

## UK TAE KWON DO COMMISSION



### **DUTY OF CARE**

The **UK Tae Kwon Do Commission** and all its affiliates and members are bound by a General Duty of Care and requires that such a duty of care is maintained at all times

# DUTY OF CARE

## General Duty of Care

A general duty of care is a general legal duty on **all** individuals and organisations to avoid carelessly causing injury to persons. It has been developed by the courts over many years. The duty is regardless of the size of the organisation, its income or whether the organisation has paid staff. If your organisation asks a person to perform a task which results in them injuring themselves or anyone else, the members of the club and/or governing body may be liable. No matter what activities your organisation is involved in, from running a Taekwondo or allied Martial Arts club, to organising events, you will have to consider the duty of care owed to your members, instructors, assistants or volunteers. Liability depends on establishing that the organisation failed to take reasonable care

For example, imagine that a young member training in your club was left unsupervised working out or sparring with another member, and failed to wear the necessary safety equipment. He or she sustained an eye injury. You, your club or your organisation could be held liable if you failed to train or supervise the member in the said activity. The court may decide that leaving an inexperienced young person unsupervised is unreasonable. The notion of duty of care needs to be considered in all aspects of an organisation's work and activities.

A duty of care can arise in many ways which may not always be obvious, for example:

- loaning equipment to others
- charity or sponsored events
- competitions and examinations
- class/training structure
- selling equipment

## Health and safety law for organisations

Health and Safety at Work etc Act 1974 The main piece of health and safety legislation in the UK is The Health and Safety at Work etc Act 1974 (The Act). This sets out the general duties which employers, the self-employed and people in control of premises have towards their employees and others who may be affected by their work activities. It also gives employees the general duty to ensure the health and safety of themselves and others who may be affected by what they do, or pay to do. ***Martial Arts clubs and organisations are considered being an employer for the purposes of The Act and the regulations made under it.***

Health and safety law lays down your duties to your employees/members. The law also imposes further responsibilities on you with regard to people not in your employment, such as those who assist or volunteers and other members of the public, who may be affected by your work activities.

Section 3 of the Health and Safety at Work Act 1974 imposes a duty on every employer 'to ensure, as far as reasonably practicable, that persons not in their employment, who may be affected by their undertaking, are not exposed to risks to their health or safety', and 'to give to persons (not being their employees) who may be affected in a prescribed manner information as might affect their health or safety'.

This generally means that organisations which have both employees and volunteers have a **statutory responsibility** not to harm or damage the health of volunteers and assistants, as well as the members, through their involvement in the activities of that organisation. Organisations may also have a responsibility to carry out a risk assessment, which may require volunteers to be provided with information and training. This would depend on the activities concerned.

For example, if a member of a Taekwondo club was expected to spar against another member, you would have a duty of care to provide the member with information and training in the correct manner and to ensure that the appropriate safety equipment was worn by both participants – this will enable the member to engage safely and confidently in the sparring activity, under a strict level of supervision. A risk assessment would determine what level of training is required, if any (see below for more information on risk assessment).

A recent case highlights the need to take these responsibilities seriously. A young child was hospitalised after daubing himself with a paintbrush left in a toilet of a cricket club. The executive members of the club were fined £8,000 between them for breaching health and safety regulations.

### Organisations with responsibility for buildings and premises

Anyone controlling non-domestic premises must take reasonable steps to provide employees, volunteers and users with equipment and premises that are safe, including safe routes of exit.

This means if you control or are responsible for premises, you have a duty to make sure that the building is safe to use and complies with all the relevant health and safety regulations (for example, ensuring signs meet the Health and Safety (Signs and Signals) Regulations 1996). This duty applies to places such as a community centres or scout huts, which are the types of premises often used by Martial Arts clubs, and also to attached car parks or playgrounds.

### Basic principles of health and safety

There are some key areas of health and safety which every organisation should examine.

**The UK Tae Kwon Do Commission** requires that your affiliated organisation should begin to implement the same health and safety requirements as are demanded by law. Most organisations now support equal opportunities - it would be difficult for any organisation that claimed to have an equal opportunity policy to justify offering a lower standard of health and safety protection.

