attributed to these said principles and the detailed and insightful judicial reasoning evident in \textit{Quick} which underscores the instructiveness of this decision and which it is argued provides an interesting and useful development in sports negligence jurisprudence. In short, and in borrowing from comments

\begin{itemize}
\item \textsuperscript{59} Partington (n 2) 210-11.
\item \textsuperscript{60} James (n 51) 98.
\item \textsuperscript{61} Partington (n 2).
\end{itemize}
made by Smith LJ in *Scout Association v Barnes*,⁶² whilst the particular context of sports negligence cases demands that decisions are made on an individual basis and not by a broad brush approach, the reasoning of the court in *Quick*, based upon established authority and ‘fact, degree and judgment’, is to be commended.

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⁶² *Scout Association v Barnes* [2010] EWCA Civ 1476 [49]. Albeit the comments made by Smith LJ were in relation to the weight to be afforded to ‘desirable activities’ pursuant to section 1 of the Compensation Act 2006.