

## **Cleveland Mountaineering Club Constitution – some notes**

The Club is what is legally termed an “unincorporated association”. This is the same as the vast majority of sports clubs across the country - literally thousands of such clubs. The central feature of unincorporated associations is that the Club does not have an independent legal identity. The two main implications of this are:-

1. The Club cannot own property – that’s why the ownership of the Hut at Patterdale is vested with a Trust – a Charitable Trust in our case.
2. As members of an unincorporated association we are all equally liable at law in the event of a claim arising from, or in connection with Club activities, though in practice any claim is likely to be addressed to specific members of Management Committee and/or Hut Trustees.

In respect of the second point it has been argued by some that the Club Membership should offer unlimited indemnity protection to the Club Management Committee and the Hut Trustees and that this should be written into the Club Constitution.

This position was rejected by the Club Membership at the AGM on 23rd February 2012 and the constitution amended accordingly. It is the view of the current Club Committee that this was, and remains, the correct decision for a variety of reasons including:

The view that rigorous action to ensure compliance with all appropriate safety statutes and risk prevention measures is the most effective approach to protecting Management Committee Members and Hut Trustees from litigation. It is by demonstrating “Duty of Care” and compliance with legislation that we can significantly reduce the likelihood of a successful claim for negligence. (See Good Governance documents)

That Members and Management Committee Members have third party liability cover provided through affiliation to the BMC. This is currently £10M (2012)

The provision of separate third party insurance protection for Hut Trustees (who are not covered for their duties as Trustees by the BMC insurance).

The advice of other Sports Governing Bodies and the practice of other climbing / mountaineering clubs where research shows that only a very small minority, less than 10% as having adopted indemnity clauses in their constitution.

To summarise, we are minimising our exposure to a successful claim or accusation of negligence by demonstrably complying with legislation and good practice backed by the BMC 3rd Party Liability Insurance and separate Liability Insurance for the Hut Trustees.

However, the Committee recognise that the issue about indemnifying Club Officials by the general membership is not black and white and situations can change.

Therefore, the Club Committee has undertaken to keep the subject under scrutiny noting any new developments such as new case law or the progress of the current Government review and will offer the Club Membership the opportunity to reconsider the Club Constitution in respect of indemnity clauses by 2015 (as per 2012 AGM decision) or earlier if developments necessitate or if the membership specifically requests such through the AGM or EGM.

John Price

President 2011-2013