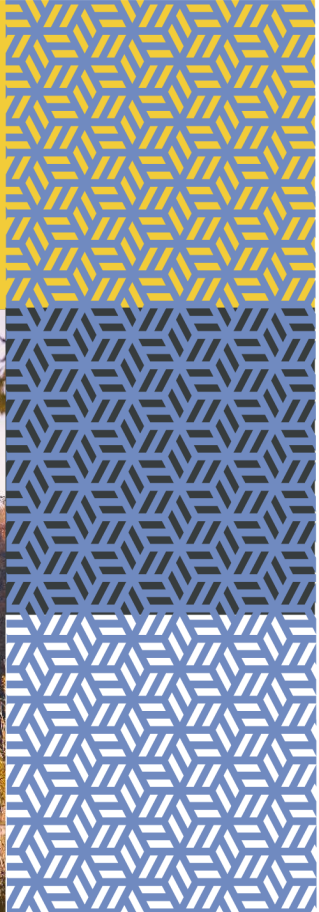
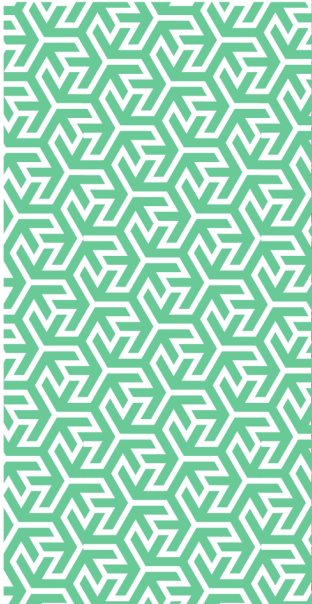


rmp

Risk control
Managing Woodland
Visitors



In partnership with



Managing Woodland Visitors

Background

The social benefits of woodlands are especially valuable in the UK because of its relatively high population density and interest in outdoor recreational activities.

Council-owned woodlands can offer amazing benefits to the general public when utilised for recreational activities such as nature hikes or walks, fun runs, and cross-country (trail) cycling. Undertaking physical exercise while outdoors provides an opportunity for people to enjoy their natural surroundings. Aside from breathing fresh air and reconnecting with nature, woodlands provide opportunities to undertake physical activities that may be performed in solitude, with friends and family members, or with local recreational activity clubs.

It is also recognised that physical activity is good for the head, not just the heart, as it helps to reduce stress and can assist in preventing some cases of depression. Exercise is considered to reduce anxiety, and consistent activity provides even more relief for anxiety and depression¹.

The benefits of such activities are not merely restricted to physical and mental health and wellbeing. There are psycho-social benefits associated with outdoor recreational activities as adults and children alike can experience opportunities to meet and build relationships with others.

However, there are inherent risks associated with woodland environments that need to be managed in order to ensure people are not exposed to unreasonable risk of harm. In equal measure, there are risks to the woodland environments that cannot be ignored if the woodland is to be safeguarded for the benefit of future generations.

The UK Forestry Standard

Regarding the risks presented to our forests and woodlands, the UK Forestry Standard² (UKFS) sets out the approach of the UK governments to sustainable forest management by defining requirements and guidelines, and providing a basis for regulation and monitoring - including national and international reporting.

Practising sustainable forestry fundamentally means managing our forests and woodlands in a way that meets our present needs but that does not compromise the needs of future generations. There should be a rightful expectation placed upon us that future generations can enjoy the same benefits and opportunities from their forests and woodlands that we enjoy today.

At the heart of the UKFS approach is the importance of balancing the environmental, economic and social benefits that our forests and woodlands can provide and the recognition that our forests serve a wide range of objectives.

Within the supporting guidance, the seven strands of sustainable forest management are defined as:

- Biodiversity
- Climate change
- Historic environment
- Landscape
- People
- Soil
- Water

The Forestry Commission in England and Scotland, Natural Resources Wales and the Northern Ireland Forest Service are the main bodies responsible for implementing the UKFS.

Woodland Management Plans

The development of a woodland management plan can provide land managers with a structured way to plan and organise the sustainable management of its woodland.

These plans can be considered as a vital component of successful woodland management as they can create a unified approach to strategic planning and operational activities.

Woodland management plans should be considered as dynamic working documents, providing a central point of focus to manage information which can be used to make informed decisions, supply to contractors and other third-parties, and to provide evidence of compliance with the legal obligations associated with woodland ownership.

