



**INLAND
WATERWAYS**
ASSOCIATION

GUIDANCE NOTE

*Introduction to
Health & Safety
Law*



CONTENTS

| | |
|--|----------|
| Introduction | 3 |
| Health & Safety Law in Great Britain | 4 |
| What Does the HSWA Say? | 6 |
| What Health & Safety Regulations Apply to my Restoration Project? | 8 |

First published as v.1 in 2022. This is a web-friendly document and will be reviewed and updated when the source legislation changes. Any printed version may not be the latest version and a check should be made on IWA website. IWA has interpreted the current legislation in good faith, as dated in the document, but the reader should check for themselves that it is the latest version and that they are acting within the legal framework.

INTRODUCTION

This guidance note provides an introduction to health and safety legislation and how it applies to volunteers on waterway restoration projects. You may have been asked whether health and safety legislation applies to volunteers. The answer to this particular question is a little complicated and there can often be some confusion.

The Health and Safety at Work etc Act 1974 (HSWA) is the primary work place legislation in the United Kingdom. It refers to employers, employees, the self-employed and organisations with at least one employee. Volunteers are not subject to the legislation itself but are protected by the duty of care HSWA imposes, which also applies to non-employees and members of the public.

If your restoration group has at least one employee you will become an employer under HSWA. You could be prosecuted for breaches of health and safety legislation under section 33 of HSWA.

In most cases, health and safety law does not apply where volunteering does not involve an employer, an exception is where a volunteer is in control of non-domestic premises, such as canal buildings, or procures and controls construction works. The Health and Safety Executive (HSE) recommends, and IWA agrees, that while it is not a legal requirement, the high risk nature of waterway restoration and the number of volunteers involved in construction-based activities means that restoration groups should adhere to the requirements of HSWA.

So what does this mean to restoration groups? The restoration group has a duty to comply with the requirements of 'employers' and volunteers those of 'employees' under HSWA. If you are found to be negligent in your duty of care you could be prosecuted under civil law.

In this guidance note, the terms employers and employees are used to refer to the following restoration roles:



Employers: Trustees/committee, project managers and site leaders.



Employees: Volunteers.



The HSWA applies to every work activity and is the main legislation covering occupational health and safety in Great Britain.



HEALTH & SAFETY LAW IN GREAT BRITAIN

Health and safety law in Great Britain is made up of Acts of Parliament and regulations. The regulations place legal duties on employers and employees. Health and safety regulations are supported by Approved Codes of Practice (ACoPs), which are not strictly part of the law but have a special legal status. ACoPs explain the measures that need to be taken to comply with the regulations. Failure to follow the ACoP may form part of the evidence in a prosecution. The HSE have produced guidance notes, which give practical advice on how to comply with regulations.

As an employer, if someone has an accident in your workplace, a health and safety regulator could take action against you under CRIMINAL law. If you do not comply with the provisions of HSWA or the regulations you will normally be committing a criminal offence. To comply with the act and regulations you must control risks in your workplace.



If you have been negligent the injured person could make a claim against you under CIVIL law. A court may award damages (money) against you to compensate them for the pain and suffering caused. You can take out employer's liability insurance to provide cover for claims made by employees for injury or disease caused by their work. Refer to the guidance note on Insurance.

The provisions in HSWA are to:

- 1 Secure the health, safety and welfare of persons at work.
- 2 Protect others, not at work, against risks to health or safety relating to the activities of people at work.
- 3 Control the keeping and use of dangerous substances.
- 4 Provide a safe place of work, with safe access and egress, safe plant, tools and equipment.
- 5 Provide information, instruction, training and supervision.

The HSWA sets out the general duties on employers to their employees and other persons and general duties on employees.



The legal definition of an employer

An employer is a person or entity who hires another to perform a service under an express or implied agreement and has control, or the right of control, over the manner and means of performing the services. An employer has the right to control an employee.

