

<b>Subject:</b>	<b>Introduction of Licensing Scheme For Fitness Trainers Using Public Green Spaces</b>		
<b>Date of Meeting:</b>	<b>14 January 2014</b>		
<b>Report of:</b>	<b>Executive Director Environment, Development &amp; Housing</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Jan Jonker</b>	<b>Tel: 29-4722</b>
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<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE**

**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 In recent years outdoor personal fitness classes and 'boot camps' are increasingly popular in the city's parks and green spaces. These groups are increasing in number and some can be groups of up to 30 or more people training in a number of classes at one time. The rise in outdoor fitness is good for the health and well being of residents in the city.
- 1.2 The increase in popularity of outdoor fitness raises a number of issues:
- It is not easy to determine whether a fitness trainer is reputable, for example whether they are trained and qualified, hold appropriate insurances, follow best practice in respect of safety measures and DBS (Disclosure and Barring Service checks - previously CRB)
  - Fitness classes, especially larger ones can have an impact on the fabric of the park and on other users.
- 1.3 This report sets out proposals for a voluntary registration scheme for commercial businesses providing outdoor fitness classes. Revenue raised through the scheme would be ring fenced to the maintenance of the parks which host the classes.

**2. RECOMMENDATIONS:**

That the Committee –

- 2.1 Agrees the introduction of a licence scheme, effective from 1<sup>st</sup> April 2014, for commercial fitness trainers that use public green spaces owned or managed by the council, as specified in paragraph 3.5 and in accordance with the main conditions set out in Appendix 1.

- 2.2 Authorises the Executive Director Environment, Development & Housing to implement the scheme and, as and when required, revise the scheme to ensure it continues to operate effectively, efficiently and lawfully.
- 2.3 Approves the licence charges for the scheme, as set out in Appendix 2.
- 2.4 Instructs the Executive Director Environment, Development & Housing to review the scheme licence charges annually and to submit any proposal for amendment to the Committee for approval.

### **3. CONTEXT/ BACKGROUND INFORMATION**

- 3.1 Officers know of approximately ten personal fitness training companies operating in Brighton & Hove and it is estimated that another ten or so individual trainers use parks and green spaces to work with clients. Some groups are national organisations such as British Military Fitness which hold 18 classes across three public parks (Preston Park, Hove Lawns and Hove Park). There are also local groups such as Spartan Fit, Bfit Bootcamp and HAVIT Bootcamp.
- 3.2 This report seeks to establish a voluntary scheme that fitness operators can join to address two issues associated with their operations, namely (i) to encourage them to register with a recognised body to provide assurances regarding the quality of their training and (ii) to introduce a charging mechanism to recover some of the costs associated with the wear and tear to the fabric of the parks. These are discussed below.

#### *Registration with Professional Body*

- 3.3 Unless operators are registered with a recognised scheme, customers have no way of assessing the quality of the service provider, for example whether they have the appropriate fitness qualifications, risk assessments, insurance certificates, DBS checks etc. To address this need, a number of registration schemes exist which include UKActive (formerly the Fitness Industry Association) and the Register of Exercise Professionals (REPS). In addition to the submission of evidence to achieve registered status, UKActive operate a mystery shopping scheme. The cost of registration varies. For UKActive, the cost is £170 for the first two years, reducing to £130 for re-registering once the first two years have expired. The cost of registration with REPS is £38 per year. Registration is voluntary. The Code of Practice for UKActive and Code of Conduct for REPS are attached as Appendix 3a and 3b respectively.

#### *Recovery of Costs Towards Park Maintenance*

- 3.4 Personal trainers are commercial operators charging customers for their services yet make no contribution to the up-keep of the green space facilities essential for their business. This is in contrast to other sports such as football and cricket for which the teams use defined areas of the park and need to book and pay for the use of facilities maintained for that sport.
- 3.5 A licence scheme is proposed to address these issues. As part of the licensing process, operators would have to register with REPS or UKActive and pay a charge towards the maintenance of the green spaces they use for their business. The proposed level of charges is set out in Appendix 2.

- 3.6 The scheme would be voluntary. Fitness trainers that join such a scheme will be able to show customers that they have the appropriate assurances in place. Consultation with businesses operating in the city show that many would sign up for the scheme to set them apart from less reputable operators. Many other councils operate similar schemes and more detailed discussions have taken place with Guilford Borough Council and London Borough of Hammersmith and Fulham. One of the larger operators in the city has been asking for a scheme to be set up for some time.
- 3.7 The intention is to balance the different uses of the parks by encouraging personal trainers, particularly larger groups, to consider the location and timing of their activities to minimise the impact on other users. For example, Hove Park is a very popular park and a large personal training session taking place on a Saturday afternoon in the summer is likely to be very disruptive.
- 3.8 Introducing a licence scheme for fitness trainers that wish to use parks and green spaces in the city which requires signing up to the UKactive or REPS registration scheme will provide members of the public the information to check fitness trainers credentials before paying for classes. It will also allow the council to introduce a level of charges for personal trainers to cover the council's cost of operating the scheme and as a contribution towards the upkeep of the public green spaces where the classes take place. If adopted, it is estimated that the scheme would raise between £5,000 and £8,000 revenue ring-fenced to parks maintenance. The scheme will be voluntary and the council will advertise those registered members.

#### **4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

- 4.1 The recommendations have been drawn up based on research into schemes operated by other local authorities and informed by consultation with a number of fitness groups.
- 4.2 The alternatives to the proposals are (i) not to implement the scheme and leave things as they are or (ii) introduce a compulsory scheme which would require a change to the council's byelaws. Based on the consultation with groups there is support for a voluntary scheme, with operators seeing the benefits for their business. The cost and practicalities of policing a compulsory scheme would outweigh any benefit; consequently, this option was not consulted upon and is not recommended..

