

Memorandum of Understanding

Between the Board of Directors and the National Council of the
British Mountaineering Council

Introduction

1. The British Mountaineering Council (BMC) is a private company limited by guarantee and a not for profit organisation, as such the Board of Directors (Board) has a legal duty to ensure the company is managed within the rules defined in the Articles of Association (AoA) and a fiscal duty to ensure the BMC remains financially viable.
2. From its inception, the BMC has been a member led organisation with the stated object to “act as the representative body for the sport... in the interests of climbers, mountaineers and hillwalkers”¹. The purpose of the National Council (Council) is to “act as a representative body of the Members and to consult with the Board, constructively challenge the Board, and to hold the Board to account on the Members' behalf as applicable”².
3. Both bodies ultimately want to ensure that the BMC exercises its powers and duties for the benefit of Members; in a manner that is transparent and open and with the broad consent and agreement of the Members who they are appointed to serve.
4. This Memorandum of Understanding (MoU) is not intended to substitute or supersede the Core Principles of the BMC; as defined in the Mission and Vision Statements; nor the AoA particularly the Reserved Matters contained in Schedule 1. The AoA will always take precedence over this document where any unintended conflict is inferred or documented.
5. This document is signed on behalf of the two bodies, by the Chair of the Board and the President, as the Chair of the Council. The MoU can be reviewed at the request of either body, and must be reviewed when the chair of either body is changed³, and as a minimum, every 3 years.

Aim

6. The aim of this MoU is to provide agreement on the way in which the Board and the Council want to work, for mutual benefit, focussing on ways of cooperation and communication to achieve the best outcomes for the BMC's Members.

¹ AoA Article 4.1.1

² AoA Article 16.1

³ AoA Article 16.2

Principles of the MoU

7. The Council and Board have different, but complementary, functions as outlined in the AoA. Both bodies need to be aware of their roles, how it interfaces with the other body, and where the boundaries of each body's functions are prescribed in the AoA.
8. It is expected both bodies act in good faith and communicate openly and regularly to ensure there is a no surprises culture, and build trust between them.
9. Both bodies recognise that:
 - a. The Members are the ultimate arbiters of the BMC's direction and leadership through their powers at General Meetings and as defined in the AoA.
 - b. The Board is responsible for overall direction and organisation policy, as well as ensuring its financial viability.
 - c. The Council is responsible for representing the Members' intent, and significant divergent views, to the Board; wherever possible following broad consultation with the Members; particularly on issues such as national policy around ethics and approving changes to the objects that affect these ethics.
 - d. Areas/Members are responsible for determining local policy around local access, bolting and specific actions, where there is no national policy that would be contradicted.
10. In all dealings between the Board and Council the intent is that both parties are open, transparent and collaborative; reaching mutually agreed solutions to issues for the benefit of the Members.
11. Where no agreement between the two bodies can be reached, care must be taken by all to ensure that both sides of debate are presented to others in an equitable and unbiased way such that neither body is undermined. The approach should be to invite others into the discussion, in order to gather a wider range of opinions, not ask them to take sides in the dispute.
12. It is recognised by both parties that reverting to formal dispute resolution processes defined in the AoA, or exercising either body's powers without the support of both bodies, represents a failure and should be a matter of last resort.

The National Council

13. The Council has a responsibility to constructively challenge the Board in order to hold the Board to account, as defined in the Terms of Reference, but recognises that its meetings cannot be a rerun of everything already dealt with in Board meetings.

14. National Councillors must also ensure that issues from local Members, with national impacts, are communicated to staff, fellow councillors and the Board as appropriate and where necessary provide them further insight into these issues.
15. Council Nominated Directors (CND) should be elected for their experience, skills and judgement so they can advocate the positions of both bodies. The Council recognises that as a member of the Board they must exercise independent judgement, are personally liable for their actions, and owe a direct duty to the BMC. They cannot be directed how to vote by the Council. The Council shall be mindful of the existing skill sets and experience of other Directors and of the need to be inclusive in terms of diversity.
16. The Council will ensure that any serious concerns of Members it becomes aware of are passed to the Board in a timely manner so that the Board and Council have time to consider and act on such issues at the earliest opportunity. Urgent matters should not be deferred until the next scheduled meeting.
17. If a matter is referred to the Council for consultation or agreement, it will be discussed at the next Council meeting. If the Board feels that the matter is urgent, either an ad hoc Council meeting will be called, the matter decided by email or other electronic means, or a phone conference will be held.
18. With the exception of the President and the CNDs, members of the Board are not expected to attend every Council meeting. The Chair of the Board, CEO, and other Directors, may attend as observers and may be required to attend by the Council to address specific issues, but can be asked to leave at times when the Council wishes to discuss matters independently of the Board.
19. Members of the Council will receive copies of the draft Board minutes after they have been approved by the Chair of the Board but before they are made available to the wider membership via the website.

The Board

20. The CEO will report on the performance of the administration of the BMC.
21. The Board will ensure that the views of the Members will be taken into account in all its decisions. The views of the Council will be given the greatest weight.
22. The Board will be open and transparent, taking account of legitimate confidentiality restrictions as detailed in the Board Terms of Reference, in all its dealings with the Council.
23. The Board will provide appropriate reporting to the Council both annually and at each meeting in a format that is agreed between both parties.

24. Beyond the requirements of the Reserved Matters, the Board recognises the value and role of the Council in providing advice on Members' views. Wherever possible the Board will consult with the Council on any matter they believe would affect the Members in their interaction with the BMC or their pursuit of Mountaineering.
25. The Board will involve the Council; such as through involvement in the development and updating of their proactive plan; at the earliest opportunity to allow Councillors to engage as widely as possible through Area meetings and electronic means as appropriate to the situation.

Council Nominated Directors (CND)

26. The CNDs must exercise independent judgement, are personally liable for their actions and owe a direct legal duty to the BMC. They cannot be directed how to vote by the Council.
27. The CNDs must represent the views of the Council to the Board and provide the Board with the arguments in support of them.
28. The CNDs will explain relevant decisions of the Board to the Council; particularly where the Board and Council's views do not concur or the CNDs have not voted in line with the Council's views.

Reserved Matters

29. Reserved Matters represent areas of particular concern to Members. As such there is a requirement on both parties to allow sufficient time to consider and discuss issues that are Reserved Matters.
30. The intent is that:
 - a. Reserved Matters should be subject to a minimum of 2 review cycles with Area and Council meetings prior to any implementation deadlines.
 - b. Reserved Matters should only be implemented where both bodies are able to support the change; regardless of whether it is an agree or consult Reserved Matter.
 - c. Where a consultative Reserved Matter cannot be agreed by both parties the Board will, in preference, take the matter to Members for a decision rather than exercising powers.

Communications between the Board and Council

31. The overarching principle on communications is that the Council and the Board aim to communicate early and often so there are 'no surprises' and all Councillors and Board members have the maximum time possible to consult and review decisions before they are made.
32. Communications will include, publishing minutes and Chair of the Board reports, use of other electronic discussion methods, and verbal reporting to the Council.
33. The Board will report effectively and clearly to the Council and in a format that allows appropriate scrutiny and provides clear actionable outcomes. The format of such reporting will be agreed by both parties.

Date: 22 June 2019

Signed by Gareth Pierce, Chair of the Board for and on behalf of the Board

Signed by Lynn Robinson, President of the Council for and on behalf of the Council