

# HRSA Monthly Report

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## **Incident Reports**

Incident reports were reviewed (other than those of simple capsizes). Comments were made on a few and some were forwarded to others for information. Incident Reports that describe medical treatment beyond first aid and those that describe medical issues when rowing or training are routinely shared with the Honorary Medical Adviser. Several reports were linked where two or more reports related to the same incident.

There continue to be too many head-on collisions and these often result in significant bruising and pain and often cause rowers to need time off rowing and training (see the note on Avoiding Collisions below).

There has been some discussion on the use of self-reported incidents by bodies who sit in judgement. It is contrary to the common law of England and the European Convention on Human Rights to use information that people are required to provide, against them.

There have been problems with the Incident Reporting system software. The ability to submit reports has not been affected but there have been some issues with accessing reports and with the allocation of a report to a region. Most of these problems have been solved and it is hoped that the remaining problems will be solved soon.

## **Avoiding Collisions**

There has been a problem with collisions in Leeds but the two clubs have worked together to produce "Advice on Avoiding Collisions" (a copy is included with this report). This is excellent and demonstrates the benefits that can be obtained by collaborating to improve safety. This is an example of best practice.

David Cottrell at Leeds Rowing Club and Lydia Evans at the University of Leeds Union Boat Club should be thanked and congratulated. It is understood that this guidance will be shared with clubs in the Yorkshire Region and its content may be incorporated into a Safety Alert.

## **RowSafe 2017**

RowSafe was posted on the website at <https://www.britishrowing.org/about-us/policies-guidance/rowsafe/> and clubs have been notified. A document outlining the changes has been produced and posted.

There is a reference to RowSafe on the CPGA website and some enquiries have been received from CPGA clubs.

Some links to RowSafe 2008 were identified and removed.

## **Work with the Cornish Pilot Gig Association (CPGA)**

There has been a continuing ongoing conversation with a Gig club in Dorset. An initial meeting has been discussed but the dates not yet fixed. (This will be delayed till after the Gig World Championships in the Scillies).

There has been some discussion with the leadership of the CPGA who regard this is a worthwhile exercise.

## **Safety Alert - Heel Restraints**

Concern has been expressed by umpires that many boats, when checked, do not have heel restraints that comply with the British Rowing Rules of Racing. There has been some confusion due to the difference between FISA rules and the British Rowing Rules of Racing and due to the way in which specification is defined. Nevertheless the British Rowing Rules of Racing are clear and apply generally, compliance is not optional.

It is arguable that this is not a significant safety issue as it is implicated in so few (0.1%) reported incidents.

A Safety Alert has been produced and issued, and a copy is included with this report. The message in the Safety Alert is consistent with the advice in RowSafe and the British Rowing Rules of Racing.

This Safety Alert triggered an emotional response relating to the damage caused to bow balls by umpires and the effectiveness of bow balls. This has now subsided.

There was also an issue about the current heel restraint rule causing a problem for the steers of coxless boats. It was suggested that it may be possible to have the heel restraint in the form of a loop with one of the fixed ends aligned with one extreme of the heel movement and the other end aligned with the other extreme of heel movement. This loop would pass through a ring on the heel of the shoe. It would then be necessary to periodically check for chafe at the shoe end of the heel restraint.

The discussion associated with this Safety Alert revealed that some events submit Incident Reports relating to faults found during boat inspections and some do not. All events are encouraged to submit Incident Reports relating to all issues including faults found in this way.

## **The types of blades used by young rowers**

There was a request for advice on whether J13 and younger rowers should use macon rather than cleaver blades. This request was referred to the Chairman of the Medical Panel and the Chairman of the Technical Panel. The Chairman of the Medical Panel has responded to say that he cannot advise on this matter. The Chairman of the Technical Panel is yet to reply.

## **Other Advice**

- Additional advice has been provided on offshore rules of racing and the need for the review of Event Risk Assessments and Safety plans to be incorporated into the British Rowing Rules of Racing.
- Advice has been provided to the Royal Dutch Rowing Federation on the online safety training modules.
- Advice has been provided to a rowing club on the action it is required to take to maintain the safety of anyone who dives into shallow water from its pontoon. There was a concern that the club may have a liability if wild swimmers use its pontoon to dive into shallow water that may contain obstructions. It was made clear that no liability exists in relation to trespassers and to people using public footpaths. The advice is summarised in Appendix I.

- There was a discussion on the safe use of drones (small unmanned aerial vehicles). The advice provided to me is summarised in Appendix 2 and may be the subject of a Safety Alert. A copy of the CAA's "Dronecode" is included with this report
- There was a question relating to the requirement to sign in and out as this no longer appears in RowSafe. The response is summarised in Appendix 3.
- A concern was expressed that the guidance on Radio Procedure in section 2.3 of RowSafe did not include information on radio licensing. It was explained that RowSafe contains safety guidance exclusively and that including non-safety related information would make it even longer and tend to dilute the essential message.
- A CRSA made a request for a Club Safety Plan template. It was thought not appropriate to provide one as the Safety Plan has to be specific to the club and its venue. A reference was made to chapter 3 of RowSafe. The CRSA replied to say that this was a good starting point.
- There was a request for advice on the appropriateness of a club rule that forbids junior rowers from rowing without supervision. The response included the advice that people become adults when they reach 18 years old. This satisfied the respondent as he is 18. The advice is summarised in Appendix 4.

## Appendix I – Obligations with respect to wild swimmers

I do not think that the club is legally obliged to do anything.