#### **5. COMMUNITY ENGAGEMENT & CONSULTATION**

- 5.1 The fitness training organisations listed below have been contacted as part of the consultation. They were invited to attend a meeting to discuss the proposals.
- Spartan Fit
  - Bfit Bootcamp
  - Bfit Bikini
  - Twisted Fitness
  - Stride Fit
  - Ultimate Fitness Weekends
  - Fit Bitch Bootcamp
  - HAVIT Bootcamp

- Somfit
- Park Fit Outdoor Fitness
- Max Strength
- Primal Fit

5.2 Six took up the offer of a meeting, and a seventh, British Military Fitness confirmed in writing that they were in agreement with the proposals. Of the six companies that attended a meeting, five were generally supportive of the proposals. Their responses are summarised in Appendix 4. Overall, the consultees could see the benefits to a voluntary scheme.

## 6. CONCLUSION

6.1 There are an increasing number of fitness classes operating in the City's parks and open spaces. A voluntary scheme to license operators is proposed to help customers identify reputable operators and to raise some revenue ring-fenced to the up-keep of parks where the classes take place.

## 7. FINANCIAL & OTHER IMPLICATIONS:

### Financial Implications:

7.1 The cost of consultation and officer time associated with the implementation of the scheme will be met from existing revenue budgets.

The proposed charges have been set in accordance with the council's corporate fees and charges policy and will be reviewed, as a minimum, annually as part of the budget and service planning process.

Income from the scheme is expected to be approximately £5,000 to £8,000 annually and will be ring fenced to the cost of grounds maintenance arising from the scheme.

*Finance Officer Consulted: Steven Bedford*

*Date: 25/11/13*

### Legal Implications:

7.2 The council's general power of competence given by section 1 of the Localism Act 2011 allows the council (subject to certain limitations) to charge for providing a discretionary service. The key requirement is that "taking one financial year with another, the income from charges ... does not exceed the cost of provision." (section 3(3) of the Act). The council's proposed licence scheme is consistent with this requirement as the charge would only reflect the cost of administration, supervision, and grounds maintenance arising from the scheme. If the income exceeded the cost of provision, the council would have to provide the service through a company.

7.3 The terms and conditions for the licence require applicants to meet the following criteria:

(a) All trainers to be registered with either REPS (Register of Exercise Professionals) Level 3 Fitness qualification or UKActive. This means that those persons will –

- a. have met agreed national occupational standards regarding knowledge, competence and skills of good practice;
- b. hold recognised and approved qualifications
- c. be competent in the workplace
- d. be committed to their on-going professional development
- e. be covered by appropriate insurance

(b) Irrespective of any “appropriate insurance” maintained under the REPS qualification or UKActive, all trainers must carry public liability insurance of no less than £5 million.

(c) All organisations signing up for the scheme must indemnify the council against liabilities, damages and costs caused by any breach of the terms and conditions of the scheme.

- 7.4 Requiring trainers participating in the scheme to comply with UKActive’s Outdoor Code of Practice should mitigate the risk of a negligence claim against the council because of provisions in the Code relating to health & safety and professional standards.
- 7.5 Once a fitness operator has signed up to the proposed scheme, non-compliance could amount to breach of contract and, in serious cases, lead to a registrant being struck off the council’s register.
- 7.6 At present the scheme would have to be voluntary because there is currently no law preventing a fitness instructor from holding a class on the council’s green spaces or parks. It would be possible to amend the council’s byelaws to make it an offence to hold a fitness class on such land without the council’s consent, but the procedure is lengthy and bureaucratic, and the proposed change would require confirmation by the Secretary of State.
- 7.7 Under a voluntary scheme, a training organisation that was not a member but held classes on council land would not be committing an offence. However, the council would seek to identify such bodies, make them aware of the scheme and highlight its benefits, with a view to enrolling them.

*Lawyer Consulted: Oliver Dixon*

*Date: 02/12/13*

Equalities Implications:

- 7.8 There are a wide range of individuals and groups taking part in activities in public green spaces. By introducing a licence scheme which requires fitness trainers to also register with the UKActive will be provide more assurances to all members of the public about the qualification of the trainers, safety measures, CRB checks and insurance cover.
- 7.9 Fitness trainers charge commercial rates for their services and the council intends to charge for a licence to cover the costs of administering the scheme

and for the upkeep of the parks used by these groups. These charges will be equitable for all groups.

Sustainability Implications:

- 7.10 Public green spaces are valued open spaces enjoyed by residents and visitors to the city. In some cases they are the only access to green space and provide a valuable 'green lung' for the city. Receiving a contribution from fitness trainers for the upkeep of the green spaces they use will allow the council to ensure the quality of green spaces is conserved for all users of the parks.

Any Other Significant Implications:

Risk and Opportunity Management Implications:

- 7.11 Introducing a licence scheme for fitness trainers provides some assurance to members of the public about the qualifications, safety precautions and insurance cover of trainers, enabling them to make better informed decisions as to whom to use. The licence scheme will allow the reputable fitness trainers to be highlighted and promoted. In addition, the proposed licence scheme reduces risks and liabilities to the council as outlined in 7.2, legal implications.
- 7.12 A similar licence scheme for fitness trainers operates well in the London Borough of Hammersmith and Fulham albeit they operate to different byelaws for parks. Consultation with the larger fitness trainers shows that the majority support the scheme and they wish to take part.

Public Health Implications:

- 7.13 The Joint Strategic Needs Assessment for 2012 which is agreed by the Council provides a high-level overview of Brighton & Hove's population, and its health & wellbeing needs. The Assessment reveals that being physically active outside is good for health, reduces the risk of developing conditions such as diabetes & heart disease, tackles obesity and supports recovery after illness. It also supports good mental health & emotional wellbeing. Only 27% of adults are physically active enough to achieve the recommended 150 minutes of moderate activity per week and 22% of adults do no 30 minute sessions of moderate activity in an average month. For these reasons developing and provide opportunities for sport and physical activity is important and this includes utilising green space and targeting the least active.
- 7.14 The intention of the licence scheme is not to restrict sporting activity which is actively encouraged but ensure responsible fitness trainers are easily identifiable by members of the public and that a contribution is made to administering the scheme and the maintenance of the green spaces used by those groups, for the benefit of all park users.