A management plan is also a requirement for the payment of a number of Forestry Commission grant schemes.

The Forestry Commission have produced some example Woodland Management Plans^{3, 4, 5}

Legal Requirements

Under both the civil law and criminal law, an owner of land has responsibilities for the health and safety of those on or near the land and has potential liabilities that need to be effectively managed.

Civil law gives rise to duties and potential liabilities to pay damages in the event of a breach of those duties. In short, the owner of the land, together with any party who has control over the land, owes a duty of care at common law to all people who might be expected to access that land. The duty of care placed upon the land owner and / or controller is to take reasonable care to avoid acts or omissions that cause a reasonably foreseeable risk of injury to persons or property (see Occupiers Liability Acts of 1957⁶ and 1984⁷).

Section 2(2) of the Occupiers' Liability Act 1957 states that the occupier has "a duty to take such care as in all the circumstances of the case is reasonable to see that the visitor will be reasonably safe in using the premises for the purposes for which he is invited or permitted by the occupier to be there." Please note that there is an obvious distinction between 'reasonably safe' and 'perfectly safe'.

Under the Occupiers' Liability Act 1957, adult visitors do not require warnings of obvious risks, except where they do not have a genuine and informed choice.

It is notable that the 1957 Act expressly states that an occupier must be prepared for children to be less careful than adults, and, by implication, that a greater level of care might be required to keep them from harm.

Under the 1957 and 1984 Acts the occupier owes a duty of care to lawful visitors and trespassers. In Scotland a similar duty of care is owed under the Occupiers' Liability (Scotland) Act 1960⁸.

Criminal law gives rise to the risk of prosecution in the event of an infringement of the law. The Health and Safety at Work Act 1974⁹ places a duty on employers to ensure, so far as is reasonably practicable, that in the course of conducting their undertaking, employees and members of the public are not put at risk.

As an example, in late 2021 the Health and Safety Executive successfully prosecuted a Council for health and safety breaches after a member of the public was fatally injured by a falling tree while walking along a footpath which formed part of a well-established local trail¹⁰.

The Council had a proactive inspection and maintenance regime in place across the county, but the trail in question had been omitted from the regime for many years.

The Council pleaded guilty to breaching Section 3(1) of the Health and Safety at Work Act 1974. They were fined £300,000 and ordered to pay costs of £13,164.90 and a victim surcharge of £181.

In addition to the above, the Management of Health and Safety at Work Regulations 1999¹¹ require employers to make a suitable and sufficient assessment of the risks to the health and safety of persons not in their employment arising out of or in connection with their conduct or undertakings.

Practical Risk Management

The risks presented to the public by woodlands are many and varied. These risks can include wild or farmed animals, trees and vegetation, open water (including rivers, ponds and lakes), manmade structures such as bridges, styles and fences, trip hazards such as uneven ground, tree stumps and fallen branches, and slip hazards such as loose gravel, fallen leaves, surface water, and snow and / or ice.

Clearly it is not practicable to eliminate all of the risks presented to visitors, nor should it be desirable. There is no legal requirement to eliminate all risks. Remember, the general duty placed upon occupiers and land owners is to demonstrate that they have taken reasonable care to ensure visitors are reasonably safe. A suitable and sufficient risk assessment process, undertaken by a competent person or persons can greatly assist in achieving these aims.

The Steps Needed to Manage Risk

It may not be necessary for small sites to require a safety plan to manage the associated risks, however, it may be prudent to consider the development of safety plans for medium to large sites which may be seen as a natural and worthwhile extension of any Woodland Management Plans.

The Health and Safety Executive provide some useful guidance on risk management and risk assessment¹². The steps needed to manage risk include:

1. Identify hazards

In order to identify hazards to visitors, occupiers and land owners need to conduct visual inspections. As part of the inspection, consideration needs to be given of the type and nature of activity that is typically undertaken and the type of person or people undertaking those activities in conjunction with the environmental factors. For example, cyclists or horse riders may be exposed to a different risk profile than, say, a children's school trip or a group of bird watchers due to the speed of travel and / or height of the mounted rider.

