



Guidelines for Hut Managers

No. 15 May 2016*



Employers' Liability Insurance

Scope and context

These guidelines are intended to help mountaineering clubs to understand the need for employers' liability insurance (ELI) with respect to the operation of mountain huts where members may carry out voluntary work.

Who is a volunteer?

Insurers Perkins Slade define a volunteer as follows –

“The term employee includes any volunteer, defined as any person who performs any activity which involves spending time, unpaid (except for travelling or other approved out-of-pocket expenses), doing something for the benefit of someone else (individuals or groups)”.

Clubs owe a *duty of care* to their members under current health and safety legislation. If a volunteer is injured whilst carrying out voluntary activities as a result of some negligent act on the part of another member or officer of the club then they may make a claim against the club. Volunteers are regarded as the same as employee; therefore, if a volunteer is injured the club's public (civil) liability cover insurance would not apply.

If the club does not have ELI cover, a successful claim may have to be met by the club, its trustees or committee members with possibly disastrous financial consequences for those involved; insurance cover is therefore essential.

ELI cover as part of BMC and MCofS membership insurance

ELI cover for clubs is now provided free by Perkins Slade as part of the membership insurance package. However, cover is not automatic and it is necessary to apply for this cover and to renew it annually by submitting the appropriate application form, downloadable via the links provided on these web pages –

- www.bmc-insurance-centre.co.uk/clubs
- www.mcofs-insurance-centre.co.uk/clubs

Note: Perkins Slade will now automatically renew the certificate annually provided that the information supplied on the original application form remains unchanged. If there are any changes, however, a new form must be completed and submitted to Perkins Slade as soon as possible.

Important points to note in the rubric accompanying the application form are –

Summary of cover

Employers' liability insurance, provides protection against your club's legal liability for damages and legal costs arising from injury to any person employed caused during the period of insurance and arising out of, and in the course of, employment in your club. By arranging this EL cover means that your club will comply with your statutory employers' liability requirements.

Principal features of cover include –

- Injury to any employee caused during the period of insurance. Injury is defined as 'bodily injury, death, disease or illness'.

*See notes in the information box on page 3 re. the currency (version no.) of this guideline

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- Legal defence costs in defending proceedings arising from the breach of the Health & Safety at Work Act 1974, the Health & Safety at Work (Northern Ireland) Order 1978 where there has been no actual injury is covered under a separate section of your policy. (Limit of indemnity £250,000 in any one period of insurance).
- Limit of indemnity £10,000,000 for any one event (restricted to £5,000,000 in respect of terrorism), inclusive of all legal costs.

Note: *The limits of indemnity above are those quoted at the time of publishing this guideline. Check on the respective BMC and MCofS websites for current limits.*

Who might be an employee?

The intention of the ELI is to provide cover to clubs and hut management committees in respect of their potential liability to volunteers who carry out work at the hut on their behalf in the event that a volunteer is injured and holds them responsible. There is no intention for the ELI policy to provide cover for cleaners and club members in respect of any liability they may have to others.

Employees are not only those persons who are remunerated. For the purposes of employers' liability it may include someone who has been directed by a club not only as to what it wants doing but also how it requires a task to be carried out. Thus, it may inadvertently put itself in the position of an 'employer'.

There is no intention under the policy to provide for the benefit of an outside contractor (see notes on p. 3 re. contractors' all risks insurance) who might otherwise be charging a fee for the task, or indeed provide any liability cover (of whatever type) for any climbing instructor.

General conditions of the policy

Any changes where the risk is increased must be reported to the BMC/MCofS or Perkins Slade *immediately*. Failure to do so could invalidate the policy or result in a claim being repudiated. The club must, at its own expense, take reasonable precaution(s) to prevent any occurrence, or cease an activity which may give rise to liability under the policy and maintain all buildings, furnishings, equipment, *etc.* in reasonable condition.

Statutory certificates of employers' liability

These will be issued by Perkins Slade Ltd, following completion of the application form. Once issued certificates must be displayed on your club notice board.