**SUPPORTING DOCUMENTATION**

**Appendices:**

1. Proposed Licence Conditions for Outdoor Fitness Groups

2. Proposed Licence Charges
- 3a UKActive Code of Practice
- 3b REPS Code of Ethical Conduct
- 4 Response to Consultation

<b>Appendix 1</b>
<b>Proposed Licence Terms</b>
<b>Terms and Conditions</b>
<b>1. Definitions</b>
1.1. In these terms and conditions the following terms shall have the following meanings:
"Council" means Brighton & Hove City Council
"Parks" means open spaces as the Council may agree in writing;
"Registrant" means the individual or organisation to be Registered as named in the Registration Application Form;
"Registration" means registration by the Council as permitted to carry out Training Sessions in the Parks during the Registration Period and "Registered" shall be interpreted accordingly;
"Registration Application Form" means the application form to which these terms and conditions are attached.
"Registration Fee" means the registration fee payable by the Registrant;
"Registration Period" means the period from 1 April 2014 (or such other date as shall be agreed with the Council) to 31 March 2015;
"Sports Bookings" means the Council's sport bookings department;
"Trainer" means an individual who is to carry out Training Sessions in accordance with the Registration;
"Training Session" means a training session carried out by a Trainer for which a charge is made to the client.
<b>2. Registration</b>
2.1. All Trainers, or the Registrant who engages them, must be Registered with the Council in order to carry out Training Sessions in the Parks.
2.2. In order to be Registered, the Registrant must:
2.2.1. complete the Registration Application Form;
2.2.2. pay the Registration Fee; and
2.2.3. where the Registrant is an individual Trainer,
2.2.3.1. have a current REPS Level 3 Fitness qualification and /or be registered with UK Active
2.2.3.2. Evidence of this should be presented with the Registration Application Form;

2.2.3.3. be able to demonstrate that (s)he complies with the insurance requirements set out in paragraph 6;
2.2.3.4. provide 2 recent passport sized photographs with the Registration Application.
2.3. Where the Registrant is an organisation, it must:
2.3.1. ensure that all its Trainers have a current REPS Level 3 Fitness qualification or are UK Active registered
2.3.2. comply with the insurance requirements set out in paragraph 6 and ensure that all its Trainers are covered by such insurance;
2.3.3. provide evidence of its compliance with paragraphs 2.3.1 and 2.3.2 to the Council upon request.
2.4. For the avoidance of doubt, failure to comply with the provisions of paragraph 2.3 shall entitle the Council to terminate this Agreement in accordance with paragraph 8.1.
2.5. The Council shall be under no obligation to accept an application from a Registrant to be Registered.
2.6. The Council reserves the right, when granting the Registration, or at any time during the Registration Period by giving written notice to the Registrant, to limit the Registration to named Parks.
2.7. Upon Registration the Council will provide the Registrant with an identification card(s) which the Trainer(s) must carry at all times whilst carrying out Training Sessions in the Parks and produce upon request by any officer or agent of the Council. It is the Registrant's responsibility to ensure that its Trainers carry the identification card(s) issued at all times whilst carrying out Training Sessions under this Agreement.
2.8. Following Registration the Registrant/its Trainers may carrying out Training Sessions in any of the Parks during normal opening hours as shall be agreed between the Trainer and the Council and notified to the Trainer by the Council in writing.
2.9. The Registrant acknowledges that:
2.9.1. Registration does not guarantee that the Park will open or that there will be space in the Park for Trainer(s) to carry out Training Sessions.
2.9.2. Registration does not grant a Trainer priority over any other lawful user of the Park and that any pitch bookings or booked group activities will take priority over Training Sessions and the Trainer is expected to relocate if a conflict of interest occurs.
<b>3. Registration Fee</b>
3.1. The Registration Fee payable by the



Registrant shall be:  
 3.1.1. Dependent on the size class and number of classes scheduled per week:

Frequency	Number of people per session	Annual charge (inclusive of VAT)
Once a week	3-15	£200
2-4 times a week	3-15	£325
5-7 times a week	3-15	£550
Once a week	16-35	£400
2-4 times a week	16-35	£650
5-7 times a week	16-35	£1100

3.2. Where the Trainer is Registered after 1 April 2014 the Registration Fee shall be reduced on a pro-rata monthly basis. The Trainer should contact Sports Bookings to determine the amount of the Registration Fee payable.

**4. Duration**

4.1. Subject to paragraph 8.1, this Agreement shall continue until the end of the Registration Period. Upon expiry of this Agreement the Registrant may reapply to the Council for re-registration

**5. Registrant's Obligations**

5.1. The Registrant shall, and shall ensure that its Trainers shall at all times exercise the rights and duties under this Agreement in a proper and responsible way, having regard to the safety of users and other third parties. Any incidents, accidents or health and safety issues must be reported to Sports Bookings immediately and the relevant accident/incident forms completed.

5.2. Any equipment used or activities undertaken must not be detrimental to the Park, its trees and plants, the park furniture or any of the wildlife.

5.3. The Registrant must not, and shall ensure that its Trainers do not, leave any equipment and rubbish in the Park following a Training Session and shall ensure that the Park is left in the same condition as it was found. The Council reserves the right to charge the Registrant the cost of reinstating the Park to its original condition where substantial damage is caused as a result of the Training Sessions held by the Registrant or its Trainer(s).

5.4. The Registrant shall, and shall ensure that its Trainer(s), observe and perform all reasonable requirements of the Council relating to this Agreement.