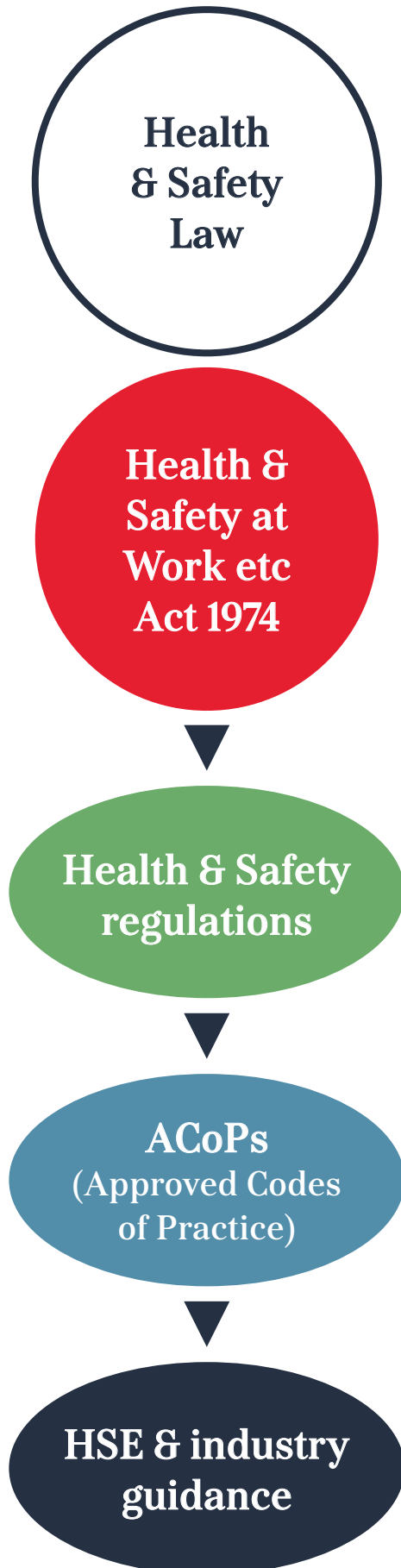
If the company had the right to supervise and control such details of the work performed, and the manner and means by which the results were to be accomplished, an employer-employee relationship would be indicated.



The legal definition of an employee

A common law employee is any individual who, under common law, would have the status of an employee. A common law employee performs services for an employer who has the right to control and direct the results of the work and the way in which it is done.

SUMMARY OF HEALTH & SAFETY LAW



Common law
(Duty of care)

Statute law
(Written)

Types of statutory duty

| | | |
|---------------|-------------|------------------------|
| Absolute Duty | Practicable | Reasonably practicable |
|---------------|-------------|------------------------|

The Act consists of four parts:

1. Health & safety of people at work and protection of others who may be affected.
2. Employment Medical Advisory Service.
3. Amends to previous law.
4. General and miscellaneous provisions.

General duties for employers and employees

Regulations require additional specific actions. They can be concerning:

- Health & safety management.
- Workplaces and dangerous substances.
- Machinery, handling and equipment.
- Specific areas of work or situations.
- Chemicals and hazardous substances.

ACoPs explain what measures must be taken to comply with relevant regulations.
Following an ACoP (or equivalent standard) is generally accepted as being legally compliant.

HSE guidance notes
Issued by the HSE, giving practical guidance on how regulations may be complied with.

Industry guidance
Practical guidance produced by industry associations, federations and training bodies.



WHAT DOES THE HSWA SAY?

This section outlines some of the sections within the HSWA.

SECTIONS 2–7

1 Duties on employers to their employees

Employers are required to ensure the health, safety and welfare of all their employees. The HSWA uses the expression ‘so far as reasonably practicable’ which means making an assessment of the impact of the risk against the cost in time, effort and money needed to ensure the risk isn’t realised. For instance it wouldn’t be practical to provide a highway standard surface on a site access route to prevent slips, trips or falls.

The duty extends to the provision and maintenance of plant and systems of work, the use, handling and transport of articles and substances, provision of information, instruction, training and supervision, the maintenance of a place of work and the provision and maintenance of a working environment including welfare arrangements and the means of access and egress to ensure the health, safety and welfare of their employees.

The employer also has a duty to prepare a health and safety policy and to review and revise it at regular intervals.

The HSWA allows the appointment of representatives of trade unions or employee representatives, but this requirement is probably outside the scope of restoration groups. However restoration groups should allow for consultation with their volunteers in respect of health and safety.

2 Duties of employers and self-employed to persons other than their employees

With respect to protecting others not at work, such as members of the public and volunteers, the employer needs to ensure the activities are done in such a way that the health and safety of others are not put at risk. This duty applies to self-employed people.

3 The duties of the employees at work

The duties of the employees relate to their actions. They must take reasonable care of themselves and make sure their actions don’t injure other persons. They must cooperate with their employers to ensure any duty or requirement of any regulation is carried out.

SECTION 8

Places a duty on persons not to interfere with or misuse anything provided in the interests of health, safety and welfare.

SECTION 9

HSWA does not allow the employer to charge for anything that is required for compliance with the regulations.

