A black and white photograph of a woman in a gym, wearing a dark tank top and leggings, performing a battle rope exercise. She is crouching on a weight plate, holding the ends of a thick, braided rope. The gym background features various pieces of equipment like racks and rings. A dark grey semi-transparent box is overlaid on the right side of the image, containing white text.

# A Simple Guide to **Risk Management** for Gyms and Health Clubs

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# Welcome

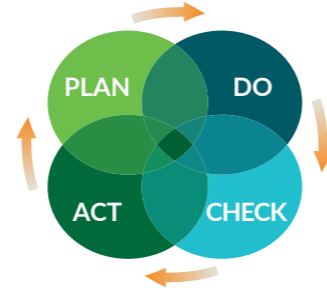
A strategic partner with ukactive, Partners& is a leading insurance adviser to the fitness industry. We have over twenty years' experience in supporting the health and fitness sector across the UK with risk management and insurance advice.

Not surprisingly, we have encountered the extremes of good practice and bad practice. One of our main aims in producing this guide is to share our knowledge and experience for the benefit of gym and health club operators

Today, anyone responsible for running a gym or health club needs to be fully aware of the challenges facing them. Demanding statutory obligations, as well as the possibility of claims and allegations of negligence in this highly litigious society, mean it's imperative that operators remain legally compliant and implement suitable and sufficient risk control measures.

Through this guide, we will aim to help operators identify many of the main risks they face. It highlights the key points to consider, giving practical advice and sharing best practice on how to manage these risks. The Health and Safety Executive's (HSE) strategy 'Managing for health and safety' prescribes a structure called Plan, Do, Check, Act (PDCA); guidance is on the HSE website [www.hse.gov.uk/](http://www.hse.gov.uk/). For simplicity in this guide, we break it all down into our Four Ps of Risk Management (People, Premises, Paper and Practical Measures). Paper and Practical Measures).

Whilst we don't go into great detail on individual subjects, we have provided many references and links to organisations, books and websites so that you can access much more specialist information.



It is an HSE requirement to have the appropriate level of competence in health and safety. This can be provided internally or externally and there is encouragement from HSE to consult with health and safety representatives in good time. While you can opt to use internal resource, we believe operators should also consider the use of a specialist health and safety consultant, ideally with experience of working with gyms and health clubs. As well as keeping you updated on important issues and changes in law and regulation, external providers also provide hands-on assistance with health and safety planning, implementation, testing and auditing. We can introduce you to our partners in this field; good risk management contributes positively towards claims frequency and supports sustainable insurance rates.

The Partners& holistic approach to risk takes a wide-angle view, embracing operational risk, ever-evolving cyber risk and "people risk", helping to keep employees healthy, engaged and motivated, and protecting the interests of shareholders and business owners.

We hope that this guide will be a convenient and practical reference point and that our advice enables you to navigate the multiple and complex risks in your business. If you'd like advice on anything specific, please contact us directly.

## The Partners& Team

## Partners&

Our aim is to create the best advisory business in the UK, characterised by...

- People who stand shoulder to shoulder with you
- Advice that makes a difference
- Outcomes that shape your future

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# Introduction

The number of people participating in some form of daily activity, sport or recreation has increased significantly in recent years, recognising the benefits of improving the health of the nation through promoting more active lifestyles. Getting more people more active more often has resulted in an increase in the number of gyms and fitness facilities throughout the UK, now circa 5,000. There has also been a move to make these facilities available to members 24 hours per day; a feature which, while providing ultimate flexibility and accessibility, can present some unique risks that require careful consideration and appropriate management controls.

The exponential growth in the market in recent years has invariably resulted in an increase in accident claims against the operators of these facilities. Insurance claims highlight a disproportionate increase in both the frequency and severity of accidents and injuries occurring and it's important to address the causes of these trends. Whilst the temptation might be to focus on what are considered the unusual or perceived high-risk activities, the facts show that the majority of accidents are from mundane everyday gym usage. For every 600 near misses, there is likely to be one fatality and ten major accidents. Reducing near misses will also reduce the risk of fatality or major injury.

Our experience of dealing with claims in the health and fitness sector highlights **the most common cause of accidents which lead to personal injury claims is slips, trips, and falls**. These can occur in the shower and changing areas, in car parks, in studios, on stairs and on the gym floor (particularly the free weights area).

Some of these accidents are preventable, but many of them are not, and therefore having the right procedures in place to defend a claim and be compliant with health and safety regulations are essential. The sections on H&S policy, record keeping, risk assessments, signage and accident reporting are all relevant to this.

## The other common causes of claims are as follows

- Faulty or poorly maintained equipment
- Negligent instruction or inadequate training/induction
- User error (a claim can still be valid if the operator has not taken the right measures)
- Ineffective or poor management controls

'A simple guide to risk management for gyms and health clubs' sets out in plain language a process to help operators to identify, prioritise and take proportionate action to remove, reduce or transfer those risks that threaten the wellbeing of the facility. Achieving this will ultimately produce a better, more enjoyable experience and a safer environment for members and employees. This guide is aimed at all stakeholders involved in the management and operation of gym and health club facilities. It is not intended to be a prescriptive blueprint for all, recognising that each facility is unique, and management should adapt the guidance to suit their individual operation. It is the responsibility of management to decide the methods of the risk management process appropriate for their facility, ensuring the assessment ("Plan" stage) and implementation ("Do" stage) involves input from all staff, not just those at supervisory and management level.

Experience shows that implementing a robust risk management system can help reduce the incidence of accidents and injuries. It can also result in a safer working environment and better member experience, improve the quality and service of your proposition, helping to attract and retain members, and may help obtain more comprehensive insurance cover at agreeable terms with insurers.

In this guide, we examine some of the key issues of risk (Four Ps of Risk Management) and where appropriate, provide guidance, advice, and good practice on specific issues.



# The Four Ps of Risk Management





# People



## Induction training

### Key points for consideration:

- Member T&Cs should contain the requirement for the completion of a health questionnaire and/or health waiver. Members should complete this on joining and review it annually
- Every member must be offered an induction by an experienced, qualified member of staff. Consider incentive techniques to improve uptake
- In the event of a member refusing to undertake induction, they should sign a document to confirm they have been offered training and have opted not to undertake the induction. You should maintain records for at least three years
- Where appropriate, induction training should also include procedures and safety protocols for use whilst the gym is unstaffed
- You should keep records of induction training for at least three years to refer to in the event of a claim
- Advise users to ask for advice when using any unfamiliar equipment
- Signposts displayed throughout the facility can be useful to inform, instruct and instil collaboration between staff and members

Lack of induction training is one of the most common reasons insurers are unable to defend claims in cases where the cause appears to be user error. Personal injury solicitors can cite lack of training as the reason behind the accident occurring and, unless the gym operator can prove that adequate training was provided, the claim is unlikely to be settled. Such a situation can be galling for gym owners, but it is the reality in the current legal environment.

To protect against the risk, you should ideally provide induction training to every member and then record it. We understand, however, that it is not always practical, and particularly when experienced gym users are joining, they may refuse induction training. When this occurs, it is important to obtain confirmation in writing that the member has been offered but refuses the induction training. We have developed the induction training waiver for this precise situation.

### Claim example

A member suffered an injury to his back whilst using the lat-pull-down machine. His appointed solicitor later claimed the club was responsible for the damages as no induction training had been provided. The operator had offered induction training but the member had refused on the grounds that he was an experienced gym user. There was, however, no record of this exchange and the solicitors defending the club had to accept liability.

The importance of recording induction training and obtaining a signature from the member cannot be underestimated.