**6. Insurance and Liability**

6.1. The Registrant shall, throughout the Registration Period maintain public liability insurance of not less than five million pounds (£5,000,000). Copies of the insurance documents shall be presented to the Council upon request.

6.2. The Registrant shall be liable for and indemnify and keep indemnified the Council against all liabilities, damages, costs, losses, claims, demands or proceedings whatsoever, whether in tort or contract or otherwise arising from or in connection with this Agreement, or caused by a breach by the Registrant or its Trainer(s), its employees and agents of the terms and conditions of this Agreement.

6.3. The Council accepts no liability to the Registrant, Trainer or to any third party for

any costs, claims, damages or losses other than for personal injury or death caused by the Council's negligence.
<b>7. Assessment and Monitoring</b>
7.1. The Council may carry out assessments of the Registrant and/or its Trainers' ability at mutually agreed times throughout the Registration Period. Spot checks may also occur throughout the Registration Period. The Registrant is required to keep a record of any complaints made to him/her concerning or in connection with any Training Sessions held in the parks under this Agreement and must immediately notify Sports Bookings of any such complaint and keep the record of complaints available for inspection.
<b>8. Termination of Agreement</b>
8.1. The Council may revoke the Registrant's Registration and terminate this Agreement with immediate effect where the Registrant and/or its Trainer(s):
8.1.1. is in breach of its obligations under this Agreement and, where the breach is capable of remedy, fails to remedy such breach within 7 calendar days of receipt of written notice to remedy the breach
8.1.2. becomes incapable for any reason of efficiently performing as a competent and qualified personal trainer.
8.1.3. acts in any way that is likely to bring the Council into disrepute or damage its reputation or interests.
8.2. The Council may terminate this Agreement giving one week's written notice.
8.3. Where the Council terminates this Agreement under paragraph 8.1 the Registrant shall not be entitled to receive any refund of the Registration Fee.
8.4. Where the Council terminates this Agreement under paragraph 8.2, the Council shall reimburse the Registration Fee on a pro-rata basis for the remaining duration of the Registration Period.
8.5. For the avoidance of doubt, following termination of this Agreement by either Party, the Registrant, and its Trainers shall no longer be Registered
<b>9. General</b>
9.1. Nothing in this Agreement shall render or be deemed to render the Registrant or any Trainer an employee or agent of the Council.
9.2. Neither Party shall be liable for any delay in the delivery in performing any of its obligations under this Agreement if any such delay is caused by circumstances beyond the reasonable control of the Party so delaying.
9.3. This Agreement contains the entire understanding and agreement between the

parties and supersedes all prior representations, documents, negotiations or understandings. The Registrant acknowledges that it has not entered into this Agreement in reliance upon any representation by the Council or anyone acting on its behalf.
9.4. Pursuant to the Freedom of Information Act 2000 the Council is subject to certain legal obligations in relation to public disclosure of information. The Registrant shall cooperate with and assist the Council with any requests for disclosure which the Council receives under the Freedom of Information Act 2000 which relate to this Agreement.
9.5. Nothing in this Agreement shall be taken to confer any benefit on any person who is not a party to it and the parties hereby agree that the Contracts (Rights of Third Parties) Act 1999 does not apply hereto.
9.6. Nothing in these terms and conditions shall fetter the Council in the exercise or discharge of its functions, powers and duties as a local authority (including, without limitation, the power to close all or part of any Park either on a permanent or temporary basis.)
9.7. Nothing in this Agreement shall create any tenancy in favour of the Trainer.
<b>10. Disputes</b>
10.1. In the event that any dispute arises between the parties in connection with this Agreement, the parties shall, in the first instance, use their reasonable endeavours to resolve it amicably between themselves.
10.2. Disputes remaining unresolved following such endeavours shall, if the parties agree (and such agreement shall not be unreasonably withheld) be referred to nonbinding mediation.
10.3. In the event that the parties do not agree to non-binding mediation pursuant to Clause 10.2 or if the dispute remains unresolved, the dispute shall be referred to the exclusive jurisdiction of the Courts of England pursuant to clause 11 below.
<b>11. Law and Jurisdiction</b>
11.1. This Agreement shall be governed by and construed in accordance with English Law and the Council and the Registrant hereby submit to the exclusive jurisdiction of the English Courts.

## Appendix 2 Proposed Table of Charges

Frequency	Number of people per session	Annual charge
Once a week	3-15	£200
2-4 times a week	3-15	£325
5-7 times a week	3-15	£550
Once a week	16-35	£400
2-4 times a week	16-35	£650
5-7 times a week	16-35	£1100

## Appendix 3a UKActive Code of Practice

Ukactive's mission is to continually raise standards, promote and represent the health and fitness sector in the pursuit of a more physically active and healthier nation. The ukactive Outdoor Code of Practice defines the minimum performance criteria for fitness instructors delivering exercise in outdoor spaces, to ensure that customers are provided with a safe environment in which to engage with leisure activities.

There has been a proliferation of both group exercise classes and personal training sessions being conducted within public spaces and most notably Urban Parks. It is our hope that the Code of Practice compliments current licensing arrangements for urban parks and managed rural areas, whereby local councils adopt the Code as a pre-requisite for licenses.

The Code does not create a new law or act as a substitute for any existing regulations. The

Code covers:

- »»Health and safety
- »»Professionals
- »»Customer care

The text in orange represents the requirement of providers, whereas the grey boxed-out text suggests the evidence needed to prove commitment to the requirement.

