THE LAW SUMMARISED

Duty of Care
You are likely to have a duty of care towards participants in organised activities, particularly where those participants are young, vulnerable and/or inexperienced.

Occupiers Liability Act 1957
The occupier of premises has a duty of care towards visitors using the premises for the purpose for which the visitor is invited or permitted to be there.

The Compensation Act 2006
When considering a claim in negligence the Courts must have regard to whether such steps might prevent a desirable activity from taking place at all (or in a particular way) or discourage people from taking part in that activity.

Disclaiming Liability

Equality Act 2010
Makes it an offence for an organiser to discriminate against participants on the basis of a protected characteristic. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Legal Update:
Since 2017’s PTBO event there has been the following changes in the law that you will need to be aware of:

The General Data Protection Regulation
Data Protection law in the UK will undergo some significant changes with the introduction of the General Data Protection Regulations (commonly referred to as the GDPR). The GDPR will replace the current Data Protection Act from 25 May 2018. (Government has confirmed that “Brexit” will not affect the GDPR from coming into effect so you cannot ignore it.) The Template Booking Form at Appendix 2 has been amended to ensure compliance with the GDPR.

We have produced detailed Guidance on the General Data Protection Regulation which you can view in the Club Zone area of the RYA website.
WHAT IT MEANS FOR YOU

DUTY OF CARE

Organisers will owe a duty to visitors to PTBO events and are likely to owe a duty to participants in organised activities at such events, particularly where the participants are young, vulnerable and/or inexperienced. Broadly speaking, the duty owed by organisers is to avoid acts or omissions which you can reasonably foresee would be likely to injure those to whom you owe a duty of care. In simple terms, this might be expressed as a duty to manage those activities reasonably safely.

What constitutes “reasonable” will depend on context. In the case of a boating event the context is particularly significant. Recreational boating is by its very nature an unpredictable sport and therefore inherently involves elements of risk. This inherent risk in our sport influences what is considered to be “reasonable”.

Because the participants at a PTBO event are likely to be novices the organiser will undoubtedly have a greater responsibility to warn the participants of risks which might be plain and obvious to a seasoned sailor but would not be obvious to a novice.

However, it is worth bearing in mind that there are still such things as accidents that are not caused by the failure of anyone to take reasonable care.

CONSIDERATION OF WIDER IMPLICATIONS

When considering a claim in negligence and whether a person should have taken certain steps to avoid breaching their duty of care, the Compensation Act 2006 permits a Court to have regard to whether such steps might prevent a desirable activity from taking place or discourage people from taking part in that activity.

The Social Action, Responsibility and Heroism Act 2015 permits a Court, when considering a claim of negligence or breach of statutory duty against a person, to have regard to whether that person was acting for the benefit of society, had demonstrated a predominantly responsible approach towards protecting the safety of others or was acting heroically by intervening in an emergency.

The apparent intention behind these Acts is to encourage the Courts to consider the wider implications a finding of negligence may have.
DISCLAIMING LIABILITY

Custom and practice historically has been for organisers to include disclaimers of liability within notices or in their event paperwork. Disclaimers of liability are an attempt to excuse organisers from all or part of a liability that the law may otherwise place on them, such as the duty to take reasonable care in the organisation of an event. As far as disclaimers are concerned, successive pieces of legislation have eroded the ability to limit or disclaim liability, and in some circumstances, disclaimers can be unlawful.

Our advice therefore is that you should avoid relying on disclaimers to keep you out of trouble. Disclaimers have never been a substitute for understanding potential legal liabilities, exercising reasonable care and having proper insurance arrangements in place.

MANAGING RISK

The most effective means of avoiding liability is to ensure you meet your duty of care i.e. you have taken reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure those to whom you owe a duty of care.

This does not mean that the probability of harm must be reduced to zero – the only sure way to eliminate all risks associated with an activity is to eliminate the activity. Instead, the activity should be organised so as to be as safe as necessary, rather than as safe as possible, with reasonable controls being implemented to reduce those risks that cannot reasonably be eliminated to a level that is justifiable and tolerable.

Significant and unusual risks that have been identified through your Risk Assessments (see below) should be drawn to the attention of visitors and/or participants through the use of Risk Statements within your booking forms. These are a meaningful way of ensuring that your participants understand and acknowledge the inherent risks involved in the sport in an effort to narrow the scope of, and assist you to meet, your duty of care.

At a practical level, the duty owed by an organiser to take reasonable care to ensure that an event is reasonably safely managed is likely to translate as a requirement to plan and deliver an event efficiently and with consideration for likely (i.e. reasonably foreseeable) eventualities and risks.

The essential elements of managing risks are:

• Identify the hazards;
• Consider who might be harmed, how they might be harmed and the severity of harm that may be caused;
• Evaluate the risks (in terms of both the probability of occurrence and the potential severity of harm) arising from the hazards and decide if existing precautions are adequate or whether more should be done to reduce the risks to a tolerable level;
• Record your findings; and
• Review the assessment from time to time and, if necessary, revise it.

Risk management and therefore risk assessment is likely to be a key ingredient in organisers being able to demonstrate that reasonable care has been taken.
RISK ASSESSMENT

As a matter of good practice and to ensure that you have covered every aspect of the event, you should carry out a Risk Assessment. When doing so you need to take into account all of the activities that you wish to offer, both on and off the water, your facilities, such as toilets, changing rooms, showers etc. and any refreshments and entertainment you intend to provide should all be factored into the risk assessment.

A template for a general Risk Assessment can be found at Appendix 1 in this pack (and can also be downloaded from www.rya.org.uk/go/ptboinfo). Use of standard forms as a starting point are helpful in enabling organisers to take a proportionate approach but they should not be treated as a one-size-fits-all solution.

You should take your time to work through every aspect of a Risk Assessment that takes into account your premises, personnel, participants and all activities and equipment on offer.

It is important to recognise that Risk Assessment is a process rather than a document. The purpose of recording the process is so that the organiser can demonstrate that the process was undertaken and how its conclusions were reached. Risk Assessment is also an on-going process and needs to be more than simply a one-off paper exercise if it is to be helpful in demonstrating that reasonable care has been taken.

Expect therefore to begin recording your Risk Assessment at the start of your planning for the PTBO event and for it to evolve during the course of the weeks and days leading up to the event. Then, having written it down, make sure you follow it.

EQUALITY ACT 2010

The Act makes it unlawful for an organiser to treat disabled participants less favourably than other participants. The Act also requires an organiser to make “reasonable adjustments” to accommodate disabled participants, taking into account the circumstances specific to the event such as the nature of the venue, the nature of the organiser, the resources available to the organiser and the cost of any adjustments. An organiser is, however, permitted to discriminate against a disabled participant to the extent that such discrimination is “a proportionate means of achieving a legitimate aim”.

An organiser will therefore need to balance the desire of a disabled individual to participate in an event against the ability of the organiser to take reasonable steps to manage the safety of that individual and that of other participants.”

