## 1. Health and Safety Policy Statement

The aims of the British Federation of Historical Swordplay (BFHS) are to encourage as many people as possible to participate in Western Martial Arts (WMA) activities and to promote excellence in its pursuit. These aims, however, must be achieved within a safe and healthy environment. Although no activity can be made completely risk free, high levels of injury to participants, spectators and the public are not and should not be considered to be an inevitable consequence of WMA. In this context, the BFHS and their associated academies, clubs and societies need to be responsible for ensuring that procedures are developed that will eliminate or minimise the impact of intrinsic and extrinsic risk factors on fencers, spectators and the public during all forms of martial activity.

## 2. The aim of this document

This document discusses the legal responsibilities of the BFHS and its members for the safety of participants and all other people that may be affected by their activities. In particular, it highlights the requirement under UK health and safety legislation for risk assessments to be undertaken for all WMA activities and events before they take place. The document outlines the process of risk assessment, the risk factors that should be addressed and the range of control measures that are available for reducing risks to acceptable levels.

A guide to risk assessment is presented that can be adopted for martial activities and events by the BFHS and its membership.

# A guide to risk assessment

## 3. Introduction

Lack of regular exercise is recognised as a contributory factor in the development of many chronic diseases; consequentially, the public are encouraged to take part in regular physical activities to improve their general health and well-being. WMA can provide young and old, male and female, able and disabled people with opportunities for physical activity in controlled environments. Local, national and international events can also provide participants, spectators and potential recruits with exciting opportunities for many people to be involved with WMA. Whilst these activities and events will bring general health benefits to participants and enjoyment to many others, they also bring concerns about injury and safety, which may lead to legal and financial consequences. As with all activities, the benefits must be balanced against the associated costs and, therefore, although it is impossible to make any activity risk-free, the potential for adverse consequences in WMA should always be minimised through the implementation of effective control measures. The aims of this document are to outline the legal responsibilities of BFHS and its members with respect to health and safety and to provide guidance on how to manage the risks associated with WMA activities and events. Case studies are presented within the document in order to provide examples of good practice.

Many WMA activity is represented by the BFHS defining the way in which good practice operates through its affiliated clubs and societies. The BFHS therefore has to accept a responsibility to take reasonable steps to identify and control the risks associated with WMA. These responsibilities, however, do not extend to providing an absolute guarantee to all participants, spectators and members of the public that accidents or injuries will not occur. Most activities will always involve a certain level of risk, even when the risks have been identified and all reasonable precautions have been implemented. The BFHS must be able to demonstrate that they have identified these risks and provided adequate guidance to associated members on how to assess and control the risks in order to meet their legal obligations.

**The BFHS should, therefore, develop and implement a management system:**

- provide a statement of the BFHS's philosophy on health and safety
- define the organisational structure for managing the WMA activities
- provide laws/rules and procedures for controlling the risks associated with the WMA
- review the efficacy of the laws/rules and procedures and revises them when appropriate

The BFHS, however, do not have sole responsibility for health and safety; individual members organise most activities and events and they are responsible for the health and safety risks associated with them. It is important, however, to differentiate between those activities where the BFHS and members are responsible and those activities that come outside of their responsibility, such as training sessions undertaken by individuals at locations that are not controlled by the BFHS and its members.

Spectators also have responsibilities to comply with the laws and rules specified for the activity in general and for specific activities and events in particular.

## 4. Insurance

The primary responsibility of the BFHS is to establish procedures that will enable their membership to manage their activities and events safely. However, because of the potential financial implications of an accident, it is essential that the BFHS and membership carry insurance to cover potential third party liabilities and also encourage participants to carry appropriate insurance.

### Injuries

These fall into two categories, permanent and short term, and the necessary insurance protection for these types of injury are very different. The BFHS should ensure that all affiliated members, and therefore all individuals, are insured against permanent disabilities and, in particular, the inability to work and generate an income. Even a minor injury could render someone unable to work, and in many cases this could mean a loss of income. In addition the NHS may not provide physiotherapy or treatment as quickly as a individual might like, consequently they may want to obtain some form of protection against loss of income or medical treatment costs.

### Liability Cover

All members through their daily operations and participation in WMAs are exposing themselves to events that could cause loss or damage. Accidents will occasionally happen whereby somebody may be injured or suffer a loss. In turn the member may be deemed to be liable for the incident. It is becoming more prevalent for victims of accidents to seek financial recompense when they suffer a loss, and therefore it is vital that your club has adequate Public Liability Insurance.

