

Despite the ever-increasing numbers of volunteers in all organisations (approximately 22 million people volunteer each year) the legal obligations towards these people with regard to health and safety are less clear than they are for employees. However, allotment associations do have legal obligations towards their volunteers and it is good practice to treat volunteers with equal consideration when it comes to health and safety and indeed the Health and Safety Executive (HSE) recommends this. So the creation of a Health and Safety Policy and Risk Assessment is an excellent basis, along with a Tenancy Agreement for outlining clear rules.

The advice is all covered under the Health and Safety at Work Act 1974, the common law duty of care, is a general duty on all organisations, this has been developed by the courts over many years. This duty is regardless of the size of the organisation, its income or whether the organisation has paid staff. If a volunteer is given a task, which results in them injuring themselves or anyone else, the members of the governing body may be liable, this would be covered under the Health and Safety at Work Act 1974, this is an interesting area which does cause much confusion as to responsibilities.

A duty of care may arise in numerous ways and may not always be obvious, for example loaning equipment to others, selling food on a charity stall, organising day excursions. Liability will depend on establishing that the organisation failed to take

reasonable care and it would then be for the courts to decide whether the actions taken were unreasonable.

The Occupiers Liability Acts both 1984 and 1957 will be applicable to the Association, under the 1957 Act you owe a duty of care to all lawful visitors and under the 1984 Act a duty is owed in respect of trespassers. An occupier must also be prepared for the fact that children will be less careful than adults. This means in practice if there is something on the site, machinery, pond, bright berries this may constitute a 'trap' to a child, if the child is then injured by the 'trap' the occupier will often be liable. With regard to signage, you cannot absolve your responsibilities, however as an occupier the Association would be under a duty to erect a notice warning visitors to the site of any immediate danger.



Remember Your Allotment is Your Responsibility

Risk Assessments

The aim of the risk assessment process is to ensure that no one is injured or becomes ill as a result of activities carried out on the allotment. Risk assessment will identify measures needed to comply with legislation, help prioritise in the decision making process and improve cost effectiveness of resource allocation.

The process of risk assessment involves studying the activities and deciding what could cause harm. Consideration must be given to the likelihood that harm could occur in practice. The final part of the process is to identify the precautions that need to be taken in order to reduce the likelihood of harm occurring. When carrying out this process consideration must be given to legal requirements and guidance on good practice.

Anything that could cause harm is generally referred to as a **HAZARD**. The probability that someone will be harmed by a hazard is called the **RISK**.

The Risk assessment process you use only needs to be a simple procedure.

Identifying risks by:

- considering the dangers posed by the hazard;
- deciding who could be harmed and how;
- identifying what action you need to take i.e. further control measures;
- recording the results of the assessment; and
- revising the assessment when necessary

'...The aim of the risk assessment process is to ensure that no one is injured or becomes ill as a result of activities carried out on the allotment...'



Equipment is covered under the Provision and Use of Work Equipment Regulations 1998 (PUWER) the regulations require that equipment provided for use is:

- Suitable for the intended use
- Safe for use, maintained in safe condition, inspected to ensure that this remains the case.
- Used only by people who have received adequate information, instruction and training with the appropriate protective equipment and
- Accompanied by suitable safety measures e.g. protective devices, markings and warnings.

An allotment association may require their own Public Liability Insurance, this may need further clarification depending on whether the site is direct let or self-managed. Public Liability Insurance will cover claims made against the organisation or committee members of an unincorporated body for injury, loss or damage caused to anyone other than an employee, as a result of an organisation's negligence. This would also cover an injury suffered by someone using the organisations premises as a result of a breach of duties under the Health and Safety at Work Act or the Occupiers Liability Act 1957. It may also be appropriate for you to have Employers' Liability Insurance this would cover the organisation in the event that a volunteer is harmed (undertaking work on the site) due to the organisation's negligence. In this instance it is not the fact that someone is employed and under PAYE, it is how much control there is over the way in which the duties are performed.