Organisers should consider what activities they may be able to offer with a view to ensuring inclusion insofar as it is reasonably possible taking into account the safety of all concerned. It may well be that it is unsafe for the participant to take part in the activities on the day of the PTBO but that a suitable alternative date is arranged when he/she is able to attend when the facilities are more able to accommodate the individual.

An organiser can refuse to allow someone to participate provided such refusal is not based on a protected characteristic, e.g. you can refuse to accommodate someone that you believe is under the influence of drugs/alcohol.

See the RYA webpages on Equality Inclusion and Diversity for more information.

The following information has been produced by RYA Sailability to help clubs and centres make their activities accessible to all.

• Accessibility Guidelines
• Are Your Premises Welcoming?
WELCOMING PARTICIPANTS ON THE DAY

A registration desk dealing with the arrival of your participants is an important aspect of the event. It is here that your participants will first meet the ambassadors for your club/centre and get a feel for how welcoming it is.

It is extremely important you ensure that participants are booked in. This will involve providing them with a booking form prior to or upon arrival at the venue.

The booking form for an event or activity represents a contract between the organisers and the participants. In addition to collecting basic information on the participants which will be used by the organisers in running the event (e.g. name, address, email and telephone number of participants) the booking form should also set out the responsibilities of each party.

It is important that they are given ample time to read the form and to raise any questions they may have. They should sign the form which should be kept by the organisers as a record of their attendance and acknowledgment of the risks involved.

If an organiser is holding a particular event/activity to which the contract of admission is gained at the point of entrance, it should state that it forms the contract between the parties and highlight the fact that admission is on the basis of the terms printed on the document. In addition the organiser should have copies of the relevant terms prominently displayed at the point at which the parties are to form their contract as well has having copies available to hand out to participants.

We have produced a generic booking form for a PTBO event which can be found at Appendix 2 (and can be downloaded from www.rya.org.uk/go/ptboinfo), which also includes a risk statement.

Parents/guardians must sign on behalf of children (i.e. under 18s) in order to confirm their consent for their children to participate.

Liability for an event not taking place or a participant being excluded from an event also needs to be addressed. Accordingly, it is also recommended that cancellation terms are included for all events. Example cancellation terms are also included in the model booking form in Appendix 2. Again, before using these terms organisers are recommended to consider whether the suggested clauses are right for the event.

Other clauses that might be needed for event booking terms such as data protection consent notices and a medical fitness declaration can also be found in Appendix 2.
MEDICAL INFORMATION

Organisers will need to decide on a case by case basis, depending on the nature of the activity taking place, whether or not it is appropriate to collect personal medical information from those participating in the activity. The decision relates to need: Do the organisers need to gather medical information relating to the participants? What action might the organisers reasonably be expected to take on the strength of the information in their possession? If the information serves no purpose it should not be collected.

If the organisers do not intend to pass any medical information gathered to those who might need to act on it then there would seem to be little merit in gathering the information in the first place.

Moreover, if there is no mechanism for ensuring that any medical information gathered by the organisers is passed on to those who might need to act on it then this might give rise to a degree of liability and the organisers might thus find themselves in a worse position than they would have been in had they not gathered the information at all.

If those participating in the activity are children and their parents are not present throughout the activity then the organisers may well find themselves acting in loco parentis for the children and it may limit their ability to discharge their duty in this regard if they have not sought relevant medical information from the participants’ parents.

Fitness to participate

The questions of whether or not to collect medical information from participants and, if gathered, what to do with it need to be distinguished from the matter of determining whether a participant is fit to participate in the activity. For example, a person may have no medical complaints but nevertheless be unfit to participate through having consumed alcohol or drugs. Equally, a person may suffer from a condition that might have an impact on their treatment in the event of an emergency but that does not prevent them from being fit to participate in the activity.

Determining fitness to participate should generally be the responsibility of the participant or, in the case of those under 18, their parent or guardian. It is suggested that risk statements should include an acknowledgement to this effect.

Accordingly, the medical information questions in the Model Booking Form in Appendix 2 have been written in such a way as to provide a facility for participants to disclose information if they believe that it may affect their ability to take part.

That said, an organiser may need to ensure that it has sufficient information to enable it to determine whether (and if so how) it can accommodate any special requirements participants may have, in accordance with the Equality Act 2010.

An organiser should be cautious of drawing conclusions regarding fitness to participate from any medical information provided, as incorrect assumptions may result in liability, but a participant who declares they are fit but lists a number of medical issues may alert the organiser to the need for further discussions with the participant regarding fitness to participate.

Medical information and data protection

Medical information, if collected, will be classed as “special category data” under data protection legislation and should be treated accordingly. This means that it is necessary to have both a “lawful basis” for collecting that information (in the same way a lawful basis is required for collecting any other data), and in addition it will be necessary to satisfy one of the specific conditions set out in data protection legislation. The relevant specific condition is likely to be explicit consent, and appropriate wording should be included on the form to provide explicit consent.

Special category data should not be retained for longer than necessary, and appropriate steps must be taken to protect the information. Further guidance on data protection can be found in the Club Zone section of the RYA website.
COMMERCIAL VESSEL REGULATIONS

The law surrounding the commercial use of boats for sport or pleasure is far from straightforward and was certainly not designed to accommodate the use of boats for activities such as PTBO. In essence, it is almost impossible for most dinghies and small powerboats to comply with the commercial vessel regulations so a club or private owner must avoid the use of their boat for a PTBO event being “commercial”.

In very simplistic terms, if a boat is owned by or on behalf of a club then provided that the boat is used for the sport or pleasure of a club member (or a member of their family) – i.e. a club member (or their family member) is on board – then they can have a reasonable number of non-member crew on board without the boat’s use being regarded as “commercial”.

This should cover most dinghy-based PTBO events using club boats. Clubs should not allow participants to try club-owned boats on their own (i.e. without a club member with them) as this could well take them into the scope of “commercial” operation.

For privately-owned boats used in a PTBO event, provided that the boat is used for the sport or pleasure of the owner (or their friends or a member of their family) – i.e. the owner (or friend or family member) is on board – then they can have a reasonable number of non-member crew on board without the boat’s use being regarded as “commercial”.

Privately-owned boats cannot be lent to participants in a PTBO event to sail on their own.

Regardless of whether the boat is club- or privately-owned, there are only very limited circumstances in which the owner (or, in fact, anyone else) may receive any sort of payment (whether or not from the crew) in relation to the use of the boat so it would be better for participants not to be asked for any money at all.

For centres (regardless of whether they are clubs, local authority activity centres or commercial enterprises), the RYA has negotiated with the UK Maritime & Coastguard Agency a deemed equivalency to the relevant commercial vessel regulations for small boats operated by centres in accordance with the RYA’s Conditions of Recognition. This means that boats operated by centres in accordance with the RYA’s Conditions of Recognition (other than for Advanced Powerboating or the Cruising Schemes) are deemed certificated for commercial use, so the restrictions on who must be on board and payment applicable to club- and privately-owned boats do not apply.

