Landowner & local authority liability

Questions about legal liability are likely to come up when discussing your application with landowners and local authorities. It can help to understand what the law says.

Critically, in most cases, the risk is *much* smaller than people think. Here's an outline of the law.

What the law says

- **Swimmers willingly accept and are responsible for ordinary risks.** In law, people who choose to swim outdoors are treated as willingly accepting the usual risks that would be obvious to a swimmer – such as cold water, depth, current and water quality.
- **Landowners only need to flag unusual, hidden or special risks.** Their legal duty is to see that visitors are reasonably safe. Swimmers are aware of risk arising from swimming, but if they wouldn't reasonably be aware of a risk, landowners are under a legal duty to tell them. Examples of this could include:
    - Hidden or submerged objects
    - Known pollutants that could make people sick
    - Strong currents not obvious from the shore
- **A clear sign is usually enough.** Erecting a sign that flags any unusual risks will normally meet your legal duty. Signs should be visible before swimmers reach the water, legible, and use plain language or symbols.
- **Landowners don't have to employ lifeguards**. Case law confirms there's no legal requirement to supervise open-water swimmers. Providing lifeguards can even create new duties and expectations, so only take this on deliberately.
- **Insurance is optional for non-commercial sites.** If they're not charging for access or running the site as a business, public liability insurance isn't a legal requirement – though it can offer extra peace of mind.

And importantly…

- **Designation doesn't add to a landowner's liability.** Supporting a bathing water application, or having a monitored site on your land, does not change your legal responsibilities as landowner or occupier. These are sites where people are already swimming, so you already have a legal duty of care to keep them safe. Bathing water status doesn't add any additional liability.

The law in brief: In England and Wales, landowner and occupier duties to visitors are set out in the Occupiers' Liability Acts 1957 and 1984. Separate law applies in Scotland. This is general information, not legal advice.

More resources

Much of the information above is from this brilliant guide: Guide-To-Inland-Bathing-Areas-2018_small.pdf which goes into more detail and provides case studies.

We have a risk assessment template for assessing the risk for landowners and local authorities here: LINK