

HEALTH AND SAFETY (H&S) REPORT FOR ALCOVE ANGING CLUB (AAC) COMMITTEE MEETING 3rd DECEMBER 2024

The main piece of legislation for H&S in the UK is the H&S at Work etc. Act 1974 (H&SWA). The Occupiers' Liability Acts 1957 and 1984 are also relevant. (See Attachment 1) In general, H&S law violations can result in both civil and criminal consequences.

AAC (or rather, since it is an unincorporated organisation, the members that comprise it) is certainly liable under civil H&S laws i.e. can be sued for damages arising from H&S violations under tort law. This is a branch of civil law that addresses wrongs that cause harm to others. Tort law includes negligence, which holds that the people comprising unincorporated organisations, such as AAC, have a duty of care to others.

It is currently unclear whether AAC is criminally liable under H&S law. Organisations that have one or more paid employees are criminally liable. The H&S Executive has yet to respond to requests to clarify whether free memberships for Committee members and Bailiffs constitute "payment", which would make AAC criminally liable i.e. Members could in theory be fined and, in extremis, imprisoned.

In practice, the question of criminal liability is of little consequence since the civil and criminal requirements for managing H&S are the same, so AAC's compliance with civil law will automatically mean compliance with criminal law. However, the H&SWA does require organisations with 5 or more paid employees, which will include AAC if free memberships are deemed to be "payment", are required to have written H&S Policy Statements. Such Statements are, in any case, good practice, and need little or no maintenance once approved. A draft H&S Policy Statement is attached for Committee consideration. (Attachment 2)

In view of the legal implications (regardless of the decision re criminal liability) it is important that AAC Committee Members understand their duties and responsibilities, including the means to achieve them, such as Risk Assessment (RA).

UK H&S legislation requires that organisations undertake "suitable and sufficient" RAs of their activities. RA is a qualitative technique intended to focus attention on the primary risks by identifying and evaluating the more serious risks, thereby enabling managers, in this case AAC Committee, to prioritise them and to identify "reasonably practicable" "management measures" to reduce them to "tolerable" levels, in order to:

- first and foremost, protect the H&S of members and others who may be at risk;

- protect AAC Members from the consequences of legal action arising from incidents by providing evidence to AAC's insurers and potentially the Courts that AAC discharged its H&S duty of care conscientiously.

"Suitable and sufficient" is not defined in law but, in practice, means that RAs must be rational and thorough. They must consider all significant risks and everyone who might be affected by them at a level of detail proportionate to their seriousness and they must identify measures to mitigate the major risks, thereby providing confidence that the residual risks are low.

"Reasonable practicable" means likely to be effective in reducing risk and achievable in terms of time and money in the prevailing circumstances. For example, comprehensive fencing and guard patrols to deter trespassers might be essential and affordable for a major industrial concern but would be quite beyond the means of a small fishing club.

"Tolerable" (or Acceptable) varies depending on the situation. For example, extreme sports enthusiasts tolerate much higher risks than most people would consider acceptable in their everyday lives. Indeed, while every effort is made to enhance safety, the residual risk is an important factor in the attractiveness of the sports. It is also important to differentiate between perceived and actual risk. For example, the perceived risk is a major factor in the attractiveness of "adrenalin" fairground rides but the safe carriage of millions of riders suggests that the actual risks (once management measures such as safety belts, size restrictions are taken) are low and certainly tolerable to the riders.

A "Management Measure" is a requirement of a "safe system of work" mandated to, in order of precedence:

1. eliminate a risk. For example, suppose it is required to take a photograph from the top of a high structure. The risk posed to a human photographer could be eliminated by using a drone;
2. reduce the risk. Suppose it is infeasible to use a drone. The risk of a fall could be reduced by employing an experienced climber with suitable access equipment e.g. ladder or, better, cherry picker, rather than a common or garden photographer;
3. reduce or eliminate injuries in the event of a fall e.g. by providing a safety harness.

A one management measure may mitigate several risks. If management measures cannot reduce a risk to a tolerable level, the objective must be abandoned.

A "Safe System Of Work" is a set of procedures that outline how to perform a task to minimize the risk of injury or accident.

RA is a tool to assist the AAC Committee in its H&S management, not a resource-consuming, academic exercise done for its own sake. It is not an exact science. It is more effective to do quick, intuitive assessments and implement remedial measures promptly than to spend time and effort refining assessments, which are unlikely to become any more accurate. Time and experience will highlight any misjudgements.

This being so, it is important that the AAC Committee reviews its RAs systematically in the light of experience and changed circumstances. The ACC Committee must therefore review its RAs after any significant event e.g. serious incident, introduction of a new activity, change of venue, and, in any case, annually to confirm that risks are correctly identified and management measures are effective and proportionate. It is opportune to review RAs at the first Committee meeting after the Annual General Meeting (AGM) i.e. in February, so that any new Committee members understand and confirm their ownership of them.

The outcome of the RAs is a programme to implement and, in due course, maintain the required management measures that:

- prioritises the more serious risk e.g. it may be that, with winter upon us, bringing the prospect of wetter, frostier weather and fewer AAC members fishing, building steps down to currently usable but potentially dangerous swims should take precedence over reinstating currently unusable platforms.
- is resourced in terms of both finance and labour.
- specifies who is responsible for delivery and by when.

It is important that the programme is realistic and that the AAC Committee monitors its progress and takes prompt remedial action as necessary.

Although the intention of RA is to focus attention on the major risks, time- and cost-effective opportunities to mitigate minor risks should not be ignored. For example, it may be assumed that most anglers are aware of the risk of Weils Disease but, if information posters are freely available, putting them up won't do any harm and may inform the occasional Member and Trespasser who is not aware.

Next Steps

AAC Committee is invited to:

- consider and, if they are acceptable, approve:
 - the AAC H&S Policy Statement. (Attachment 2)
 - the RA for Whitehouse Farm. (Attachment 3)
 - the RA for The Clamp. (Attachment 4)
 - the RA for The Lido (Attachment 5)
 - the RA for the River Avon. (Attachment 6)
- include review of the RAs as a standing agenda item for February Committee meetings.

- agree the principles upon which the programme of work to implement H&S management measures shall be based i.e. that:
 - the need for most H&S remedial work should be identified by Bailiffs in the course of their normal duties and/or reported by AAC Members and remedied as their significance and available resources dictate. Such work will include, for example, the need to repair or replace platforms, tools, lifebuoys etc.
 - inspections shall be undertaken twice a year by The Fishery Manager and/or H&S Adviser to confirm that all management measures are in place and likely to remain effective until the next inspection. These inspections will pick up any shortfalls that have escaped Bailiffs' and Members' notice.
 - Bailiffs should be provided with a handbook, bringing together how they should discharge their duties e.g. the precautions when undertaking boat work. Such handbooks are largely superfluous for existing Bailiffs but will be valuable aide-memoires for new recruits.
 - copies of:
 - operating instructions
 - maintenance schedules and recordsfor the more complex tools and machinery should be collated in ring binders and held with the tools and machines at AAC waters.
 - Simple tools e.g. secateurs, hammers, shall be repaired, serviced and replaced as required.
- consider and approve the programme of work to implement management measures identified through the RAs. Once the programme is complete, agreement to and resourcing of their on-going maintenance will be routine Committee business.
- include progress reports on the implementation programme as standing Committee agenda item until it is complete.
- consider and, when it is satisfactory - estimated by January 2025 meeting - approve the AAC Incident Investigation Procedure. (Attachment 7)