### Representatives/instructors Indemnity Insurance

Whilst acting on behalf of your membership your personal legal and financial liability is unlimited. The financial risks and liabilities of your actions as an instructor (CI or otherwise), even when they are carried out in good faith are huge. There has been a marked increase in the number of legal actions against Club Committees and an escalation in the sums awarded against them.

## 5. Legal Responsibilities

It is important that individual member groups understand their legal responsibilities with respect to health and safety management and, in this respect, BFHS have a prime role to play by highlighting the issue and providing suitable information to these members.

### Members with paid employees

If you have set yourself up as a LTD company and earn income from instruction for example or you are paid by a group to instruct the you fall within the main scope of the *Health and Safety at Work Act* and are required to ensure safe systems of work and a safe working environment for staff and others using the premises where the “work” takes place. Therefore, if a group employs a secretary, treasurer or instructor the requirements of the Act apply to activities in and around the official place of activity.

### Groups providing equipment for members

Irrespective of whether staff are employed, the provision equipment for use by the members creates a statutory duty to ensure that the equipment is safe to use and is used safely. This means that it must be properly specified and suitable for its purpose and that formal arrangements are in place for regular maintenance to ensure the equipment remains in good safe working order at all times. Where appropriate, Members of a group should receive adequate instruction in using the equipment safely and that any breakdowns or defects are reported and promptly rectified.

**Groups with no employees**
It is unlikely that the Health and Safety at Work Act will apply at all. But remember, the Act only lays down statutory duties; a Common Law (i.e. non statutory) Duty of Care towards others applies to all those who either visit, work, or are affected by a groups activities.

## 6. Duty of care

Every instructor has a *duty of care* (under common law) to provide a safe work place, safe equipment, competent and safe students and a safe system of work. This general duty of care applies equally to all activities and a failure to acknowledge and implement this duty of care could be regarded in law as negligence. Negligence is defined by the requirement for people to: take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour.

The police may, in cases of gross negligence that result in a fatality, bring a prosecution for manslaughter against the individual(s) responsible. The normal course of action in cases of negligence, however, is for an injured person to seek compensation from the person or organisation responsible for the injury through the civil courts. In these cases, the claimant must prove that:

- the defendant owed a duty of care to the claimant
- the defendant was in breach of that duty of car
- the claimant suffered harm as a result of the breach in duty of care; and
- the harm suffered by the claimant was foreseeable.

In civil claims, the claimant normally has to demonstrate 'on a balance of probabilities' that the defendant was negligent. In some cases, however, the case is described as *res ipsa loquitur* (the action speaks for itself) where it can be demonstrated that the thing or action that caused harm to the claimant was under the sole control of the defendant; the incident could not have happened if there had been adequate care; and the accident cannot be easily explained in any other way. In these cases the onus rests with the defendant to prove that there had not been a case of negligence.

One defence that can be offered against a claim of negligence is referred to as volenti non fit injuria (the claimant knowingly accepted the risk that caused the injury). For example,

1 Wilsons and Clyde Coal Co Ltd v English, 1937

2 Donoghue v Stevenson, 1932 8

in 1964 during an away match, a rugby league player broke his leg whilst being tackled: in the process of this tackle the player was carried over the sideline and possibly collided with a concrete wall surrounding the pitch. The player claimed that the club was in breach of their duty of care to him as a visitor because the proximity of the concrete wall to the playing area contributed to his injury. One reason why the player lost his claim for damages was because the position of the wall from the perimeter of the pitch exceeded the minimum distance specified in the laws set by the Rugby Football League's governing body. The player, who was aware of the rule, had accepted this situation and the associated risks by playing. However, it should not be assumed that participants accept all risks associated with a sport unreservedly because an Appeal Court judge stated: It is not easy to see how one can consent to a risk of which one does not know.

# A guide to risk assessment

## 7. A Framework for Risk Assessment in WMA

Although the individual group organising an activity or event is responsible for preparing the risk assessment, The BFHS should have range of procedures and guidance documents on control measures to assist this process. Whilst specific areas of responsibility will vary amongst the individual groups, the following framework provides a general format that all WMA could adopt for risk assessment. Because of the wide diversity of facilities, equipment and activities used within different member groups, it will be necessary to modify and/or add details to the framework in order to meet the specific requirements of their individual activity.

**The framework proposes three levels of risk assessment in order to accommodate the range and levels of risk encountered across WMA and the different levels of activity and competition.**

Level 1: a written risk assessment will not be required because the level of risk attached to the activity or event is adequately controlled by the laws/rules of the BFHS. This level of assessment will apply to most low risk, routine local events, such as in house events, as these are unlikely to attract more than minor interest and the participants and officials will, effectively, be the only stakeholders affected. There should be no high-risk activities involved nor significant impact on spectators and/or the public arising from the events.