# First aid

## Key points for consideration:

- Assess your first aid requirements based on the number of employees, the number of members and the nature of your activities
- Further guidance on first aid is on on the HSE's website [www.hse.gov.uk/firstaid](http://www.hse.gov.uk/firstaid)
- As a minimum to meet the regulations you will need:
  1. A fully stocked first aid kit
  2. An appointed person responsible for first aid arrangements
  3. Information distributed to employees explaining the arrangements (e.g. by putting up a notice)
- Seriously consider having a trained First Aider on site at all times

The Health and Safety (First Aid) Regulations 1981 state that employers must provide:

- adequate and appropriate equipment and facilities
- adequate numbers of suitable persons to administer first aid
- a responsible person to take charge when the designated first aider is absent
- information to all employees concerning the arrangements for first aid

There are no specific legal requirements to provide first aid for non-employees, however a gym's main risk

of injury is to the public. Therefore, considerations need to be wider than the legislation, fulfilling the organisation's general duty of care.

Having trained first aiders on staff is an important consideration. Clearly, first aiders can provide an invaluable service if a serious injury occurs. Furthermore, having trained first aiders demonstrates a commitment to having the right measures in place and will help defend any claims where it is alleged that first aid provision is inadequate.

There are three main recognised standards of normal workplace first aid training:

- an appointed persons course, where a first aider is not required
- a one-day Emergency First Aid at Work course (EFAW) with a one-day refresher every three years
- a minimum three-day First Aid at Work Course (FAW) with a two-day refresher every three years

With effect from 2013, the HSE no longer has a role in approving training providers for any first aid courses. First aid training can now be provided by:

- Ofqual, SQA and the Welsh government accredited training providers
- Companies that operate under voluntary approval schemes, for example, a trade or industry body with quality assurance schemes accredited by a third party or a training provider that can demonstrate their competence to an employer by providing evidence that they meet the criteria set by HSE
- St John Ambulance, British Red Cross and St Andrew's First Aid



# Defibrillators

## There is **no doubt** that defibrillators in gyms **can save lives.**

When considering the use of defibrillators, operators should consider the following factors within their risk assessments:

- User profile
- Accident history
- Speed at which a defibrillator can be applied to a casualty (within five minutes)
- Current first aid equipment provision

If you choose to have defibrillators at your premises, it is important to consider the training for their use by employees and the maintenance of the equipment. Where a defibrillator can be administered within five minutes, it can increase the chances of survival by up to 70%.



# Employment disputes/disciplinary matters

## Key points for consideration:

- Clearly differentiate between employee and freelancer status
- Your business should have a written employment contract
- Follow correct disciplinary and dismissal procedures if it becomes necessary to let an employee go
- Employee statutory rights differ depending on:
  - Whether your business is based in England, Northern Ireland, Scotland, or Wales
  - The length of service that the employee has had with the business
  - The age of the employee, as different rights exist for children and young people
  - The status of the employee especially where they are freelance or an agency worker

An issue may even arise pre-employment that could lead to an employment dispute, for example, where a prospective employee alleges discrimination.

A written employment contract detailing the responsibilities of the employer and employee will also be necessary, but the contract of employment cannot take away an employee's statutory rights. Further guidance on employment is available at: <https://www.gov.uk/browse/employing-people>

The Citizens Advice Bureau provides a very good guide to the basic rights of work at <https://www.citizensadvice.org.uk/work/rights-at-work/#sec57006>

(just replace "England" with your particular region).

## Insurance requirements

Most insurance policies also contain free-to-use legal advice help lines, where you only have to pay for the cost of the call. If you subsequently choose to use the services of a solicitor, the cost will not be covered unless you have the appropriate insurance in place.

It is not unusual for a legal expenses policy to contain a condition that you consult with the insurer before you begin any employee dismissal proceedings. The insurer will advise you on the correct procedure to follow and hopefully avoid the inconvenience and cost of attending a tribunal.





# Fitness instructors and personal trainers

## Employees, freelancers and subcontractors

### Key points for consideration:

- Clarify whether staff are directly employed or subcontractors/freelance (even if trainers are not PAYE, they may be considered employees)
- If you are employing any staff, it is a legal requirement to have employers' liability insurance
- For all personal trainers and fitness instructors, irrespective of status, it is important you check their competence to carry out the activities they are doing. You should check their qualifications and experience are appropriate, and ensure there is a process to repeat this annually or as qualifications require renewal
- Check that any freelancers have adequate insurance. The limit of public liability should be at least equal to your public liability limit to avoid any additional exposure. Ideally, you should keep on file a copy of the insurance schedule and review it annually
- Contracts are important to formalise the arrangement and clarify the obligations
- Consider the use of a specialist company to manage these various issues in relation to freelance personal trainers

One point often causing confusion amongst operators is the status of fitness instructors and personal trainers. If in any doubt about the status of the instructors, the checklist below may be useful. If any of the statements apply, the law is likely to consider them employees:

- The person is under direct supervision of the gym operator
- The person receives their training from the gym operator
- The person receives payment for their work in the form of a wage (as opposed to invoicing for their services)
- There is a contract of employment in force (written or otherwise)

It is important to be aware that for employees you have a greater responsibility for their safety and the safety of others arising from their actions (Vicarious Liability).

### Claim example

A fitness instructor adjusted a bike before a Spin class. The bike had not been properly set up and when the member injured their leg, a claim was brought. As the instructor was not properly insured, the gym operator's insurers could not make a recovery. The claim therefore sits with the operator and could impact on their claim record and future premiums. In some cases, this could also be a breach of policy conditions and an insurer could refuse to provide an indemnity.



# Premises



# Maintenance and inspection of equipment

## Key points for consideration:

- Carry out visual inspection of equipment daily
- If any equipment has an issue, withdraw it from use
- Make sure equipment is serviced and maintained in accordance with manufacturer's guidelines – ideally through a maintenance contract, though this is not essential. Those carrying out the inspection regimes must be competent to do so
- Make sure records of inspection and maintenance are kept in a clear and accessible format
- The free weights area needs to be kept clear of obstructions with appropriate racks and signage to help achieve this

Faulty equipment is the second most common cause of claims in gyms. Whilst following the above steps would not always prevent accidents, it will assist in a successful defence of the claim. We have seen accidents involving most equipment over time, but certain pieces of kit have a noticeably higher incident rate. These include:

- Lat pull down machine
- Smith machine
- Spin bikes
- Cable cross over machine
- Swiss balls (bursting)

In making inspections of equipment, pay particular attention to the fixed resistance equipment as the cables do fray over time and need to be replaced before they snap and cause injury.

Record keeping is key in this area and a note that daily inspections have been conducted is essential. There are many ways you can do this, and it should fit in with other systems and procedures. We do, however, have a daily check sheet available if you need it.

Certain plant and equipment (including boilers, pressure vessels and lifts) must be inspected periodically. Further guidance on maintenance and inspections can be found on the HSE's website [www.hse.gov.uk/safemaintenance](http://www.hse.gov.uk/safemaintenance)

## Claim example

A member using dumbbells alleged that his finger was crushed as a result of another free weight being left on the floor thereby causing an obstruction.

Other similar claims have been made and, as they need little evidence on causation, they can be hard to defend.

# Maintenance of buildings and amenities

Buildings deteriorate over time from general weathering and wear and tear and can quickly become unattractive and potentially unsafe. A regular programme of planned, preventative maintenance will ensure the building remains safe and 'fit for purpose'.

Ensure there is always safe access to and egress from the property for members, employees and visitors, including taking account of people with disabilities.

Planned changes to buildings and protection systems may introduce new, or alter existing, hazards. To ensure best risk management practice is incorporated into any planned change, discuss details of any planned project with your insurance adviser, and identify where you can secure appropriate additional support and guidance.

## Key points and recommended tips for consideration:

- Regular inspections are a key part of any maintenance programme to help identify problems promptly. Early remedial action by a competent contractor is essential to prevent further, more costly, damage. Retain records of this
- Inspect roofs regularly - at least annually or following particularly stormy weather. Records of inspections should be retained

- Blocked or damaged rainwater goods may result in damage to the building fabric or water ingress which could result in temporary disruption to the business. Check rainwater goods regularly and clean them at least annually - more regularly when necessary eg: when close to trees
- Any building erected or refurbished prior to 2000 may contain asbestos and you should therefore appoint a competent person to identify whether there is asbestos present. An Asbestos Management Plan will help manage the risk and include an Asbestos Register that clearly identifies the presence and location of asbestos carrying materials within the building

## Car parks

Many gyms have some form of parking area that is either owned or managed. Poorly maintained, poorly signposted or unlit car parks can be a source of repeated, attritional slip, trip, and fall accidents and injuries resulting from the relatively high footfall experienced.



