

LEISURE EXPERT PANEL

A STATEMENT ON THE APPROACH TO DETERMINING FITNESS CENTRE STAFFING LEVELS

This document sets out the Leisure Expert Panel's collective interpretation of the legislative requirements concerning staffing within fitness centres operating gyms, studios, or organising exercise activities and all the associated services.



There are a wide range of operating models for these types of premises and the aim of this document is to set out an appropriate strategy and approach for operators to use in determining staffing levels which are appropriate and proportionate to the type of leisure facilities, the activities being operated and the risks that are presented.

In the context of this document, staffing refers to both direct employees, volunteers, self-employed staff and contractors who may fulfil relevant roles within the business whilst users refers to the customers of the operator.

The legal considerations

Operators have a duty to protect the health, safety and welfare of their employees and users who might be affected by their business. This is driven by the existence of the Health and Safety at Work Act 1974 and could give rise to criminal liability for the operator.

They will need to ensure that the use of fitness equipment or undertaking of fitness activities on their premises do not expose persons to a foreseeable risk of injury¹. Good health and safety is good for business because any significant failure to comply with health and safety law may result in large financial penalties for an operator and additionally negligence claims may arise for breach of duty of care under civil law. There may also be reputational risks for any operator involved in litigation or following any injuries that may have occurred on its premises. So it makes good business sense to assess what can and should be done to keep people safe from harm whilst using fitness facilities or equipment.

The current UK legal framework is based upon the principle of risk assessment² and the requirement to have effective arrangements in place to implement preventive and protective measures³.

What is considered reasonable care for an operator to implement is dependent upon the facilities and activities it offers and the resources available to it. Each operator must therefore consider what steps are 'reasonably practicable' for them to take in order to control foreseeable risks i.e. those measures that need to be taken after weighing the risk to persons against the trouble, time and money needed to control the risk.⁴ This can only be determined after undertaking a suitable and sufficient assessment of the risks associated with the operation and use of the premises.

¹ s.2 and s.3 Health & Safety at Work etc. Act 1974

² Regulation 3 The Management of Health and Safety Work Regulations 1999

³ Regulation 5 The Management of Health and Safety Work Regulations 1999

⁴ Edwards v. National Coal Board, [1949] 1 All ER 743

The risk assessment framework

Risk assessment is a process by which an organisation examines what may cause harm and what steps need to be taken to reduce the chance of that harm occurring so far as is reasonably practicable. Staffing can have a direct impact upon the control of many hazards, for example through controlling access to the premises at reception through to the maintenance and cleaning of fitness equipment. However, there are feasibly some safety matters that can potentially be addressed without direct staffing input. The requirements for any operator will vary according to the size, nature and type of the venue, the units it contains (e.g. fitness studios etc), the type and purpose of equipment being used, and the nature of the people using it. Determining those requirements will involve an examination and assessment of the foreseeable hazards and site conditions by someone with the requisite skills, knowledge and experience to do so. The risk assessor should have relevant competency and/or qualifications in health & safety, have an understanding of the leisure environment and relevant experience working in the field.

Risk assessment is an appropriate means of determining a reasonable level of staffing commensurate with the nature of the risks and giving consideration to control measures that may be able to achieve equivalent levels of control. The use of modern technology e.g. CCTV can contribute to that control but it has limitations and must be demonstrated as being effective in delivering the intended safety outcomes.

The Leisure Expert Panel recognises that exercise and leisure activity will always carry a degree of residual risk that cannot be fully mitigated against. However, it may be reasonably impractical for any operator to permanently and fully monitor all fitness activities in a busy facility and neither is it a clear legal requirement to do so. The experience of members from the Leisure Expert Panel is that there is no significant variation in incident rates (whether health or safety related) across a variety of staffing models where additional control measures have been used to supplement reduced staffing decisions and we continue to seek evidence to support this view.

It remains the duty of each individual operator to determine their own means of compliance and a low/no staffing model for cost reasons without sufficient consideration of risk is likely to be non-compliant with the legislation.

Risk factors to consider

A risk assessment can only be said to be legally compliant if those undertaking it have considered all the relevant factors and thereby arrived at decisions based upon a good understanding of the genuine level of risk at the premises. The following table provides a non-exhaustive list of risk factors that operators may need to consider in determining staffing levels and control measures but you should also consider whether there is any relevant accident, enforcement or claims history that will help inform your assessment.

