

Risk, Responsibility, Duty of Care and Liability Summary.

The BMC has shared their expertise on risk, responsibility, duty of care and liability with affiliated clubs. Please read the attached documents:

1. GDPR and BMC Affiliated Clubs – Member Contact Lists; (GDPR)
2. Insurance – Club Guidelines; (Insurance)
3. Risk, Responsibility, Duty of Care and Liability – Club Guidelines. (RRDoCaL)

The BMSCMC has a duty of care to share and explain this information. **This document serves as a summary for Risk, Responsibility, Duty of Care and Liability – Club Guidelines** and makes reference to the other documents.

Fear of litigation has become very high profile over the last few years. *It is expected that sharing this information will reduce the fear and likelihood of litigation.*

1. Who have we a responsibility for?

Everyone who may be involved. Please see Insurance Appendix II, page III for a list of useful categories and these include:

- **BMC Member (through an affiliated Club, e.g. the BMSCMC)** – remember, only BMSCMC members who reside in the UK are eligible for BMC membership. All members who have a registered overseas address, are not BMC members and do not benefit from Liability Insurance cover.
- **Children of BMSCMC members** – these are counted as guests.
- **Prospective members** – these are people who have expressed an interest in joining the BMSCMC and have been invited to join a Club trip. Our constitution allows for one such trip prior to joining.
- **Guest** – an invited person who is joining a Club trip but has no intention of joining.
- **Non-member** – a non-invited person who joins the activities of a Club trip or a member of the public, who is in the vicinity.

2. What is a Club Trip?

For insurance purposes, a Club trip is posted on our website, is organised for Club members, is open to all members, is promoted in good time and involves the typical activities of the Club. It is reasonable for some trips to be restrictive e.g. an Alpine trip may be limited to experienced teams of two. Please see Insurance Appendix I, page II for more detail.

3. How can the BMSCMC become Liable?

A member or members need to be negligent. This means that a member/s must have a duty of care, they must breach that duty of care and this must cause damage.

4. What Does Duty of Care Mean?

In law, under the ‘Neighbour Test’, a duty of care is owed to anyone who is affected by our actions. So, in climbing and mountaineering terms, we are responsible for ourselves but also, cannot act recklessly and put anyone else in danger, through our actions.

When considering the duty of care, the age of others, their experience (or lack of it) the dangers of the activity, the risk of injury, the likelihood of such events happening (or how well such risks are mitigated through appropriate risk assessment) and the suitability of equipment are all significant. In addition, certain professions have a heightened duty of care to certain groups, e.g. teachers have a heightened duty of care to minors (under 18) and vulnerable people (under 25) and must legally act on that duty of care in all situations, whether relating to work or not.

Also considered, is *Volenti non fit injuria* which suggests an adult taking part willingly in an activity, aware of the risks and accepting them, can’t later seek compensation for an injury suffered as a result of participation. The key here is that we need to ensure participants fully understand the risks in front of them prior to them engaging in an activity.

5. What Does Our Duty of Care Look Like?

In the context of our activities, our Duty of Care will most likely be one of the following:

- A more experienced member advising a less experienced member on route choice, gear placement, equipment use, practice, or style of ascent (this includes alpinism, climbing and hill-walking).
- A more experienced member advising on route choice, gear placement, equipment use, practice or style of ascent when another member with children is providing activity for those children. Similarly, members need to show reasonable care for children who are guests on a Club trip at all times (and any other children in the vicinity if members identify a risk – especially so for listed professions).
- All members ensuring that Club equipment (abseil ropes) are safe to use.
- All members ensuring that any prepared food for a Club trip is safely prepared, stored and distributed.
- All members ensuring that they do not cause injury or damage to third parties, e.g. a member ensuring they do not dislodge rock which may hurt or damage during an ascent.
- All members following good practice in the countryside so as to preserve landowners’ interests.
- All members to ensure that they do not cause offence to others through the use of published material, e.g. photos or videos on the Club website.
- All members to ensure that the Club’s management of ‘Private Information’ does not result in a breach of GDPR.
- All members to ensure that the Club’s management of finances does not result in insolvency.

6. What Do We Need To Do?

- **If we give advice or mentor someone, then we must ensure that the objective is within our demonstrable capability and reasonably within the expected physical and mental capacity of any participants. So, we must only undertake such activities if we have sufficient experience and skill and using that experience wisely guides us to fulfil our duty of care.**
- **If we feel advice, guidance or behaviour is reckless, then we should make known our views.**
- **For those receiving advice and/or guidance, we need to ensure they fully understand their obligations to the principle of personal responsibility, informing them such that can make informed choices about the activities in front of them and gauge the risks appropriately. We also need to ensure that they understand that those perceived to be in charge may not be qualified, may not be technical experts but are experienced members who are happy to impart that experience.**
- **As a Club, we need to share best practice, as best we can, to avoid third party injury or damage.**
- **As a Club, we need to engage with the Club protocols such that we have a confidence that the Club's business is reasonably managed, whether this be the care of abseil ropes, the management of private information or the audit of Club property or finances, as reported at the AGM.**
- **Remind members of this information regularly, so that risk, responsibility, duty of care and liability is salient during all Club trips.**