SECTIONS 10–14

HSWA includes the establishment of the Health and Safety Commission and Health and Safety Executive (HSE). The functions of the HSE are to advise and carry out research into matters of health and safety. They have power to carry out investigations and inquiries into accidents and dangerous occurrences. They are answerable to the Secretary of State.

SECTIONS 15 – 17

Allows the Act to have the power to make regulations. The HSE has used these powers to make regulations which it has the powers to enforce. The list includes regulations such as; Work at Height Regulations, Construction (Design and Management) Regulations, Reporting of Incidents, Disease and Dangerous Occurrences Regulations, Control of Noise at Work Regulations. A full list is included in the links in other resources on p.11.

SECTIONS 18 – 26

Relate to enforcement of the Act and appoints the HSE to enforce the relevant statutory provisions. It includes the appointment of inspectors and details their powers. The use of enforcement notices, improvement notices and prohibition notices is included here.

SECTIONS 27 – 28

Relate to the obtaining and disclosure of information.

SECTIONS 29 – 32

Relate to agriculture.

SECTIONS 32 – 42

Offences are covered under these sections. The main offences are related to failure to discharge a duty under sections 2 – 7 or to contravene sections 8 and 9 or any of the regulations.

SECTION 40

Discusses the onus of proving if an action was practicable. ACoPs and other guidance, such as British Standards, will be used to assess the suitability of an action.

SECTION 43

Relates to how the HSE is funded.

SECTIONS 44 – 54

Deal with miscellaneous and other provisions.



WHAT HEALTH & SAFETY REGULATIONS APPLY TO MY RESTORATION PROJECT?

Health and safety regulations place duties on employers and employees and because they are part of UK law it is a criminal offence to contravene them. In the eyes of the law restoration is construction and health and safety regulations apply. Here are some regulations that affect restoration projects.

THE CONSTRUCTION (DESIGN AND MANAGEMENT) REGULATIONS (2015)

These regulations are known as CDM and were first introduced in 1994 to implement minimum health and safety on construction sites. CDM was revised in 2007 and again in 2015. CDM applies to all construction and building projects from concept to completion. CDM describes what each duty holder is to do to secure the health and safety on their project.

Here is a quote from the HSE website:-

CDM aims to improve health and safety in the industry by helping you to:

- 1 Sensibly plan the work so the risks involved are managed from start to finish.
- 2 Have the right people for the right job at the right time.
- 3 Cooperate and coordinate your work with others.
- 4 Have the right information about the risks and how they are being managed.
- 5 Communicate this information effectively to those who need to know.
- 6 Consult and engage with workers about the risks and how they are being managed.

On a restoration project the restoration group may take on the role of all the duty holders.

Refer to the guidance note Construction (Design and Management) Regulations.

THE MANAGEMENT OF HEALTH AND SAFETY AT WORK REGULATIONS (1999)

These regulations make it more explicit what employers are required to do the manage health and safety at work. The main requirement comes in regulation 3, which requires an assessment of risk to be carried out, or a risk assessment. The risk assessment needs to be recorded if there are more than 5 people involved in the activity.

Refer to the guidance note Preparing a Risk Assessment. Example risk assessments are available on the website, refer to the link in useful resources.

THE MANUAL HANDLING OPERATIONS REGULATIONS (1992)

Just about all work activities involve some form of manual handling and these regulations help employers control and reduce the risk of injury from manual handling. Manual handling activities involve the transporting or supporting of loads, including lifting, lowering, pushing, pulling, carrying or moving loads.

Manual handling injuries are part of a wider group of musculoskeletal disorders, which covers any injury, damage or disorder of the joints or other tissues in the upper/lower limbs or the back.

The regulations require that an assessment of the risk is carried out. The HSE has some e-tools to help assess the risk.

Refer to the guidance note Manual Handling.

THE HEALTH AND SAFETY (FIRST AID) REGULATIONS (1981)

First aid provision is required in the workplace and these regulations set out the essential aspects that need to be taken into account. Such as:

- ① The managing and provision of first aid (first aid kit, equipment, rooms etc).
- ② The requirements and training for first aiders.
- ③ The requirements for appointed persons.
- ④ The making employees aware of first aid arrangements.
- ⑤ First aid and the self-employed.

An assessment of the first aid needs should be carried out to take account of the hazards and risks of the site.

Refer to the guidance note First Aid at Work and Reporting Accidents.

THE CONTROL OF SUBSTANCES HAZARDOUS TO HEALTH REGULATIONS (2002)

More commonly known simply as COSHH, these regulations require the control of substances that present health hazards. Restoration uses many substances, or products that are a mixture of substances, and processes that create substances that can cause harm.