# continued

## Key points and recommended tips for consideration:

- Carry out a risk assessment for car parking facilities to identify particular hazards eg: vulnerable to flooding, ice build-up, and prioritise inspection and maintenance regimes
- Provide efficient means of access and egress for vehicles eg: one-way systems, and segregate pedestrian walkways where possible
- Provide adequate lighting for frequently used car parking facilities
- Instruct/train employees to carry out car park inspections using an inspection checklist that demonstrates inspections have taken place and, where appropriate, that no defect was identified
- Ensure that repairs carried out are documented to ensure an effective inspection and maintenance audit trail

### Claim example

An employee fell over on a pothole in the employee car park. It was found that no system of inspecting and maintaining the car park was in place. The business owner was found to be liable.



# Signage

## Key points for consideration:

- Some signs are required by law
- Where signs are necessary, they must be in the correct format
- The absence of adequate signage could weaken your case in the event of an injury claim being made against you

The main law covering the rules concerning signage at your premises is the Health and Safety (Safety Signs and Signals) Regulations 1996.

The Health and Safety Executive has produced a very good guide that can be purchased or downloaded for free from their website at <http://www.hse.gov.uk/pubns/books/l64.htm>

The business premises will be subject to a “no smoking” ban and it is a requirement under The Smoke-free (Signs) Regulations 2012 for you to display the correct sign. If you have business vehicles, then a “No Smoking” sign is also a requirement. The legislation differs slightly depending on where in the UK you are.

Employers have a legal duty under the Health and Safety Information for Employees (Amendment) Regulations 2009 (HSIER) to display the approved health and safety poster or provide each worker with a copy of the approved leaflet. A poster can be purchased at <https://www.hse.gov.uk/pubns/books/lawposter.htm>

If, having conducted a risk assessment at your premises, you have concluded that a sign is necessary, then the sign must meet with certain standards as well as being maintained. For example, it is likely that under the Regulatory Reform (Fire Safety) Order 2005 that you will need a “fire exit” sign.

Temporary signage may also be needed. Where a risk of injury is identified you owe a duty of care to provide effective signs warning of such risks. Examples are wet or slippery floors, uneven surfaces, and defects in the premises.

Within your gym, it is highly recommended signage is prominently displayed to inform, instruct, and instil collaboration between staff and members. Display posters encouraging regular induction, demonstrations of equipment, safe stretching exercises and where appropriate, particularly on resistance equipment, each machine should clearly warn of unsafe methods of use.

### Claim example

Many slips, trip and fall accidents occur where floor surfaces are wet. The resulting claim is likely to succeed where there is an absence of clear and effective warning signs and/or cleaning logs and records.

# Fire safety - life safety

## Key points for consideration:

- It is a legal requirement to conduct a fire risk assessment
- Your insurer may ask for confirmation that this assessment has been done
- The assessment needs to be reviewed regularly
- Good management and housekeeping are essential. Electronic equipment should be regularly maintained and unplugged when not in use
- Saunas, arson, and faulty electrics are the most common source of fires

Fire risk assessments should be undertaken for gyms and health clubs in compliance with the Regulatory Reform (Fire Safety) Regulations 2005 (England and Wales); Part Three of the Fire (Scotland) Act 2005, supported by the Fire Safety (Scotland) Regulations 2006; and The Fire Safety Regulations (Northern Ireland) 2010.

Furniture and furnishings should comply with The Furniture and Furnishings (Fire) (Safety) (Amendment) Regulations 2010.

The laws essentially require that a fire risk assessment is carried out by a “responsible person” and a written record of the assessment must exist.

The written record will need to detail:

- The fire risks that exist at your premises
- What your employees must do to prevent a fire
- Training on fire prevention
- The use of fire detection and fighting equipment
- The correct evacuation procedures should there be a fire
- Consideration of those that use and/or visit your premises

You should review fire risk assessments as follows:

- Following an incident
- When new sources of ignition, combustion and oxygen have been introduced (ie: the risk has changed)
- Following significant changes in personnel
- Ideally annually

The government has produced a very good guide that can be downloaded from [www.gov.uk/government/collections/fire-safety-law-and-guidance-documents-for-business](http://www.gov.uk/government/collections/fire-safety-law-and-guidance-documents-for-business).

The Fire Industry Association (FIA) website also has a wealth of free information at [www.fia.uk.com](http://www.fia.uk.com).





# Fire safety

## Property protection and business continuity

Some gyms and health clubs will contain facilities where the risk of fire is relatively high eg: use of saunas, cooking and waste storage arrangements. Common fire hazards associated include:

- Deliberate fire setting, often as a result of combustible waste material in unsecured bins or storing waste too near to the property
- Heat produced because of poorly maintained plant and equipment
- Electrical fire hazards from poorly maintained equipment and installations
- Cooking/preparation of food within a cafe or restaurant
- Many large gym fires have originated from saunas where the cause of the fire has been attributed to improper construction, poor maintenance, loose materials being left in the sauna eg: newspapers or towels and illicit use of flammable (body) oils/ fragrances
- Fire doors being wedged open or providing inadequate fire stopping
- Poorly planned or ill-considered access for firefighting

Some simple control measures, however, can remove or reduce the risk of unplanned events such as fires and you should consider:

- Assessing the likelihood of deliberate fire raising at the time of the fire risk assessment. Provide suitable security measures, including suitable security locks

to perimeter doors, access control systems and installing electronic security systems such as intruder alarms and high quality CCTV

- Reviewing the fire risk assessment periodically, especially prior to proposals to change the layout of the premises
- Avoiding hot work wherever possible or where there is no practicable alternative to the use of hot work, using an appropriate Permit to Work system
- Cooking should only be undertaken in a fire compartment designed to provide a minimum 30-minutes' fire resistance between the cooking area and other parts of the building. The kitchen should be properly designed and equipped for the purpose and deep fat fryers should be avoided where possible
- Saunas should be designed and managed in accordance with guidance set out in the RISCAuthority Guide – see <https://www.riscauthority.co.uk/free-document-library/>
- Avoiding the use of candles in massage and treatment rooms
- Arranging planned, preventative maintenance contracts with competent engineers for all plant and equipment in accordance with manufacturers' instructions
- Ensuring electrical installations are designed, installed, and periodically tested by a competent electrician in accordance with the current edition of the IET Wiring Regulations BS7671. Carry out inspections on a risk assessed basis as

recommended in the periodic inspection report. Further guidance on electrical safety is available at [www.hse.gov.uk/electricity](http://www.hse.gov.uk/electricity)

- Portable electrical equipment should be inspected and tested at least in accordance with HS(G)107. A risk assessment should be used to determine the programme of inspection and testing
- Installing an Automatic Fire Detection (AFD) system. The system should be installed and maintained by a UKAS accredited company and the category of installation as determined by Risk Assessment
- Arranging for the AFD installation to be monitored by a UKAS accredited alarm receiving centre to ensure the fire and rescue service is called without delay outside normal operating hours
- Providing an appropriate number of suitable Fire Extinguishing Appliances (FEA). Installation and maintenance should be in accordance with BS5306-3. FEA should be accessible by staff; and staff trained in their use
- Appointing and training staff as fire wardens and ensuring that the premises are evacuated without delay in the event of fire
- Ensuring water supplies in the area are adequate for firefighting purposes and access to the site is readily accessible for the fire and rescue service; and
- Establishing an effective emergency and business recovery plan to ensure the resilience of the business. Business continuity and incident management planning software is available free from <https://robust.riscauthority.co.uk/>





# Business continuity

## Key points for consideration:

- Analyse what the key threats to the business are – remember these may not just be physical risks but others such as loss of IT or power
- Regularly review the adequacy of your insurable values to identify if you have adequate and appropriate levels of cover
- Take measures to reduce the likelihood and impact of these threats
- Plan on how to cope with the impact
- Keep key documents in an accessible format - this should include key contact numbers and procedures
- Test the plan

Whilst office-based businesses may have an easier job in planning for disasters as temporary premises can be easy to come by, the same cannot be said for gyms and health clubs. This is quite a specialist area and we strongly recommend the use of a specialist consultant to assist.