For further information contact Olivier Smith on 020 7420 8577 or email [oliviersmith@ukactive.org.uk](mailto:oliviersmith@ukactive.org.uk)

### 1. Health and safety

#### 1.1 Operational procedures

In organisations comprising a number of instructors operational procedures are a way of ensuring that all instructors are aware of what is expected of them. An operational procedure should cover:

- »»who can run sessions - reference should be made to what qualifications or ratification of competence is required of the person leading the session;
- »»what they are expected to do under normal conditions and circumstances;
- »»what they are expected to do in the event of an incident, accident or unusual group or event;
- »»what site specific hazards may be encountered over and above the norm that may be expected for that activity;

#### 1.2 Health and safety

Organisations must ensure that minimum legal requirements with regards to "Health & Safety at Work etc Act 1974" (HASWA) and the "Management of Health & Safety at Work Regulations 1999" (MHSWR). Organisations must have an up to date health & safety policy signed by a responsible director that supports the organisations aim to have a planned and systematic approach to the continuous improvement of its health and safety management system.

#### 1.3 Risk assessment

A risk assessment is the record of balance between the hazards that may be encountered and the measures that are taken to safeguard against them. Much of a risk

assessment will be influenced by the age and ability of the participants and the experience and competence of the instructors. Risk assessments can take many forms. A standard Health and Safety Executive '5-Steps to Risk Assessment' is only one approach. Risk assessments may include:

- »»site specific assessment – risks associated with exercising in a particular stretch of Victoria Park, taking into account land ownership and rights of way;
- »»activity specific assessment – risks associated with the specific activity, such as forms of resistance training;
- »»generic – the risks associated with all forms of exercise training, as with the above this will likely be covered within instructor training. This would include time and date specific risk assessments;
- »»operational – relating to the procedure for instance what is the instructor to participant ratio, or whether the instructor should always carry a mobile phone;
- »»environmental – assessing and minimising the risk of potential damage to the environment.

#### Outdoor Code of Practice

- »»a written operational procedure should be maintained for all activities.
- »»A copy of the Health and Safety Policy statement – signed by senior management or director;
- »»Health and Safety Law poster completed and displayed in staff areas;
- »»Employer Liability Insurance certificate displayed;
- »»individual instructors must hold Public Liability and Professional Indemnity insurance;
- »»instructors should know where these items are located.

It is not the risk assessment which drives safety but the outcome. What counts is how the operational procedures take account of the assessment of the risks involved in the activities. Organisations must conduct a suitable and sufficient risk assessments in accordance with the Health and Safety Executive's "Five steps to Risk Assessment". The risk assessment must in turn be integral within the operational procedure and staff training. It will be desirable for separate risk assessments to be conducted for each activity and each significant venue.

#### 1.4 Staff

All staff must be competent in all health and safety aspects of their work relating to safety policy, safe working procedures and action to be taken in the event of an emergency situation.

#### 1.5 Incident, accident and emergency procedures

These written procedures should not be seen as a substitute for training, but as an accompaniment, or induction check list. You can't expect to cover everything.

One approach is to address both ends of the scale:

- »»provide guidance for those minor situations which are comparatively common and therefore quite likely to occur, such as transport failing to arrive (or breaks down) or what to do if someone sprains or twists an ankle;
- »»provide guidance for the more serious or worst case scenario such as a serious or fatal accident. Some of these solutions will be applicable anywhere; others will be very site specific. Furthermore, organisations should have a meaningful system of recording incidents. Reviewing significant 'incidents' as well as accidents is an important way of trying to make sure it doesn't happen again. Trends identified as part of this regular

review should be acted upon and risk assessments and working practices amended as a result. Once there has been a serious accident or a particularly 'dangerous' occurrence, there are legal requirements to report it to the appropriate Health and Safety Executive or Local Authority Environmental Health Department ('enforcement agencies'). In some cases this may not include those situations where you send someone to hospital to check if there is, for instance, a broken bone and where the diagnosis in hospital is that there is only a minor injury such as bruising.

#### Outdoor Code of Practice

- »»Health and Safety standard outlining the procedures for risk assessment
- »»copies of the most recent risk assessments
- »»evidence of a formal risk assessment review within the time frames stated in the above standard (within the last 3 years or following any significant change)
- »»safe systems or work/procedural guidelines
- »»there should be a documented induction process that includes specific health and safety training for all staff
- »»Health and Safety training records for all staff in Normal Operating Procedures and Emergency Action Plans
- »»ensure that the risk assessment process is formally reviewed on annual basis to ensure the safety of classes is improving

#### Outdoor Code of Practice

Reporting requirements are more stringent in the area where a member of the public (and this includes activity participants) as opposed to an 'employee' is injured. There is a useful leaflet about the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) available from the Health and Safety Executive (HSE Books) on (01787).881165.

Organisations must have proper documentation advising on action to be taken in the event of an emergency situation is in place. Significant incidents and accidents are reported internally and all 'RIDDOR' incidents are reported to the appropriate Health and Safety Executive or Local

#### Authority office.

##### 1.6 Modification of activity or venue

In contrast to traditional gym or leisure centre based activities, outdoor exercise is subject to a range of factors including the weather which may mean that it would be ill-advised to allow an event to take place or to allow one that has started to continue. Organisers need to consider 'worst case scenarios' in the early stages of planning. In particular, procedures need to be in place for responding to really bad weather, or an equally disruptive occurrence.

In particular, the problems of communicating changes of plan to participants at the last minute, or during the event, need to be identified in the risk assessment stage and appropriate safety measures instituted.

Organisations must have procedures for cancelling events, including proper points during the planning process for the cancellation of events and notifying participants.

##### 1.7 First aid

In the event of an accident, a good supply of basic first aid equipment should be readily (within a minute or so) available. For off-site activities, leaders will need to carry first aid kits in rucksacks, canoes, safety boats etc. This will also be necessary 'on-site' where

base resources are more than a quick sprint away. Who supplies the equipment, and on what basis, should be defined within operational procedures.

Organisations should comply with the “Health and Safety Regulations 1981” to provide first aid provision at all times taking into account staff and users needs, type, quantity and location of equipment and number of qualified first aiders.