The regulations require that the hazards associated with substances are identified and an assessment is made to control the hazards. This is known as a COSHH assessment and is based on safety information provided by the manufacturer.

Refer to the guidance note Control of Substances Hazardous to Health.

THE PERSONAL PROTECTIVE EQUIPMENT AT WORK REGULATIONS (1992)

Personal protective equipment or PPE will be familiar to anybody working on a restoration site and will be used as a last resort to control a hazard or may be purely precautionary. The regulations cover aspects of PPE, such as provision, compatibility, assessment, maintenance and use, reporting of defective equipment, information, instruction and training.

Refer to the guidance note Personal Protective Equipment.

THE REPORTING OF INJURIES, DISEASES AND DANGEROUS OCCURRENCES REGULATIONS (2013)

These regulations are known as RIDDOR and require people in control of a restoration project to report certain serious workplace injuries, occupational diseases and specified dangerous occurrences (near misses) to the Health and Safety Executive (HSE). The regulations set out who should do the reporting and what needs to be reported. The HSE website has online forms that should be completed.

Refer to the guidance note First Aid at Work and Reporting Accidents.

THE CONTROL OF NOISE AT WORK REGULATIONS

The aim of these regulations is to provide protection to volunteers hearing from excessive noise. The regulations require an assessment of the exposure to noise levels and sets noise levels where hearing protection must be provided.

Refer to the guidance note on Noise.



THE CONTROL OF VIBRATION AT WORK REGULATIONS (2005)

The aim of the regulations is to provide protection against risks of harm from vibration. Under the regulations an assessment must be made to control the effects of vibration. They introduce action and limit values of hand-arm and whole body vibration.

Refer to the guidance note Hand-Arm Vibration.

THE PROVISION AND USE OF WORK EQUIPMENT REGULATIONS (1998)

Commonly known as PUWER the regulations place a duty on anybody who owns, operates or has control over work equipment. Work equipment is any machinery, appliance, apparatus, tool or installation for use at work.

Work equipment must be:

- ① Suitable for the intended use.
- ② Safe for use, maintained in a safe condition and inspected to ensure it is correctly installed and does not subsequently deteriorate.
- ③ Used only by people who have received adequate information, instruction and training.
- ④ Accompanied by suitable health and safety measures, such as protective devices and controls. These will normally include guarding, emergency stop devices, adequate means of isolation from sources of energy, clearly visible markings and warning devices.

Some work equipment is subject to other regulations, such as lifting equipment.

THE LIFTING OPERATIONS AND LIFTING EQUIPMENT REGULATIONS (1998)

Commonly known as LOLER the regulations place a duty on anybody who owns, operates or has control over lifting equipment. Lifting equipment is also work equipment so PUWER applies. LOLER also requires that all equipment used for lifting is fit for purpose, appropriate for the task, suitably marked and, in many cases, subject to statutory periodic thorough examination.

THE WORK AT HEIGHT REGULATIONS (2005)

The aim of the Work at Height Regulations is to reduce the number of injuries resulting from falls from height. The main points in the regulations are to avoid working at height where possible or use work equipment or other means to prevent falls or to minimize the consequences should a fall occur.

The regulations require that any activity carried at height is properly planned, supervised and carried out by competent people and that the right of equipment is used.

Refer to the guidance note Working at height.

THE ELECTRICITY AT WORK REGULATIONS (1989)

The purpose of the regulations is to require precautions to be taken to reduce the risk of death or injury from electricity during work activities. The regulations apply to all electrical installations and equipment at any place of work.

Refer to the guidance note Fire and Electrical Safety.



TWO OTHER REGULATIONS THAT MAY NEED TO BE CONSIDERED:

- ① The Control of Asbestos Regulations (2012).
- ② The Control of Lead at Work regulations (2002).

These regulations apply if there is asbestos or lead present on your restoration site and would more usually apply to projects that involve building restoration.

Refer to the guidance note Lead and Asbestos.

USEFUL RESOURCES:

[Health and Safety at Work etc Act](#)

[List of regulations](#)

[HSE guidance for voluntary organisations](#)

[iHASCO advice for volunteers](#)

Sign up to read the full Practical Restoration Handbook and supporting resources here: **waterways.org.uk/practicalrestorationhandbook**



Historic England

This project was partly funded by Historic England's National Capacity Building Programme.





The Inland Waterways Association is a non-profit distributing company limited by guarantee. Company registration number 612245. Charity registration number 212342. Registered office: Island House, Moor Road, Chesham HP5 1WA.