Level 2: a written generic risk assessment should be adopted for the activity or event. This will include routine but higher-risk activities, possibly attracting a small number of spectators, have a minor impact on the public and/or attract local media interest. Although control measures in addition to those specified by the laws/rules of the BFHS may be required, these additional controls could be applied to similar events at other locations and/or at other times. This type of assessment would apply, for example, to a visiting by another group. The validity of Level 2 generic risk assessments should be reviewed at appropriate intervals or if a significant accident occurs.

Level 3: an event-specific risk assessment is required. For this level of assessment, the event will be high profile; it may attract large numbers of spectators, require close/some liaison with the emergency services, have a major impact on the public and/or attract national or international media interest. The general WMA specific control measures adopted for activities and events covered by a Level 2 generic risk assessment will still be applicable but the activity or event will require additional event-specific control measures to be implemented because of the potential impact on stakeholders. This type of assessment would apply, for example, the SPADA event and to other events where the level of risk is considered to be high. The validity of a Level 3 risk assessment should be reviewed immediately after the event and recommendations should be made for improvements at future events of this type, if deemed necessary.

**Within most WMA, the majority of activities and events organised will not require individual risk assessments, as they will involve routine activities and events and fall under a generic risk assessment already created by the membership group under the guidelines laid out by the BFHS.**

# A guide to Risk Assessment

**THE FOLLOWING INFORMATION GIVES AN EXPLANATION OF RISK ASSESSMENTS AND HOW TO CARRY THEM OUT. SHOULD YOU REQUIRE ANY MORE INFORMATION PLEASE CONTACT THE BFHS**

## 1. Introduction

A Risk Assessment s merely a clear and careful examination of anything that could cause harm to you and other people within a particular situation or environment. This process is generally referred to as Risk Safety Management and is not as complicated and confusing as you might think. Put simply it involves three simple stages:

1. Identifying the Problem (in Health & Safety terminology, the Hazard)
2. Determining the Likelihood of something happening (the Risk)
3. Deciding what can be done about it (the Control Measures)

## 2. Measuring Safety

**By measuring safety we:**

- REDUCE RISK
- PROTECT PEOPLE
- ENSURE SAFE PARTICIPATION

The aim of a Risk Assessment is to eliminate or reduce to a safe level the risk of harm to health, and to promote the safety and welfare of all persons involved. At the end of the day no one likes to see others get hurt.

Risk Assessments are a legal requirement under the Management of Health & Safety at work Regulations 1999 (MHASAWR 1999). This is now European Law, or by common law covered by Duty of Care (descibed earlier in this document). The assessment of activities must take into account:

- The capabilities and limitations of the persons involved.
- The safety and maintenance of any equipment involved or being used.
- The environment in which the activity is being undertaken.
- The inherent hazards in these activities.

# A guide to risk assessment

## 3. Six steps to Risk Assessment

**To work successfully, risk assessment is a six-step process:**

1. Decide who is suitably qualified to carry out a risk assessment.
2. Identification of all hazards in the area under review.
3. Identification of those persons at risk.
4. Evaluation of all risks associated with the hazards.
5. Implementation of controls, if necessary.
6. Recording of significant aspects of the assessment and regular review.

Therefore the purpose is to decide and implement the control measures necessary to ensure a safe and healthy environment, but risk assessment is only the starting point.

## 4. Hazard and risk

- **Hazard = the potential for harm**

For example: A fencer is exchanging blows and a rib is broken by a severe thrust. Clearly, the hazard is the recieving of a severe blow.

- **Risk = the likelihood of that harm occurring and the severity of its outcome**

Using the same scenario: if the fencers are exchanging hits without proper safety equipment and this is not properly supervised by a competent person, the likelihood of injury could be high. The severity of the outcome would depend on the severity of the blow. A hit by a minor blow may be painful but not dangerous in the long term, but a severe blow could be fatal, possibly even to others standing, spectating or participating.

The extent of the risk should also take into account the number of others exposed to the harm. Is the fencer the only one at risk or are their others fencing, waiting to fence or spectating?

## Step 1 What are the Hazards?

A hazard is something with the potential to cause harm, injury, ill health or disease. All significant hazards that could affect the activity/activities need to be recorded. Legally you can ignore the *trivial*.

**Hazards can be grouped into families**

- physical
- chemical
- biological
- natural phenomena

# A guide to risk assessment

There is an element of overlapping, but they can enable the quick and systematic process of hazard listing.