Operational risk factors	Specific considerations
Fitness activities and equipment	<ul style="list-style-type: none"> The nature and complexity of fitness equipment available for use including the need for its storage, stability and any relevant instructional signage Provision of group training Provision of 1 on 1 training
Demographic of users	<ul style="list-style-type: none"> The ability, age and experience of users including those with disabilities Customer health enquiries and the approach used to inform users of expectations placed on them to exercise safely and within their own ability
Staff availability, role and competence	<ul style="list-style-type: none"> Existing staffing models The number of staff at any given time Current competence levels Training requirements including refresher training and lifelong learning The nature and role of staff - freelance/self-employed or hirer/contractor Provision of a first aid response Provision of emergency evacuation
Size and nature of premises	<ul style="list-style-type: none"> Location of the premises i.e. high street, industrial park etc. Layout including lighting, changes in level etc. Specific environmental hazards deriving from facilities provided such as heat fatigue in saunas The location of welfare facilities Multiple occupancy buildings/shared use areas Access and escape arrangements
Level of premises use	<ul style="list-style-type: none"> Numbers of users Hours of operation (including busy and quiet periods) Likelihood of lone exercising
Workplace activities affecting staff	<ul style="list-style-type: none"> The nature and complexity of routine and non-routine tasks to be undertaken Likelihood of lone working

Table 1 – Risk factors

All factors should be considered in the context of the nature of the operations and how these may reduce or increase the risk to users. For example, fitness facilities which allow children access may require more control measures than one that does not as that group may be more vulnerable to accidents in the fitness environment. However, specific control of that risk - such as ensuring appropriate adult supervision (parent/guardian/qualified instructor) or use of designated zones would likely lead to a focused reduction in the overall risk posed to children using the facilities. Monitoring of these measures will likely require personnel to ensure their effectiveness and this is an example of where specific staffing requirements may be necessary in order to control a specific risk factor.

Additionally always consider that there may be other issues not listed in the above table that have relevance to any given operator. Adequate assessment and understanding of these factors in the context of an operator's fitness facility should enable the selection and application of proportionate control measures, including allocation of sufficient staff numbers.

Once the nature of the risk factors at a fitness facility are understood, the operator must then develop and implement control measures to address those risks. These will likely include a variety of measures beyond staffing levels e.g. management arrangements, training, and safe systems of work/procedures. Where certain control measures are directly dependent on staff to implement them, an operator will need to determine the numbers and competence levels of staff that will be needed to ensure the measures are carried out effectively including any refresher training and professional development that staff will need to remain competent.

Managing risk

Each operator should satisfy themselves that the significant findings of their assessment are implemented and where there are 5 or more staff employed, those findings must be recorded. Regardless, it is recommended that decisions made concerning staffing levels should be documented along with the reasons for any key decisions that are made. This may be in a specific staffing document or reflected across various policies and risk assessments as necessary.

The operator should also take steps to review their control measures to ensure they are effective and operating in the way intended. For example, where active supervision of children is required as a control measure, through periodic checking, the operator should ensure that rota's are being drawn up appropriately and sufficiently qualified staff are on duty at any given time.

Examples concerning the management of risk

EXAMPLE 1

Assessing the need for staffing in relation to specific hazards

A fitness facility has a free weights area where users are known to regularly fail to replace and tidy the weights away after use, leading to a risk of trips for staff and other users. Whilst signage and instruction to users could form part of the control measures the occurrence of risk remains foreseeable. It is likely that some level of staff intervention will be necessary to ensure that the hazard is removed on a periodic basis. The level of intervention should be based upon the frequency with which weights are left untidily, the location of the free weights area and the level of use it receives. The outcome of a risk assessment may be that staff need to be present on the gym floor and actively checking this area during busy periods with a reduction in frequency for less busy times but may possibly not require a staffing presence at all if risk levels are considered sufficiently low. Tidying away weights is not likely to require a fitness qualified member of staff and a variety of roles could be deployed to undertake this function. Alternative/additional measures such as relocating the area to a corner of the facility to reduce incidental footfall may reduce the need for undertaking such checks and the frequency of checks may also be dynamically influenced by observation of times when its use is at its highest/lowest.

EXAMPLE 2

Identifying the means of monitoring activities in fitness facilities

An operator runs multiple gyms across the UK. The layout out of their premises significantly varies from site to site. The operator aims to ensure users of their facilities are exercising and using the facilities in a safe manner but recognises that providing sufficient staff to oversee and supervise all activities at all times will be impracticable owing to the variation in activities and premises layout. However, they must still demonstrate that risks are as low as possible and that a proportionate level of control and monitoring is taking place. The operator chooses to staff the fitness floor during known busy times but provide additional supporting control measures in order to maintain control. These could include; a PAR-Q/health statement approach when a user joins the gym; an induction process to actively demonstrate how key items of fitness equipment are to be used; controlling access to the site such that only members may use the facilities; clear signage and instruction at point of use on equipment; the use of clearly labelled alarm call points accompanied by a demonstrably workable emergency action plan; the provision of roving fitness qualified staff to hazard spot (including identification of equipment misuse) and assist with user queries. The operator must be clear on the role that staff undertake whilst present, and be equally clear how the overall level of risk is impacted by their subsequent absence. In such circumstances, the competence, number and duties of the staff should be clearly identified so as to ensure clarity.

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