Cruising yachts operated by centres for PTBO events will normally need to be individually certificated for commercial use.

INSURANCE

Before organising the event, organisers should check that their existing insurance policy covers all the activities it has planned for the event as well as all boats/kit and other equipment that it intends to use (whether club-owned or privately owned). If there is any doubt, the insurance broker should be contacted for clarification.

Where organisers use members boats they should be insured temporarily under the organisers policy. This may be on an ad-hoc basis (for a single week/weekend) or, if the organisers are planning to hold regular open days during the year, negotiate a blanket coverage on borrowed boats to a combined total value at any one time.

When using members boats, organisers should never assume that the boat owner’s insurance will provide cover for the event.

Organisers should ensure that any third party engaged to provide goods or services in connection with the event also carry appropriate insurance.
SAFETY

Safety boat cover operated by a competent crew with suitable qualifications should be present throughout the course of the event. It is important for organisers to be clear in advertising/booking forms what safety cover is available. Safety boat cover should ideally be proportionate to the number of boats on the water.

For on-water activities you should check everyone's swimming abilities. For non-swimmers you need to think about how, if at all, you can accommodate their participation.

A full safety briefing should be provided before each activity begins.

PERSONNEL

Allocate roles for the event. Ensure the competency of everyone involved in running the event and allocate appropriately competent/qualified personnel to relevant duties.

Ensure that everyone involved in helping to run the event understands what duties they have responsibility for. Where necessary undertake appropriate training e.g. in safety procedures.

It is important that your participants, particularly as they are likely to be novices, understand that the PTBO event is intended to give them a chance to experience sailing as opposed to formal tuition or instruction. They should understand that they are being offered the chance to take part in the activities under the guidance of volunteers of the organiser who have been assessed by the organiser as competent and sufficiently experienced to supervise the event. They may not necessarily be qualified RYA Instructors. An example term is included in the model booking form in Appendix 2.

FACILITIES / BOATS / KIT & EQUIPMENT

Ensure the boats you intend to use are in good condition, well maintained and suitable for the activity and participant(s) in question.

All participants should wear appropriate personal floatation devices at all times when on the water. The organiser has a duty to ensure that these are in satisfactory condition and a suitable fit for the participant concerned and that participants understand how to operate them. The organiser should remind participants that they are safety aids and may not necessarily prevent drowning.

You should also anticipate that members of the public may not be prepared, in terms of clothing, for going sailing. Organisers should not only provide personal floatation devices, but also wetsuits or foul weather gear for the participants to borrow. Consider advising participants, in your advertising material, to bring along spare clothes, especially where they are likely to get wet, such as children in small dinghies.

ACCIDENTS

You should ensure you have an Emergency Action Plan in place. It doesn’t necessarily have to be overly complex but it should set out who is responsible for assessing the situation, calling the emergency services and directing the emergency services to both the venue and the exact location of the incident in case of an emergency. Many clubs are off the beaten track and there have been cases where vital first aid was delayed as a result of ambulance crew not being able to locate the casualty at the venue.

INCIDENT REPORT FORM

In Appendix 4 you will find a general Incident Report Form (which can also be downloaded from www.rya.org.uk/go/ptboinfo). We would encourage organisers to utilise this in order to record any incidents that may occur and identify what action organisers took to deal with the incident and importantly to ensure that lessons may be learnt from the incident.

If an accident or incident happens and involves any of the following then kindly inform the RYA:

- Hospitalisation required
- Statutory reporting to MAIB
- Fatality
- If useful lessons can be learned
- If in doubt

SAFETY IS PARAMOUNT IN EVERYTHING YOU DO!
SAFEGUARDING CHILD PROTECTION AND VULNERABLE ADULTS

All organisations that work with children and young people under the age of 18 and vulnerable adults have a responsibility to safeguard and promote their welfare. The RYA is committed to providing a safe and welcoming environment for young people to enjoy sailing, windsurfing and powerboating at RYA-organised events, and also to helping its affiliated clubs and class associations and recognised training centres to fulfil their responsibilities.

The RYA’s Safeguarding and Child Protection Policy and Guidelines can be downloaded from the RYA website and adapted to suit your PTBO event. This document is intended to assist you with drawing up your own organisation’s Policy and Procedures. There is a sample club/centre policy which covers the essential points.

PLAN FOR ANY CONTINGENCIES

Make a list of areas that are out of your direct control such as illness, wet weather etc. and plan alternatives. Consider what you will be able to do in the event of bad weather.

RECORD OF PLANNING

We recommend you keep a record of everything you have considered in terms of organising the event. That way, if required to do so, you should be able to demonstrate that you have met your duty of care. It also helps with reviewing the event.

WASH UP REVIEW

After the event set aside some time to reflect on everything that has taken place, consider what worked well, what could be improved, and any areas where your organisation may have fallen short of what you aimed to deliver. This will all help to organise an even better PTBO event next year!

REMEMBER IN TERMS OF EVERYTHING THAT YOU DO TO ORGANISE THE EVENT AND DURING THE COURSE OF RUNNING THE EVENT, WHILST HAVING FUN IS THE ORDER OF THE DAY, BOTH SAFETY AND LEGAL CONSIDERATIONS NEED TO BE TAKEN INTO ACCOUNT AT ALL TIMES.
THE LAW EXPLAINED

Duty of Care - The basic legal principles:

There are a number of circumstances in which an organiser might owe a duty of care to participants and/or visitors and be held legally liable for an injury/property damage suffered by a participant/visitor in the event that that duty is breached. These include:

- Occupiers Liability Act 1957 (if the organiser is the occupier of the premises where the event is taking place).
- Negligence; this is a breach of a more general duty not to cause injury or loss carelessly.

Occupiers Liability Act:

Under the Occupiers Liability Act 1957 the occupier of premises has a duty of care towards visitors using the premises for the purpose for which the visitor is invited or permitted to be there i.e. all lawful visitors. Thus organisers owe a duty to those visitors invited to the PTBO event.

The duty is 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/she is invited or permitted to be there, whether in the club house, boat park or at the water’s edge.

Negligence:

Where individuals participate in an organised activity, particularly where those participants are young, vulnerable and/or inexperienced, an organiser is likely to be under a duty to manage those activities reasonably safely.

The basic principles of the law of negligence were encapsulated in the famous case of Donoghue v Stevenson (1932). In describing the general duty of care, Lord Atkin said:

“You must take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour. Who, then, in law, is my neighbour? The answer seems to be persons who are so closely and directly affected by my act that I ought reasonably to have them in contemplation as being so affected when I am directing my mind to the acts or omissions which are called into question.”

Negligence can be summarised as a duty not to inflict damage carelessly but it does not impose a general duty on everyone to act carefully towards everyone else.

What is ‘Reasonable’?

What constitutes “reasonable” will depend on context. In the case of a boating event the context is particularly significant. Recreational boating is by its very nature an unpredictable sport and therefore inherently involves elements of risk. This inherent risk in our sport influences what is considered to be “reasonable”.