»»view of the emergency operating plan

»»view of the record keeping process

»»cancellation/change of venue procedure

»»adequate first aid equipment available for use

»»procedures to ensure that there are enough competent persons at all times to cover for temporary and exceptional absences of trained first aiders

»»copies of staff first aid training recorded and certificates retained

»»minimum requirement HSE approved first aid person per site throughout the operating hours will be required according to risk assessment

»»accident and RIDDOR reporting procedures in place

»»evidence that there are an appropriate number of staff qualified in First Aid

»»method of communicating the need for further medical assistance

## Outdoor Code of Practice

### 1.8 Use of equipment

If equipment is provided, it should be serviceable. Furthermore, there should be sufficient quantities and range of equipment to supply the maximum potential number of participants, with some spare in case of damage or defect, otherwise arrangements will have to be made to split groups into smaller units which can be accommodated with existing supplies. If organisations or individuals ‘hire in’ equipment (as opposed to owning it), it does not change the responsibility which the organisation has, of ensuring that it is safe, functional and in good order.

Instructors check equipment before setting out. Organisations identify and assess risks arising from the use of machinery or equipment. If fitness equipment is used (bands, balls, weights) the organisation must maintain the equipment in accordance with manufacturers’ service schedules and conduct checks of equipment as per the manufacturers’ guidelines.

### 1.9 Criminal Records Bureau

All employees who have direct contact with children and vulnerable adults have been checked through a standards or enhanced disclosure via the Criminal Records Bureau.

### 1.10 System audit and review

External audits of performance in all areas of operational procedure are essential in order to guarantee that organisations continue to progress.

Organisations must conduct periodic external audits to establish that management arrangements, adequate risk control systems and workplace precautions are in place.

Must conduct periodic reviews of health and safety performance and make decisions about improving performance based on information from ‘measuring’ and auditing’ activities.

## 2. Professionals

Outdoor Exercise Instructors could include instructors whose 'contractual' arrangements might be described in one, several or all of the following ways:

- »»permanent/semi-permanent employee;
- »»freelance, self employed instructor. Regardless the instructor's role is to prepare exercise sessions in advance and manage the session to ensure that every client or group is able to exercise effectively and safely.
- »»copies of statutory certificates and records
- »»fitness equipment inspections checks recorded in accordance with operations manual/manufacturers' maintenance schedule
- »»evidence of routine maintenance checks and records
- »»evidence of Criminal Records Bureau checks are in place where required
- »»documented periodic reviews of health and safety performance in place
- »»action plans in place to rectify corrective actions identified above.

## Outdoor Code of Practice

### 2.1 Staff qualifications

The competence and integrity of activity leaders is probably the single most important factor for assuring safety and good practice. Competence in this field is a mix of experience, certification (qualifications) and the ability to work with people. Mere technical ability, though vitally important from a safety point of view, is not likely to be sufficient in itself. You will also have to satisfy yourself that the people who run activity sessions have the other necessary attributes as well as technical competence. Must ensure that staff have the relevant level of nationally recognised qualification for the environment/terrain in which they teach and for the fitness/health levels of the participants of every session.

### 2.2 Specialist staff

Ensure staff instructing in specialist areas hold an appropriate nationally recognised qualification for that discipline, such as pre/post natal or Exercising with Older Adults.

## 3. Customer care

This section outlines the requirement to ensure that on joining the organisation or exercise session, customers are aware of the standard terms and conditions that apply to their taking part in activity and if applicable membership.

### 3.1 Terms and conditions

The purchasing arrangements for outdoor exercise may differ between organisations and in certain instances customers may be able to purchase single sessions, nevertheless should contracts be involved the customer must be aware of all terms and conditions.

Ensure that on joining the organisation or session customers are made aware of the standard terms and conditions that apply to their membership.

### 3.2 Consultation agreement

Members must be made aware of any contractual arrangement they are signing.

### 3.3 Consultation environment

The environment in which this dialogue takes place must be conducive to allowing free expression and questioning by the client.



- »»copies of all fitness staff certificates and evidence of suitable continual professional development
- »»copies of all fitness staff certificates and evidence of suitable continual professional development
- »»membership terms and conditions documentation
- »»view of sign-up process
- »»membership sales/HCS process documentation
- »»evidence of a conducive environment for membership consultation

#### Outdoor Code of Practice

#### 3.4 Office of Fair Trading

Ensure that any written contracts for members are in accordance with Office of Fair Trading's Guidelines.

#### 4.1 Medical pre-screening

Prior to administering any exercise instructors must ensure that participants are suitably able to undertake such exercise, this is best done through a medical pre-screening method.

Organisations and instructors must ensure users to in a medical pre-screening document before undertaking physical activity.

#### 4.2 Users

Ensure that a record of all users is kept.

#### 4.3 Induction

Ensure that all users understand the session, what is expected of them, and how to use any featured equipment.

#### 5.1 Customer perception of operational performance

Ensure that customer complaints are acknowledged and direct communication is maintained with the customer while seeking to resolve the matter.

#### 6.1 Equality

Demonstrate a commitment to the Equality Act 2010

- »»membership terms and conditions documentation
- »»use of a medical pre-screening tool such as the PARQ, HCS, or PARMEDex
- »»records for all users with contact details for next of kin for emergency situations
- »»documented system in place
- »»evidence of a pre-activity screening process
- »»evidence of an induction process
- »»a complaints feedback procedure
- »»evidence of response and action
- »»evidence of an action plan

## **Appendix 3b REPS Code of Ethical Conduct**

As part of its objectives REPs aims to ensure that exercise professionals who are registered on REPs should both establish and maintain proper standards of ethical and professional conduct when providing services in fitness instruction.

As such, those registered with REPs are expected to adhere to the Code of Ethical Conduct.

Physical activity and exercise can contribute positively to the development of individuals. It is a vehicle for physical, mental, personal, social and emotional development. Such development is enhanced if the individual is guided by an informed, thinking, aspiring and enlightened exercise professional operating within an accepted ethical framework as a professional.

