

On Target

The Activities Industry Mutual Newsletter - Autumn 2011



Your views on Licensing

Welcome to the new digital edition of 'On Target' for Autumn 2011.

We hope you will agree that this is a much easier way to view the newsletter and keep you up to date with issues affecting your industry.

As the summer draws to a close we have time to reflect on what has been an eventful and productive time at the Mutual. You have provided us with your views on accreditation via our recent survey and we thank you all for your valuable contributions, the results of which are detailed in this issue.

We are pleased to report that the Mutual's membership continues to grow with an increase of 20% on last year, which, given the tough economic climate we all face, is very encouraging.

Notably, the Mutual has successfully defended and won its first liability case in court. This was a very important case and one which we were very happy to win for our long standing member. We

think that this demonstrates that in a society where 'blame culture' is unfortunately the norm, having a Mutual like AIM on your side can be extremely valuable. For those of you interested in reading the long and detailed judgement, details will be on the website shortly.

A warm welcome to all our new Members and thanks to all our existing Members who continue to support the Mutual. We hope you enjoy this issue of 'On Target' and we wish you well for the season ahead.

If you would like to discuss any element of this newsletter please contact us.

www.theactivitiesindustrymutual.com

Dates for your calendar

AIM AGM
Location TBC
14th December 2011

BAHA Silver Anniversary Conference
PGL Liddington Foxhill, Swindon, Wiltshire
17th November 2011 -
18th November 2011

AIM Accident Investigation and Claims Management Workshop
Aviemore
March 2012

FEATURES

- Chairman's Message
- AIM AALS Survey Results
- AIM Member Profile - A - Z Expeditions
- The Future of Activity Centre Accreditation - Adventuremark
- AIM Claims Lessons Learned



**ACTIVITIES
INDUSTRY
MUTUAL**



Chairman's Message

Licensing - Have your say

The most important event in the adventure activities world is the proposed replacement of statutory licensing and AALS with a successor code of practice which will shape the outdoors world in the years ahead. This is the subject we focus on in the newsletter. We are grateful to members who responded to our survey which highlighted the importance of an inspection backed successor scheme to AALS. Interestingly most members thought that this should extend to all activities and all ages.

Do read Martin Hudson's article. Martin has been an active leader in the commercial outdoor sector now for a whole lifetime! Wearing his AAIAC hat he advocates the Adventuremark accreditation scheme as successor to AALS. AIM will be encouraging its members to have in place an appropriate and externally verified accreditation. This will reflect our members views and also support safe practice and minimise liability risk. Have a look at the HSE Consultation paper; they want your comments:

www://hse.gov.uk/consult/condoc/cd236.htm

One aspect of AIM which I have found fascinating and invaluable is how close we get to the claims which are made and the way they are handled. For anyone with responsibility for outdoor activities, controlling risks is a key priority. We plan to run a regular Claims section in our Newsletter and also a 'Lessons Learned' item. In this newsletter we highlight the importance of documentary evidence in defending a claims notification. Should an accident occur, it is the documents to hand which provide the evidence of what actually happened. If a case does go to court, and two AIM cases recently have, it may be that four years have elapsed since the date of the incident and memories of the actual event will inevitably have been coloured by the passage of time - unlike the documents. In our first case in court, the outcome has been very satisfactory, no fault being found with our member and in the second case we are awaiting the judge's decision. We will share the details of these in our next newsletter.

Regarding our members, I am pleased to say the Mutual is continuing to grow in terms of interest and numbers. Our membership, now stands at 265, up from 213 a year ago. My thanks to Regis Mutual Management, our managers, who continue to do an excellent job.

25 years is a long time in politics...and in the Activity World, but that's how long the British Activity Holiday Association has been representing providers in the commercial sector of our industry. 2011 is BAHA's Silver Anniversary year.

Originally, the Association's main interest was in children's summer camps, but members were also attracting school groups to participate in activity courses. Today, BAHA members welcome a wide range of holiday and school customers and offer an extensive list of activities at centres across the country. Initially the outdoor establishment, consisting of statutory and charitable organisations, was reluctant to let BAHA in and appeared sceptical of their values. Since those days, though, BAHA has played a major role in the development of both activity and learning standards, and the procedures to verify them, and it has earned the respect of others in the industry.

So what has BAHA achieved in 25 years? It has established an association of professional providers which have standards and values; it has introduced millions of children to the joy and benefits of adventure sports and activities; it has introduced tens of thousands of staff to careers in the outdoors, adventure world or care professions; and it has done all this with a smile on its face. Happy Anniversary, BAHA.



Andrew Gardiner

Andrew Gardiner
Chairman Acorn Venture Ltd
Chairman Activities Industry Mutual

AIM Surveys members for their views on the way ahead



Earlier this summer AIM conducted a survey of members on the future post licensing scenario to ensure that their views are represented in any submission the mutual may make to HSE. Ninety eight responses (a little under 40% of the AIM membership), represented all categories of AIM members.