Factors that may be taken into account when determining “reasonableness” in relation to the context of a duty of care owed by an organiser may include: the size of the organiser, its location, how it is run and by whom (e.g. staff / volunteers), types of activities and, importantly, the age and experience of the participants.

Organisers should be aware that a higher standard of care applies when dealing with children, young people, vulnerable adults and novices. Organisers will normally be expected to deliver a higher standard of care towards children than adults, the defences which can be raised in a legal claim will be harder to prove and any acceptance of risk form signed for on behalf of a child is unlikely to be effective in avoiding liability.

In practical terms this means that the event should be carefully planned. Competent volunteers should be available and carefully briefed for each of their tasks. Premises, boats and all equipment should be well maintained and inspected for defects. Equipment deemed unsuitable for the event should be locked away in order to ensure it cannot be inadvertently used.

Causation and no-fault accidents:

The fact that a participant suffers an injury, accident or loss does not of itself mean that liability automatically falls on the organiser. It is not sufficient for a claimant merely to show that they have suffered damage in order to claim compensation. The questions that would need to be answered include: “Did the organiser
fall short of what was reasonably expected of them?” and “Did this falling short cause the damage complained of?”

There are still such things as accidents that are not caused by the failure of anyone else to take reasonable care. For example, if a visitor sustains an injury at your PTBO event on the basis they simply lost their footing on an uneven surface as they were walking around the site, the organiser is unlikely to be found liable for any resulting injuries. The outcome is likely to be different if a visitor suffers an injury on a pontoon that the organiser knew was usually slippery but had taken no action to warn of the danger, close off access to it, or attempt to clean it.

Acceptance of risk and warnings:

Organisers are expected to take steps to minimise the risks associated with an event where reasonably practicable. This duty does not appear from case law to extend to alerting participants to risks which are plain and obvious. Visitors and participants are taken to have accepted such risks and do not need warning of them. The question will be whether or not a particular risk is one which, in the circumstances, they should be taken to have accepted.

Because the participants at a PTBO event are likely to be novices the organiser will undoubtedly have a greater responsibility to warn the participants of risks which might be plain and obvious to a seasoned sailor but would not be obvious to a novice. However, organisers are not expected to warn participants, even novices, of everyday (non-sailing specific) risks such as steps leading up to the clubhouse.

The dangers of organising an event at a particular venue may be distinguished from the dangers of the sport itself. A participant at a PTBO event might reasonably assume that the organiser has ensured that the venue is reasonably safe even if he is taken to have accepted the inherent risks associated with the sport.

DISCLAIMERS - DO THEY WORK?

Disclaimers of liability are an attempt to excuse organisers from all or part of a liability that the law may otherwise place on them, such as a duty to take reasonable care in the organisation of an event. Historically organisers have included disclaimers of liability using notices or contractual clauses in their event paperwork. However, disclaimers can be challenged on various grounds. Some of the grounds for challenge will depend on whether the nature of the relationship between the organiser and the participants in an event is properly construed as a trader-consumer relationship or a consumer-consumer relationship. The law on trader-consumer contracts was consolidated by the Consumer Rights Act 2015.

In both trader-consumer and consumer-consumer situations:

- it may be possible to argue that a disclaimer has not been properly incorporated into a contract between the organiser and the participant or otherwise brought to the participant’s attention and is therefore not effective;
- a disclaimer will usually be interpreted by the Courts against the interests of the party wishing to rely on it and it cannot normally be enforced against a minor (i.e. a person under 18 years of age).

In addition, in trader-consumer situations;

- a disclaimer that attempts to exclude or limit liability for death or personal injury caused by one party’s negligence will be unenforceable as a so called “black listed” term under the Consumer Rights Act 2015;
- a disclaimer that attempts to exclude or limit liability for other damage caused by one party’s negligence will be subject to a “fairness” test under the Consumer Rights Act 2015;
- a disclaimer that fails the general fairness test and/or transparency test under the Consumer Rights Act 2015 will not be legally enforceable against the consumer;
- a disclaimer which attempts to exclude or limit the legal rights of the consumer for non-performance or inadequate performance of contractual obligations will fall within the so called “grey list” under the Consumer Rights Act 2015 (i.e. the illustrative list given in this Act of terms that are under suspicion of unfairness but not necessarily unfair). Such contractual obligations include a duty implied into trader-consumer contracts by the Consumer Rights Act 2015 to provide services with reasonable skill and care;
- the Competition & Markets Authority (CMA) has indicated in its Unfair Contract Terms Guidance (issued in July 2015) that a disclaimer which is written so
broadly as to have the effect of excluding or limiting liability for death or personal injury caused by negligence in the course of a business, even if qualified by an expression such as “so far as the law permits”, is liable to be construed as misleading and may give rise to criminal prosecution as an unfair, misleading or aggressive commercial practice under the Consumer Protection from Unfair Trading Regulations 2008.

A number of these issues are discussed below.

**Incorporation or notification of disclaimers:**

In order for a participant to be bound by a disclaimer included in event terms and conditions it must be incorporated into the agreement between the parties. If a participant signs a contract with the organiser or otherwise indicates acceptance of terms and conditions (such as via a website tick-box) the presumption is that the participant will be bound by the terms even if they have not read them.

If the disclaimer is set out or referred to in a document which is simply handed to the participant or displayed at the point where they agree to take part in the activity then the organiser would have to show that the disclaimer was brought to the attention of the participant before or at the time they agreed to take part. If the disclaimer is not communicated to the participant until after they have agreed to take part then it will be of no effect irrespective of whether it stands or falls by reference to the other arguments that may be available to challenge the validity of a disclaimer.

**The relationship between the organiser and participants at an event**

From the legislation referred to above it is apparent that the question of whether an event organiser is acting for purposes related to a business or trade in relation to the participants in an event is very relevant to whether any disclaimers used will be enforceable or perhaps even criminal (see below).

If an organiser is an unincorporated association then in respect of any arrangements that include non-members, such as events open to non-members where an entry fee is charged, it is likely to be acting as a business. If so, the event terms and conditions may be subject to challenge under the Consumer Rights Act 2015 and the Consumer Protection from Unfair Trading Regulations 2008 will be applicable.

If an organiser is incorporated then, in respect of any contracts with third parties (e.g. events open to non-members), it is likely to be acting as a business so as to engage the Consumer Rights Act 2015 and the Consumer Protection from Unfair Trading Regulations 2008.

When considering the issue of whether or not it is acting as a business, an organiser will have to consider the particular activity and be aware that a one off event involving third parties is likely to be a business transaction even if the organiser itself is an unincorporated association which is not a business.

**The fairness test**

The Consumer Rights Act 2015 introduced a test of fairness to contract terms used by traders in transactions with consumers.

The CMA has given guidance on its approach to interpreting the elements that make up the fairness test and specifically addresses inherently risky activity. As a possible route to “fairness” the CMA advocates the use of prominent warnings against hazards, which provide information and make it clear that the consumer needs to take sensible precautions but which do not have the effect of excluding or restricting liability. The CMA does not consider it fair to seek to deprive consumers of compensation in any circumstances in which they would normally be entitled to it by law and the CMA does not approve of the use of disclaimers.

