



LOLER and the Ropes Course Industry

During the time that lockdown has provided, we at Capstone decided to tackle the question

“to include the LOLER regulations during an inspection or not?”

The intension of this document is to provide information to enable you to make an informed decision whether to include LOLER in your 6 monthly and annual inspections or not.

We started by seeking answering the questions below and then ran it through a risk and opportunities framework

1. What are the LOLER Regulations exactly?
2. Where does it apply?
3. Where doesn't it apply?
4. To what extent do I need to comply?
5. What would we need to be in the inspections report?
6. How much work is it to implement?
7. What benefits would it have?
8. What would it cost?
9. Why bother?
10. Why haven't we included them already?
11. Does it ever come up in court?
12. Is it considered reasonable and practicable?
13. What other Requirements are out there?
14. Capstone Conclusion

1. What are the LOLER regulations exactly?

Lifting Operations and Lifting Equipment Regulations 1998

These Regulations place duties on people and companies who own, operate, or have control over lifting, lowering and suspension equipment. This includes all businesses and organisations whose employees use lifting equipment, lowering equipment and suspension equipment whether owned by them or not. (including inspection and maintenance).

LOLER also requires that all equipment used for lifting is fit for purpose, appropriate for the task, suitably marked and, in many cases, subject to statutory periodic 'thorough examination'. Records must be kept of all thorough examinations and any defects found must be reported to both the person responsible for the equipment and the relevant enforcing authority.

The defining thing for a ropes courses or climbing walls is that a person is considered a load.

2. Where LOLER applies

The requirements imposed by the LOLER Regulations are on an employer in respect to the equipment provided for use or used by an employee of his/her at work in the lifting, lowering

and suspension of a load (a person being a load) and shall apply in relation to fulfil those actions safely.

LOLER applies to any item of "equipment" means work equipment for lifting or lowering or suspension of loads and includes its attachments used for anchoring, fixing or supporting it; the term "load" includes a person being lifted, lowered or suspended.

We need to consider the staff that operate the course, who inspect the ropes course and who rescue or need to be rescued.

List of items on a ropes course that we consider is covered under the LOLER regulations

- Instructor Harness, Grillon and associated karabiners and rope,
- Rescue equipment that is used or could be used to lower an instructor during a rescue
- Inspection equipment that is used during an inspection of the ropes course
- Shear reduction blocks
- Slings, Shackles, chains, ropes used for climbing or work positioning and descending.
- Maillon rapids
- Some safety wire such as zip lines
- Auto belay devices that are used by the employees
- Removable eyebolts

Most eye bolts used on a ropes course are placed in a tree, pole or metal beam are not permanent but not easily removable. We would class them as semi-permanent, so we considered the effort required to include them and concluded that it was minimal effort so have included them.

LOLER applies to all lifting equipment used where the HSW Act applies, i.e., to all sectors including factories, offices and shops, schools, universities, hospitals, hotels, places of entertainment, offshore oil and gas installations, agriculture and forestry.

Under the requirements of LOLER:

- (a) employers (whether individuals, partnerships or companies) have a duty to ensure that lifting equipment provided for their employees and others working for them complies with these Regulations.
- (b) others who have some measure of control over lifting equipment must comply with the same duties in respect of lifting equipment they use at work.
- (c) the Regulations also apply to employers who choose to allow their employees to provide their own lifting equipment.
- (d) employers who have control of lifting equipment, its management or the way it is used also have duties as far as their control permits. For instance, those hiring out the ropes course may, in practice, have some control over the way it is used or maintained by their customers. Alternatively, employers may provide their lifting equipment to others working on their premises and they clearly have some control over the equipment provided.

People in control of non-domestic premises who provide items of lifting equipment that are used by people at work must comply with their duties under LOLER. This applies where the owner

of a non-domestic premises provides lifting equipment for use by employees of the organisation(s) working in it. The owner has a duty under LOLER to ensure that the equipment is safe to use and that it receives periodic thorough examinations and, where appropriate, inspections by a competent person preferable outside their employment.

3. Where LOLER does not apply?

It does not apply to equipment provided for use by the public. BUT I am sure a lawyer would ask if it were reasonable and practicable to inspect your employee's equipment, why is it not the same for a participant? are they not as important!

Equipment that is not covered by LOLER

Fall arrest equipment, including eyebolts fastened to a structure to secure such fall arrest equipment, which are considered part of the fabric of the building. I sense a grey area, eyebolts permanently fixed in the load (these form part of the load); we have interpreted this as a permanent fitting such as those on a skip which could be lifted frequently.

4. To what extent is reasonable and practicable

The primary questions are what is the purpose of, individually identifying an item and do we need to do that on a ropes course. In normal LOLER circumstances which would require items to be individually identifiable is primarily based on the likelihood of removable items, a lifting chain for instance can be easily moved from one location to another. The items on a ropes course are regarded as semi-permanent and the likelihood of removable items is less of an issue.

We must of course discuss the impracticality of having every item of a ropes course individually serial numbered as a method of identification.