Even if you do not get to the stage of a sophisticated business recovery plan, just having a few simple measures in place will help. In particular, it's important to make sure computer data is regularly backed up off-site and can be quickly restored. It is also important to have the plan itself stored away from the premises and at a location

that can be accessed. The early stages following a disaster can be critical to the businesses recovery so having contacts and allocated responsibilities for certain jobs can help.

As temporary premises are unlikely to be available, you may wish to consider reciprocal arrangements with other local gyms so your members can continue to work out, thus reducing the loss of customer base and revenue.

The short guide compiled by Aviva is a useful overview and provides additional detail on the points raised here without going into excessive depth. Please see <https://www.aviva.co.uk/riskolutions/knowledgestore/answer/1687/>.

A sample plan template is freely available at [https://www.riscauthority.co.uk/free-document-library/RISCAuthority-Library\\_detail.business-continuity-template-for-small-businesses.html](https://www.riscauthority.co.uk/free-document-library/RISCAuthority-Library_detail.business-continuity-template-for-small-businesses.html).

Free software to assist in developing a plan is also available at <https://robust.riscauthority.co.uk/>.

# Data protection

The introduction of the General Data Protection Regulations (GDPR) in 2018 has meant stricter rules for all businesses concerning the collection, storage, and processing of personal customer data.

Gyms and health clubs have the potential to gather a wealth of personal customer information and in some cases, that information could be highly sensitive in nature. For example: name, address, email, payment/ card details, medical information, and ethnicity. It is important to note that third party liability risk, risk from threats to your own IT platforms and reputational damage risks rest with the operator even where data is collected and processed via a third-party membership system. Therefore, appropriate protocols and controls are necessary.

Article 5 of GDPR lays out six principles for processing data which businesses need to follow:

1. Personal data must be processed in a lawful, fair, and transparent manner
2. Any data collected must be done so for a specific and stated purpose. It must be explained to the user/customer/client why that data has been collected and what it is going to be used for
3. Data collected must be relevant to a specific task - in other words, minimise the amount of data collected where possible
4. Personal data must be kept up to date and accurate
5. Data must not be stored for longer than is necessary
6. Personal data must always be stored securely



# Cyber security

GDPR means that penalties can be imposed on organisations for not taking appropriate steps to secure or prevent access to data about individuals. A Gov.UK survey released in March 2020 reported that 46% of UK businesses and charities reported a cyber incident during the year.

A cyber security breach can damage an organisation in many ways, ranging from disruption and data loss, damage through loss of intellectual property, denial of access to websites and services, physical loss or damage through viruses, ransomware and other forms of malicious software, reputational impact through damaged brand image and impaired customer relations.

Cybercrime by hacking a computer system or gaining illicit access to a person's personal data is big business and can take many forms including (unusual terms such as): phishing, spear phishing, whaling, smishing and vishing. It is usually perpetrated through malware, denial of access or web attacks to your computer or smartphone.

Approximately 80% of cyber-attacks can be prevented or at least mitigated by basic information risk management:

- Establish an incident management plan to ensure you can respond quickly to, and mitigate the impact of an actual, or alleged, data breach
- Perform a regular back-up of data

- Install appropriate firewall and anti-virus software and ensuring it is tested and kept up to date
- Enable password protection for smartphone and tablet devices

Under GDPR, individuals who suffer material or non-material damage as a result of an infringement of the regulations have the right to claim compensation. You could face compensation claims not only for financial losses but also for distress and hurt feelings, even when there is no financial loss. In addition, you could also have to pay their legal costs (in the event you were unsuccessful in defending a legal action) in addition to your own legal defence costs.

In addition to any legal liability that may be incurred by a data loss, an organisation could also find themselves liable for damage to third parties through unintentional onward transmission of malware, or through their computer system being maliciously taken over and involved in a Distributed Denial of Service attack (DDoS) on other organisations.

Consider a cyber risk policy to protect your gym or health club from the financial impact of client data breaches if negligence on the part of your company is determined to be the cause of breach. Please speak to your insurance adviser for further advice and guidance.

# Social media

In a comparatively short space of time the use of social media has become an important tool for businesses to connect and maintain contact with new and existing customers about the products and services offered. However, without appropriate controls, social media can also be a risk to the wellbeing of an organisation. Some simple risk management controls to reduce and mitigate exposure include:

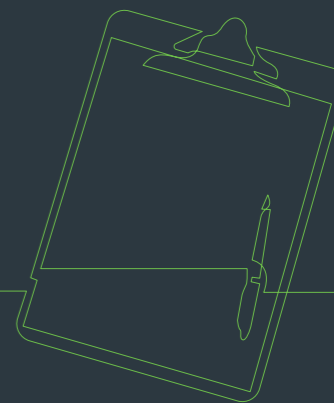
- Create a social media policy
- Train staff on social media security best practices
- Limit social media access

- Set up a system of approvals for social posts
- Appoint a senior manager with responsibility for social media
- Monitor your accounts and engage in social listening
- Invest in security technology - protect your social media accounts with automated, real-time protection against hacks, phishing, malicious content, and compliance risks
- Perform a regular audit





# Paper







# Health and safety

## Policy and arrangements

### Key points for consideration:

- If you employ five or more people you must have a written health and safety policy
- Your employees need to read your policy and meet the stated requirements
- The health and safety policy should be reviewed regularly

If you employ five or more people, the Health and Safety at Work Act 1974 requires you as a business to have a written health and safety policy. Even if you have fewer than five employees it is still a good idea to have something in writing, especially if you should find yourself needing to prove what measures you had taken to keep people safe.

The health and safety policy will set out how you as a business manage the health and safety risks associated with your organisation. It also demonstrates to your employees that you care about their welfare and hopefully it will help reduce the likelihood of an accident occurring.

The policy should be reviewed on a regular basis, especially when there have been changes in your business. For further information about how to manage risk visit <https://www.hse.gov.uk/simple-health-safety/index.htm>.

Since 2013, the Health and Safety Executive no longer carries out automatic inspections of business premises, unless you are working in a high risk industry, the Health and Safety Executive has received a complaint or you have had a major workplace incident. If an HSE Inspector does call, you should be prepared and a useful leaflet explaining what to expect is available at <https://www.hse.gov.uk/pubns/hsc14.pdf>.

As part of the Enterprise and Regulatory Reform Act 2013, the strict liability provisions under S.47 of the Health and Safety at Work etc. Act 1974 no longer applies, although there are some exceptions. Essentially, employees now have to show that an employer has been negligent, but employers will still need to make sure they meet their statutory requirements for health and safety in the workplace.

The business must also display the health and safety law poster or provide each worker with a copy of the equivalent pocket card. The business must display the poster where workers can easily read it.

The Health and Safety Executive has produced a very good guide that can be found at <http://books.hse.gov.uk/hse/public/saleproduct.jsf?catalogueCode=9780717664481>

# Accident reporting (including RIDDOR)

## Key points for consideration:

- All accidents and near misses at your premises should be recorded
- More serious accidents need to be reported
- Maintaining written records is a must, especially if they are needed to defend legal action
- 'Over 7 day' injuries to employees should be reported within 15 days using the online form. Diseases should be reported without delay following the employer receiving written notification from a medical practitioner that the individual is suffering from one of the specified conditions
- Unless the accident is of a type recordable or reportable under RIDDOR there is no legal requirement to keep records of accidents to non-employees. However, from a claim's defensibility perspective, it is good practice to record details of all accidents involving members

The RIDDOR (Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013), puts duties on employers, the self-employed and people in control of work premises (the responsible person) to report certain serious workplace accidents, occupational diseases and specified dangerous occurrences (near misses) to the HSE, (Health and Safety Executive).