**Summary:**

For the reasons outlined above, disclaimers have been ineffective for commercial organisations and of doubtful effectiveness for clubs ever since the enactment of the Unfair Contract Terms Act 1977. The effectiveness of disclaimers was reduced further by the Unfair Terms in Consumer Contracts Regulations 1999 (which have now been absorbed into the Consumer Rights Act 2015) and the Consumer Protection from Unfair Trading Regulations 2008. In any event, disclaimers have never been a substitute for organisers understanding their potential legal liabilities, exercising reasonable care and having proper insurance arrangements in place.
Previously, if an organiser were considered to be a “business” then an unfair disclaimer was simply unenforceable. However, while there is currently no direct judicial authority on the point, the case of OFT v. Purely Creative Limited (2011) has suggested that there may be circumstances in which the Courts might be inclined to view the use of an unenforceable disclaimer as being not just unenforceable but also unlawful under the 2008 Regulations. The CMA has endorsed this view point in its Unfair Contract Terms Guidance issued in July 2015 and advocates the use of prominent warnings against hazards for inherently risky activities.

Although the risk of a private members’ club infringing the 2008 Regulations is slight, it nevertheless remains a possibility. As a consequence, organisers are encouraged to move their emphasis away from the use of disclaimers towards warning participants and asking them to acknowledge the risks associated with taking part in the activity – i.e. by using “risk statements”.

A sample Risk Statement is set out in Appendix 2. Organisers looking for a suitable form of wording for their own purposes should adapt the appropriate paragraphs to suit their own particular circumstances, for example by making reference in the Risk Statement to any risks that are specific to the venue for the event or the event itself.

**LIABILITY OF ORGANISERS AND OF INDIVIDUALS**

The extent to which the organiser might be held liable for the negligent actions of the individuals delivering an activity on its behalf will depend to a certain extent on the legal nature of the organiser.

**Unincorporated Associations:**

Many organisers are unincorporated associations, which mean that they have no separate legal identity. They are, in effect, simply a name attributed to a particular group of individuals. An unincorporated association cannot sue, or be sued, in its own name. Claims against unincorporated associations are normally directed instead at named individuals, either in their personal capacity or as representatives for the members of the association. Committee members do not normally owe members of the association a duty of care purely by virtue of being committee members. However, committee members are not granted immunity from liability where a duty of care might otherwise arise (e.g. the person who maintains the patrol boats may be under a duty to ensure that the boats are reasonably safe to use).

Individual members of an unincorporated association do not owe other members a duty of care simply by virtue of being fellow members of the association, although members are not granted immunity from liability to other members where a duty of care might otherwise arise (e.g. between competitors in a race).

The members of an unincorporated association might, however, collectively owe a duty of care towards non-member visitors or guests, for example in connection with the physical condition of the association’s premises.

In addition, although the members of an unincorporated club would not normally be held liable for the negligent actions of individual club members,
the club members might collectively be held vicariously liable (i.e. without any personal fault on their part) for the negligent actions of individual members to whom they have delegated responsibility for managing the club’s activities, for example the committee.

If the collective liability of the members exceeds the amount of the assets of the association then individual members may each be personally liable for any legal liability for damages that the association may incur. It is therefore vital that an unincorporated association has appropriate insurance to cover its activities.

Incorporated Associations:

If the organiser is incorporated as a limited company, whether limited by shares or by guarantee, it has its own legal identity and can sue and be sued in its own name. In addition, one of the key features of incorporation is that the liability of the individual shareholders or members for the liabilities of the company is limited to the amount of their respective shareholding or guarantee.

However, incorporation does not protect individuals from claims that they personally owed a duty of care and were in breach of that duty.

In addition, the directors of a company are subject to statutory duties under the Companies Acts that do not apply to the committee members of an unincorporated association. Appropriate insurance is therefore equally important for a company as it is for an unincorporated association.

PREVENTION OF A DESIREABLE ACTIVITY

There is some comfort for organisers. When considering a claim in negligence and whether a person should have taken certain steps to avoid breaching their duty of care, the Compensation Act 2006 permits a Court to have regard to whether such steps might prevent a desirable activity from taking place or discourage people from taking part in that activity.

The Social Action, Responsibility and Heroism Act 2015 permits a Court, when considering a claim of negligence or breach of statutory duty against a person, to have regard to whether that person was acting for the benefit of society, had demonstrated a predominantly responsible approach towards protecting the safety of others or was acting heroically by intervening in an emergency.

The apparent intention behind these Acts is to encourage the Courts to consider the wider implications a finding of negligence may have. However, case law suggests that these Acts have so far had little practical impact.

THE EQUALITY ACT 2010

The Equality Act 2010 applies to all organisations that provide a service to the public or a section of the public and to anyone that sells goods or provides facilities (‘Service Providers’). Therefore clubs that provide RYA training or other services to members of the public may be considered to be Service Providers, as will most commercial RTCs.

The Act also applies to private members’ clubs insofar as they fall within the definition of an Association. Associations are bodies:
- with 25 or more members; and
- that have rules regulating who can become members (though not necessarily formal or written); and
- that have a process of selection to become a member.

An Association / Service Provider is prohibited from discriminating, harassing or victimising a member, an associate member, prospective member or guest, and a recipient of the service due to a protected characteristic.

The characteristics that are protected by the Act are:
- Age;
- Disability;
- Gender reassignment;
- Marriage and civil partnership;
- Pregnancy and maternity;
- Race (including ethnic origin, national origin, colour, nationality);
- Religion or belief;
- Sex;
- Sexual orientation.
To come within the scope of the Act and be actionable discrimination must be on the basis of one of the protected characteristics.

Disability and the Duty to make Reasonable Adjustments:

You may well have any number of disabled people attending your PTBO event and it is therefore worthwhile considering disability discrimination and your duty to make reasonable adjustments.

Organisers are under a duty to make reasonable adjustments in order to ensure their services are available to disabled persons. They have a duty to make ‘reasonable’ adjustments to the physical features of premises in order to ensure that there are no physical barriers to their services.

The duty to make reasonable adjustments comprises three requirements:

1. Where a provision, criterion or practice puts a disabled person at a substantial disadvantage in relation to a relevant matter (i.e. access to benefit, facility or service) in comparison with persons who are not disabled an organiser is required to take such steps as is reasonable to avoid the disadvantage.

2. Where a physical feature puts a disabled person at a substantial disadvantage in relation to a relevant matter (i.e. access to a benefit, facility or service) in comparison with persons who are not disabled, an organiser is required to take such steps as is reasonable to avoid the disadvantage or adopt a reasonable alternative method of affording access to the benefit, facility or service.

3. Where a disabled person would, but for the provision of an auxiliary aid, be at a substantial disadvantage in relation to a relevant matter (i.e. access to benefit, facility or service) in comparison with persons who are not disabled an organiser is required to take such steps as is reasonable to have to take to provide the auxiliary aid.