Comments on the standards of the AALS inspections and advice were positive. The majority advocated an inspection backed successor regime, that includes the expertise, practice guidance, flexibility, and independence to the standard of current AALS inspectors. Most felt that the regime should apply to all activities and participants. Concerns most widely expressed, other than the “if it’s not broke, why fix it?” type, were over inspection costs, with duplication of inspection, activities not covered by NGBs and the need for customer assurance post AALA all being widely expressed. Also seen as important, was the dissemination of information amongst providers concerning best practice and lessons learned

Please see below responses to the survey’s six “opinion” questions:

Question 1:

The current Licensing regulations only apply to specific activities and certain providers. Do you believe that a new Code of Practice should apply to:

- a) full range of activities and age groups (53.6% yes) or
- b) only the activities and age groups covered by the Licensing Regulations (33.9% yes).
- c) other 12.5%

Question 2:

How important is it that the same approach is taken by all home nations throughout the UK?

- a) Very Important 62.7%
- b) Important 26.5%
- c) Other 10.8%

Question 3:

Which of the following would you see as acceptable ways of demonstrating compliance with an industry Code of Practice?

- a) Inspection from an accreditation scheme: 63.6%,
- b) NGB approval without inspections, 9.1%,
- c) Only using staff with NGB qualifications without inspections, 10.9%,
- d) Self declaration that you comply with the code, 16.4%

Question 4:

Post AALA, it is expected that there will be no Government subsidised accreditation scheme and any accreditation / inspection regime will have to be self funded. Please rank your answers in order of preference (awarding 4 for most preferable, 0 for least preferable):

- a) One accreditation scheme covering all activities and all types of provision - with inspections (Rating Av 2.38).
- b) A variety of accreditations which could be tailored to different sectors - with inspections (Rating Av 2.02).
- c) A central register of providers who comply with the code of practice, with a variety of routes to get on the register - with inspections (Rating Av 2.75).
- d) A central register of providers who comply with the code of practice, with a variety of routes to get on the register - without inspections Rating Av 1.77).
- e) No accreditation scheme nor required inspection, simply a code of practice to guide you (Rating Av 1.09)

Question 5:

Independent Inspections and subsequent reports provide a very useful aid for insurance providers in assessing risk and can eliminate the need for insurer required Risk Surveys. Do you feel that inspections are:

- a) Very important: 38.6%
- b) Important: 30.1%
- c) Valuable but we are concerned about the cost: 26.5%
- d) Other 4.8%

Question 6:

We believe that feedback arising from inspections is of benefit to AIM because it allows us to share with our members best practice and lessons learned. Which of the following do you recognise as being of value and therefore to be encouraged by AIM?

- a) Sharing of best practice (Very Important / Important:98.2%, other 1.8%).
- b) Analysis and dissemination of lessons learned from accidents and incidents (Very Important / Important 98.2%, other 1.8%)
- c) Development of new ways of working / doing things (Very Important / Important 90.9%, other 9.1%),
- d) Brokering coordination between organizations and groups (Very Important / Important 70.9%, other 29.1%).
- e) Systems and practices which will assist with defence against a liability claim (Very Important / Important 98.2% other 1.8%),
- f) Being able to demonstrate a member’s compliance with sound practice in order to reduce risk, and minimise liability cover costs (Very Important / Important 94.5%, other 5.5%).

AIM Member Profile - A to Z Expeditions



A to Z Expeditions is a specialist Duke of Edinburgh's Award training and expedition provider. They provide a service that gives schools and local authorities assistance with the expedition section of the Duke of Edinburgh's Award at all levels.

Founded in 2007, A to Z Expeditions are a small family-run business operated by 5 full time staff who have incorporated as a limited liability partnership. Managing Partner Zoe McLean started the specialist D of E provider after returning from a very enjoyable few years spent working for an Alpine Ski School. The company was one of the first to be an Approved Activity Provider for the Duke of Edinburgh's Award.

The company has grown carefully over the last 4 years and they are now working with over 30 schools and 20 different education authorities delivering expeditions over 200 days per year during the March to October period. Their full time team of 5 Partners are supplemented by a team of experienced freelance Instructors during the operating season. Freelancers may work with A to Z Expeditions for anything from a few days to a few months. Their qualifications range from Mountain Leader awards to MICs and DofE accredited assessors.

The operations team are kept extremely busy during the winter months in planning and preparation. A to Z Expeditions run expeditions in over 20 locations throughout the UK and every expedition undergoes a thorough on-site risk assessment. The company has an operational base in Herefordshire, close to the Black Mountains and the Brecon Beacons. Other regular expedition locations include The Lake District, Chiltern Hills, South Downs and Dartmoor.