The LOLER ICOP states "Particulars sufficient to identify the equipment". It is the opinion of Capstone that it would not be reasonable or practicable to individually serial number each item of a ropes course, but instead suggest that a simple drawing outlining the poles and guy lines as reference points and then using them to locate the items. We believe that this would be ample steps to satisfy the particulars sufficient to identify the equipment. This would mean that we would only be identifying items that were defective and required replacement or maintenance in one form or another and by default all other are considered safe to remain in service. The outcome is what is important, which is being able to identify an item which is defective and in need of remedial work to make the course safe. The report itself will not individually identify each component, the repairs and remedial work report will identify the defective items by location based on the semi-permanent principal. In addition the LOLER regulation states that a Schedule 1 report be issued for each item based on the above this would not be viable and we consider it to be reasonable and practicable to work within the principles of LOLER having the report as a Schedule 1 report and compliant to the 20 items required (see below) many of which I'm sure you already have in your reports

5. What would we need to be in the inspections report

What needs to be in your 6 monthly report and the annual report to conform to LOLER

1. The type of inspection
 - (i) within an interval of 6 months under regulation 9(3)(a)(i)
 - (ii) within an interval of 12 months under regulation 9(3)(a)(ii)
 - (iii) in accordance with an examination scheme under regulation 9(3)(a)(iii)
 - (iv) after the occurrence of exceptional circumstances under regulation 9(3)(a)(iv)
2. The name and address of the employer for whom the thorough examination was made.
3. The address of the premises at which the thorough examination was made
4. Particulars sufficient to identify the equipment including where known, it's date of manufacture
5. The date of the last thorough examination.
6. The date of the thorough examination.
7. The latest date by which the next thorough examination must be carried out.
8. The name and address of a person carrying out the inspection and signing the report
9. Reference to the working load limit (WLL) or Safe Working Load (SWL)
10. That the lifting equipment would be safe to operate.
11. Identification of any part found to have a defect which is or could become a danger to persons, and a description of the defect.
12. Particulars of any repair, renewal or alteration required to remedy a defect found to be a danger to persons.
13. In the case of a defect which is not yet, but could become a danger to persons
 - a) the time by which it could become such a danger.
 - b) particulars of any repair, renewal or alteration required to remedy it.
15. Where the thorough examination included testing, particulars of any test.
16. The name, address and qualifications of the person making the report.
17. That he or she is self-employed or, if employed, the name and address of his employer.
18. The name and address of a person signing to authenticating the report

6. How much work is it to implement?

You don't need to add much, as long as you are already

1. Inspecting your course operationally in line with EN 15567-1
2. Recording your inspections correctly. You could, and I would strongly recommend looking at your paperwork to ensure it is sufficient and conforms to EN 15567-1 2015, ISO 17020 2012 and the LOLER regulations. See below
3. Can you stand in court and say that the inspections are done by a competent person? Not the most competent person you have on your staff.
4. If you are a Capstone customer, then the items and working loads limit are already on your annual inspection report. Simply copy and paste the sections relevant to your LOLER working load limits, onto your six-monthly report and complete the rest of your report.
5. If you are thinking of utilising the Risk Memo app, then the templates that Capstone produces will be compliant with LOLER, EN15567 and ISO17020

7. What benefits would it have?

While the LOLER ACOP is not law, this has been produced under section 16 of the Health and Safety at Work Act (HSW Act) and has a special status (as outlined in introductory page (ii) of the ACOP). This supports not only LOLER but also the general provisions of section 2 of the HSW Act and other regulations, including the Management of Health and Safety at

Work Regulations, in relation to lifting equipment and lifting operations so you would be fulfilling your requirement under the HSW Act

We have come across to many Maillons holding a critical load that are not tested if the operator had applied the LOLER regulation in recording the WLL of those Maillons they would have not been put in to service

You will be better protected from a legal position

8. What would it cost?

Time to add the additional items to the report

A phone call to your Inspector to inform them you would like them to comply (unless you are with capstone)

It doesn't affect the way we inspect if you are already inspection your equipment every 6 months as a minimum

It doesn't affect what we inspect if you are already inspection your equipment every 6 months as a minimum

It doesn't affect how we inspect if you are already inspection your equipment every 6 months as a minimum

It doesn't affect what we are looking for

9. So why bother with LOLER? The Short Answer

1. It's Law
2. It affects the operators' liabilities/responsibilities under the "Health and Safety at work act 1974"
3. It is only a matter of time before the president is set in a court case

10. Does it actual come up in court?

For the answer to this I asked an expert witness who is often called as an expert witness in court cases regarding ropes courses and the short answer was "ever time"

11. Is it considered reasonable and practicable?

This is a question we can only guess again I ask an expert witness and his short answer was yes it probable is and for the amount of effort why wouldn't you

12. What other requirements are there

Although not LOLER, the requirements for ISO17020-2012 are

- a) identification of the issuing body.
- b) unique identification and date of issue.
- c) date(s) of inspection.
- d) identification of the item(s) inspected.
- e) signature or other indication of approval, by authorized personnel.
- f) a statement of conformity where applicable.
- g) the inspection results

EN 15567-1 2015, 1.7.4 requirements for an annual inspection report are, and it's reasonable to expect centres to do the same

- a) identification of the issuing body.
- b) place(s) and date(s) of inspection.
- c) identification of the item(s) inspected.
- d) name, address and signature of the inspector.
- e) a statement of conformity where applicable.
- f) a record of all defects found. Any safety defects which are found shall be resolved to the satisfaction of the inspection body before the course is used.
- g) Information on what has been omitted from the original scope of the inspection.
- h) a statement that the inspection report should not be reproduced, except in full.

In most cases, lifting equipment is also work equipment so the Provision and Use of Work Equipment Regulations (PUWER) will also apply

With regard to identification of components LOLER ref 370

You should agree with the competent person what, if any, additional data (not included in Schedule 1) needs to be included in the report (for example a drawing of poles and guy lines to make identification of the equipment easier),

14. Capstone Conclusion

After much deliberation, research, fact finding and reading the LOLER regulations and the ICOP many time and having lengthy discussions amongst ourselves and with colleges from within the ropes course industry, and the lifting industry, we at Capstone have decided to implement the LOLER regulation when we inspect your ropes courses. We strongly believe we have used reliable, reputable and referenceable information to come to our conclusions and it will benefit you as the operator.

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