**Physical hazards**
Physical hazards include activity areas/sites/locations, include gravity, hot/cold temperatures, travel format/movement etc. and would involve manual handling, equipment, vehicles, electricity, noise, vibration, etc.

**Chemical hazards**
Include fire, explosions, and contamination from substances at the venue.

**Biological hazards**
Include animals, humans, plants and micro-organisms.

**Natural phenomena**
include heat, light, water, weather reports, etc.

## Step 2 Who is at Risk?

Any risk assessment must include the hazards to all persons who may be affected by the activity/ facility under consideration.

## Step 3 Assessing the level of Risk?

Each Hazard identified in your Assessment will present a differing level of risk. We can determine the level of risk through the generation of a *Risk Factor* from an assessment of the LIKELIHOOD and SEVERITY of Injuries arising from the Hazard (see Table below).

A. Establish Likelihood rating based on the scale shown:

**4 Very Likely**
If it continues as it is, there is almost a 100% certainty that an accident will happen (e.g. from broken stairs, exposed electrical wires, Unsupervised use of weapons, etc.)

**3 Likely**
The effects of vibration, wind or human carelessness could precipitate an accident, but which is unlikely to happen without this additional factor (e.g. swords not properly tipped, puddle of water on gym floor, electrical cable in walkway, etc.

**2 Possible**
The incident may happen if other additional factors were present, but it is unlikely to occur without them. The probability is low and the risk is minimal e.g. worn steps, obstructing an aisle, storage of heavy items above head height, etc.

**1 Not Likely**
There is no Likelihood of an accident occurring. Only under freak conditions could there be a possibility of an accident or illness. All reasonable precautions have been taken so far as is reasonably practicable. This should be the normal state of the venue.

B. Establish a Severity rating for the identified hazards using the following scale:

**5 Very High**

Causing multiple deaths and/or widespread destruction.

**4 High**

Causing death or serious injury to an individual. Serious injury includes fractures, amputations And hospitalisation for more than 24 hours.

**3 Moderate**

Causing injury or disease that incapacitate an Individual for more than one day.

**2 Slight**

Causing minor injury that would allow the Individual to continue after first aid treatment.

**1 Nil**

No risk of injury or disease.

## 3. Calculating the Risk:

From these you can compile the Risk Factor by multiplying the Likelihood rating by the Severity rating. Such a rating enables the most serious risks to be considered first, i.e. the higher the number the higher the risk

| | | LIKELIHOOD | | | |
|---|---|---|---|---|---|
| | | **Very Likely (4)** | **Likely (3)** | **Possible (2)** | **Not Likely (1)** |
| SEVERITY | **Very High (5)** | High (20) | High (15) | Moderate (10) | Moderate (5) |
| | **High (4)** | High (16) | High (12) | Moderate (8) | Low (4) |
| | **Moderate (3)** | High (12) | Moderate (9) | Moderate (6) | Low (3) |
| | **Slight (2)** | Moderate (8) | Moderate (6) | Low (4) | Low (2) |
| | **Nil (1)** | Low (4) | Low (3) | Low (2) | Low (1) |

**12 – 20= HIGH RISK** | **5 – 11 = MODERATE RISK** | **1 – 4 = LOWRISK**

For example a Severity rating of High (4) and a Likelihood rating of Likely (3) gives you a Risk Factor of 12 = HIGH RISK.

By following these simple guidelines you can give each Hazard you identify in your Assessment a Risk Factor. It will also enable you to prioritise the Hazards in terms of implementing precautions to control. minimise. eliminate the risk they present.

# A guide to risk assessment

## Step 4
## Current precautions to control Risk/ Implementation of controls to minimise Risk.

By taking safety precautions you are aiming to either eliminate the risk or reduce it to an acceptable (LOW) level. Controls need to be "suitable and sufficient' but are qualified by only needing to be "reasonably practicable" bearing in mind the risk level, number & characteristics of people affected, your experience and the resources to implement any precautions. Commonly there may be more than one option for control and so a decision must be taken on grounds of effectiveness and cost.

**Such controls might include:**

- Safe systems of operation to reduce risk to an acceptable level with written procedures that are known and followed (Checklist/instructions/manuals).
- Elimination - removing the hazard e.g. for beginners, maybe no free fencing for the first few lessons until control of the weapon is established.
- Supply of personal protective equipment – masks, plastrons, etc.
- Proper training – safety in the venue rules of engagement etc.
- Adequate supervision – competent instructors & helpers.
- Information & instruction – demonstrations and handouts.
- Substitution with something less hazardous e.g. – use of wasters, mats where appropriate, etc.
- Enclosure, guarding or segregation – ropes to protect observers etc.

