



Guidelines for Hut Managers

No. 15 July 2018 *



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. They refer specifically to the ELI cover provided to BMC and Mountaineering Scotland clubs by Howden.

Who is a volunteer?

The insurers 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 employees; therefore, if a volunteer is injured the club's public liability 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 Mountaineering Scotland membership insurance

ELI cover for clubs is now provided free as part of the membership insurance package administered by the brokers, Howden. 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.mountaineering-scot-insurance.co.uk/clubs

Note: Howden will now automatically renew the certificate annually provided that the information supplied on the original application form remains unchanged. Howden should be informed immediately, however, of any change in circumstances, including change in contact details.

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'.
- Legal defence costs

* 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 Mountaineering Scotland 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 Howden. 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 Howden 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

This statement appears on the huts page of both insurance websites (URLs above) –

Volunteers Working on Huts

“Huts often need maintenance and many clubs are lucky enough to have willing volunteers from within the club who are able to help carry out work and so minimise the expense. Undertaking such work does bring with it additional risks, both to those undertaking the work themselves and also to the club, which has a duty of care to its members and so could have a liability for injuries suffered by volunteers whilst they're working on the hut on the club's behalf.

Hiscox Insurance has agreed to provide cover for clubs in respect of their liability towards volunteers, subject to the following conditions –

- Cover is not included for any work at height, use of chainsaws, work on gas appliances or electrical work that requires Part P certification. If a club has volunteers who intend to undertake such work it should be referred to Howden for approval before it commences. Please click [here](#)* to see the information insurers will need you to provide.

* see appendix on page 4.

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- If the volunteer is a working tradesman/contractor, the club should contract him/her to do the work professionally (even if there is no charge). This way the liability for the works and injury to the volunteer rests with the tradesman's own professional insurance, rather than the BMC or Mountaineering Scotland club. If such contracted work includes work at height, use of chainsaws or electrical work as described above, this does not need to be referred for approval provided the contractor provides evidence of their insurance. If the contractor is simply working as a volunteer as part of a working party, however, this would fall under the club's insurance.

For enquiries, please contact Howden.”

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.

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 that 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 Mountaineering Scotland to assist those operating mountaineering huts in Britain.

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

Contact the Mountaineering Scotland Huts Advisory Group by e-mail – huts@mountaineering.scot

Websites: www.thebmc.co.uk and www.mountaineering.scot

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

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. 5 – July 2018

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.



Checklist for work on mountaineering huts

Work at Height / Use of Chainsaws/Work on Electrical Systems or Gas Appliances

Please complete the questionnaire below with details of the work you are undertaking.

1	What activity is being undertaken?	
2	What equipment is being used?	
3	How long with the work take?	
4	What experience do the volunteers involved have of carrying out similar work?	
5	Is any training provided?	
6	Does the training comply with HSE requirements?	
7	Do you keep records of the training?	
8	Do you issue/make sure volunteers wear personal protective equipment (PPE)?	
9	Do you log the PPE and check it fit for purpose prior to use?	
10	Are you using scaffolding or any temporary structures?	
11	If you are, who is erecting and maintaining this?	
12	Do you have and use an incident/accident book?	

This should be [returned to Howden](#) together with a copy of your risk assessment for the activity you are undertaking. The risk assessment should include items relating to the terrain/environment and remoteness of the location, supervision/buddy system, use of PPE and use of equipment as relevant to your particular circumstances, along with details relating to the management of other risks you identify.

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