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Case commentary – Yates v Dublin

April 2026

Yates v Dublin Bouldering Gym [2026] IEHC 181

In *Tomlinson v Congleton* [2004] 1 AC 46 the defendant local authority was found not to be liable for the serious personal injuries that the claimant had sustained when he dived into the shallow water at the edge of a lake and struck his head on the bottom. Lord Hoffmann said at [45] that 'I think it will be extremely rare for an occupier of land to be under a duty to prevent people from taking risks which are inherent in the activities they freely choose to undertake upon the land. If people want to climb mountains, go hang gliding or swim or dive in ponds or lakes, that is their affair.' He added at [46] that 'A duty to protect against obvious risks or self-inflicted harm exists only in cases in which there is no genuine and informed choice...'. The latter dicta have proved to be hugely influential and have found to be readily applicable in much more controlled environments than the instances mentioned by Lord Hoffmann. A number of cases have concerned 'bouldering'; the most recent of which is the Irish decision in *Yates v Dublin Bouldering Gym* [2026] IEHC 181 (*Yates*). In *Yates* it was explained that bouldering involved 'indoor wall climbing without ropes or harnesses, an activity inherently involving the risk of falling, mitigated but not eliminated by wall design and by impact-absorbing floor matting'.

In *Yates* the first defendant operated an indoor bouldering climbing facility which was open to members of the public. The plaintiff claimed damages for personal injury arising from an accident which occurred when she fell from a climbing wall at the facility. She alleged that the defendant's safety policies required the provision of induction and supervision to novice participants, neither of which was provided, thereby breaching those policies with the result that the plaintiff was left without the knowledge to deploy proper landing technique, which she maintained would have prevented her injuries.

The Legal Framework

The relevant law was said to be found in English cases: *Poppleton v Trustees of the Portsmouth Youth Activities Committee* [2008] EWCA Civ 646 (*Poppleton*), and *Maylin v Dacorum Sports Trust (t/a XC Sportspace)* [2017] EWHC 378 (QB). Both cases involved climbers who fell and sustained serious injuries while bouldering, *Poppleton* involving a relatively inexperienced climber and *Maylin* involving a novice. The authorities establish that where an adult of full capacity freely chooses to engage in an activity involving inherent and obvious dangers, the law does not ordinarily require the operator of the facility to prevent participation, to train the participant, or to supervise the activity. Nor is the operator generally obliged to protect such a participant from the consequences of risks which are inherent in and obvious from the activity itself. The duty of care is directed to dangers arising from the state of the premises or from risks created by the operator's own acts or omissions, and not to the elimination of the intrinsic hazards of the activity voluntarily undertaken. The authorities further make clear that the provision of safety features, such as protective matting, does not render an inherently risky activity safe, nor does it impose a duty to ensure that injury cannot occur. It is obvious that such measures cannot eliminate the risk of serious injury resulting from an awkward fall. The fact that the operator charges for participation does not alter the analysis.'

Negligence, Contract and Assumption of Responsibility

The claim in negligence in *Yates* failed. This was not at all surprising as the factual similarities with *Poppleton* were strong. In explaining why the scope of the first defendant's duty did not encompass the claim it was said that 'The consequences of imposing a duty to induct, train, supervise or to teach landing technique, would fundamentally re-characterise the activity by converting a free-climbing facility into an instructor-led environment. It would impose obligations not demanded by law in recreational contexts and generate intermediate liability across a wide range of sports.' I would agree with this analysis. The law of negligence does not look to protect you from risks inherent in a sport. The position will be different should the defender promise to provide protective measures or assume a responsibility. In that case though one might ask whether a claim in contract might be made out. If a contractual claim would not be viable though it is unlikely that the law of negligence would offer any salvation.

In *Yates* the plaintiff had relied on the defendant's safety documents to contend that the defendant had assumed responsibility for the provision of instruction in safe-landing technique and supervision. However, 'the documents governing use of the facility cannot reasonably be construed as imposing any contractual obligation on the operator to induct, instruct, or supervise adult participants as a matter of course. Nor do I find that there was any representation made or relied upon which could have given rise to a voluntary assumption of responsibility on the part of the first-named defendant to provide any such measures.'

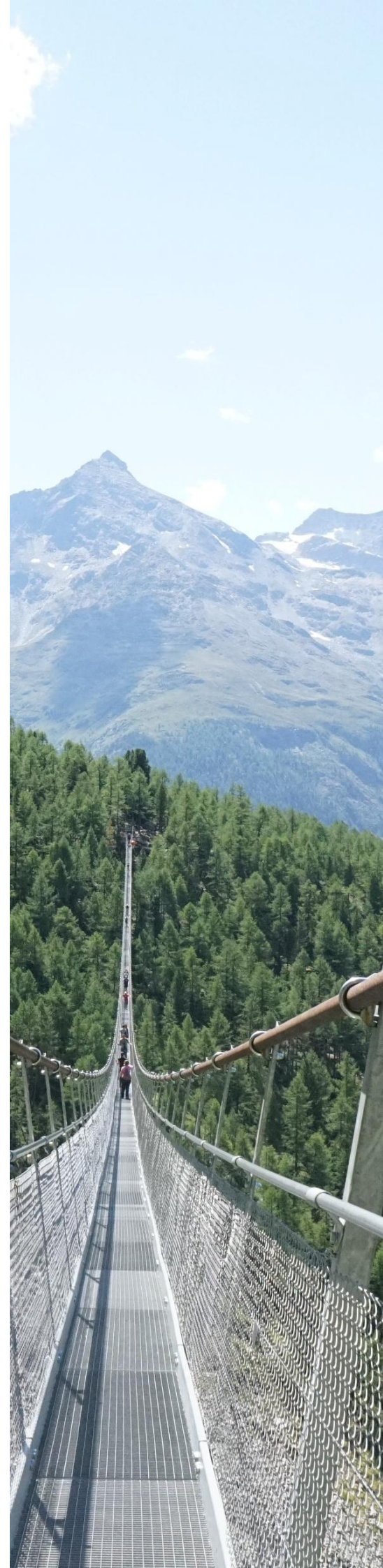
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It was also observed that 'Internal management documents, required or encouraged by statute, such as safety statements or risk assessments, may be admissible as evidence of the safety systems adopted by an operator but they are not normative of duty. They are forward-looking instruments designed to identify hazards, assess risks, and reduce accidents but not sources of civil liability in themselves. They are not framed as representations to third parties and do not, of themselves, create or enlarge a duty of care, nor amount to contractual obligations or an assumption of responsibility, absent clear communication and reliance.' This is an important point. Documents like risk assessments may be highly relevant evidence in negligence actions but they do not give rise to contractual obligations.

It may be noted that an assumption of responsibility did arise in *Pinchbeck v Craggy Island Limited* [2012] EWHC 2745 where the claimant's employer had paid for its staff to be trained and supervised by the defendants.

Comment

Yates reminds us that the courts will not look to extend the scope of the duty of care owed by the operator of a recreational facility. In our opinion the outcome would have been the same had the case arisen in Scotland, England or Wales. Individuals engaging in a sport with an inherent risk cannot expect to look to the law of negligence should that risk materialise. Policy factors (including respect for personal autonomy and voluntary assumption of obvious risk) dictate otherwise. As May LJ said in *Poppleton* at [1] 'Adults who choose to engage in physical activities which obviously give rise to a degree of unavoidable risk may find that they have no means of recompense if the risk materialises so that they are injured.'



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