What is ‘Reasonable’?

The obligation to do what is termed ‘reasonable’ is the real crux for organisers. You will need to plan ahead for disabled users, consider the likelihood of persons with disabilities wanting to take part in your event.

What is ‘reasonable’ will depend on a number of issues including the size of the organisation, its financial resources, the cost of the adjustment and the particular circumstances of the case.

Generally speaking, depending upon size and financial resources, organisers will not be expected to make adjustments that are disproportionately expensive. Organisers are not required to take steps which would fundamentally alter the nature of the benefit, facility or service concerned, or the nature of the organisation.

There are justifications for not making reasonable adjustments, namely:

- Less favourable treatment of a disabled person is necessary to avoid endangering the health or safety of the disabled person or any other person
- The disabled person is incapable of entering into an enforceable agreement or giving informed consent.
- The treatment of the disabled person is necessary to be able to afford members, associates, guests or the disabled person access to a benefit, facility or service.
- The association would otherwise be unable to afford members, associates or guests access to a benefit, facility or service.
- Cost to the organiser of affording a disabled person access is disproportionate to the cost of affording such a benefit to a non-disabled person.

The third and fourth of the above justifications will allow a organiser NOT to make reasonable adjustments where to do so would jeopardise the organiser’s ability to provide its services to its other participants or to the disabled person themselves.

The organiser may be able to charge the disabled person more for the services it provides where the cost of affording the disabled person access to a benefit, facility or service is greater than it is for non-disabled people, so long as the services provided were ‘bespoke’ to the disabled person. However, it is not possible for an organiser to charge a disabled person more where the service in question is provided to all participants, in such circumstances, the cost must be shared across all the participants.

Further guidance on the Equality Act can be found on the RYA website.
FIVE STEPS TO RISK ASSESSMENT

This guidance is based on HSE guidelines set out in Risk Assessment – A brief guide to controlling risks in the workplace and adapted for use by clubs and RYA Recognised Training Centres (hereinafter jointly referred to as ‘organisations’).

1. This section is intended to help your organisation assess risks at your club/centre.

2. An assessment of risk is nothing more than a careful examination of what, in your organisation, could cause harm to people, so that you can weigh up whether you have taken enough precautions or should do more to prevent harm. The aim is to make sure that no one gets hurt or becomes ill. Accidents and ill health can ruin lives, and affect your organisation too if equipment is damaged, insurance costs increase, or you have to go to court.

3. Don’t be put off by some of the words used in this guide:
   - Hazard means anything that can cause harm (e.g. weather conditions, safety boat propellers etc).
   - Risk is the chance, great or small, that someone will be harmed by the hazard.

4. The important things you need to decide are whether a hazard is significant, and whether you have it covered by satisfactory precautions so that the risk is small. You need to check this when you assess the risks. For instance, electricity can kill but the risk of it doing so in a club/centre environment is remote, provided that live components are insulated and metal casings properly earthed.

How to assess the risks in the your club/centre

5. Don’t Don’t be overcomplicated. In most clubs/centres the hazards will be obvious to an experienced sailor. Checking them is common sense, but necessary. You will already have assessed some of them - for example, you know that the most obvious hazard to students/boaters is drowning, so you will have worked out a policy on the use of safety harnesses, lifejackets or buoyancy aids. If so, you can consider them ‘checked’, and write that down if you are making a written assessment. For other hazards, you probably already know whether you have equipment that could cause harm, or if there is a slipway or pontoon where someone could be hurt.

If you are a small organisation and you are confident you understand all aspects of it, you can do the assessment yourself. If you are a larger organisation, you could ask a responsible employee or safety representative to help you. If you are not confident, get help from a on competent source (see the ‘Getting Help’ section on page 19). But remember - you are responsible for seeing it is adequately done.

STEP 1

The hazards

If you are doing the assessment yourself, walk around the club/centre, sail around your sailing area and look afresh at what could reasonably be expected to cause harm. Risk is a part of everyday life and you are not expected to eliminate all risks. What you must do is make sure you know about the main risks and the things you need to do to manage them responsibly. Ask your Instructors/staff/members what they think. They may have noticed things that are not immediately obvious. Manufacturers’ instructions or datasheets can also help you spot hazards and put risks in their true perspective. So can accident and ill-health records.

STEP 2

Decide who might be harmed, and how

Those most obviously at risk are your members but do not forget instructors, visitors and staff. Include members of the public, or people who share your sailing area, if there is a chance they could be hurt by your activities. Identify how they might be harmed e.g. what type of injury.

STEP 3

Evaluate the risks arising from the hazards and decide whether existing precautions are adequate or more should be done

After all precautions have been taken, usually some risk remains. Risk is part of everyday life and you are not expected to eliminate all risks. What you have to decide for each significant hazard is whether this remaining risk is high, medium or low. First, ask yourself whether you have done all the things that the law says you have got to do. For example, there are legal requirements on prevention of access to dangerous parts of machinery. Then ask yourself whether generally accepted sailing and windsurfing standards are in place. But don’t stop...
there - think for yourself, because the law also says that you must do what is reasonably practicable to keep your premises and activities safe. Your real aim is to make all risks as small as reasonably practicable. Your risk assessment should only include what you could reasonably be expected to know - you are not expected to anticipate unforeseeable risks. More information about legal requirements and standards can be found on the HSE's website, details of which are given at the end of this page.

Improving health and safety need not cost a lot. For instance, placing a mirror on a dangerous blind corner to help prevent vehicle accidents, or putting some non-slip material on slippery pontoons/steps, are inexpensive precautions considering the risks.

Look at what you are already doing and the control measures you have in place and ask yourself

a) Can I get **rid of the hazard** altogether?

b) If not, how can I **control the risks** so that harm is unlikely?

If you share your premises, tell the other people there about any risks your activities could cause them, and what precautions you are taking. Also, think about the risks to your members, visitors, instructors and staff from those who share your site.

**STEP 4**

**Record your significant findings and implement them**

If you have fewer than five employees you do not need to write anything down, but it is useful to do this so you can review it a later date. If you have five or more employees you must record the significant findings of your assessment. This means writing down the more significant hazards and recording your most important conclusions. You must also inform your employees about your findings.

**There is no need to show how you did your assessment,** provided you can show that:

- a proper check was made,
- you asked who might be affected,
- you dealt with all the obvious significant hazards, taking into account the number of people who could be involved,
- the precautions are reasonable, and the remaining risk is low.
- you involved your members/volunteers/employees in the process.

**Assessments need to be suitable and sufficient, not perfect. The real points are:**

- Are the precautions reasonable, and
- Is there something to show that a proper check was made?

Keep the written document for future reference or use; it can help you if an inspector questions your precautions, or if you became involved in any action for civil liability. It can also remind you to keep an eye on particular matters and it helps to show that you have done what the law requires. Appendix 1b is a form which you may find helpful but, by all means, produce your own form if it suits you better.