Incidents that happen in Northern Ireland should be reported to the HSE NI.

- Reports are made on-line at <http://www.hse.gov.uk/riddor> using the relevant on line report form (F2508 for a report of an injury or dangerous occurrence and F2508A for a report of a disease). Hard copy written reports can no longer be submitted, and telephone reports are only available for deaths and specified injuries via the HSE's Incident Contact Centre (ICC) on 0345 300 9923 (Mon- Fri 8.30am to 5pm)

Employers with ten or more employees are required to keep an accident reporting book. The approved format is that shown in the BI510 2018 edition accident book (ISBN 9780717666935) which is available in pads of tear out forms, from HSE Books and other book retailers. To comply with data protection requirements, you should remove completed pages and file them confidentially. It is not a requirement to use the BI510 form, although if employers wish to use their own form, it must include at least the same content and must be available to employees to make their own report unhindered.

Entries in the accident book must be kept for at least three years and in the case of the old style books, the whole book must be retained for three years from the date of the last entry. The reason for this minimum retention period is due to the three-year limitation on individual's right to claim compensation for injuries.

RIDDOR also requires that records are kept by the 'responsible person' of incidents reported as injuries, disease, or dangerous occurrences and recordable 'over three-day' injuries to employees and the self-employed. The record keeping requirements are fulfilled by keeping:

- for reportable accidents, a copy of the statutory report, the date of the report to the enforcing authority and a record of the way the report was made, which will usually be on-line
- for recordable, but not reportable injuries to employees, a record of date and time of the accident, the full name and occupation of the injured person, the nature of the injury, the place where the accident happened and a brief description of the circumstances

It is good practice from a learning and claims defensibility perspective to investigate all accidents and near misses which caused or could have led to injury at the premises; however, it is worth noting that the legal requirements for incident investigation are relatively limited. Employers have a duty to monitor and review their health and safety management systems and one of the essential components of the management system is to investigate accidents and incidents and then implement appropriate remedial actions.

A brief guide to 'Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013' (INDG 453 (Rev1) can be found at <https://www.hse.gov.uk/pubns/indg453.pdf>

The HSE's approved forms to be used, preferably online, when reporting work related accidents, diseases, dangerous occurrences, and gas incidents can be found at: <https://www.hse.gov.uk/forms/incident/index.htm>

A BI510 Accident Book is available to purchase from HSE books and other book and stationery retailers

## Claim examples

Specific examples of health and fitness clubs failing to report accidents at work are hard to find, but companies that have had a problem in this area include:

Tata Chemicals Europe, which was ordered to pay more than £170,000 in penalties in April 2013 for three separate incidents at its Cheshire factory from 2010.

Tesco was prosecuted for not reporting staff accidents properly at two of its Berkshire stores, and for failing to load and unload vehicles safely. The fine amounted to £34,000.

Insurance may cover the costs of defending an allegation of failing to comply with RIDDOR, but the fines themselves are not insurable.





# Risk assessments

## Risk assessments

Every business has a legal, moral, and financial obligation to organise, manage and control the welfare, safety and health of their employees and any visitors to their premises. By organising, managing and controlling the risks that are present within the workplace, the business will not only ensure compliance but will assist in the reduction of the number and severity of accidents and help in the reduction in the cost of insurance claims.

A business's responsibility for the health and safety of employees and visitors varies according to sector, however as a minimum, all business should follow some basic principles of:

- Risk identification
- Elimination of those risks that threaten the safety or wellbeing of an individual
- Substitution of hazardous operations or activities
- Control of activities
- Provision of appropriate personal protective equipment
- Education and training of persons exposed to hazardous operations
- Discipline and enforced control procedures

A framework for a realistic and proportionate health and safety system in small and medium size businesses should incorporate the following:

- Appoint a person responsible for health and safety - an internal, suitably experienced person or an external professional
- Prepare a health and safety policy which meets current legal requirements and best practice, ensuring the policy is regularly reviewed to ensure it adequately reflects the activities of the business
- Prepare and regularly review risk assessments of all activities that may affect the health and safety of employees and visitors
- The development of safe working practices
- The recording of appropriate health and safety training for all staff
- Recording of accidents and near misses
- Regular auditing of health and safety systems and procedures



# Record keeping

## Key points for consideration:

- Risk assessments are required by law
- There are several different types of risk assessment
- Keep written records of risk assessments undertaken

A risk assessment is something that most businesses are required by law to carry out. The assessment itself is an examination of the hazards that may exist within your business that potentially could harm your employees and customers and subsequently the measures that need to be taken by the business to eliminate, reduce or control those hazards.

Risk assessments need to be in writing, compiled by a competent person and reviewed on a regular basis. The exact nature of the risk assessment will vary from business to business and for gyms should cover your main facilities and activities

Typically you should conduct risk assessments for:

- Fire safety
- Slips, trips, and falls throughout the premises (including changing rooms)
- Display screen equipment
- Manual handling activities

- Controlling of substances hazardous to health stored at the premises
- Swimming pools
- Use of the gym by young persons
- Special events

Of course, if you hold any events outside your normal place of work, for example running clubs, you should also conduct suitable risk assessments.

The Health and Safety Executive has produced a very good guide at [www.hse.gov.uk/risk/fivesteps.htm](http://www.hse.gov.uk/risk/fivesteps.htm)

The Health and Safety Executive for Northern Ireland has a guide at

<https://www.hseni.gov.uk/articles/risk-assessment>

## Key points for consideration:

- There may be a legal requirement to keep documents
- Good record keeping provides evidence of working practices

In many instances there is a legal requirement to keep and maintain written records of the health and safety measures including risk assessments, gas safety checks, Control of Substances Hazardous to Health (COSHH) documentation, passenger lift examinations, cleaning logs etc. that have been conducted at your business.

These records need to be available for inspection whether an incident has occurred at your business or not. The Health and Safety Executive has a legal right to examine such records.

Establishing simple but effective checklist records can also be invaluable. Gyms are places of high footfall especially during busy, peak periods and operating a daily Opening and Closing Checklist will help identify problems and enable you to put in place appropriate controls to mitigate risks. If someone has been injured at your premises this will obviously aid any defence, if all relevant records have been kept including details that have been recorded in the Accident Book (a legal requirement). Training records including staff training and induction training for members can be vital to the successful defence of a claim.

If the injury is as a result of a substance that could be hazardous to health, perhaps something used for cleaning purposes, then the requirements of COSHH list sixteen documents that can be requested (if relevant) including the risk assessment, records of the maintenance of personal protective equipment and the examination of local exhaust ventilation.

Should an incident occur it is possible that any legal action may not be brought for up to three years from the date of the incident (and longer if the injury has been to someone under eighteen years of age). In the case of work-related employee industrial diseases, legal action can be brought up to three years from the date that the employee became aware of the condition. You should therefore keep records in accordance with the legal requirements, including:

- Accident book entry
- First aid report
- Accident investigation report (inc witness statements)
- Safety representative accident report
- RIDDOR report
- HSE correspondence
- Report to Department for Social Security (DSS)
- Pre-accident risk assessment
- Post-accident risk assessment
- Evidence of training

Employers' liability insurance is a legal requirement where the gym has employees. There is a requirement to display your employers' liability insurance certificate in a prominent place at each place of work. Although there is no longer a requirement to keep your employers' liability documents for forty years, recommended best practice suggests that records are kept.

A quick word on the Data Protection Act as well. Employers are required to ensure confidential and appropriate handling of "sensitive personal data", including access to personnel records of a person's health.

#### Claim example

An employee lost the tip of a finger whilst using a dangerous piece of equipment. His employers' liability claim succeeded because there was no record of the training provided on using the equipment safely.