Note: *Alternatively, the certificate may be displayed electronically but you must ensure that employees/volunteers have reasonable access to it.*

Work covered by the policy

In correspondence Perkins Slade has stated that the policy is intended to provide cover for the club or hut management committee where volunteers carry out 'light maintenance work'. Club membership often includes tradesmen, qualified plumbers, electricians and other 'competent persons' who are professionally qualified and who carry out work on huts on a voluntary basis.

Perkins Slade was asked to define what constitutes 'light maintenance work', particularly with respect to work carried by 'competent persons'. The reply was –

"We would look on it as in, if one of the volunteers working on the hut was a roofer, and the roof needed to be repaired, the ELI policy would protect the huts committee in respect of injuries to the roofer if he was repairing a few loose tiles, but not if he was replacing all of the roof. Please bear in mind that the ELI cover is for the protection of the huts committee, not the protection of the individual doing the work."

Note: *The above reply is an informal opinion and does not constitute an official condition in the EL policy. Specific enquiries regarding cover should be directed to Perkins Slade via the respective mountaineering councils or your insurer if you have alternative EL cover.*

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Contractors' all risks insurance policy

Clubs may employ contractors to carry out major building projects, in which case it is advisable to check that the contractors have their own 'all risks policy'. A contractors' all risks policy is an insurance that a contractor would typically take out to provide liability cover and cover for materials during the course of a construction project. The cost of the insurance varies from contract to contract depending on the size and type of work involved but they usually incur a minimum premium of £500.

Club members who carry out building projects, for example to convert a building into a mountaineering hut, or who undertake major repairs such as replacing a building's roof or ceilings will not be covered by the Perkins Slade ELI policy. In effect, these members would be acting as contractors being employed by the club to carry out such work. Clubs should, therefore, take out contractors' all risks insurance to provide liability cover for the club and its members while they are engaged in the building project or undertaking major repairs.

Further information

As regards compliance with current legislation, see the Health & Safety Executive's publication www.hse.gov.uk/pubns/hse40.pdf *Employers' Liability (Compulsory Insurance) Act 1969 – a brief guide for employers* from which the statements below are taken –

Risk assessment

You must carry out a risk assessment that is suitable and sufficient, and take all reasonable practicable measures to protect your employees and report incidents. If your insurer believes that you have failed to meet your legal responsibilities regarding the health and safety of your employees and that this has led to the claim, the insurer may be able to sue you to reclaim the cost of the compensation.

Record keeping

Since 1st October 2008 there is no legal requirement to keep copies of ELI certificates of insurance which are out of date. However, employers need to keep a record of their ELI insurance cover. Employers who fail to retain the necessary insurance details risk having to meet the costs of such claims themselves.

Other relevant hut guidelines

See *Hut Guideline No. 2 – Health & Safety*.

Note: If viewing this .pdf while online then clicking on any [URL](#) will take you to that website.

About Hut Guidelines

These guidelines have been produced by the Huts Group of the British Mountaineering Council and the Huts Advisory Group of the Mountaineering Council of Scotland to assist those operating mountain huts in Britain.

Contact the BMC Huts Group by e-mail – huts@thebmc.co.uk or telephone 0161 445 6111.

Contact the MCoFS Huts Advisory Group by e-mail – huts@mcofs.org.uk

Websites: www.thebmc.co.uk and www.mcofs.org.uk

URLs: If any of the URLs (web addresses) given on the preceding pages are found to be 'dead links' please notify huts@mcofs.org.uk

Disclaimer: These guidelines were revised on the date shown below and the information herein is believed to be accurate at the time of writing. No responsibility can be accepted for any loss of benefit or entitlement arising through use of these guidelines – they are not intended to be definitive.

Version no. 3 – May 2016 [Minor revns.]

These guidelines are updated periodically; to check on the currency of this version go to one of the websites above where the latest version will always be displayed.