Business Model

A to Z Expeditions offer a simple transparent pricing structure to all the Schools that they work with, irrespective of the type of school or the variable costs involved in the expedition. All training and expeditions cost £45 per person per day providing there is a minimum of 10 participants. This simple pricing policy makes it easy for schools to manage their own costs.

Schools are required to provide their own transportation to and from the expedition venue and the DofE includes a basic personal accident insurance cover within the fees that students pay directly to the DofE. Expeditions are usually 100% funded by parental contributions or student fundraising. Some local authorities may



subsidise the cost of expeditions but this source of funding is coming under increasing pressure as a result of recent public spending cuts.

A to Z Expeditions work with Schools at all levels of the DofE, with around 60% of total pupils taking the shorter Bronze award expedition, 30% Silver and around 10% Gold. The number of expedition days can range from up to 5 days for a Bronze exhibition to 11 days for Gold.

Why AIM?

Zoe selected AIM as their insurance partner for a number of reasons:

"I did a lot of market research when we started the business and felt that AIM were the only insurer who demonstrated a realistic understanding of our business. Their premiums were competitive but that was not the sole criteria for us. I feel safe and confident with AIM as our insurer. The fact that AIM operate as a mutual really appealed to us as we felt this guaranteed that they would look after our interests in the long term. The values of a mutual are very similar to those that we have chosen to adopt for our own business. It feels more like a partnership than simply paying annual premiums to a faceless corporate entity.

Over the years we have also valued the other benefits of being associated with



AIM as an organisation. My attendance at their London seminar a couple of years ago led to me taking part in a really useful legal course with Hill Dickinson. This totally changed my understanding of what we should be doing as an organisation to keep our house in order and protect ourselves from potential claims. The industry news that I get from the AIM newsletters is always worth a read as well. Over the years I have picked up quite a few nuggets of information."

More info: www.azexpeditions.com

The Future of Activity Centre Accreditation



A single system of accreditation that can work for all providers, all participants and all activities – ADVENTUREMARK

The Adventure Activities Advisory Committee (AAIAC) was originally set up by the HSE in 1996 to comment on health and safety issues in the adventure activities industry. Its membership has been refreshed on a three yearly basis ever since to ensure that it reflects as wide a range of cross-sector interests and expertise as possible.

AAIAC has been developing a non-statutory accreditation scheme for several years at the request of the then DCSF, in case Licensing was ever withdrawn, so the time is right now to support it. AAIAC has developed core criteria, that could become Lord Young's Code of Practice; a robust inspection process; a team of experienced inspectors and a number of approved alternative delivery routes. The Adventuremark model has been piloted and tested for over two years and now has the support of most of the representative bodies across the industry, including the OEAP, AHOEC, BAHA, SRA (CCPR), NGBs, EOC and SkillsActive. This is a very strong group of supporters for such a notoriously disparate industry!

Key Features are:

- AAIAC has built flexibility into its accreditation model, enabling it to adapt to changing circumstances, such as new activities, different locations, types of provider and range of user.
- The broad principle of no accreditation without inspection is central to the model as it seems to be a requirement of providers and users alike even in a non-statutory scheme.
- The Adventuremark model can also accommodate NGB and other inspection schemes as long as they meet the core criteria and pass an approvals assessment. This would avoid the current duplication of inspections.

- During a transition period, Adventure Activities Licensing could become an approved scheme until licence durations lapse. This would allow for a seamless merger of standards.

- Adventuremark would also meet the requirement of Indicator 6, the health and safety element of the Learning Outside the Classroom (LOtC) Quality Badge. As AAIAC is also the Awarding Body for LOtC in the Adventurous Activities sector, it can arrange for all six of the LOtC indicators to be assessed in one inspection visit and thereby save time, effort and money.

Benefits of Adventuremark

- It's non-statutory so, if you don't like it, you don't have to have it!
- It will attest to the high standard of your health and safety management every bit as much as Licensing does at present, which will please your insurers.
- It will cover your whole operation with none of the gaps between in and out of scope activities that were exposed by the Barcaple case.
- It will be relevant to your work with adults and families, as well as children, and even to centres overseas.
- It will underpin the health & safety rigour of the LOtC Quality Badge for school and statutory youth groups, and will become the single universal kitemark expected by other markets.
- The centrally held list of Adventuremark accredited providers, will constitute the register that some would like to see developed.
- Cost to providers will be no higher than Licensing and probably cheaper overall when duplication is removed and inspection frequency rationalised.

Adventuremark A Chance to Unite the Industry

Please visit www.adventuremark.co.uk for further details about Adventuremark. By meeting the demand for accreditation by the sector for the sector, in a proportionate way, we can gain control of our own destiny. It's a great opportunity to unite the industry in a drive for consistent good practice that meets the requirement of being "reasonably practicable". We've just got to persuade the HSE that this outcome is in everyone's interests – theirs, ours and our users. Your support would be greatly appreciated.