# Practical Measures



# Unstaffed and 24-hour gyms

## Key points for consideration:

- Consider what equipment and facilities are appropriate for an unstaffed gym
- CCTV with a system of recording and monitoring is important if not essential
- Access control is necessary to restrict entry. A key fob/entry card system or biometric entry system would be the most secure method
- There should be an emergency contact system in place for members to raise the alarm
- Induction training should also include taking members through procedures for usage whilst the gym is unstaffed
- Appropriate signage is essential, both warnings and advice
- Daily inspection of equipment and recording of such checks is even more important for unsupervised gyms

The arrival of the 24-hour gym has brought new challenges for managing the risk in gyms; however, with the right approach the exposure of a 24-hour gym needn't be excessive. CCTV is particularly effective in reducing the risk. Operators need to consider the coverage of the CCTV (ideally full coverage with no

blind spots, including exits). The footage should also be recorded, and monitoring of the footage by a professional security company is a major advantage.

Many unsupervised clubs have a deliberately limited range of facilities; however, if you operate a club with facilities such as sunbeds, saunas, and pools, these pose a greater risk and restricting access to these facilities to staffed hours only is recommended. It is important to note that unsupervised sunbeds are banned in Wales and unsupervised use of sunbeds for under 18s is banned in England.

## Claim example

A lady slipped on the stairs of a 24-hour gym and injured her back. The incident was recorded on CCTV, which showed it was just an unfortunate accident. As a result of the evidence being produced, the operator was able to successfully defend the claim, and nothing was paid to the claimant.



# Children in gyms



## Key points for consideration:

- Children need to be supervised by a responsible adult: a parent or guardian, or maybe an employee of the gym. In any case, the responsibility needs to be made clear
- Consider the nature of the activities and their suitability for the age group
- Staff may need specific training in delivering activities for children
- A child protection policy is highly recommended
- DBS (formerly CRB) check is recommended for all personnel coming into one-to-one contact with children. Please note this is a requirement of some insurance policies. Further consideration should be given to establishing appropriate policies relating to abuse, safeguarding and whistleblowing; all communicated to staff on a signed receipt basis.

With the government agenda on childhood obesity, junior memberships and specialist classes for young people are becoming more common. This area does come with some risks, so it is important to manage it carefully. There is an increased responsibility in allowing children on to your premises.

In particular, it's essential to make sure children are adequately supervised, as well as ensuring that they only carry out suitable activities. There is no defined list of

what is suitable but common sense must prevail. For example, free weights are not suitable for very young children.

Other activities such as children's parties and summer clubs require extra care and attention and warrant a specific risk assessment.

If you have swimming pools which children may use or crèches, we recommend that you seek specific advice. The following links may be useful:

Crèche Safety - <https://documents.hants.gov.uk/childrens-services/Guidancenotesforcrecheprovision.pdf>

Swimming Pools (Free HSE download) [www.hse.gov.uk/pubns/books/hsg179.htm](http://www.hse.gov.uk/pubns/books/hsg179.htm)

## Claim example

A gym operated a children's circuit class. One of the activities was running on the treadmill; however, an eleven year-old was left on the treadmill without an instructor nearby. The child came off the treadmill, seriously injuring themselves. Due to lack of supervision and instruction, there was no defence to this claim, and it was therefore settled in favour of the claimant.

# Outdoor activities

## Key points for consideration:

- Risk assessments are required – consider obvious factors such as the type of terrain, major roads or traffic hazards and extreme weather conditions
- Provide a competent leader/instructor - do they have the necessary qualifications and/or experience and are they first-aid trained?
- Ensure equipment used (particularly in functional training) is in good condition
- Consider the degree of difficulty - is it too strenuous/demanding for the participants?
- Allow for appropriate stretching, warm up and cool down

Outside activities are on the increase through the popularity of running, walking, and cycling groups as well as functional training. The main risks are easily managed through careful planning and attention to detail.

Activities should be graded (classified) depending on their degree of difficulty. Standard categories are beginner, intermediate and advanced, to reflect how strenuous and/or demanding they are assessed to be. Participants can then make a more considered judgement as to the suitability of the activity for them and could be useful in defending a claim following an injury resulting from over-exertion.

It is essential to check that your insurance policy automatically covers your outside activities. It is common for insurance policies to contain an exclusion of liability arising from 'work away from the insured premises'. If you are in any doubt about the adequacy of your cover, contact your insurance adviser (or alternatively contact The Partners& Team) for professional advice.



# Swimming pools and wet areas

Pools and wet areas are such a potentially hazardous part of any facility that we recommend that specialist expert advice is always obtained. The design and operation of pools must conform to detailed regulation and much of the information required is contained in the HSE book "Managing Health and Safety in Swimming Pools". Further guidance is on the HSE's website [www.hse.gov.uk/pubns/books/hsg179.htm](http://www.hse.gov.uk/pubns/books/hsg179.htm).

Swimming is an important skill. It provides the means for many thousands of adults and children to participate in a healthy and enjoyable exercise. Although swimming pools are safer places to swim than open water, deaths still occur. Each year there are approximately ten deaths by drowning in pools. While each one is, of course, an individual tragedy, it is important to consider this in the context of the fact that there are an estimated 350 million visits to swimming pools in Great Britain each year.

The HSE's guidance focuses on the need for pool operators to make provisions for health and safety based on risk, considering the circumstances that apply to each individual pool. It also emphasises the need, when addressing the hazards associated with running a swimming pool, for pool operators to consider both the pool users and employees.

Following the HSE's guidance is not compulsory and you are free to take other action. But if you do follow the guidance you will normally be doing enough to comply with the law. Health and safety inspectors seek to secure compliance with the law and may refer to the HSE's guidance as illustrating good practice.

Key areas of swimming pool safety to focus on are:

- Physical environment of a swimming pool
- Supervision arrangements to safeguard pool users
- General maintenance - plant and equipment
- The pool water treatment system

The most important thing swimming pool operators should know is that they are legally required to protect the health and safety of workers and pool users.

A visit to a swimming pool should be an enjoyable experience, so operators need to protect pool users from real risk without wrongly restricting beneficial pool activities. Risk management principles are therefore important in swimming pool management.

Health and safety law for swimming pools

There are no swimming pool specific health and safety laws. However, swimming pool operators must comply with their general duties under the Health and Safety at Work etc. Act 1974 and the associated regulations.

The Pool Water Treatment Advisory Group (PWTAG) produces detailed guidance on swimming pool water quality and treatment. Their guidance is a useful resource for pool operators when drawing up their operating procedures. Further guidance on swimming pool water quality and treatment is at [www.pwtag.org](http://www.pwtag.org)

## Key points for consideration

- Operators must produce Pool Safety Operating Procedures (PSOP) which consists of a normal and emergency operating plan for the pool, changing facilities, plant, and equipment
- Restriction of use - consider if and under what circumstances children are permitted
- Supervised or unsupervised - if unsupervised then effective signage and regular patrols are essential and you should consider CCTV coverage
- Lifeguarding - qualification and training must be adequate. All relevant staff should be first-aid trained
- Pool water treatment: this is vitally important and expert advice must be sought
- Slip-resistant flooring should be provided as appropriate and subject to regular slip resistance or floor friction testing by competent contractors
- Clear and effective signage - warnings on 'no diving', 'no running', 'sudden changes in depth' all need to conform to regulations (refer to HSE book above)
- A robust inspection regime should be regularly checking for obstructions and hazards such as sharp objects dropped and dangers caused by drain covers, ladders, or gullies.

In addition to bringing in specialist support, it is important to ensure that the day to day management of the facilities is of a high standard. Regular checking, cleaning and inspection is necessary and should be recorded; it could be highly important in the event of a slip, trip or fall claim.

## Spa pools

Spa pools are known by a variety of names including hot tubs, whirlpool spa and whirlpools. They are recognised sources of Legionnaires' Disease and are subject to health and safety laws requiring managers, designers, manufacturers, and installers to ensure spa pools remain safe.