To make things simpler, you can refer to other documents, such as manuals, RYA publications, the arrangements in your health and safety policy statement, company rules, manufacturers’ instructions, and your health and safety procedures. These may already list hazards and precautions. You don’t need to repeat all that, and it is up to you whether you combine all the documents, or keep them separately.

**STEP 5**

**Regularly review your risk assessment**

Sooner or later you will bring in new equipment and procedures that could lead to new hazards.

If there is any significant change, you should immediately add to the assessment to take account of the new hazard. In any case, it is good practice to regularly review your assessment.

Don’t amend your assessment for every trivial change or for each new activity, but if a new activity introduces significant new hazards of its own, you will want to consider them in their own right and do whatever you need to keep the risks down.

**GETTING HELP**

HSE’s risk management pages ([www.hse.gov.uk/risk](http://www.hse.gov.uk/risk)) include templates and risk assessment tools and examples.
APPENDIX 1b – RISK ASSESSMENT

Club Name ______________________________  Assessment undertaken (date) ______________________
Club Address ____________________________________________  By Whom (name) __________________________
Postcode ______________________________  Signed and Date ________________________________
Assessment Review Date __________________________

HAZARD

Look only for hazards which you could reasonably expect to result in significant harm under the conditions in your club. Use the following examples as a guide:

• Drowning - from capsize or falling overboard
• Cold - from immersion or exposure
• Injuries - from booms, winches, ropes
• Slipping/tripping on slipways or pontoons
• Work at height (up masts)
• Overhead cables
• Chemicals used in workshops or for cleaning
• Dispersal of dinghy or windsurfing fleets
• Stranding

List hazards here:

WHO MIGHT BE HARMED?

There is no need to list individuals by name - just think about groups of people doing similar work or who may be affected, for example:-

• Members
• Guests of members
• Students
• Instructors
• Workshop staff
• Cleaners
• The public

Pay particular attention to the potentially more vulnerable:

• Children
• People with disabilities
• Visitors
• Absolute beginners
• Inexperienced staff
• Lone workers

List groups of people who are especially at risk from the significant hazards which you have identified:
IS THE RISK ADEQUATELY CONTROLLED?

Have you already taken precautions against the risks from the hazards you listed?

For example, have you provided:

- Adequate information, instruction or training?
- Adequate systems or procedures?

Do the precautions:

- Meet the standards set by a legal requirement?
- Comply with a recognised industry standard?
- Represent good practice?
- Reduce risk as far as reasonably practicable?

If so, then the risks are adequately controlled, but you need to indicate the precautions you have in place. You may refer to procedures, manuals, company rules, etc. giving this information.

**List existing controls here or note where the information may be found:**


WHAT FURTHER ACTION IS NECESSARY TO CONTROL THE RISK?

What more could you reasonably do for those risks which you found were not adequately controlled?

You will need to give priority to those risks which affect large numbers of people and/or could result in serious harm.

Apply the principles below when taking further action, if possible in the following order:

- Remove the risk completely (but not the hazards inherent in sailing)
- Try a less risky option
- Prevent access to the hazard (e.g. by guarding)
- Organise work to reduce exposure to the hazard
- Issue personal protective equipment
- Provide welfare facilities (e.g. washing facilities and first aid)

**List the risks which are not adequately controlled and the action you will take where it is reasonably practicable to do more. You are entitled to take cost into account, unless the risk is high.**


This template has been produced as a Model Booking Form for a Push The Boat Out Event organised by a club or centre. This form will need to be amended to be suitable for the specific experiences to be offered by the Organiser.

Indicates that Guidance Notes for Organisers using this template are included at Appendix 3.

**EVENT DETAILS**

<table>
<thead>
<tr>
<th>PTBO Event name</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td>Venue</td>
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<tr>
<td></td>
</tr>
<tr>
<td>Date</td>
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<tr>
<td></td>
</tr>
<tr>
<td>PTBO Event Co-ordinator</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Event details</td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

**MAIN PARTICIPANT CONTACT DETAILS**

<table>
<thead>
<tr>
<th>Name</th>
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<tr>
<td></td>
</tr>
<tr>
<td>Address</td>
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<tr>
<td></td>
</tr>
<tr>
<td>Contact no.</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Email address:</td>
</tr>
</tbody>
</table>

If you are under 18, your parent or guardian must complete and sign the Parent/Guardian Consent Form at page [ ].

**ABOUT YOU**

<table>
<thead>
<tr>
<th>Do you have any previous boating experience or qualifications?</th>
<th>Yes / No</th>
</tr>
</thead>
<tbody>
<tr>
<td>If yes, please give brief details.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Can you swim 25 metres?</th>
<th>Yes / No</th>
</tr>
</thead>
<tbody>
<tr>
<td>In the interests of your safety do you have any medical conditions or physical or mental impairments that the Organiser needs to be aware of that may affect your ability to take part in the PTBO Event?</td>
<td></td>
</tr>
<tr>
<td>Telephone number of emergency contact.</td>
<td></td>
</tr>
</tbody>
</table>
ABOUT OTHERS in your group (from the same address)

<table>
<thead>
<tr>
<th>Name</th>
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</thead>
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<td></td>
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<td></td>
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<td></td>
</tr>
</tbody>
</table>

Please list their previous boating experience and/or qualifications.

Please ensure each member in your group provides details of any medical conditions or physical or mental impairments that the PTBO Organiser needs to be aware of that may affect their ability to take part in the PTBO Event in the Medical Information and Impairments section of this form at page [ ].

BOOKING TERMS

1. RISK STATEMENT

It must be recognised that sailing is by its nature an unpredictable sport and therefore inherently involves an element of risk. By taking part in the PTBO Event, you agree and acknowledge that:

(i) You are aware of the inherent element of risk involved in the sport and you accept responsibility for exposing yourself to such inherent risk whilst taking part in the PTBO Event;

(ii) You will comply at all times with the instructions of the PTBO Event Co-ordinator particularly with regard to instructions for boarding and leaving the boat and/or launching and recovery (as relevant), using the equipment on the boat and handling sails, wearing of buoyancy aids, lifejackets and the wearing of suitable clothing in particular footwear for the conditions;

(iii) You accept responsibility for any injury, damage or loss to the extent caused by your own negligence;

(iv) You will not participate in the PTBO Event if your ability to participate is impaired by alcohol, drugs or if you are otherwise unfit to participate;

(v) You will inform the PTBO Event Co-ordinator if there have been any changes to the information provided on this form at the time of the Event.

(vi) The provision of supervision by the PTBO Organiser is limited to such assistance, as can be practically provided in the circumstances.

(vii) You understand that the PTBO event is intended to give participants a chance to experience sailing or windsurfing. You will be offered the chance to take part in the activities under the guidance of a representative of the PTBO Organiser who has been assessed by the organiser as competent and sufficiently experienced to supervise your experience. These representatives may not be qualified instructors. The PTBO event is not intended to provide tuition or instruction.

(viii) You are aware of any specific risks drawn to your attention by the PTBO Event Co-ordinator.