No hierarchy is intended and often the controls will be used in combination so as to ensure the risk is reduced to an acceptable level. It should be remembered that such controls are only as good as the standard of supervision implementing and monitoring their effectiveness.

## Step 5 Recording of significant aspects of the Assessment and regular Monitoring & Review

To be effective risk assessments need to be recorded. Taking activities one at a time, the recorded assessment should be clearly laid out and detail the date, the activity and who has carried out the assessment. It should include the significant facts, e.g. the hazards and risks identified, those who are at risk, the factor. level of risk to those identified as at risk, relevant controls, action required and review dates etc.

By having records it will be easy to refer to the risk assessment when it is time to review it, or when it needs to be examined by the BFHS, Health and Safety Excecutive or internal inspectors or 'others', in the light of an accident. or near miss occurrence. Also, it is an important record that can be given to other performers and 'Managers' to enable them to undertake the activity safely.

BRITISH FEDERATION OF HISTORICAL SWORDPLAY

# A guide to risk assessment

**These are just examples and risk levels will vary depending on venue and circumstances.**

| British Federation of Historical Sword Play | |
|---|---|
| Name of Group: ACME Fencing Academy | Date 2006/7 |
| Activities usually carried out by the group: Fencing | |

| HAZARD | WHO IS AT RISK | RISK FACTOR | FURTHER CONTROL MEASURES |
|---|---|---|---|
| Physical; Chemical; Biological Natural | Fencers, Public, Instructors | See Risk Factor Table | |
| Physical injury through lack of warm-up | Student/Instructor | (9) | We insist on a 20 minute warm up which is oriented towards the activity of fencing |
| Physical injury through percussive hit from rapier/quarterstaff etc | Student/Instructor | (6) | Modern protective clothing has to be worn extra protection particularly groin, chest, neck and head |
| Dehydration | Student/instructor | (6) | We makes sure water is available at all times |
| Injury from broken blade | Student/instructor | (4) | We have a first aider on hand as a statutory requirement also we have mobile phones at hand for emergency services |
| Undisclosed personal health risk ie epilepsy, high blood pressure etc | Student | (4) | An announcement will be made asking for voluntary disclosure of any reaction from our activity |
| Injury caused by falling whilst practising hand to hand combat | Student/instructor | (4) | Mats are used for safe landings |
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BRITISH FEDERATION OF HISTORICAL SWORDPLAY

# A guide to risk assessment

**These are just examples and risk levels will vary depending on venue and circumstances.**

| British Federation of Historical Sword Play | |
|---|---|
| ACME Fencing Academy | 2006/7 |

Fencing - Outdoor event: additional risks

| HAZARD | WHO IS AT RISK | RISK FACTOR | FURTHER CONTROL MEASURES |
|---|---|---|---|
| Physical; Chemical; Biological Natural | Fencers, Public, Instructors | See Risk Factor Table | |
| Possibility of audience member being hit by weapons | Public | (8) | A rope barrier will be erected to maintain distance from event |
| Slipping on grass/gravel | Student/instructor | (18) | Weather watch and sensible footwear. Ice packs for strains. First aider available on site |
| Handling of Swords by the public | Student/instructor/public | (6) | We makes sure there is supervision at all times. |
| Public disturbance | Student/instructor/public | (4) | A mobile phone is easily available for calling emergency services. A first aider is also at hand. |
| Dog bites | Student/instructor/public | (4) | Select a dog free area if possible. Brief participants of need to avoid contact with unknown dogs. If someone is attacked ensure victim is taken to A & E. |
| Dog faeces | Student/instructor/public | (12) | Select a dog free area if possible. Survey site prior to event and undertake clearance. Ensure clearers wash their hands. |
| Sun Stroke | Student/instructor | (8) | Check weather make sunscreen available. |

## In conclusion

The actual risk assessments are only the start of the process. Once the control measures have been implemented, there must be a programme of checking. This can take the form of inspections & audits, reports to committees or safety meetings, accident and ill-health record monitoring, etc. There must also be a regular check as to whether anything significant has occurred which would change the risk assessment. An accident book is strongly recommended as a way of recording incidents.

This information is based on guidelines for Risk Assessments as set out by the HSE in there ‘5 steps to Risk Assessment’.

**RISK ASSESSMENT FORMS WILL BE AVAILABLE FROM THE BFHS ON REQUEST.**

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