HSE have published guidance on Management of Spa Pools - Controlling the Risks of Infection. It is aimed at all duty holders and explains how to manage and control the risk from legionella in spa pools <https://www.hse.gov.uk/pubns/books/hsg282.htm>

## Claim example

A woman suffered a foot injury when she stepped on the pin of an earring that had been dropped by another user. It was stated that another user had suffered a similar injury earlier that day.







# Sunbeds

The publicity given to sunbeds will leave no one in any doubt that they can be extremely dangerous and harmful when used incorrectly. Although they can represent a useful income stream, there has been a decline in the numbers of sunbeds operated within gyms and health clubs.

Any operator responsible for sunbeds needs to comply with the relevant regulations under The Sunbed (Regulations) Act 2010 which makes it illegal to allow people under 18 to use sunbeds. Breaches can lead to fines of up to £20,000. Refer to [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/216374/dh\\_125983.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/216374/dh_125983.pdf).

## Key points for consideration:

- Choose the type of sunbed that is most appropriate. The main types are vertical tanning units and horizontal (single or double canopy) units. These can also be coin-operated
- Ultraviolet (UV) equipment may expose staff and will expose customers to UV radiation therefore adequate management, staffing and supervision is essential
- How often can sunbeds be safely used? The Sunbed Association provides specific guidance for different skin types on how many sessions per week can be considered safe – see <https://sunbedassociation.org.uk/> for further details

- Are your sunbeds emitting safe levels of radiation? They should be 0.30 compliant to guarantee that the UV emission is no greater than the midday Mediterranean sun
- Many insurers will expect you to use a screening questionnaire to check users for skin allergies and other known problems
- The Act does not require operators to obtain proof of age for younger users; however it is highly recommended that you train and advise staff on how to check the age of users, including the types of document that can be used to prove age. Also display prominent and clear notices that no under-18s are permitted to use sunbeds
- Maintain written records for each user for each session. Use till prompts for sunbed use transactions if the facility is available

## Claim example

A club member was allowed to have consecutive sessions, thus over-exposing herself to harmful levels of radiation. Severe burning resulted and the club was held liable due to inadequate supervision.



# Beauty treatments

Where the beauty treatments are being operated on your behalf by a separate specialist business, it is essential to ensure that they have experience, expertise and adequate standards of safety and hygiene in addition to holding appropriate insurance. In these circumstances the primary responsibility for risk management and safety issues will be that of the specialist beauty business.

However, where the treatments are provided by the club directly, you will need to consider in detail how best to manage the main hazards relating to slips, trips and falls, hazardous substances, hygiene, fire, electrical safety and sunbeds, amongst others.

### Key points and recommended tips for consideration:

- Risk assess all significant aspects of the salon activities
- Ensure that therapists are qualified and fully competent by assessing training needs and arrange the necessary training. Review training and competency annually
- Fasten cables and leads securely and unplug equipment when not in use
- Store products, particularly aerosols, away from naked flames or sources of heat
- Avoid the use of naked flames such as candles within treatment rooms
- Introduce steps to prevent dermatitis; use vinyl gloves

- Register with your local council if you are carrying out invasive treatments such as skin-piercing and electrolysis
- Always use skin tests and pre-cleansing where appropriate
- Carefully control the usage of sunbeds (see separate sunbed section)
- Disclose details of treatments on offer to your insurer or insurance adviser

There are many sources of specialist information and advice which include:

- Health and Beauty Industry Authority (HABIA) - <https://habia.org/>
- British Association of Beauty Therapy and Cosmetology (BABTAC) - <https://www.babtac.com/>
- UK Spa Association - <https://www.spa-uk.org/>
- The Sunbed Association - <https://sunbedassociation.org.uk/>
- The Federation of Holistic Therapists (FHT) - <https://www.fht.org.uk/>
- UK Active - <https://www.ukactive.com/>

### Claim example

A salon was sued by a customer after an eyebrow waxing treatment resulted in minor skin damage and soreness. Although the injury was quite minimal, the costs alone of handling the claim exceeded £4,000.



# Bacterial and viral infection control at gyms

Gyms are a source of potential bacterial and viral infection for members and staff. Good hygiene controls are essential to eliminate or at least reduce the risk of harmful skin infections or illnesses including MRSA infections, other bacterial infections, staph infections, and fungal infections.

Bacteria can thrive on equipment, free weights, benches and within changing rooms; uncleaned equipment after use can be a breeding ground for harmful bacteria. Bacteria, viruses, and fungal infections are common in wet areas such as changing room showers and pool areas

Key points for consideration:

- Establish and record a regular cleaning rota for hourly, daily, and weekly cleaning and clean down tasks appropriate to the area
- Ensure staff are trained in cleaning procedures appropriate for infection control. Review and record training on a regular basis
- All gym workout areas, sports equipment, mats and changing rooms should be cleaned and treated regularly with an effective surface sanitiser and disinfectant. Surfaces should be tested regularly to monitor sanitation levels using tools that readily detect infectious contaminants. If an outbreak occurs, effective and immediate biological decontamination is critical to the safety of your staff and members
- There should be facilities for members to wash hands before and after using equipment

- Ensure there are a suitable number of automatic sanitiser dispensers and wipes around the gym and put in place a procedure to ensure these are checked and if necessary, replaced/topped-up by staff. Keep a record
- Changing rooms and showers is an area where steam creates the damp environment where germs, mould and bacteria thrive. Ensure there is appropriate ventilation and recommend members wear suitable, non-slip shower shoes or flipflops in showers and around pool areas to reduce the risk of fungal infections to toes and feet
- Provide towels for use to sit on in saunas and benches; and
- Have appropriate pest control procedures in place where necessary

Keeping your gym equipment clean and well maintained will prolong its overall working life, whilst keeping surfaces clean, sweat-free from slips, trips and falls will reduce the potential for public liability insurance consequences for your business. Studies have shown that good standards of hygiene are directly linked to customer satisfaction and retention rates, so making your gym the cleanest and, by definition, the healthiest, can only be better for the business.

Further guidance is available at <https://www.hse.gov.uk/biosafety/about.htm>.

## Legionella

Legionnaire's disease (or Legionella) is a serious form of pneumonia caused by the legionella pneumophila bacteria. Symptoms include muscle ache, headache, fever, and coughing.

It is usually associated with infected water and is contracted through the inhalation of water droplets or vapours, eg: from a shower, tap, water fountain etc.

### Key points for consideration:

- Conduct a risk assessment to identify and assess any risks in your water system. The responsible person (person in control of the premises) should understand your water systems and any associated equipment, to determine if the system is likely to create a risk from exposure to legionella
- The risk assessment should identify whether:
  - water is stored or re-circulated as part of the system (particular areas of risk include water tanks, dead legs, infrequently used parts of the water system, shower heads and/or long runs of pipe work containing warm water)
  - the water temperature in some or all parts of the system is between 20-45°C (warm water). Hot water should be stored in tanks at 60°C)
  - there are sources of nutrients (such as rust, sludge, scale and organic matters) present which encourage bacteria to multiply

- it is possible for water droplets to be produced and, if so, whether they could be dispersed over a wide area, eg: showers and aerosols from cooling towers; and
- it is likely that any of your employees, members, visitors etc are more susceptible to infection due to age, illness, a weakened immune system etc and whether they could be exposed to any contaminated water droplets
- The risk assessment should include:
  - management responsibilities, including the name of the responsible person and a description of your system
  - potential sources of risk
  - controls established to mitigate risks such as (i) regular servicing and maintenance of water systems; (ii) effective management of water temperature to minimise legionella bacteria; and (iii) use of disinfectants, biocides and chemical treatment
  - monitoring, inspection and maintenance procedures and records; and
  - a regular review of your risk assessment to identify any significant changes to the water system within the premises



### How often should I test water for Legionella?

It depends on the system that you have and the outcome of your risk assessment. Open systems including cooling towers, evaporators, condensers, and spa pools should be routinely tested at least quarterly. However, more frequent sampling may be required depending on circumstances.