The role of an exercise professional is to:

- Identify and meet the needs of individuals
- Improve performance or fitness through programmes of safe, effective and enjoyable exercise
- Create an environment in which individuals are motivated to maintain participation and improve performance or fitness
- Conform to a Code of Ethical Conduct in a number of areas – rights, relationships, personal responsibilities, professional standards, safe working practise

This Code of Ethical Conduct (the Code) defines good practice for professionals in the fitness industry by reflecting on the core values of rights, relationships, responsibilities, standards and safety. The term 'professional' is used in a qualitative context in this Code and does not necessarily imply a paid position or person. The Code applies to both employed and self employed professionals but where professionals are employed the Register accepts that employed exercise professionals will be subject to the codes of practice and employment rules of their employers and will, in determining compliance with this Code of Ethical Conduct, have careful regard to any such employment rules and in particular whether or not, in the case of any complaint being made the professional concerned has or will be subject to any internal investigation by his or her employers. With that in mind any complaint will be referred to the employer.

Exercise professionals on REPs accept their responsibility to people who participate in exercise; to other exercise professionals and colleagues; to their respective fitness associations, professional bodies and institutes; to their employer; and to society. When practising, registrants must also hold adequate liability insurance.

There are five principles to the REPs Code of Ethical Conduct.

#### Principle 1: Rights

'Exercise professionals should deal openly and in a transparent manner with their clients. They should at all times adopt the highest degree of professionalism in dealing with their clients' needs.'

Compliance with this principle requires exercise professionals to maintain a standard of professional conduct appropriate to their dealings with all client groups and to responsibly demonstrate:

- Respect for individual difference and diversity.
- Good practice in challenging discrimination and unfairness.
- Discretion in dealing with confidential client disclosure.

As part of these principles members registered with REPs should seek to ensure that the contractual arrangements they have with their client are clear, transparent and unambiguous. Although REPs cannot and will not seek to adjudicate or deal with private contractual disputes (which should be dealt with by members and their clients) REPs will nevertheless seek to ensure that Exercise Professionals do maintain a proper regard to dealing with and addressing concerns raised by their clients. If a dispute shall arise between a member of the public and member registered with REPS the member of the public shall in the first instance seek to resolve that dispute with the REPs member. Only if that matter cannot be resolved or the dispute reveals a lack of proper professional conduct would REPs seek to intervene to correct any lack of professionalism shown. REPs itself has no jurisdiction to actually resolve such a dispute.

#### Principle 2: Relationships

'Exercise professionals will seek to nurture healthy relationships with their customers and other health professionals'

Compliance with this principle requires exercise professionals to develop and maintain a relationship with customers based on openness, honesty, mutual trust and respect and to responsibly demonstrate:

- Awareness of the requirement to place the customer's needs as a priority and promote their welfare and best interests first when planning an appropriate training programme.
- Clarity in all forms of communication with customers, professional colleagues and medical practitioners, ensuring honesty, accuracy and cooperation when

seeking agreements and avoiding misrepresentation or any conflict of interest arising between customers' and own professional obligations.

- Integrity as an exercise professional and recognition of the position of trust dictated by that role, ensuring avoidance of inappropriate behaviour in customer relationships. Any consensual relationship between persons of full age would not, however, be considered inappropriate.

### Principle 3: Personal Responsibilities

Exercise professionals will demonstrate and promote a responsible lifestyle and conduct'

Compliance with this principle requires exercise professionals to conduct proper personal behaviour at all times and to responsibly demonstrate:

- The high standards of professional conduct appropriate to their dealings with all their client groups and which reflect the particular image and expectations relevant to the role of the exercise professional working in the fitness industry.
- An understanding of their legal responsibilities and accountability when dealing with the public and awareness of the need for honesty and accuracy in substantiating their claims of authenticity when promoting their services in the public domain.
- An absolute duty of care to be aware of their working environment and to be able to deal with all reasonably foreseeable accidents and emergencies – and to protect themselves, their colleagues and clients.

### Principle 4: Professional Standards

'Exercise professionals will seek to adopt the highest level of professional standards in their work and the development of their career'

Compliance with this principle requires exercise professionals to commit to the attainment of appropriate qualifications and ongoing training to responsibly demonstrate:

- Engagement in actively seeking to update knowledge and improve their professional skills in order to maintain a quality standard of service, reflecting on their own practice, identifying development needs and undertaking relevant development activities.
- Willingness to accept responsibility and be accountable for professional decisions or actions, welcome evaluation of their work and recognise the need when appropriate to refer to another professional specialist.

- A personal responsibility to maintain their own effectiveness and confine themselves to practice those activities for which their training and competence is recognised by the Register.

#### Principle 5: Safe Working Practise

'Exercise professionals will systematically prepare for all activities ensuring the safety of their clients is of paramount consideration'

Compliance with this principle requires exercise professionals to maintain a safe exercise environment for all clients and at all times and to responsibly demonstrate:

- A responsible attitude to the care and safety of client participants within the training environment and in planned activities ensuring that both are appropriate to the needs of the clients.
- An appropriate ratio of instructors to clients within any group sessions to ensure that at all times the safety of all clients is paramount.
- All clients have been systematically prepared for the activity in terms of safety including the safe use of equipment.

#### Disciplinary Measures

In the event that either The Fitness to Practice Committee shall find that a person registered shall be guilty of a breach of The Code, The Fitness to Practice Committee or, as the case may be, The Trustees of REPS may take Disciplinary action.

Any alleged professional mis-conduct or avoidance of compliance with the terms of membership of the Register will be referred to the Fitness to Practice Committee which will consider any need for sanctions against an individual instructor, coach, trainer or teacher. The appropriate authority(ies) will deal with any criminal allegations.

In terms of any disciplinary action taken REPs may after due inquiry:-

- a. Suspend or terminate the membership of any member;
- b. Reprimand or issue a formal warning; or
- c. Take such other action as REPs consider an appropriate and proportionate to the issues raised.