There is a general principal in civil law that a person is responsible for the reasonably foreseeable consequences of his voluntary actions. There was a civil case of this nature that was decided in 2003 ultimately by the Judicial Committee of the House of Lords. There is a summary of the judgement below and there is more information [here](#).

It may help to look at the security of your land. If unauthorised access would require a person to climb over a fence or gate, or push through a hedge then they would have committed trespass making subsequent claims difficult. The Occupiers Liability Act 1957 refers to the duty an occupier owes to people who are lawfully on his land or premises; as I understand it, this duty does not extend to trespassers.

I do not think that you have any liability in respect of people using a public footpath, or similar, over your land. This is specified in section 7 of the Occupiers Liability Act 1984. It may also help to consider that any danger present is in the water and not on your premises.

Now let's think about what would be prudent rather than what is required. I feel that it would be prudent to display a sign, perhaps fixed horizontally at each end of the pontoon warning that the water is shallow. Signs are readily available from companies like [Stocksigns](#).

I do not feel it necessary or appropriate for you to provide lifebuoys at the water's edge.

### Summary of judgement

Tomlinson v Congleton Borough Council [2003] 3 WLR 705 House of Lords

*The defendant owned Brereton Heath Country Park. It had previously been a sand quarry and they transformed it in to a country park and opened it up for public use. The defendants had created a lake on the park which was surrounded by sandy banks. In the hot weather many visitors came to the park. Swimming was not permitted in the lake and notices were posted at the entrance saying "Dangerous water. No swimming". However despite this, many people did use the lake for swimming. Rangers were employed and on occasions sought to prevent swimming but some of the visitors would be rude to the rangers' attempts to prevent them and many continued to swim. The claimant was injured when he dived into shallow water and broke his neck. At the Court of Appeal it was held that he was a trespasser despite the repeated trespass and inadequate steps to prevent him swimming. They also stated that the warning signs may have acted as an allurement to macho young men. The Court of Appeal was of the opinion that since the introduction of the Occupiers Liability Act 1984, the courts should not strain to imply a licence. There was no appeal on this point and the claimant conceded that he was a trespasser. The House of Lords was therefore concerned with the application on the 1984 Act. The Court of Appeal had held that the council were liable but reduced the damages by 2/3 under the Law Reform (Contributory Negligence) Act 1945. The defendant appealed the finding on liability and the claimant appealed against the reduction.*

House of Lords held:

*The Council were not liable.*

*No risk arose from the state of the premises as required under s.1(1)(a) Occupiers Liability Act 1984. The risk arose from the claimant's own action. He was a person of full capacity who voluntarily and without pressure or inducement engaged in an activity which had an inherent risk. Even if there was a risk from the state of the premises, the risk was not one against which the council would reasonably be expected to offer the claimant some protection under s.1(3)(C). In*

reaching this conclusion Lord Hoffman looked at the position if he had not been a trespasser and applied the common duty of care owed under the Occupiers Liability Act of 1957. He was of the opinion that there was no duty to warn or take steps to prevent the claimant from diving as the dangers were perfectly obvious. This was based on the principle of free will and that to hold otherwise would deny the social benefit to the majority of the users of the park from using the park and lakes in a safe and responsible manner. To impose liability in this situation would mean closing of many such venues up and down the country for fear of litigation. He noted that 25-30 such fractures occurred each year nationwide, despite increased safety measures the numbers had remained constant.

## **Appendix 2 – the safe use of Drones**

The following advice has been provided to me.

You can get reliable advice and guidance here:

<https://www.caa.co.uk/Commercial-industry/Aircraft/Unmanned-aircraft/Guidance-on-operating-permissions-for-drones/>  
<http://dronesafe.uk/>

*“Permission must be obtained from the CAA to land or operate within a congested area” and a “congested area” is defined as “any area of a city, town or settlement which is substantially used for residential, industrial, commercial or recreational purposes”. I’d suggest that the Thames (Isis) in Oxford counts as an “area of a city substantially used for recreational purposes” and therefore the operator of the drone is probably guilty of operating outside the scope of the Air Navigation Order and therefore committing an offence.*

## **Appendix 3 – the previous advice to sign in and out**

This was not included in the revision of RowSafe at it is one of those many measures that may be identified during a risk assessment. It may be appropriate in some circumstances and not in others.

I focussed on barriers that prevent hazards from causing a hazardous event and controls that reduce the severity of harm once such an event has occurred. The controls tend to be ones that come into effect immediately. Clearly keeping records of who is afloat is not a barrier and may or may not be an effective control, depending on the circumstances.

In some circumstances it may be sufficient to have a rule that prevents small boats from going afloat unaccompanied and in different circumstances additional or other controls may be advisable. It all depends on the circumstances and this decision has to be made by each club based on its own assessment of risk.

#### **Appendix 4 – Appropriateness of club rules**

This is one of those apparently simple questions with an answer that is far from simple. It all depends on the circumstances.

Your club should have completed its own risk assessment and it should use this to determine what is acceptable practice and what is not. If, as a result of the risk assessment, the club has concluded that it is not safe for anyone to go afloat alone then it is quite correct to make this a rule that its members must comply with.

The club may have come to a more complex conclusion I cannot comment further without knowing more. It is worth noting that simple rules are easier to work with than complex ones.

British Rowing provides comprehensive safety advice and guidance but it is up to clubs to define their own rules based on their risk assessment at their location. One size does not fit all.

People are normally considered to have reached adulthood on their 18th birthday.

When clubs make rules it helps if they are clear and objective. Subjective considerations, like whether the person is "responsible", tend to make rules unworkable.