The Organiser very much hopes that you will enjoy the PTBO Event and will be able to advise you on how to obtain tuition and instruction should you wish to take your experience to the next stage.

2. CANCELLATION

You understand that the PTBO Event Co-ordinator may cancel or postpone the PTBO Event at any stage in the event of bad weather, equipment failure or otherwise.

3. MISCONDUCT

You understand that the PTBO Event Co-ordinator may exclude anyone from a particular session and evict anyone from the premises who refuses to comply with these Booking Terms or who misconducts themselves in any way or who causes damage or annoyance to other persons.
4. DATA PROTECTION

The PTBO Organiser has a Data Privacy Policy which can be found at [ ].

Your data will be stored and used in accordance with that policy.

The information you provide in this form will be used to facilitate your participation in the PTBO Event and to contact you. The Organiser would also like to include your contact details on a mailing list in order to make you aware of membership opportunities and future events.

If you would like to be included on this mailing list, please tick here.

If you wish to withdraw your consent at any time, please contact [ ].

5. PHOTOGRAPHY

The PTBO Organiser may arrange for photographs or videos to be taken at the PTBO Event and published on the Event or Organiser’s website or social media channels to promote the Event or Organiser. This imagery may also be used by the RYA in connection with the promotion of its activities.

If you consent to the use of images of you being used for this purpose, please tick here.

By consenting to the use of your child’s image being used, you confirm that that your child is not under a court order which may prevent their image from being published.

If you/the individuals listed above later wish to withdraw consent, please contact [ ]. Please be aware that if you later decide to withdraw your consent it will not be possible to remove your image from any printed material in circulation, or until the next edition or print of the item containing your image is released.

By agreeing to your images being used, you agree to assign any copyright or any other right of ownership of these images to the Organiser.

AGREEMENT (to be signed by all persons over 18)

I confirm that I have read and fully understand the above Booking Terms and agree to comply with them.

Signed ___________________________ (The Participant) Date ________________

Signed ___________________________ (The Participant) Date ________________

PARENTAL/GUARDIAN AGREEMENT (if children under 18)

Name of parent/guardian completing this form ___________________________ Relationship to participant ________________

Supervision (tick one box)

☐ I will be responsible for my child throughout the event. I will be available at the event venue

OR

☐ I appoint the person named below, who has agreed to act in loco parentis. He/she will be responsible for my dependant throughout the event. He/she will be available at the event venue

Name of person appointed in loco parentis ___________________________ Mobile number ___________________________

I agree that ___________________________ may take part in the Event. I confirm that I have read through the above conditions with him/her and that she/he understands and agrees with them. I also confirm that he/she takes part in the Event with my full agreement that the particulars given above are correct and complete in all respects.

Signed ___________________________ Parent/Guardian Date ________________
APPENDIX 3 – GUIDANCE NOTES FOR TEMPLATE BOOKING FORM

1. It is suggested that the PTBO Organiser should add an opening paragraph about their Event, including venue, dates, what is on offer, and name of the PTBO Coordinator.

2. Data Protection legislation provides that data should only be collected if it is adequate, relevant and necessary in relation to the purpose for which it is collected. PTBO Organisers should therefore only collect information which is essential for the Event. Different events may require different questions to be asked in this section. Further advice on data protection legislation can be found in the Club Zone section of the RYA website.

3. Data should be kept up to date. If there is a period between booking and the Event, Organisers may want to consider collecting certain data at or shortly before the Event in order that it is up to date, and may consider a two stage form to achieve this.

4. Data Protection legislation defines medical information as “special category data”. Special category data is subject to additional protection and safeguards.

5. It is suggested that Organisers may want to collect special category data on a separate page. In this way such information can be detached from the main form to facilitate its use (e.g. taken afloat during the activity) and subsequent disposal, as it may be deemed appropriate to retain participant’s special category data for different time periods to other information.

6. The Risk Statement must be amended to reflect the Event. Add in any other risks identified by the risk assessment for the Event in case there is anything specific to the vessel in use / the plans for the day e.g. transferring people to a yacht by a RIB.

7. Please specify where your data privacy policy can be found. Further guidance on data privacy policies is available from the Club Zone section of the RYA website.

8. If at any point an individual is asked to give their consent to a particular use of information about them, (for instance to be added to a mailing list) there must be a mechanism in place for them to withdraw that consent.

9. Please amend this provision to expressly state what images will be used for, including if they will be shared with the RYA as part of any national initiative. You will only be able to use images if you have express permission to use them for the purpose for which permission was given.

MEDICAL INFORMATION AND IMPAIRMENTS
If you declared that you have a medical condition or physical or mental impairment that the organiser needs to be aware of because it may affect your ability to take part in the Event please provide details below.
### APPENDIX 4 - INCIDENT REPORT FORM

<table>
<thead>
<tr>
<th><strong>Date and time of incident:</strong></th>
<th></th>
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<tbody>
<tr>
<td><strong>Venue:</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Weather conditions</strong></td>
<td></td>
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<tr>
<td><em>(if relevant):</em></td>
<td></td>
</tr>
<tr>
<td><strong>Individual(s) involved:</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Nature of incident:</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Witnesses:</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Action taken:</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Parent informed:</strong></td>
<td></td>
</tr>
</tbody>
</table>
Description of the incident including a schematic drawing:

<table>
<thead>
<tr>
<th>Reported to the RYA – Director of Sport Development: Alistair Dickson</th>
</tr>
</thead>
<tbody>
<tr>
<td>T: +442380604193; M: 07392 090014 E: <a href="mailto:alistair.dickson@rya.org.uk">alistair.dickson@rya.org.uk</a></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name:</th>
<th>Telephone number:</th>
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<table>
<thead>
<tr>
<th>Email address of individual making report:</th>
<th>Capacity in which acting:</th>
</tr>
</thead>
<tbody>
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<td></td>
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</tbody>
</table>

1. Reported to MAiB (MAiB Report Line 023 8023 2527)

2. RIDDOR Report Number: (RIDDOR Incident Contact Centre 0845 300 9923)

<table>
<thead>
<tr>
<th>Accident Report Number:</th>
</tr>
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<tbody>
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<table>
<thead>
<tr>
<th>Actions taken to prevent recurrence:</th>
</tr>
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</tbody>
</table>

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1. The Merchant Shipping (Accident Reporting and Investigation) Regulations 2012 provides information about what accidents are reportable to MAiB and who should report it. In general the Regulations do not apply to a pleasure vessel as defined in the Regulation or one which is hired on a bareboat basis provided that there is no payment for or in connection with operating the vessel or carrying any person. If you need further advice then contact the RYA Cruising or Legal Department.

2. RIDDOR applies to employers and requires them to notify certain occupational injuries, diseases and dangerous events, such as: deaths and major injuries / injuries preventing employees from working for more than 3 days / dangerous occurrences – where something happens that does not result in an injury, but could have done, to the HSE Incident Contact Centre. Although these regulations apply to employees whilst at work, clubs should try to ensure that these appropriate standards are applied to the activities at clubs.