In the event that any party to an alleged mis-conduct is dissatisfied with a decision of The Fitness to Practice Committee he or she may lodge an appeal in writing against this decision to a nominated Trustee of SkillsActive. Any such appeal must be lodged within 21 days of a decision of The Fitness to Practice Committee. In the event of any appeal, the Trustees of REPs shall acknowledge that appeal as soon as practicable and, in any

event, a final decision will be reached at their next quarterly meeting. An appeal will be acknowledged within 28 days of its receipt

## Appendix 4 Response to Consultation With Fitness Groups

**We are proposing to use UKActive standards, are you already a member? If you know their standards are they sensible ones to use?**

Twisted Fitness:	Not familiar with UK active. Is a member of FIA. Take away C of P from Activ. Majority are 1:1 fitness.
Rob Stride Fit:	Go to Reps rather than UK Activ, look at Reps. Will read C of P. UK Activ member, annual subscription including PL insurance.
Bfit:	Own code of practice not familiar with UK Activ. Reps code of practice national standard. £120 per years membership. PL to members and trainers.
Fit Bitch:	Has heard of them, will look at C of P maybe Reps. Continued personal development. Would be good for reputation.
Jo Dines Training:	Rep's 3 personal level 4
Spartan Fitness:	Reps cash generator, UK Activ not heard of. Reps most commonly referred. See all documentation when quals [qualify]. Expected to keep upgrading quals. Trying to create B.S.

### Q2

**Do you experience clashes with other park users when you train?**

Twisted Fitness:	Have heard about turf wars, they seem to have settled into slots. Have places on principally on seafront in sections. Whitehawk and Moulsecoombe - no service captive audience.
Rob Stride Fit:	Doesn't restrict access, clashes with other groups but not directly. Would like to legitimise use of park. Armbands in Royal parks.
Bfit:	Preston Park -Hove Lawns. BMF sometimes runs across groups, may incite clashes.
Fit Bitch:	6am startmean very few clashes. 5yrs don't have any clashes apart from one at skate Hove Lagoon.
Jo Dines Training:	No, 1 to 1 very rarely get in anyone elses way. 6:30am or 5:30pm work near clients homes.
Spartan Fitness:	Does not encounter problems with winter as there is ample space. Summer sometimes there is a problem putting cones out, as people disperse in the lawns. Dogs that are loose and urinate on equipment -only cross words that have been said. Fitness groups clash.

### Q3

**Do you see any advantage to being on a council approved list?**

Twisted Fitness:	FB and Twitter, but not council website. Doesn't see the benefit of a council website. FB/Twitter ability to access notices on social media. Pobably not any advatage, advertising has not worked at all, customers gained by recommendation.
Rob Stride Fit:	Yes, definitely on council page 'outdoor fitness'.
Bfit:	Might be an advantage. Perhaps - like to think it would an advantage. Defined area would be a benefit.
Fit Bitch:	Difficulty in governing not sure if people go to council to find fitness groups. Word of mouth recommendations. Could accept other organisers C of P. Quite high end.
Jo Dines Training:	Good to say you are insured, trained etc, extra reassurance for public. Yes, legitimise use.
Spartan Fitness:	Have not needed this in the past. Do not particularly see any advantage, but would legitimise use of the park.

### Q4

**What is your view to charging. If you agree what do you think of the proposed charges.**

Twisted Fitness:	Impractical and unpalatable to charge 1to1's. Not unreasonable to charge the larger groups, they do ruin the grass.3-5 people are individual trainers, 12-15 people not individual.
Rob Stride Fit:	Restrictive to expanding business. Wouldn't mind paying. Payment would make me feel comfortable and legitimised.
Bfit:	Varies with attendance. Can of worms - impossible policing. Discount for council workers. Parking at Preston Park. Not good money [made] and trying to promote fitness - and now you want to shut us down.
Fit Bitch:	Good for quality and coaching. Have concerns about policing. Metabolic solutions. Move around to various locations. Starts 6am, finishes at 8 - so parking charges. Good if it creates better quality and assures coaches are qualified.
Jo Dines Training:	Charges should be seasonal. This is a way control uninsured and unsuitably trained coaches. Charges don't look massive or outrageous. I have expected it to come. 3-15 size groups. Charges could be seasonal, March - October, might be better. A good idea in principal. Good to discourage non reputable trainers.
Spartan Fitness:	Looks ok, 3 - 15. Would like enforcement. Have no issue with charging. Fees needs to be realistic.

**Any other points you would like to raise:**

Twisted Fitness:	If brought in for 1 to 1's there are 100's, we would struggle to control. Lewes wanted to charge £35 an hour 4-60, moved to Peacehaven. Make groups 3-15. £7 an hour in Sports Park Peacehaven indoors, £10 an hour on the Dell.
Rob Stride Fit:	Would there be any restrictions 'no cones' etc dragging tyres? Signage flag 'Not to be restricted', certificate, mark of approval and legitimise being in the park. This could restrict investment in own company. Work is dead in winter.
Bfit:	Hove Park is saturated with fitness groups. BMF don't always respect football boots/soccer schools cause damage. Have a marked out area. Rubbish clearance. Germany - £250 for 10year license. A lot of groups start up and then disappear. It is not black and white on how many people turn up after booking, the numbers drop in winter, when it is really hot and during school holidays. BMF may have 4 groups on at the same time and charge you x4. Parking van costs. Hove Park Charlotte. Unfair that footballers are not charged.
Fit Bitch:	3 - 5 group size. Some would pay others wouldn't. Why would I pay for 6am slot when nobody is about. But there are no clashes or conflict for space, so there would be no benefit for me.
Jo Dines Training:	Seasonal charging: March to Sept/Oct. Good idea, would give quality control and stop people getting hurt. Repts points need to be refreshed. This will discourage any misuse.
Spartan Fitness:	Exclusivity to space.