Popular outdoor activities that may need consideration dependent on the environment include:

- Bird / wildlife watching / photography
- Wild swimming / kayaking / paddle-boarding
- Cycling / mountain biking / cyclo-cross

- Horse riding
- Walking / hiking / treasure hunts
- Cross country running / orienteering
- Fishing
- Tree / rock climbing

Potential conflict between the different categories of visitor must be a consideration of the risk identification process.

Knowledge of any previous adverse events or near misses should be considered as part of the risk identification process.

2. Assess the Risks

Once the hazards have been identified, consideration should be given to the likelihood that a visitor could be harmed and how serious the harm could be.

The occupier or land owner needs to establish:

- Who might be harmed and how
- What is already being done to control the risks
- What further action is needed to effectively control the risks
- Who needs to carry out the action and when

3. Control the Risks

Put any identified controls in place. As mentioned previously, there is no expectation that all risk is eliminated, however, all 'reasonably practicable' steps should be taken to protect people from harm. This means balancing the level of risk against the measures needed to control the real risk in terms of money, time or trouble.

Regarding of the use of safety signs as part of a control strategy, it is worthwhile referring to the House of Lords judgment in Tomlinson v Congleton Borough Council (2003)¹³ where Lord Hoffmann said that there is no legal duty on occupiers of land to safeguard irresponsible visitors against dangers which are "perfectly obvious."

It is worth highlighting the case of English Heritage v Taylor [2016]. In this case, falling approximately 12 feet down a sheer drop into a dry moat was considered as an obvious risk of serious injury; however, the injured party was unaware of the drop due to the landscape of the castle. Accordingly, it was considered that a sign warning of the sheer drop should have been in place. On this basis English Heritage were found 50% liable for the accident¹⁴:

4. Record the Findings

It is essential that key findings of the risk assessment process and any subsequent actions are recorded. Information to be recorded includes:

- The identified hazards
- Who may be harmed and how
- The risk control actions taken and when

Recording of key findings and actions allows for the effective communication of important risk information to relevant internal and external stakeholders. It can also ensure more informed decision-making that leads to improved risk management activities as well as potentially enhancing an organisations ability to defend against compensation claims.

5. Review the Controls and the Assessment

Controls should be reviewed at regular frequencies to gain assurance that they are working.

It is important to recognise that controls can degrade and / or fail over time.

It is of equal importance to acknowledge that the characteristics of risks can evolve. Woodlands are dynamic environments that are exposed to weather and other factors that can change their risk profile. For example, a seemingly healthy tree can fail, or can be damaged and become uprooted in strong winds. Of course, if the tree is located far from any human activity then it will pose little risk, however, if it is located on a designed path or other area where there is a greater level of activity then the risk is likely to increase substantially.

Any adverse incidents, near misses or public reporting of significant defects or hazards should prompt a timely review of existing control measures.

The risk assessment should be reviewed and updated at regular frequencies.

Tree Risk Management

This guidance document has sought to adopt a general approach to risk management in relation to publicly accessible woodlands.

However, for more focussed advice on tree risk management please refer to the 'Tree Safety – Managing the Risks' RMP Risk Control guidance document.

Summary

It may be reasonable to assume that visitors bring life skills and experience with them when they visit woodlands. However, we should recognise that these skills and the general acceptance of risk differs from person to person, from group to group, and from activity to activity.

A mountain biker committed to traversing a woodland at speed is, by definition, demonstrating an acceptance of a potentially greater level of risk than, say, a nature Rambler.

Understanding the needs and expectations of woodland visitors, as well as the woodland environments themselves, will greatly assist occupiers and land owners in woodland planning and management whilst not exposing its visitors or the woodlands themselves to significant risk of harm.

At the heart of the management approach to woodland visitors, the ambition should be for visitors to be aware of nature and the extent of risk that is presented, and to be able to take this risk on willingly with no nasty surprises.

Additional Reading

The Countryside Code

<https://www.gov.uk/government/publications/the-countryside-code/the-countryside-code-advice-for-countryside-visitors?msclkid=aef1e32bcf8411eca24ba977666ba707>

Guidance: Managing and maintaining woodlands: overview

<https://www.gov.uk/guidance/managing-and-maintaining-woodlands-overview?msclkid=84f805c7d06a11ec94a4c5f56f174574>

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Further information

For access to further RMP Resources you may find helpful in reducing your organisation's cost of risk, please access the RMP Resources or RMP Articles pages on our website. To join the debate follow us on our LinkedIn page.

Get in touch

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