Martin Hudson
Chairman
Adventuremark
Managing Forum

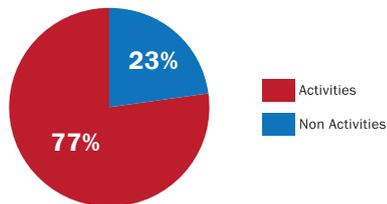


AIM CLAIMS

ACTIVITIES and NON ACTIVITIES - LESSONS LEARNED.

In the four years since the AIM insurance scheme became a mutual, a recurring question is, where have the claims been coming from? And, what can we do to reduce the overall incidence of claims the mutual has to meet?

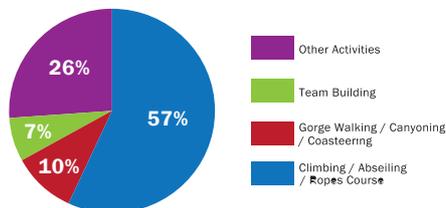
AIM Liability Claims by Cost



Just over three quarters of the costs of liability claims relate to activities.

23% of AIM's liability claims costs relate to incidents that happened in "non activity" time. Most of these involve slips and trips, often involving wet floors, plus some unusual incidents which include a fall from a bunk bed and bites from bed bugs.

AIM Activities Claims by Cost



This chart shows the costs associated with liability claims by type of activity. The highest percentage of the overall costs came from Climbing/Abseiling and ropes course activities.

The mutual seeks fairness across the membership with variations in members' contributions and cover. Our underwriting team take into account the type of activities, the size of the provider, training and personnel and previous claims experience.

Collecting Evidence

Should an accident or incident become a claim, documents will be key. Documents that evidence the chain of events are essential in determining liability and defensibility. We highlight below three essential areas of evidence required to secure the facts.

Archive your documents

Adults have a period of up to three years from the date of the incident in which to submit a claim and for minors the notification period runs to three years after their eighteenth birthday. For this reason it can be months or even years after an actual or alleged incident that a claim is notified. Successful defence means demonstrating that procedures were in place at the time of the incident and complied with.

Risk assessments and/or risk benefit papers will be "live" documents, evolving with annual reviews, experience, incidents, activities changes and so on. Most organizations hold these documents in electronic format and they are updated when agreed changes are introduced. It is most important that when amendments are made to risk assessment documents, the change and date of change are recorded and the earlier document is saved.

It's the documents that are in force at the time of the incident which are relevant as evidence that proper procedures and practices were in place. If these archive documents cannot be accessed, there will be immediate compromises in what might otherwise be a cast iron defence, with only witness evidence that these practices were in place and followed at the time.

Location of an incident

Not infrequently, the most obvious thing is overlooked. Whether the incident occurred outdoors or indoors, a contemporaneous record of the exact location of the accident is essential. This can be used to back up the parties' recollection when in court, possibly many months or even years later. In a recent personal injury case, it was only during the cross examination by the claimant's barrister that, when shown a photograph of where the claimant alleged that the accident had occurred, the instructor said, "No, this isn't the accident site, it's much further downstream". As the court didn't have a GPS

reference or photographic record of the actual site of the accident, the defendant will be relying solely on witness evidence as to location.

Circumstances of the incident

Accident inspection reports are enhanced by good quality photographs and sketches.

Essential criteria are:

Photographs should be taken of the accident scene as soon as it can be done sensitively. The photographs should show the scene of the accident clearly and it may be helpful to include an everyday object in the photograph to illustrate perspective and scale. Remember to consider weather and water level conditions as this may be important. When digital photography has been used a written statement should accompany it recording the time and date together with confirmation that they have not been edited.

In a recent personal injury case, photographs taken by a member of the claimant's group, who wasn't participating in the activity but was taking pictures of those who did, proved important in supporting witness evidence and establishing that there was no blame on the part of the provider.

Sketches and plans might be considered essential in challenging terrain or in a technical situation, such as an outdoor abseil and can be particularly useful in providing evidence of heights and depths at the scene.

Thefts from Minibuses

Although in our experience these incidents are rare, we have recently had four notifications of thefts from minibuses, whilst parked up near activities sites. These involved the theft of customer and instructor's personal effects, and in one case some activity equipment was stolen. Parked vehicles are vulnerable to theft, so please ensure that, if possible, customers leave their valuables either at the centre or in their own car. Ensure that the vehicle is locked and, when fitted with an alarm, the alarm is activated and any equipment or possessions are hidden out of sight.

Further information

For more information or quotations please contact:

James Willis, Nichola Carr, Iain Hall, Cathy Atkinson, Liz Barron at the Activities Industry Mutual Ltd

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