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Social action, the law and young people

First, it is rare that anyone is harmed when carrying out any kind of social action – young or not.

However, you have legal responsibilities to young people you are helping to carry out social action. This document aims to help you understand what these are. It describes the difference between health and safety law and common law, and some principles to guide you. It can be a complicated subject, but the information in this document should be enough to help you in most cases.

Although there is little evidence for a so 'compensation culture', the existence of a myth itself can discourage people, causing them to fear being sued or to over-emphasise any risks young people may face. This document aims to put these fears into perspective and clarify what you should or shouldn't do.

Health and safety law

The Health and Safety at Work etc Act 1974 (HSW Act) is criminal law aimed at protecting employees and others, such as members of the public, who may be affected by work activities. It is enforced mainly by HSE and local authorities.

Health and safety legislation does not, in general, impose duties upon someone who is not an employer, self-employed or an employee. If you are employed by a voluntary organisation, these duties will apply to you.

However, for those helping young people carry out social action, the common law duty of care does apply. These young people still have protection under the law.

Health and Safety Executive has some good information on this: <http://www.hse.gov.uk/voluntary/when-it-applies.htm>

Common law

Common law is law that has been developed by judges through decisions by courts, rather than through legislation (such as health and safety law). Duty of care sets out what 'care' we should reasonably expect from each other when we do something.

A simple formula to remember is: when you do something, like organise a group of young people to carry out social action, you also create a duty of care. This applies whether you work for a voluntary organisation or are an individual helping young people carry out social action.

Though the legal requirements that exist under health and safety law may not always apply to young people carrying out social action, duty of care does create general obligations to provide a safe and healthy environment.

In practice

The best approach to fulfilling your duty of care is to assess any significant risks. See our *Risk assessment for youth social action* to guide you through this.

But don't assume you have to control and remove every risk, no matter how minor. We don't want to see young people turning up in full diving gear because they are helping out at a local pool.

If you are employed by a voluntary organisation, health and safety law does not require you to have a written risk assessment if your organisation has fewer than five employees (see download *Risk assessment for youth social action*). However you might want to consider recording your findings to help you manage your main risks and show that you are being responsible

¹ HSE Statistics 2011/12.



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The common law on duty of care recognises the positive value that social action brings to society, and if something does go wrong, courts will take account of where an organisation or individual has shown a 'predominantly responsible' attitude towards those it owes a duty.

You might be interested in recent changes that attempts to firm up how courts treat cases of negligence. <http://www.legislation.gov.uk/ukpga/2015/3/section/3/enacted>

Insurance

Most voluntary organisations will already have employer or public liability insurance. If you're planning to help young people into social action, it is worth checking that your insurance covers people who are 10 years and above (it is quite common for insurance policies to only apply to those above 16 years).

The National Council for Voluntary Organisations (NCVO) has useful information on this:

<http://blogs.ncvo.org.uk/2014/06/06/is-insurance-the-right-way-to-protect-volunteers/>

Volunteering England also has good advice here:

<http://www.volunteering.org.uk/component/gpb/insurance>

¹ HSE Statistics 2011/12.