By setting a timetable to aim to accomplish this, you will be demonstrating to your members and the outside world the value you place on them and their efforts to support your organisation.

### Health and Safety Policy

A health and safety policy is the foundation on which to develop health and safety procedures and practices. The policy announces the organisation's commitment towards good health and safety standards. The policy can help to clarify procedures and areas of responsibility.

Developing a health and safety policy is a positive step and will help you clarify your procedures and responsibilities, and it will make everyone much more aware of health and safety issues.

### Risk Assessment

Risk assessment is a technique for identifying and controlling hazards of an organisation's activities. It is not just about chemicals and dangerous factories, and is as relevant to the Martial Arts club as it is to factories and other areas of major industry.

- A hazard is anything that has the potential to cause harm, and can be as simple as a faulty electrical socket to defective, damaged or deficient sparring equipment etc.
- Risk is the likelihood of it causing harm and the degree of harm it could cause, such as an electrical shock which could lead to a fatality or faulty sparring equipment that could result in an injury.

Risk assessment involves identifying all hazards, assessing the risks, and putting in place measures to control unacceptable risks. Assessing risk requires detailed knowledge of your organisation's activities and working practices that is normally only possessed by the people who actually do the work. Risk assessment should always involve members and instructors, therefore, and should never just be left to the 'experts'.

It is important that everyone takes their responsibility of a duty of care seriously and they are well advised to carry them out. Risk assessments are an excellent way to identify and overcome health and safety problems.

### The Control of Substances Hazardous to Health (COSHH)

All employers have a legal duty to assess the workplace for risks to health which may be caused by substances hazardous to health. They must take all necessary steps to control any risks identified. Items such as household bleach may seem harmless, but in the hands of a small child are extremely dangerous. Assessment is the key to evaluating potentially dangerous substances in the workplace.

### Fire Assessment

All public and community buildings are obliged under various pieces of legislation to specify minimum levels of standards so that the risk of fire is reduced. You should consult with your local fire brigade for advice.

## Health, Safety and Welfare

All employers must provide a safe place to work which is clean and free from risks, to reduce the risk of ill health or injury.

A safe system of working is required: that is, proper procedures for handling dangerous substances and adequate guards for machinery.

All employers should provide adequate supervision

Employees must be given training and information to give them sufficient skills and knowledge to carry out their work safely.

These regulations do not apply to organisations with no employees. However, they do need to ensure that their volunteers can work in a risk-free and safe environment.

**Insurance** Every organisation should check its insurance cover at least once a year. There are several insurance options and policies to consider. Some are required by law, while others are optional. The more common insurance policies are listed below.

Please note this list is not exhaustive.

- **Employer's Liability Insurance** All employers are required by law to take out this insurance to cover employees in the event of an accident, disease or injury. It can also be extended to volunteers.
- **Public Liability Insurance** This insurance covers the organisation in the event of injury, death, and loss or damage to the property of non-employees. It only covers legal liability, so will not provide compensation where there is an accident that is not due to negligence. It is important to confirm with your insurers that this insurance extends to the acts of everyone connected with your organisation. Without this insurance, the organisation or the individuals responsible for the organisation could be held personally liable.

Other insurance policies which are particularly relevant are:

- Personal Accident Insurance
- Professional Liability Insurance
- Product Liability Insurance
- Motor Vehicles Insurance

## First Aid

All employers have a duty under law to make a first aid assessment. The need for first aid will depend on the organisation's activities. For instance, a Martial Arts club will have very different needs from a morning coffee club. Again, an assessment of the workplace is the key to deciding what first aid to provide. There are, however, minimum standards for organisations.

There must be at least one first aid box and a notice displayed in the workplace that tells staff:

- the location of the first aid box
- who is the first aider or appointed person (see below)
- where the first aider or appointed person can be found.

An appointed person is someone who has basic first aid knowledge, and is available whenever people are at work. They can take charge in an emergency and are responsible for calling the emergency services. Details of one-day courses to train appointed persons are available from the Health and Safety Executive (see below for contact details).

In certain circumstances, there may be a legal duty to provide first aid facilities. For example, if you hold a public exhibition without first aid facilities and someone is injured, you may have broken your duty of care. If you have any doubts whatsoever you should always contact the local Health and Safety Executive office for advice.