For conventional, enclosed hot and cold water systems, microbiological monitoring is not usually required. However, again there may be circumstances where testing for legionella is necessary, for example where there is doubt about the efficacy of the control regime or where recommended temperatures or disinfection concentrations are not being consistently achieved. Further guidance is available in HSG274 Part 2

<https://legionellacontrol.com/wp-content/uploads/2018/08/hsg274-part-2-control-of-legionella-in-hot-and-cold-water-systems.pdf>



## Top 10 tips for gym owners

- 1. Identify the key risks** (both to your business and to the people within it), evaluate them and put measures in place to address the main threats.
- 2. Keep records** – this includes training, equipment inspection, cleaning, daily checks etc.
- 3. Offer induction training** to all members and if they do not accept, make sure they sign a waiver.
- 4. Create a robust regime for inspection of equipment** – this should include daily visual inspection, period servicing of equipment and statutory inspection of plant (if applicable).
- 5. Make a business continuity plan** (or disaster recovery plan) – it doesn't have to be sophisticated but will be invaluable in the event of a claim.
- 6. If you have any more specialist activities** such as boot camps, swimming pools, children's classes etc. these warrant their own **risk assessment**.
- 7. Consult your insurance adviser** if you're unsure about the cover under the policy – particularly important if you are changing the way you operate or introducing new activities.
- 8. Seek expert help as required** – for health and safety and HR matters a specialist consultant can make a significant difference to getting it right.
- 9. Strongly consider installing CCTV** – when falsified claims arise and there are no independent witnesses, CCTV can be the difference between a successful defence and being forced to settle.
- 10. Don't let it get in the way of running a business;** risk management should be practical and appropriate to your activities.

# Addendum: Post Covid-19

## Re-opening of gyms and health clubs

This guide provides an outline of some of the key points you will need to consider and put in place before opening your doors after an enforced closure.

There are genuine risks to gyms which can be summarised as follows:

- Civil liability: there's a potential liability if you fail to take reasonable precautions to prevent the spread of the virus. Our Recover policy is designed to indemnify you if it's alleged you've been negligent in your duty
- Public perception and reputation: for customers to continue to visit the facility, it's essential that you create confidence that it's safe to do so, and that all the right measures are in place. Creating a visual trail of all the steps you're taking is important. Communication with customers is essential to this. The perception of an unsafe facility could be very damaging and clearly an actual outbreak linked to the premises will have a detrimental effect on your business
- Public authority enforcement: local authorities, along with Public Health England, will be watching the pattern of new COVID-19 cases very closely as lockdown measures begin to ease. Intervention from a public authority could have a serious impact on your reputation

We should also remember that all the normal risks of running a gym continue to exist. After a long period of closure, it's important to make sure staff are ready and trained, equipment is in working order and the building is ready to receive visitors. The guidance below will touch on some of these key points for reopening as well those specifically relating to COVID-19.

# The 7 Ps for reopening your gym

We've prepared some of the important points you will need to consider before reopening your gym. For simplicity we have broken this down into seven key areas:

## 1. Plan

- Risk assessment: you should provide a specific COVID-19 risk assessment, which considers risks to customers, employees and other visitors to the premises. Identify risks, evaluate the risks (likelihood and impact) and then decide on suitable control measures. For more information on risk assessments see the online government resource available here. This should be the starting point for all planning which then informs your procedures, training and communications
- Be patient: there is a lot of work to do and you need to allow the time to complete it. Some control measures may require adapting the premises or purchasing items which may have a lead time
- Talk to others: speak to people from outside your organisation at an early stage. You could include cleaning experts, other gym operators and, of course, your friendly insurance adviser

## 2. People

Employees: consider staff requirements. Are there any vulnerable individuals (for example with underlying conditions)?

- Consult with your people: the HSE has produced a guide about working with your staff to prevent coronavirus
- Mental wellbeing: do not underestimate the impact the lockdown may have had on the mental wellbeing of your staff. Some employees may have also been personally affected by illness or bereavement
- Training: schedule a refresher with staff on training and additional training for new procedures
- Other visitors: as there will be a need for contractors and other visitors to the premises, ensure these are considered in plans and communications

# The 7 Ps for reopening your gym

## 3. Promotion (and communication)

- Website: make new procedures clear to customers. Particularly highlight those which will be essential prior to attendance such as safety briefing changes and rules about who cannot attend the gym
- Signage: you will need to create additional signage with new rules and procedures for customers. Some of the key messages will be social distancing, use of sanitisers, warning to stay away if you have symptoms etc
- Booking confirmation: if your class booking procedures at the facility have changed, then you should also highlight this on the booking confirmation
- Staff communication: informing and keeping staff up to date with any changes in procedures will be important in the lead up to the opening and once opened

## 4. Procedures

As a strategic partner of ukactive, we have been in discussion with them throughout the enforced closure period and around reopening procedures. They have published an excellent framework COVID-19 – A framework for the re-opening of gym, leisure centre and wider fitness industry during social distancing, which we recommend you follow as you plan your reopening. As you will know, ukactive has been lobbying tirelessly on behalf of gym owners, as well as providing advice to help members reopen safely

## 5. Premises

- General building checks: initially an in-depth check will be required on the premises to ensure it's safe for staff and visitors to re-enter after being closed for a substantial period of time
- Fire risk: pay particular attention to fire risk including checking fire exits, fire alarms, fire extinguishers, emergency lighting etc. Fire risk assessments should also be reviewed in light of some of the changes, such as fire evacuation points and the impact of social distancing. Also consider how to store hand sanitiser safely as this is flammable
- Gym and fitness equipment: this will require more in-depth inspection than a standard daily check, given the period that has now elapsed. You may wish to consider an external inspection
- Other equipment: ensure all other equipment is in working order prior to opening. Any equipment that is subject to statutory inspections under LOLER, PSSR or other regulations must have its documentation up to date. Include any lifts or coffee machines

## 6. Practice

- Training: staff need to be aware of all new procedures and be appropriately trained to deliver this
- Refresh: don't forget the importance of refreshing staff training on your standard procedures. The highest risk of a claim still remains from your normal activities, not from COVID-19, so make sure you get back to good habits to minimise injuries and keep users safe
- First aid: staff may also need a refresh on first aid procedures. You should also discuss and clarify with them what to do at the moment. If you decide that social distancing has to be set aside to deal with emergencies, this is fine, as long as staff know and are clear on this point
- Soft launch: consider a soft launch to test your new procedures. Perhaps in just the first few sessions you can lower capacity even further to ensure staff are clear and able to operate with the new procedures and that they are working effectively before allowing more people in



# The 7 Ps for reopening your gym

## 7. Paper trail

As always, documentation will be key in order to evidence all reasonable measures have been taken. It's important both for any personal injury claim and for any Environmental Health or HSE investigation or prosecution. Some of the key documents that should be available are:

- Revised risk assessment/COVID-19 risk assessment
- Updated fire risk assessment
- Updated standard operating procedures
- Messages on your website
- Updated booking confirmation – highlighting new rules

- Updated waiver
- Staff training records
- Equipment inspection records
- Cleaning logs
- Records of safety briefing

While this is not an exhaustive list of all measures you need to consider, it's designed to help you start planning to reopen.

Let us know how we can support you to manage your risks and insurance at this very important time.

# Links and further reading

## ukactive Code of Practice

<https://www.ukactive.com/standards/>

## Health and Safety Executive

<http://www.hse.gov.uk/>

## RoSPA – Royal Society for the Prevention of Accidents

<http://www.rospa.com/>

## NSPCC – Child Protection in Sport

<http://www.thecpsu.org.uk/>

## Public Health England

<https://www.gov.uk/government/organisations/public-health-england>

## Employment Advice

<https://www.gov.uk/browse/employing-people>

<https://www.citizensadvice.org.uk/work/rights-at-work/#sec57006>

## The Fire Industry Association (FIA)

[www.fia.uk.com](http://www.fia.uk.com)

## The Risc Authority

<https://www.riscauthority.co.uk/free-document-library/>



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